A — Y E Heard Luca . A A | be $ LA The Republic of Equatorial Guinea OFFICIAL GAZETTE OF THE STATE PUBLIC FINANCES ' SUMMARY: Law No. 9/2003, dated 11 November, regulating the public finances of the State of Equatorial Guinea.

pa and THE REPUBLIC OF EQUATORIAL GUINEA PRESIDENCY = No. ” Ref., Sect. Law No. 9/2003, dated 13 November, regulating the public finances of the State of Equatorial Guinea.— EXPLANATORY MEMORANDUM The legislation in force in the Republic of Equatorial Guinea prior to its integration into the Franc zone established basic rules for the preparation, approval and implementation of the General State Budget. In the same vein, that legislation contained provisions relating to public accounting and tax collection. However, a reading of the provisions of the aforementioned legislation reveals that it is inadequate, on the one hand, in light of the current demands of the national economy—characterised by unprecedented growth in State revenue and expenditure—and, on the other hand, with the fundamental principles of the Community of Central African States, which establish the need to harmonise the legal, accounting and statistical framework for public finances as a reference framework for the exercise of multilateral surveillance of national budgetary policies. In view of the obsolescence of the legislation governing national public finances, the Government has decided to modernise this legislation by adopting a modern Act that is in line both with current economic requirements and with the CEMAC Treaty on the harmonisation of budgetary legislation and procedures, public finance laws and public accounting systems. Among the main innovations, the first to be mentioned is the clarification of the powers of administrators, authorising officers and accountants. Secondly, a fundamental principle applied in the sub-region has been incorporated into national legislation. This is the principle of the personal and financial liability of the Public Accountant.

do Ud dl da a de da da dal a ll ll ll ll ll dd ad ld ed TE 3 to 1 in mm to E Tia D E Ea A E E h 1d F Ref. ne Section 77 == - Finally, in addition to the traditional controls over the General Budget —namely financial control and parliamentary control as provided for in the Constitution—such control is reinforced by the establishment of a judicial review of the accounts of public accountants. Accordingly, on the proposal of the Ministry of Finance and Budgets, following deliberation by the Council of Ministers at its meeting on 12 September, and duly approved by the Chamber of People’s Representatives during its Second Ordinary Session Sessions, held in the city of Bata from 16 September to 8 October 2003. I HEREBY APPROVE AND PROMULGATE THIS LAW REGULATING PUBLIC FINANCES. TITLE 1.—GENERAL PROVISIONS The F A, — or Article 1.—Definitions. In this Act, the following terms are used with the meanings set out below. a).- Public Finance comprises the set of rights and obligations of an economic nature held by the State or its Autonomous Bodies. b).- Public Accountant: the person responsible for maintaining the accounts of the State’s public bodies. c).- Extraordinary Expenditure: expenditure incurred by the Government charged to a budget allocation that does not exist in the financial year in which it is incurred.

and Ep Jo Ñ a d).- Credit Supplement: expenditure incurred by the Government against an insufficient budgetary allocation in the year in which it is incurred. e).- Public Finance: the set of activities relating to the investment of State funds. f).- Chief Authorising Officer: the person who authorises the execution of all State revenue and expenditure. For the purposes of this Act, the Chief Authorising Officer is the President of the Republic. g).- Secondary Authorising Officer: the person or persons who, acting on the instructions of the Chief Authorising Officer, carry out the functions of the latter. For the purposes of this Act, the secondary authorising officers are the Prime Minister and the Minister for Finance and the Budget. A Article 1.— 1. This Finance Act constitutes the quantified, comprehensive and systematic expression of: (a) the maximum obligations that may be recognised in respect of the State and its autonomous bodies may incur, and the rights expected to be settled during the relevant financial year, b) The estimates of revenue and expenditure to be incurred by state-owned and parastatal companies. c) The total revenue and expenditure of all other public sector bodies. d) All obligations to be met in respect of social security . a Ll a dl dl dd dl dd dd ld ad ll e

* cd 2. It lays down the fundamental rules concerning the nature, content, and procedures for the drafting, tabling and adoption of finance laws, as well as the implementation and control of the General State Budget. Article 2.— Finance laws determine the nature, amount and allocation of the State's resources and expenditure, taking into account the requirements of economic and financial balance. They also include provisions relating to the basis, rate and methods of collection of taxes. Where legislative or regulatory provisions create new, previously unforeseen expenditure, no law may be passed and no decree signed until such expenditure has been provided for, assessed and authorised in accordance with the provisions of this Act. Any budgetary cuts or increases that may arise as a result of a deterioration or improvement in the economic situation shall require the authorisation of the Chamber of People's Representatives, after consulting the Board of Spokespersons thereof. Bills approved by the House of Representatives which set out long-term objectives may only constitute obligations for the State where they do not exceed the limits determined by the programme authorisations approved in accordance with the conditions laid down in this Act. Article 3.— Transfers of appropriations may only result from the provisions laid down in a Finance Act. However, a decree of the Council of Ministers may authorise a transfer of appropriations; such a decree must be submitted to the Chamber of People's Representatives at its next sitting for approval. Transfers of appropriations, pay scale adjustments and the revaluation of salaries may not be authorised if such a decision would result in the previously authorised appropriations being exceeded.

