

**LES OPPORTUNITÉS DE L'INVESTISSEMENT ÉTRANGER DANS LE SECTEUR AGRICOLE:
UN ATELIER SUR LA FAÇON D'ATTIRER DE L'INVESTISSEMENT DURABLE
ET DE HAUTE QUALITÉ ET LE RÔLE DES CADRES LÉGAUX**

**FOREIGN INVESTMENT OPPORTUNITIES FOR AGRICULTURE:
A WORKSHOP ON HOW TO ATTRACT HIGH QUALITY AND SUSTAINABLE
INVESTMENT AND THE ROLE OF LEGAL FRAMEWORKS**



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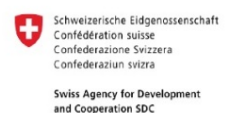


REPORT

Foreign investment opportunities for agriculture: a workshop on how to attract high quality and sustainable investment and the role of legal frameworks

**Training for ECOWAS government officials and members of parliament
2-3 November 2016
Novotel Abidjan, Côte d'Ivoire**

Cette formation fait partie d'une série de renforcement de capacité soutenue par: / This training is part of a series of capacity building supported by:



Introduction

The [International Institute for Sustainable Development](#) (IISD) and the Economic Community of West African States (ECOWAS) [Commission](#) and [Parliament](#) held a two-day training session in Abidjan, Côte d'Ivoire, on 2-3 November 2016. Around 40 government officials and members of parliament from the ECOWAS region attended the workshop, entitled “Foreign investment opportunities for agriculture: a workshop on how to attract high quality and sustainable investment and the role of legal frameworks”.



Agriculture is the main driver of economic and social development in the ECOWAS region, and there is now a pressing need for more investment in this sector. The attendees all recognised a growing call, across Africa, for a shift from subsistence farming to commercial agriculture. Yet they also agreed that this change can only come about if the right conditions are in place, including good governance (a key factor that affects investment volumes and outcomes), a keen understanding of realities on the ground, and an environment that attracts investment (notably via suitable instruments and policies).

Objectives of the meeting

The main aim of the meeting was to discuss how to use legal frameworks and policies to attract sustainable, high-quality foreign investment. Specifically, the objectives were:

- To analyse and discuss the methods used by different countries to attract sustainable, high-quality investment and deliver a positive impact on the agricultural sector.
- To understand and analyse how international responsible agricultural investment initiatives are implemented and how they help to promote sustainable investment, with a particular emphasis on the CFS Principles for Responsible Investment in Agriculture and Food Systems (RAI) and the LPI Guiding Principles on Large Scale Land Based Investments (LSLBI).
- To learn how to examine and evaluate agricultural investment projects.
- To assess an investment contract from a sustainable development perspective.



Workshop content

The workshop was divided into a series of presentations and interactive sessions. The attendees had an opportunity to share positive examples and challenges surrounding foreign investment in their own contexts. They also identified national-level best practice and began thinking about how to use legal instruments to attract sustainable, responsible investment in agriculture at the regional level.

Putting international agricultural investment principles into practice

The attendees were aware of the various standards that govern agricultural investment projects) and understood the need to legally enshrine the legitimate claims of local populations over land and natural resources.

Through a series of practice case studies, the attendees saw how voluntary international responsible investment frameworks – such as the [Principles for Responsible Investment in Agriculture and Food Systems and the Guiding Principles](#) – could feasibly be implemented via national law and agricultural investment contracts, and what impact their implementation has.



Through their discussions, the attendees came to an agreement about the notion of “best” practice, laws or contracts, which they defined as *“the establishment of legal instruments or policy measures that meet identified challenges, that are fair and appropriate, and that seek to serve the interests of the country and its populations”*.

Attracting sustainable investment and selecting investors: from quality to sustainability

The attendees talked about the existing discrepancies in investment-related legislation and discussed the structural and institutional challenges they face. They also addressed the link between growth and development and agreed that they needed to do more than just attract investment. When it comes to responsible investment, quality is just as important as quantity.



The focus, therefore, is on the extent to which investment delivers positive benefits that align with the receiving country’s development goals.

