



IMPROVED BUSINESS AND INVESTMENT CLIMATE IN WEST AFRICA

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MAIN THEMES

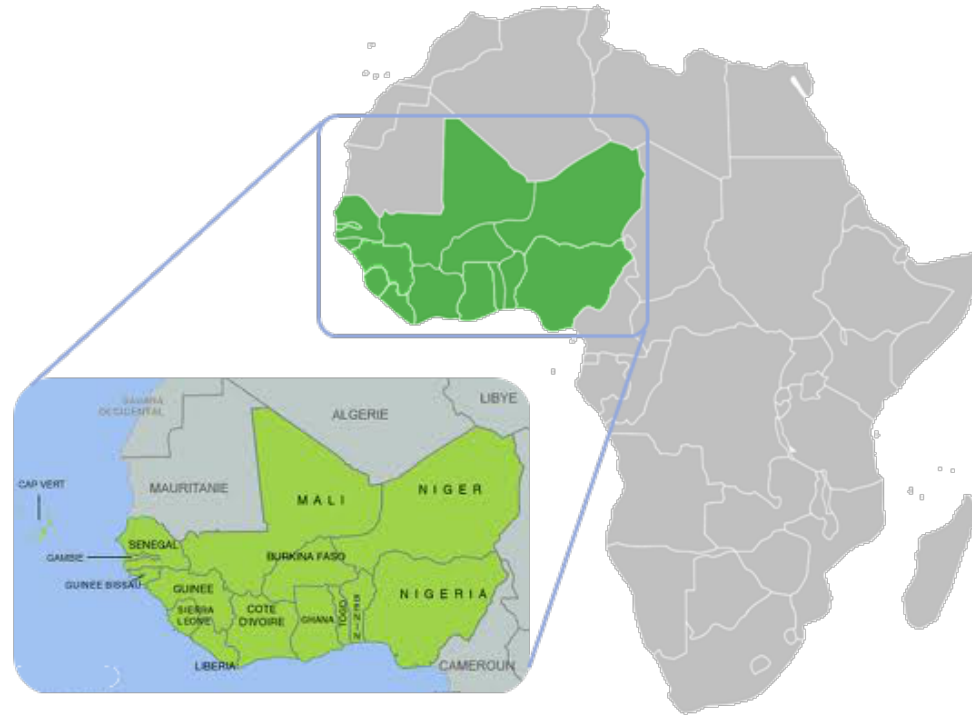
1. ECOWAS Context
2. Examples of Cross-Border Investment Climate (IC) and Investment Policy (IP) Barriers, Including Investment Entry (IE) Constraints, and the Adverse Effects Thereof
3. Need for Reforms in Light of Current Market Dynamics
4. Reform Vehicle: The ECOWAS Investment Climate/Investment Policy Project
5. Targeted Reforms
6. ECOWAS Marketing/Reform Tool: The ECOWAS IC Scorecard
7. Anticipated Economic Outcomes/Impacts of Proposed Reforms
8. Project Achievements, Challenges, and Next Steps



ECOWAS CONTEXT

Common Law Culture/ Anglophone Countries

- Gambia
- Ghana
- Liberia
- Nigeria
- Sierra Leone



Civil Law Culture/Francophone and Lusophone Countries

- Benin
- Burkina Faso
- Cape Verde
- Guinea
- Guinea Bissau
- Ivory Coast
- Mali
- Niger
- Senegal
- Togo

N.B. Countries highlighted in bold are subject to the OHADA Uniform Business Laws



INVESTMENT BARRIERS AND EFFECTS

- **Overview**

- ✓ **Major Constraint:** International surveys have consistently identified IC and IE barriers as primary constraints in West Africa that adversely affect foreign, regional, and local investors, particularly SMEs and service providers
- ✓ **Fragmented Market Opportunities:** Consequently, market opportunities in the ECOWAS common market remain fragmented, with intra-regional foreign direct investment (FDI) flows constituting only approximately 5% of the total FDI in Africa
- ✓ **Economic Effect:** These restraints not only inhibit **FDI, job-creation,** and **trade** potential in the ECOWAS market, but also exacerbate **poverty** levels in the region
- ✓ **Causes/Solution:** These IC/IE barriers are attributable to several **market/policy/legal/regulatory/institutional failures** that require a **proactive reform approach**



EXAMPLES OF INVESTMENT CLIMATE CONSTRAINTS

- **Standard Business Environment and Investment Climate Constraints**
 - ✓ Ineffective Tax Administration
 - ✓ Limited Access to Finance
 - ✓ Ineffective Contract Enforcement/Debt Recovery/Dispute Resolution Mechanisms
 - ✓ Inefficient Business Rescues Mechanisms for Debtors in Financial Distress
- **Infrastructure Framework**
 - ✓ Limited Access to Energy/Electricity, and Lack of Quality Information and Communication Technologies (ICTs)
 - ✓ Persistence of Outdated Free Zone Models or Sub-Standard Special Economic Zone (SEZ) Legal, Regulatory, and Institutional Frameworks