' ' á j heal hal — pu rn Mecca? a _— o d Maa Maa Mari so fa 7 3 ES E >r0iblira idol 1 Frrantratoñ Es Article 4.— The following shall be considered finance laws: - The General State Budget Act for the year. - The Amending Act to the General State Budget. - The Act on the Implementation of the General State Budget. The 'Finance Acts' up to the limit of the State. í Finance laws bind the State in respect of third parties to the appropriations contained in the General State Budget. Only amending laws relating to the General State Budget may, during the course of the year, amend the provisions of the General State Budget. AA e The Act on the Implementation of the General State Budget records the financial results for each calendar year and approves the differences between the results and the estimates of the General State Budget, supplemented, where necessary, by its amending acts. TITLE 11: REVENUE AND EXPENDITURE CHAPTER I: DETERMINATION OF REVENUE AND EXPENDITURE. Article 5.—The State's revenue consists of: (a) Taxes, classified as taxes, duties, special levies and parafiscal charges. e

]] J] and Ll ul Roa ==Taxes are levies imposed without consideration, the taxable event of which consists of transactions, acts or events of a legal or economic nature that demonstrate the taxpayer's ability to pay, as a result of the ownership of assets, the movement of goods, or the acquisition or expenditure of income. Fees are levies where the taxable event consists of the provision of services or the performance of activities under a Public Decree which relate to, affect or benefit the taxpayers. Special levies are those public revenues derived from the carrying out of a project or the provision of a service which, whilst aimed at achieving a general benefit for the whole community, yields, secondarily, special advantages to private owners of certain properties or to those engaged in certain industries. Levies of a quasi-fiscal nature E .. . . . "+ E are considered to be of a tax-like nature when they are imposed without specific regard to services or acts of the administration that benefit or affect the taxpayer. b) The State's share of the profits of public enterprises governed by public law. c) And public revenue of any kind. Article 6.— Authorisation to levy taxes is granted annually. The revenue from taxes, the proceeds of which are allocated to the State, shall be assessed in accordance with the finance laws. Para-fiscal levies collected for economic or social reasons for the benefit of a legal person governed by public or private law other than the State, local authorities and their public administrative bodies, shall be established by decree following a report from the Minister of "4. $ PS A a

q ; q) > Ga TA La Ly = a E] - » Republic of Equatorial Guinea E the Ministry of Finance and the Budget and the relevant Minister. The collection of these charges after 31 December of the year in which they were established must be authorised each year by a Finance Act. Article 7.— State revenue, as set out in Article 5 of this Act, shall be determined by the General Budget Act and by the Budget Implementation Act for each year. Similarly, the amount of subscriptions, repayments and charges on medium- and long-term loans and advances, the amount of donations and the amount of other revenue shall be provided for and assessed in the General State Budget. Article 8.—The following shall be considered State expenditure: - Current expenditure; - Capital expenditure; - Loans and advances. Current expenditure is divided into the following categories: 1.—Staff costs 2.—Operating costs. 3. Transfers. 4. Amortisations and public debt obligations. Capital expenditure is divided into two categories: 1. Investments carried out by the State. 2. Capital transfers.

the dl Raf LA AAA -8- Article 9.— Appropriations authorised by finance acts shall be allocated to a service or a group of services and shall be broken down by chapter, grouping expenditure according to its nature or purpose. However, some chapters may include block appropriations intended to cover contingent or incidental expenditure. Block appropriations may also be authorised for expenditure for which the allocation by chapter could not be determined at the time they were approved. The allocation of these appropriations to the relevant chapter shall be carried out subsequently by the Minister for Finance and the Budget. Article 10 – Appropriations shall be either evaluative or limitative. These two categories of appropriations must be the subject of separate chapters. Appropriations shall be deemed to be evaluative where they are used for the payment of debts arising from special provisions or from standing agreements approved by Act. Discretionary appropriations shall be applied to public debt obligations, to legal costs, and to chapters for which the remuneration is set out in a special schedule within the Finance Act. Only where circumstances so warrant shall expenditure covered by evaluative appropriations be charged to allocations other than those entered in the relevant chapters. 3. All appropriations for expenditure other than those provided for in paragraph 2 of this article shall be deemed to be restrictive appropriations. 4. Estimated and restrictive appropriations shall be the subject of separate chapters.

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.. 13 =- dl . F ss IN | ss ll tr dl o A da] Pp — 5 <= 1. Up to the limit of a block allocation for emergency expenditure, a Government decree, following a report from the Minister of Finance, may authorise appropriations to deal with disasters, urgent or unforeseen expenditure. 2. Where any expenditure is to be incurred from the General State Budget which cannot be deferred until the following financial year, and where the appropriation for that purpose is insufficient and cannot be increased. The Minister for Finance and the Budget shall submit for the Government's approval a draft Bill granting an 'extraordinary appropriation' in the first instance, or a 'supplementary appropriation' in the second. Ratification of these appropriations shall be sought from the House of People's Representatives at the next parliamentary session. 3. In cases of urgency and imperative necessity in the national interest, supplementary appropriations may be authorised by advance payment decrees. A draft Finance Bill concerning the ratification of these appropriations shall be tabled immediately on the day of the opening of the next session of the Chamber of People's Representatives. Article 13.— Appropriations allocated to capital expenditure may comprise programme authorisations and payment appropriations. Programme authorisations constitute the maximum limit on the expenditure which Ministries are authorised to incur for the implementation of the investments provided for by law. Their maximum duration shall be six years. These may be revised in the light of technical modifications or price fluctuations. Such revisions shall be allocated as a matter of priority to the programme authorisations established by a Finance Act.