The attendees therefore discussed investment

promotion and facilitation efforts, recognising that investment quality is critical to the success of the work done by investment promotion bodies. They also stressed how handling investment via a single, centralised system can help to support facilitation efforts.

The government of Benin, for example, has introduced a centralised investment system¹, with a single agency acting as the sole point of contact for all private investment project enquiries (from both domestic and foreign investors).

The attendees also talked about the positive impacts that investment can have in terms of innovation and jobs, as well as its negative effects on the environment and employment, and agreed that investor selection is an important part of the process. They came to a consensus that the success of an investment project lies in the profile of the investing company, its technical and management capabilities, its cultural production experience and its key objectives. The attendees also discussed the need to assess the investor’s industrial strategy, business plans, strategic plans and contractual obligations.



The agricultural investment contract: maximising benefits and minimising risks

The attendees recognised that some countries are further along the path of harmonising their laws than others, and that contracts could help to fill the legislative gaps that exist. However, IISD’s analysis of agricultural investment contracts in the ECOWAS region indicates an imbalance

between parties to such contracts, in terms of rights and obligations. For example, it shows that many contracts lack sustainable development provisions (such as environmental and social impact assessments) or economic and social obligations. It also suggests that, where these provisions do exist, investor obligations are not made clear.



¹ The Investment and Exports Promotion Agency (APIEX) now handles the work previously performed by the Investment Promotion Centre, the Beninese Agency for the Promotion of Trade, and the One-stop Formality Office. Its remit includes promoting investment and investor services, and conducting strategic watch and business intelligence activities. Its ultimate purpose is to attract more investment and to support product exports – in terms of both quality and quantity.

Concession agreements in Liberia



The attendees were particularly impressed by the concession agreement model used in Liberia. These agreements spell out the investment process in clear detail, are drafted in a participatory manner, and are put before parliament for ratification, meaning they have full legal force². Liberia has adopted an institutional approach to the concession agreement assessment, examination, negotiation and award process, featuring a set of sustainability targets designed to support the country’s growth and sustainable development. The Liberian example triggered a wide-ranging debate and prompted calls for a regional-level model contract.

Emerging points

The following concerns and points of interest emerged from the workshop:

Capacity building was a major topic of concern and the attendees stated their intention to continue delivering training in the following areas, among others:

- investor selection, with a particular emphasis on sustainable, high-quality investment
- agricultural investment contracts that work in the national interest (negotiation and key provisions)
- technical, financial and legal analysis of investment projects (including more detailed analysis of feasibility studies, business plans, and environmental and social impact assessments)
- foreign investment management and monitoring and evaluation of investment projects



Stakeholder involvement, information and participation are critical to good governance. The attendees expressed a desire for greater transparency, consultation and involvement of the communities affected by investment projects. They suggested:

- demanding parliamentary approval for land awards above a certain threshold

² Parliament can overturn the agreement and refuse to ratify it

- requiring communities to be consulted and their wishes considered in all investment projects
 - by improving communication between the government, the community and investors
 - by involving the community in the contract negotiation process and in investment project monitoring and evaluation activities
 - by considering the needs of smallholder farmers in foreign commercial projects
- Informing local populations of their real land rights via local media channels (community radio stations)
- Raising awareness about the need for transparency in agricultural investment.

The attendees also focused on **legal frameworks** and expressed a desire for new legal instruments:

- Codifying best practice on investment contract negotiation in the ECOWAS zone
- Developing a community law on the investment framework or a model investment contract for the ECOWAS region.

Conclusion

The attendees found the workshop extremely useful and particularly enjoyed the opportunity to talk to their peers and senior politicians. They expressed a desire for a similar workshop in the future, to learn about progress at the regional level.

Some of the attendees said that their ministries had already set in motion plans to create new bodies (e.g. a unit responsible for monitoring, evaluation and implementation of investment agreements) and that the issues raised at the workshop would be discussed within these new bodies. Others mentioned that their ministries would need to develop practical tools (such as matrices and indicators) to ensure that contracts meet sustainability criteria.