EXAMPLES OF INVESTMENT ENTRY BARRIERS

- **Market-Access Obstacles Hampering Foreign Business Start-Ups**
 - ✓ **Foreign Investment Sector Prohibitions:** Professional services sector
 - ✓ **Discrimination:** Discriminatory treatment of extra-regional and intra-regional investors/investments in many ECOWAS Member States
 - ✓ **Minimum Capital:** Minimum capital requirements to establish foreign investor businesses
 - ✓ **Foreign Senior Director/Management Restrictions**
 - ✓ **Foreign Employee Quotas**
 - ✓ **Joint Venture/Foreign Equity-Ceiling Obligations**
 - ✓ **Local Content Requirements:** Blanket requirement to use domestic suppliers (*i.e.*, required purchase of local goods/services) and local staff/workers



EXAMPLES OF INVESTMENT ENTRY BARRIERS

- **Burdensome/Non-Transparent Administrative Procedures & Processes**
 - ✓ **Cumbersome/Lengthy Investment Approvals, Screening Procedures, Registrations & Notifications Applicable to Foreign Investors**
 - ✓ **Lack of Cross-Border Recognition of Foreign Legal Documents:** Company articles of organization; health-vaccination documents; other documents
 - ✓ **Onerous Requirements Governing Work & Residence Permits/Visas**
 - ✓ **Impediments to Opening Foreign Currency Bank Accounts for Foreign Investors**
 - ✓ **Restricted Access to Industrial/Commercial Land for Foreign Businesses**
 - ✓ **Controls Imposed on Cross-Border Capital Transfers**
 - ✓ **Non-Transparent/Discretionary Incentives Regimes**



NEED FOR REFORMS IN LIGHT OF MARKET DYNAMICS

- **Driving Factors:**
 - ✓ **Quickly Growing Populations:** ECOWAS market comprises roughly 350,000,000 potential consumers
 - ✓ **Rising Disposable Incomes**
 - ✓ **Rapidly Urbanizing Markets**
 - ✓ **Recent Emergence of African MNEs:** Financial/telecommunication sectors
- **ECOWAS Market Power:** 1 of 2 businesses undertaking FDI projects in West Africa cite the untapped domestic market-growth potential as the primary investment motivator
- **Extra-Regional MNEs:** Larger foreign investors from outside ECOWAS have expressed a growing interest in gaining access to an expanding and wider regional investment/services markets in West Africa



NEED FOR REFORMS IN LIGHT OF MARKET DYNAMICS

- **“Window of Opportunity”**: Intra-regional investment and FDI from non-ECOWAS countries, together with indigenous investment, can become major engines for regional and national economic development, especially in consumer-oriented sectors and services and agribusiness pursuits:
 - ✓ Retail
 - ✓ Transportation
 - ✓ Distribution
 - ✓ Logistics
 - ✓ Business/Professional Services
 - ✓ Maintenance/Servicing
 - ✓ Agribusiness
- **Reform Agendas**: The reduction of national IC/IE barriers and the liberalization of foreign investment/service markets at the individual country level – in accordance with the applicable **international ECOWAS obligations** – are a necessary pre-condition to take advantage of this “window of opportunity”



REFORM VEHICLE: THE ECOWAS IC/IP PROJECT

- **Focus:** Removal/reduction of *national* IC/IE constraints/barriers to promote the *regional* expansion of *cross-border* investments, *coupled with enhanced FDI and national investments*, as complemented by *rationalized/transparent national incentives and transfer-pricing policies/regimes*
- **Objective:** Deepen FDI and intra-regional integration in West Africa
- **Donor:** European Union (EU) over a 5-year period
- **Beneficiaries:** ECOWAS/WAEMU Commissions, ECOWAS Member States, and regional private-sector business associations
- **Technical Assistance Partner:** World Bank Group



PROPOSED REFORMS

- **Targeted IC Reforms:**

- ✓ Strengthened financial tools (*e.g., innovative ADR*) to facilitate access to finance for businesses
- ✓ Improved legal and judicial frameworks to improve dispute resolution/contract enforcement
- ✓ Establishment of effective trade-and-investment platforms through the adoption of modern best practice SEZ legal, regulatory, and institutional frameworks
- ✓ Streamlined tax regimes, including through the adoption of ICT-based solutions

- **Targeted IP Reforms:**

- ✓ Streamlined **Market Access** to facilitate cross-border business-start-ups
- ✓ Simplified **Administrative Procedures** to jump-start new regional ventures
- ✓ Rationalized Financial/Non-Financial **Incentives** Regimes
- ✓ Reformed *market-distorting* **Local Content** requirements