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A -12 Article 16.— In addition to the State's operations described in "Articles 5 and 8, the Public Treasury shall carry out, under the responsibility of the State, treasury operations. These operations comprise: a). The issuance and redemption of short-term loans. b). Deposit transactions, on the instructions and for the account of correspondent banks. The issuance of loans shall be carried out in accordance with the general authorisations granted each year by the Finance Acts. Unless expressly provided for in a Finance Act, the securities of public loans issued by the State shall be denominated in the national currency and may not provide for tax exemptions nor be used as a means of payment for public expenditure. Loan repayments shall be carried out in accordance with the issue contract. Deposit transactions shall be carried out in accordance with the conditions laid down by the rules of public accounting. Unless otherwise provided by decree, the various public bodies of the State shall be obliged to deposit all their available funds with the Public Treasury. CHAPTER 2 – ACCOUNTING ALLOCATIONS Article 17 – Subject to the provisions relating to programme authorisations, appropriations opened for a budget do not create any entitlement with regard to the following budget. However, payment appropriations available for capital expenditure may be carried over by order of the chief authorising officer on the proposal of the Minister for Finance and the Budget, who shall open an allocation of the same amount in addition to the allocations for the following year.

-13- The available appropriations listed in the chapters set out in the Finance Act may also be transferred by order of the _Chief Authorising Officer, upon the proposal of the Minister for Finance and the Budget. Article 18.— The total amount of revenue shall be credited, without any offsetting between revenue and expenditure. All revenue guaranteeing the execution of all expenditure shall be credited to a single fund known as the Public Treasury. However, certain revenue may be directly allocated to specific expenditure. These special allocations take the form of annexed budgets, special treasury accounts or specific accounting procedures within the general budget or in an annexed budget. The allocation of appropriations to a special account shall take place automatically for borrowing and advance operations. The allocation through specific procedures in the general budget or supplementary budget shall be determined by regulation under the conditions set out in Article 20. In all other cases, the allocation shall be exceptional and may only result from a provision in a finance act. Article 19.— The procedures enabling an allocation to be secured in the general budget or in a supplementary budget are the financial assistance fund procedure and the procedures for the reinstatement of appropriations. Funds paid in by legal or natural persons to contribute, alongside those of the State, towards expenditure in the public interest, as well as the proceeds of bequests and donations allocated to the State or to various public administrations, shall be directly credited to budget revenue. A supplementary appropriation of the same amount shall be opened by order of the chief authorising officer on the proposal of the Minister for Finance and the Budget, for the minister concerned.

-14- —— — ! NS The funds shall be used in accordance with the intention of the party making the payment or the donor. They shall give rise to the reinstatement of appropriations under the conditions adopted by order of the chief authorising officer on the proposal of the Minister for Finance and the Budget: a) Revenue arising from the repayment to the Treasury of sums paid unduly or provisionally against budgetary appropriations. b) Revenue arising from transfers which have given rise to payments against budgetary appropriations. Article 20. The financial operations of State departments which the law has not endowed with legal personality and whose activity is essentially aimed at producing goods or providing services that give rise to the payment of prices may be the subject of supplementary budgets. The creation or abolition of supplementary budgets shall be decided by Finance Acts. Article 21. Supplementary budgets comprise, on the one hand, operating revenue and expenditure, and, on the other, capital expenditure and special revenue earmarked for such expenditure. Transactions under the expenditure budgets shall be carried out in the same way as transactions under the general budget. Operating expenditure is governed by the same rules as ordinary expenditure. Investment expenditure is governed by the same rules as capital expenditure. However, the appropriations relating to operating expenditure and those relating to investments may be increased in the following cases:

J E a). Under the conditions set out in Articles 15 and 18. b). By order of the chief authorising officer on the proposal of the Minister for Finance and the Budget. c). Provided that the financial balance of the annexed budget, as laid down in the most recent Budget Act, is not altered. d). Provided that no additional revenue is generated in future financial years. é Article 22. Services provided with an annexed budget may manage funds for provisioning, amortisation, reserves and provisions. Provisioning funds shall be initially endowed with investment appropriations from the general budget. Article 23.—Special Treasury accounts may only be authorised by a Finance Act. The categories of special Treasury accounts are as follows: 1) Special allocation accounts. 2) Trading accounts. 3) Settlement accounts with foreign governments or other bodies . 4) Monetary operations accounts. 5) Loan accounts. 6) Advance payment accounts. 7) Guarantee and surety accounts. Article 24.— Except as otherwise provided for in Articles 26 to 31, transactions relating to the Treasury's special accounts shall be planned, authorised and executed under the same conditions as those applicable to transactions under the general budget.