The attendees also mentioned that they would like to see a dedicated network of skilled investment contract negotiators.

LIST OF ATTENDEES

NAME	POSITION
Adiaba, Stanislaus (Dr)	Land Administration Officer Lands Commission Ghana
Aguemon, Dossa	Deputy Director for Programming and Foresight Ministry of Agriculture, Livestock and Fisheries Benin
Ahomadegbe, Janine Octavie	Commercial Lawyer Embassy of Benin in Paris France
Alharazim, Jeneba	Lawyer Ministry of Agriculture, Forestry and Food Security Sierra Leone
Badou, Thierry	Head of Department, Directorate for Attracting Investment CEPECI Côte d'Ivoire
Baffour-Awuah, Edna	Economist Ministry of Finance and Economic Planning Ghana
Bangura, Victor	Chief Executive, Sierra Leone Investment and Export Promotion Agency Sierra Leone
Burnette, Siobhan	Ministry of State for Presidential Affairs Liberia
Cissé, Salim	Secretariat, High Council for Agriculture Ministry of Agriculture Mali
Cisse, Modibo Kane (Hon.)	Member of Parliament Member of the ECOWAS Parliament Mali
Coulibaly, Mohamed	Agriculture and Investment Advisor IISD Switzerland

NAME	POSITION
Daud, Sulemana Mahama	Technical Director for Lands Ministry of Lands and Natural Resources Ghana
de Sousa, Rui Diaz (Hon.)	Member of Parliament Member of the ECOWAS Parliament Guinea-Bissau
Diallo, Youssoufa	Senior Technical Advisor to the Ministry of Agriculture and Rural Equipment and Chairman of the Board of Directors of SONACOS Senegal
Diarra, Daouda (Dr)	Permanent Secretary, High Council for Agriculture Ministry of Agriculture Mali
Diomande, Ahmed	Special Advisor to the Chief Executive, Directorates for Attracting Investment CEPICI Côte d'Ivoire
Diouf, Pierre	Rural Development Director Ministry of Agriculture and Rural Equipment Senegal
Diop, Laity	Head of the Seeds Office Ministry of Agriculture and Rural Equipment Senegal
Dembele, Sadio	Legal Advisor Office du Niger Mali
Fomba, Niamballi Fatimata (Hon.)	Member of Parliament Member of the ECOWAS Parliament Mali
Hodin, Eke Kokou (Hon.)	Member of Parliament Member of the ECOWAS Parliament Togo
Kouame, Emmanuel	Chief Executive CEPECI Côte d'Ivoire

NAME	POSITION
Litscher, Thomas (H.E.)	Ambassador of Switzerland to Côte d'Ivoire
Leye, Serigne Mamadou Bousso (Dr)	Rural Development Expert Senegal
McClain, Charles N. (Dr)	Deputy Minister for Agriculture Ministry of Agriculture Liberia
Montcho, Hyacinthe M.	Administrator in Development Economics Ministry of Planning and Development Benin
Nikiema, Adamou	Director for Legal Affairs, Studies and Promotion at Bagrépôle, and Head of Investment Promotion for the Bagré Growth Cluster Project Burkina Faso
Picard, Francine Mukazi	Parliamentary Advisor IISD Switzerland
Samhouna, Assouman	Lawyer ECOWAS Parliament Nigeria
Sesay, Alimamy	Senior Legal Advisor Public Prosecutor's Office and Ministry of Justice Sierra Leone
Speller, Will	Agriculture and Investment Advisor IISD Switzerland
Tarkighir, Dickson Dominic (Hon.)	Member of Parliament Member of the ECOWAS Parliament Nigeria
Traoré, Dédéou (Hon.)	Member of Parliament Member of the National Assembly Mali
Traoré, Sadio	Legal Advisor Office du Niger Mali
Viera Martins, Filomena (Hon.)	Member of Parliament Member of the ECOWAS Parliament Cape Verde
Zinnah, Moses (Dr.)	Deputy Minister for Agriculture Ministry of Agriculture Liberia