- **Challenging Modus Operandi = National/Regional *Cooperation*:**

- ✓ Establishment of **national/regional PPD-dialogue forum/framework** that is compatible with **national/regional political economy considerations**
- ✓ Individual Member States and their private-sector business associations carry out ***cooperative*** reform activities with a ***national/regional focus***



ECOWAS MARKETING/REFORM TOOL: THE ECOWAS IC SCORECARD

- **Scorecard Purpose/Methodology**
- **Integrated Three-Pillar Approach**
- **Implementation at the National Level**
- **Peer-to-Peer Scorecard Learning and Reform Monitoring**
- **Consistency with the draft ECOWAS Regional Investment Climate Policy (ECOWIP)**
- **Consistency with the draft ECOWAS Common Investment Code**



ANTICIPATED REFORM OUTCOMES/IMPACTS

- **Investment:** Increased extra-regional, intra-regional, and national investment flows in targeted sectors in the Member States
- **Jobs:** “Ripple-effect” job creation at the national and regional levels
- **Knowledge Sharing:** “Spill-over” knowledge sharing, technology transfer, and training
- **Additional Fiscal Revenues:** Increased national fiscal revenues resulting from (i) a growing tax base comprising new business ventures and employees that pay taxes, and (ii) rationalized and transparent national incentives regimes
- **International Trade Synergies:** Expanded cross-border investment opportunities that spawn heightened cross-border trade flows in the region
- **Fight Against Poverty:** Increased investment flows, job creation, technology transfer, training, fiscal revenues, and trade flows that contribute positively to reduce poverty at the individual country and ECOWAS regional levels



PROJECT KEY ACHIEVEMENTS TO DATE

- **Unlocked a USD\$ 80 Million Investment Transaction in Senegal via the amendment of an investment-deterrent administrative practice**
- **Supported Enactment of a best practice Special Economic Zone (SEZ) law in Liberia in October 2017 to eliminate Investment Entry (IE) and Investment Climate (IC) barriers**
- **Enactment of SEZ law in Senegal in January 2017 to eliminate IE/IC barriers which adopted best practice revision recommendations (related to compliance with WTO regulations) as submitted by the Project team**
- **Adoption at the Ministry level in Mali of a New Best-Practice SEZ Law Initiative (pending approval by the Council of Ministers)**
- **ECOWAS Investment Climate (IC) Scorecard launched at a Regional Roundtable held in June 2017 in Lagos, Nigeria and endorsed by all 15 ECOWAS countries.**
- **ECOWAS Common Investment Code adopted at ECOWAS Sector Ministerial Level on September 19, 2018- Technical assistance was provided by the Project Team. This important regional instrument binds all 15 ECOWAS Countries to align with international best practice and eliminate investment entry and investment climate constraints**



PROJECT KEY ACHIEVEMENTS TO DATE

- **ECOWAS Investment Policy adopted at ECOWAS Sector Ministerial Level on September 19, 2018- Technical assistance provided by the Project Team via the drafting of best practice provisions/text in the ECOWAS Common Investment Code to align with international best practice and eliminate investment entry and investment climate constraints**
- **Amendments Made to a draft Cote d'Ivoire Mediation Law as a result of technical assistance provided by the Project Team**
- **International Best Practice/Case Studies Note Prepared and Submitted to the Nigerian Government on Visa Facilitation Reform**
- **Enactment of Transfer Pricing Regulations in Nigeria as a result of the technical assistance provided by the Project Team**
- **Enactment of Transfer Pricing Legal Regulations in Liberia as a result of the technical assistance provided by the Project Team**
- **Enactment of Transfer Pricing Legal Regulations in Senegal as a result of the technical assistance provided by the Project Team**



PROJECT KEY ACHIEVEMENTS TO DATE

- **164 transfer pricing audits were launched, out of which 23 have been completed, under the Project's technical assistance to the three Project focus countries (Senegal, Nigeria and Liberia),**
- **Approximately 150 audit cases have been opened to date, out of which 23 have generated a significant increase in revenue for FIRS, under the Project's technical assistance to Nigeria Federal Inland Revenue Service (FIRS),**
- **Establishment of a Transfer Pricing team within the Liberia Revenue Authority (LRA) in May 2016**



POTENTIAL PROJECT RISKS AND CHALLENGES

- ✓ **Another Ebola Outbreak**
- ✓ **Social Unrest Due to Political Elections (*e.g.*, Boko Haram)**
- ✓ **Cultural, Language, and Legal System Differences**
- ✓ **Commodity Prices**
- ✓ **National Political Economy Issues**
- ✓ **Prisoner's Dilemma Tendencies**





Thank You



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