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h pr A 17. SECC. cocaine E E E A SISSI Article 26.— Trading accounts relate to transactions “"*46 of an industrial or commercial nature carried out on an ancillary basis by the State’s public services. Expenditure estimates relating to these accounts shall be indicative; only the overdraft limit set annually for each of these accounts shall be binding. Unless expressly provided otherwise by a Finance Act, it is prohibited to carry out, by way of a trading account, financial investment transactions, loans or advances, as well as lending transactions. The annual results shall be determined for each account in accordance with the rules of the general chart of accounts. Article 27.— Settlement accounts with foreign governments or bodies relate to transactions carried out in pursuant to international agreements approved by law. e Monetary transaction accounts record revenue and expenditure of a monetary nature. For these two categories of accounts, the submission of revenue and expenditure forecasts shall be optional; the overdraft limit set annually for each of the accounts shall be exhaustive. Article 28.—Advance accounts record the advances which the Minister for Finance and the Budget is authorised to grant up to the limit of the appropriations allocated for that purpose. A separate advance account must be opened for each debtor or category of debtors. Advances from the Treasury shall bear interest. Unless otherwise provided for in a Finance Act, their duration shall not exceed one year, with the possibility of a single extension duly authorised upon the expiry of the first year. Any advance not repaid at the end of a period of one year, or two years in the event of an extension, shall, depending on the debtor’s circumstances, be subject to:

A k - A decision to collect the amount immediately or, failing collection, effective enforcement proceedings initiated within three months. - Authorisation for consolidation in the form of Treasury loans accompanied by a transfer to a loan account. - The recognition of a probable loss charged to the results for the year; any repayments subsequently recognised shall be credited to the revenue of the General Budget. + Article 29: The loan accounts relate to loans with a term of more than two years granted by the State up to the limit of the appropriations opened for that purpose, whether as new transactions or by way of consolidation. Loans granted shall bear interest. The amount of capital repayment on State loans shall be recorded as revenue in the relevant loan account. Article 30.— The guarantee and surety accounts record the State’s commitments arising from the financial guarantees it has granted to a natural or legal person. The guarantee and surety accounts shall be funded by a budgetary allocation equal to 10 per cent of the annual maturities due from the beneficiaries of State guarantees. The maximum amount of guarantees and sureties that may be granted by the State during the financial year shall be set by the Finance Act. Guarantees and sureties shall be granted by decree of the Council of Ministers, following a report from the Minister of Finance.

É] No. +19- Ref. or No. , ' The conditions for granting and the procedures for administering etc. such guarantees and sureties shall be laid down by decree. TITLE III ON THE PRESENTATION AND VOTE ON DRAFT FINANCE BILLS. CHAPTER 1.— ON THE PRESENTATION OF FINANCE BILLS FINANCE BILLS TO THE CHAMBER OF REPRESENTATIVES OF THE PEOPLE. ">, Article 31. The draft General State Budget Bill consists of two distinct parts: The first part authorises the collection of public revenue and sets out the means to ensure financial balance; it assesses the amount of ‘revenue from loans and the Treasury’; it authorises the collection of taxes allocated to local authorities and public institutions; sets the ceiling for the main categories of expenditure and the general framework for financial balance; and contains the provisions necessary for the implementation, in accordance with current legislation, of borrowing operations intended to cover all treasury expenditure. In the second part, the draft General Budget sets the overall amount of appropriations applicable to new authorisations by title and by ministry; authorises, distinguishing between approved services and new operations, the operations of the annexed budgets and the operations of the Treasury’s special accounts by category of special account and, where applicable, by title; it groups together all programme authorisations together with their payment schedules; and finally sets out the general provisions laid down in Article 2 of this Act, distinguishing those of an annual nature from those of a permanent nature.

and | |]]]]]] , ?] r >» r Ref. -20- Section. Article 32.— The draft general State budget shall be accompanied by: 1”.- An explanatory report on the contents of each of the constituent budgets and on the main changes contained in the preliminary drafts compared with the budgets currently in force, including a progress report on the degree of achievement of the objectives for the previous financial year. + 2”.– The final accounts for the previous year’s budgets and a progress report for the current financial year 3”.– A technical and financial report. By chapter, the cost of the services voted for, as defined in Article 34, and the new measures justifying the proposed amendments to the previous amount for approved services, and in particular the appropriations relating to the creation, abolition and reorganisation of posts. 4”.- The consolidated account of the public sector budget . The phasing of payments over future years resulting from programme authorisations. 5”.- The three-year investment programme and the annual plan. The list of special Treasury accounts showing the amounts of revenue, expenditure and, where necessary, the expected deficits for these accounts.

A 21- 6”.- The budgets of autonomous bodies and enterprises in which the State holds a stake. The complete list and assessment of para-fiscal levies intended to finance the activities of certain public, commercial or industrial bodies. 7*.- An explanatory statement of the balances payable by the State, drawn up as at the date closest to the tabling of the draft budget bill, as well as an explanatory statement of the stock and maturities of public debt servicing. 8”.- An explanatory statement of the outstanding amounts to be collected. The draft General Budget may also be accompanied by the following explanatory annexes: - The State’s balance sheet as at the date of tabling the draft General Budget in the Chamber of People’s Representatives. - Summary financing tables for the State and the public administrative sector, presented in accordance with the State’s budgetary forecasts. - The provisional cash flow plan and monthly implementation plan for the General State Budget, and the provisional rules governing appropriations. Article 33.— The approved services representing the minimum allocations which the Government deems essential to ensure the functioning of public services under the conditions approved the previous year by the Chamber of the People’s Representatives. The The appropriations applicable to the approved services shall not exceed:

.22- pol A “For ordinary expenditure: the appropriations from the previous year, less non-renewable items 1 and adjusted to take account of the impact on the financial year of measures approved “by the Chamber of Representatives of the People or decided by the Government within the limits of its own powers, as well as the actual development of expenditure covered by estimated appropriations. : For capital operations, the programme authorisations provided for by a programme law, the estimates entered in the most recent payment schedule or, in the absence of such a schedule, the authorisations for the preceding year, where applicable ‘amended under the conditions set out in this paragraph’. Article 34.—Amending Finance Acts relating to the General Budget shall be submitted, in whole or in part, in the same manner as for the General Budget Act. All appropriations made by means of advance appropriations shall be mandatorily submitted to the House of Representatives of the People for ratification. Article 35.— The annual draft law implementing the General Budget sets out the final amount of payment orders relating to the same financial year; where necessary, it ratifies the appropriations made by advance payment decrees and approves the ...exceedances of appropriations resulting from circumstances of force majeure. “The draft sets out the profit and loss account, which comprises: The deficit or surplus resulting from the net difference between revenue and expenditure in the General Budget and the annexed budgets; . The profits and losses recorded in the implementation of the special accounts pursuant to Articles 24 to 30.

The 23rd. - Any profits or losses resulting from the management of treasury operations under the conditions laid down by the legislation governing public accounting. - The draft Budget Implementation Bill finally authorises the - carry-over from the year to the Treasury’s permanent overdraft account. F Article 36; The draft Budget Implementation Bill shall be accompanied by the following: — k - A! da I Annexes eiii setting out the origin of the overspending of appropriations and the nature of the losses and profits. - The report of the competent body responsible for accounts and the general statement of conformity between the individual accounts of the accountants and the accounts of the Minister of Finance. CHAPTER 2.— PROCEDURE FOR THE DRAFTING AND ADOPTION OF THE FINANCE ACT. Article 37.— The Minister of Finance, under the authority of the Council of Ministers, shall draw up the draft General State Budget Bill. A Article 38.— The draft General Budget Bill, together with the report and explanatory annexes provided for in Article 31, shall be tabled in the House of Representatives before the day of the opening of the ordinary September session for approval, amendment or referral back to the Government.))

lá ora LA A L—b L-—) 1d ” r dl 1 y ” A dl == — LK dl Ml A A A "y ” Id pe] » e pd lo] A Le da ta AS -24- Where the draft General State Budget Bill has not been tabled within the time limits laid down at the Bureau of the Chamber of People’s Representatives by the day of the adjournment of the ordinary September session, the President of the Republic may extend the budget law of the preceding year until the new Act is adopted. At the Government’s request, the Chamber of People’s Representatives shall be convened at ten o’clock to meet in extraordinary session for a further debate. Should the Budget not have been adopted by the end of this session, the Budget Act shall be definitively enacted by the President. Insofar as, having regard to the procedure described above described, should the draft Budget Bill not have been approved before the start of the financial year, the Government shall be authorised, in accordance with the constitutional provisions in force, to continue collecting taxes and to revert to the budget of the previous year for expenditure. Article 39.— No additional clause or amendment may be proposed, unless it is intended to effectively abolish or reduce an expenditure, or to create or credit revenue. Any proposal for an additional clause or amendment must be justified and accompanied by supporting documentation. Article 40.— The second part of the Budget Act may not be submitted for debate before the House of Representatives until the first part has been approved.

j E Article 41.—Expenditure estimates shall be subject to a single approval in respect of approved services, and to approval by title and, within the same title, by ministry, in respect of new authorisations. Expenditure under annexed budgets and special accounts shall be approved by - annexed budget or by special account. Article 42.— Upon the enactment of the General State Budget Act or the publication of the decree-law provided for in Article 37 and the third paragraph of Article 38, the Government shall issue decrees regulating: on the one hand, the allocation by chapter for each ministry or supplementary budget, by appropriations opened, and, on the other hand, the allocation by specific account for the operations of the special accounts of the Treasury. These decrees may only provide for changes to the chapters or special accounts, in relation to the corresponding appropriations for the previous year, as proposed by the Government in the explanatory annexes, subject to the approvals of the Chamber of People’s Representatives. The appropriations established by decrees may only be amended under the conditions set out in this Act. The creation, cancellation and transfer of appropriations shall result from the corresponding amendments to appropriations, duly set out in the annexes. Article 43.— The draft law on the implementation of the General State Budget shall be tabled with the Bureau of the Chamber of People’s Representatives no later than the end of the year in which the budget is implemented. The report on the implementation of the General State Budget provided for in Article 36 shall be submitted to the Chamber of People’s Representatives as soon as it has been definitively adopted by the competent body.

Í The House of People’s Representatives shall debate the said draft, with a view to its approval, at the first sitting following its tabling and circulation. No other draft general budget may be submitted to the House of Representatives until the corresponding draft budget implementation bill has been tabled. TITLE IV ON THE IMPLEMENTATION AND CONTROL OF THE GENERAL STATE BUDGET. CHAPTER 1.— ON THE IMPLEMENTATION OF THE GENERAL STATE BUDGET. Article 44.—“The implementation of the General State Budget shall be the responsibility of the credit administrators, the authorising officers and the public accountants, under the conditions laid down in the law governing public accounting. These operations relate to revenue, expenditure, cash management and assets. The accounting records of these operations shall be reflected in the books of the credit administrators, authorising officers and public accountants and shall be maintained in accordance with the general rules laid down by the Minister of Finance and Budgets. Article 45.— Revenue shall be charged to the budget for the year in which it has been collected by a public accountant. Expenditure shall be charged to the budget for the year in which the payment orders have been approved by the public accountant and must be paid from the appropriations for that year, regardless of the date of the appropriation.

+ and hh |] ad pan or LL PA r P— AA " " | | pa / aa e dE A decree approved by the Government, following a report from the Minister of Finance and the Budget, shall lay down the procedures for applying the foregoing principles and the conditions under which these principles may be subject to exceptions, in particular with regard to regularisation transactions. Article 46.- The transactions referred to in Article 44 must be accompanied by the supporting documents specified in the lists drawn up by the Minister of Finance and the Budget or, in the absence of such documents, by documents proving the accuracy and regularity of such transactions. SECTION 1. INCOMPATIBILITIES INHERENT IN THE ROLE OF PUBLIC ACCOUNTANT. Article 47. – The departments responsible for Public Accounting within the Ministry of Finance and the Budget shall ensure the drafting and implementation of the relevant regulations. The performance of the duties of those in charge of the departments responsible for Public Accounting is incompatible with those of the Chief State Accountant. Article 48.— Unless expressly repealed by the Minister of Finance and the Budget, an accounting department shall have a single cash office, a single bank current account and a single postal current account. Public funds are exempt from attachment. Article 49.— The functions of authorising officer and public accountant are incompatible. The spouses, ascendants or descendants of authorising officers may not be accountants in the public bodies in which those authorising officers carry out their duties.

ñ md had Lu | E] al h | dd dl |. | | sd a ——e rr” a Md la la Ma la : nn P” a O -28- Article 50.— Subject to the conditions laid down in the laws currently in force, the exercise of certain activities is prohibited for authorising officers and public accountants. Article 51.—All liabilities that have not been settled within a period of four years from the first day of the year following that in which the entitlements arose shall be time-barred in favour of the State and of any public body employing a public accountant. +, The limitation period shall be interrupted by: - Any written request for payment or any written claim addressed by a creditor to the administrative authority, where the request or claim relates to the event giving rise to the debt, to the existence of the amount of the debt, even if the administration against which the claim is made is not the one that will make the payment. - Any legal action brought before a court relating to the triggering event, the existence of the amount of the debt or its payment, regardless of who brings the action, if the court before which the action is brought lacks jurisdiction and even if the administrative body responsible for making the payment is not a party to the legal proceedings. - Any written notification from a relevant authority, even if this notification has not been sent directly to the creditor who is not invoking it, where this communication relates to the triggering event, the existence, the amount or the payment of the debt. - Any issuance of a means of payment, even if this has only covered part of the debt or if the creditor has not been specifically named.

And 1d lá | cl pa A! a] a A | pa pa »pra ”»l PA p» E Ml meca lema —. > qa 29- A new four-year period shall run from the first day following the year in which the interruption occurred. However, if the interruption results from a judicial appeal, the new period shall run from the first day of the year following the year in which the judgment becomes final. Article 53.- The limitation period shall not run against a creditor who is unable to bring proceedings personally, or through their legal representative, or due to force majeure, nor against a creditor who may legitimately be unaware of the existence of their own obligation or that of the person they legally represent. >, Article 54.—Administrative authorities may not waive the right to invoke the limitation period provided for in Article 51. However, by decision of the Minister of Finance and the Budget, the statute of limitations may be lifted, in whole or in part, for creditors of the State or of any public body with a public accountant, taking into account particular circumstances, principally the creditor's situation. Article 55.— Claims by the State or any public body with a public accountant against individuals or legal persons shall be subject to the limitation period in accordance with the provisions of the legislation in force. Article 56.— The provisions of this chapter shall apply to any public body with a public accountant. CHAPTER 2.— BUDGETARY CONTROLS. Article 57.— Operations relating to the implementation of the General State Budget shall be subject to a three-tier system of controls—administrative, judicial and parliamentary—under the conditions set out in this chapter.

and > " . ss IS | A O a A a A "ÉÑÑ—R_ —AARo——— A — A and e I pa -30- Administrative control is the internal control exercised by the administration over its officials. Control by the competent body or, where necessary, by the Court of Auditors of the Central African Economic and Monetary Community and control by the House of People's Representatives constitute the external controls on the administration. Article -58.— Administrative control shall be exercised through hierarchical or organisational controls by means of a body of special auditors . Ñ Article 59.— Financial control shall be exercised in accordance with the provisions of Articles 63 to 66 of this chapter. í Article 60.— The General Inspectorate of Services shall, under the conditions laid down by the Organic and Functional Regulations of the Ministry of Finance, carry out the tasks entrusted to it and, in particular, oversee the services of the State and any public body. Article 61.—The body of ministerial auditors shall ensure, in the name and on behalf of the incumbent minister, the ongoing control and inspection of the State services placed under the authority of the relevant minister. Article 62.— The President of the Republic, the Prime Minister or, where appropriate, the Minister of Finance and the Budget may also entrust specialised officials, an expert or a group of experts with specific audit tasks.

and -34- Article 63.— The controls referred to in this chapter may, depending on their nature or circumstances, relate to decisions already taken or to be taken, whether regular, ad hoc, permanent or occasional, unannounced or announced, individual or collective, carried out by sampling or exhaustively, and whether resulting from unilateral or adversarial procedures. SECTION 1.— A PRIORI ADMINISTRATIVE CONTROL OF STATE BUDGETARY OPERATIONS. Article 64.— Prior administrative control of the State's budgetary operations shall be ensured by the Directorate-General for Financial Control of the Ministry of Finance and the Budget, which may appoint representatives to other ministries and the State's local administration. Article 65.— All payment commitments shall be subject to the prior approval of a financial controller, in particular contracts, orders, resolutions or decisions issued by a Minister or an official of the administration. These commitments shall be examined with regard to the allocation of the expenditure, the availability of appropriations, compliance with financial provisions, laws and regulations, their conformity with parliamentary authorisations, and the consequences that the proposed measures may have on public finances. To this end, the financial controller may be provided with all the supporting documents necessary to justify the expenditure commitments and to clarify his decision.

| Republic of Equatorial Guinea prieics: -34- Í Na na If the proposed measures are inconsistent with the preceding provisions, the controller shall refuse to grant approval anar reunuoga well. If the disagreement persists, the Comptroller shall refer the file to the Minister of Finance and the Budget, who may authorise in writing the said commitment of expenditure. Article 66.— No payment order or authorisation for payment shall be "submitted to the Authorising Officer without first having been submitted for approval to the financial controller. The Treasury accountant may not proceed with the payment of payment orders not bearing the financial controller's approval. Tr The Comptroller shall ensure, in particular, that payment orders relate to a budget item already approved by him and that they remain within both their own limits and those of the appropriations. The financial controller may obtain copies of all supporting documents for expenditure and has, for this purpose, extensive powers of investigation, in particular with regard to the accuracy of the certifications of services rendered. If payment commitments appear to him to be irregular, he must refuse to give his approval. Article 67.— These provisions shall apply to the State and may be extended to any public body, even if it does not maintain public accounts, under

the conditions laid down in the legislation governing it. SECTION 2.—JUDICIAL REVIEW Article 68.—A competent body to be established by the Government shall be responsible for auditing the accounts of public accountants. It shall verify the regularity of the State's financial transactions and monitor the regularity of the revenue and expenditure recorded in the public accounts, and shall ensure the proper use of appropriations, funds and assets administered by State departments and other legal persons governed by public law.

Republic of Equatorial Guinea To THE PRESIDENCY -32.- Amnqancrr enano taa Ensures the auditing of the accounts and management of public enterprises . It supervises social security institutions under the control of the State. It exercises oversight over bodies receiving financial assistance from the State or from any other legal entity subject to its control. E Article 69.— The administrative audit of the accounts of local authorities and those of their public establishments may be organised by the competent body. t Article 70.— The procedures for implementing this section shall be determined by law or regulation. SECTION 3.—OVERSIGHT BY THE CHAMBER OF PEOPLE'S REPRESENTATIVES Article 71.—The Chamber of People's Representatives shall monitor, during the financial year, the proper implementation of the General Budget Act . The House of Representatives may not be denied the information requested in order to exercise parliamentary oversight of the Budget Act. The House of Representatives may also appoint committees of inquiry from amongst its members. These committees shall have free access to all departments of the Administration, subject to the protection of State secrets.

pan a] pu o a / O dicas: -34- Ref. oc The House of Representatives may question the "Ministers of the Government". Article 72.— Ex post parliamentary scrutiny of the implementation of the budget shall be exercised during the examination and approval of the draft Bill on the Implementation of the General State Budget. On this occasion, the House of People's Representatives may rightfully request the competent body to carry out all necessary investigations for the purposes of obtaining information. CHAPTER A – ON THE SANCTIONS FOR CONFIRMED IRREGULARITIES. Article 73.— Administrators, secondary authorising officers and public accountants shall, in the exercise of their respective powers, be subject to the liabilities set out in this chapter. SECTION 1.— ON THE LIABILITY OF AUTHORISING OFFICERS AND ADMINISTRATORS. Article 74.— Members of the Government are subject, by virtue of the exercise of their powers, to the liabilities provided for in Article 48 of the Constitution. Administrators and secondary authorising officers of the State and public bodies are subject to liability which may be - disciplinary, criminal and civil, without prejudice to any sanctions that may be imposed by the competent body for mismanagement under the conditions set out in Article 75 of this Act.

To Lol Le 5 5d Y Republic of Equatorial Guinea PRESIDENCY APP -35- Ref. A A Article 75.— Any member of the Cabinet of a member of the Government, or any civil servant or official of bodies subject to the supervision of the competent authority, may be sanctioned for misconduct in office. The penalty shall consist of a fine of not less than 500,000 CFA francs, which may amount to twice the gross annual salary received on the date of the offence. Any person who has breached the rules relating to the management of revenue and expenditure of public bodies or the management of assets belonging to them, or who, being responsible for the supervision or control of such bodies, has given their approval to decisions deemed to be in breach of the rules. Any person who, in the course of their duties, has sought or attempted to secure for themselves or another person an unjustified benefit, whether financial or in kind, shall also be liable to a penalty for mismanagement. Any person who, in disregard of their duties, has caused harm to the public community may also be subject to a penalty for mismanagement. Article 76. —The procedures for implementing the provisions of this section shall be determined by law or regulation. ON THE LIABILITY OF PUBLIC ACCOUNTANTS. Article 77.- Public accountants shall be personally and financially liable for the collection of revenue, the payment of expenditure, the safekeeping and preservation of funds and securities belonging to or entrusted to the State, local authorities and national or local public institutions, the management of funds and - movements in current accounts, the safekeeping of supporting documents for transactions and accounting records, as well as the bookkeeping of the accounting department they head.

ud Ad de 14 p.] F "and A mé El a , E 3 3. de a A CIEN FIA | Me E Sud dr El LES A / Al y A ATA -36- INBCE, here Public accountants shall be personally and financially liable for the controls they are required to carry out in respect of revenue, expenditure and assets under the conditions laid down in the legislation on public accounting. Article 78.— The financial liability provided for in Article 77 shall apply where a deficit or the misappropriation of a sum has been established, where revenue has not been collected, where expenditure has been paid irregularly, or where, due to the negligence of a public accountant, the public body has been required to pay compensation to another public body or a third party. A % Article 79.— The financial liability of public accountants shall extend to all operations of the accounting service which they manage from the date of their taking office until the date of cessation of their duties. This liability extends: - to the transactions of subordinate public accountants placed under their authority and to the transactions of administrators, - To the transactions of subordinate public accountants and their correspondents centralised within their accounts, up to the limit of the controls they are authorised to exercise; - To the acts of de facto accountants, if they have been aware of such acts and have failed to report them to their line managers. Liability may only be attributed to the public accountant for transactions carried out by their predecessors if they have accepted them without reservation at the time of handover, or which have not been contested by the incoming accountant within six months, which period may be extended with the authorisation of the Minister for Finance and the Budget.

-34 Article 80.— Liability on the part of any official or agent placed under the authority of a public accountant shall be attributed under the same conditions as for the accountant himself where a breach of trust, committed intentionally by such official or agent, is the cause of the of the loss of revenue or assets suffered by the public body concerned, of expenditure paid in error, or of compensation paid on account, as a result of such breach of trust, by the public body concerned. Article 81.— Only the Minister of Finance and the Budget or the competent body may impose financial liability on a public accountant. Article 82.— Administrators entrusted, on behalf of public accountants, with revenue and payment operations shall be subject to the rules, obligations and responsibilities of public accountants under the conditions and within the limits laid down by the legislation governing public accounting. The same provisions shall apply to officials responsible for special accounting of assets, securities and bonds. Article 83.—Debits shall accrue surcharges from the date of the event giving rise to them or, if that date cannot be determined precisely, from the date of their discovery. Article 84.—Under the conditions laid down by the legislation on public accounting, public accountants whose liability has been established may, in cases of force majeure, obtain full or partial exoneration from liability. Under the conditions laid down in this same legislation, public accountants may obtain full or partial remission of the amounts for which they are liable.

-39- Article 85.—Before taking up their post, a public accountant is required to provide security. They must also take an oath and provide a bond. Article 86.—Any person who, without being a public accountant or acting under the supervision of or on behalf of a public accountant, interferes with the collection of revenue allocated to, or allocated to a public body with an accounting department or which reports to such a department, shall—without prejudice to any legal proceedings that may be brought before the competent courts—inform the competent judge of the use of any funds or securities that they have handled irregularly. p The provisions of the preceding paragraph shall apply to any person who, directly or indirectly, receives or handles funds or securities irregularly removed from the cash office of a public body, and to any other person who, without holding the status of a public accountant, carries out transactions involving funds or securities that do not belong to public bodies but over which such bodies have exclusive authority to act by virtue of the legislation in force. Irregular transactions shall entail, for the perpetrators declared de facto accountants by the competent court, the same obligations and liabilities as those arising from transactions carried out by public accountants in accordance with the legislation governing the court's jurisdiction in matters of Public Accounts. The de facto accountant may be sentenced by the competent court to a fine for interfering with the functions of a public accountant. This fine shall be calculated according to the significance and duration of the withholding or handling of the funds. Its amount may not exceed the total of the sums unduly withheld or handled.

Article 87.—The procedures for implementing the provisions of this section shall be laid down either in the legislation governing public accounting or by decree, following a report from the Minister of Finance and the Budget. REPEALING PROVISIONS All provisions of equal or lower rank that conflict with the provisions of this Act are hereby repealed, in particular Decree-Law No. 23/1980, dated 8 October, on Budgetary Management and Public Accounting. ADDITIONAL PROVISIONS The Ministry of Finance and Budgets is authorised to issue whatever provisions may be necessary for the strict compliance with the provisions of this Act. FINAL PROVISIONS First.— This Act shall come into force on 1 January 2004. Second.— This Act shall be published in the Official Gazette and in the official media.

Republic of Equatorial Guinea PRESIDENCY 4 -40- Issued at Bata, on the 13th day of November in the year two thousand and three. FOR A BETTER GUINEA » %Y ““CANDIDO MUATETEMARIVAS PRIME MINISTER – HEAD OF GOVERNMENT. j N j Secc. [o o i o 1 1