

Basis for ECOWAS Common Investment Market

Implementation of measures aimed at enhancing the investment climate and scaling up the attractiveness of the ECOWAS region as a single market has been of special interest to regional policy makers since the responsibility was enshrined in the ECOWAS Treaty by the Founding Fathers. However, the process towards the adoption of relevant regulations and policies has been slow; thus, the challenge of dealing with limitations imposed by national legislation on cross border trade and investment in spite of regional integration had persisted.

Across the region, controls on the free movement of goods, persons and capital between countries remained material impediments to the inflow and outflow of direct and portfolio investment into and from the region despite the abundance of viable investment opportunities in the region. This condition is worsened by the dearth of relevant infrastructure and political & social instability. Regional integration is now widely accepted as indispensable for expanding economic opportunities in West Africa. Bigger markets permit better exploitation of economies of scale, while factor mobility across borders and the coordination and harmonization of monetary and fiscal policies would facilitate faster economic growth and greater welfare for participating countries. These, among others are why West African countries consider regional integration the most direct route to fast, broad-based development and an effective way to overcome the limitations of small internal markets.

Removal of border controls, harmonization of macroeconomic, sectoral and institutional policies and actions, liberalization of trade, free movement of people and capital are expected to result in more efficient use of resources as well as in productivity and income gains. Member countries are expected to fare better with integration than without it. The productivity gains arising from economies of scale and cost-saving arrangements are also likely to strengthen internal as well as external competitiveness of ECOWAS products and firms. Economic gains in turn are likely to facilitate the process of political and social cohesion and unity.

In recent times, many ECOWAS Member States in appreciation of the impact of the regional investment climate on national fortunes have begun to adopt

policies that sanitize their investment climate. Some of these include the following:

- Review their policies and rules affecting investment and private sector development with a view to improving the investment climate in their individual countries;
- Consider adhering to other relevant rules and instruments on Corporate Governance;
- Review the costs and benefits of investment incentives and exchange views and experience on their use and economic impact;
- Intensify action to remove obstacles to business development, in particular regulations and administrative practices that obstruct or delay investment;
- Enhance partnership in building human capacities and skills necessary for acquiring and spreading the benefits of investment in the region;
- Develop a framework for the competitive functioning of their markets which would include effective competition laws and the reform of economic regulations;
- Strengthen the capacities of investment promotion agencies to disseminate information and to provide services to investors and encourage co-operation among these agencies at regional and international levels;
- Support small and medium sized enterprises and encourage their co-operation in regional projects; and
- Consult business groups, private sector associations, social partners and civil society organisations to explore the development of investment opportunities and to provide input to the decision making process on investment policies, laws and regulations.

Building on this commitment to better policies and regulations for investment, ECOWAS Member States decided to use the impetus of preparations towards the Economic Partnership Agreements (EPAs) to harmonize their regulations on investment and work for the establishment of a common regional investment rule and code, to establish the common

investment market. The Road Map to EPAs negotiations between West Africa and the European Union (EU) was adopted on August 4, 2004 in Accra, Ghana.

Five Thematic Groups made up of regional experts were assembled to work out the negotiation strategies in EPAs. The first meeting of the Thematic Group on Investment met in Abuja in May 2005 and the meeting emerged with its own time table of the negotiation to agree with common Road Map for the community. The second meeting of the Thematic Group was held at Ouagadougou in December 2005 and much progress was not achieved either. Consequently, the Ministerial Monitoring Committee(MMC) of the region met in Abuja in April 2006 and concluded that since the entire developing countries has rejected further negotiations of Singapore Issues at the World Trade Organization Ministerial, it will inappropriate to continue to negotiate Investment in the EPAs. The meeting concluded that further negotiation of Investment should be focused at harmonizing the investment policies of ECOWAS member states into a common code.

In August 2006, a study under the 9th EU Development Fund was commissioned to our Consultant to look into the investment policies of ECOWAS member states with the aim of harmonizing them into a singular code. The study recommended for the possibility with its Investment Policy Framework. The study was further deliberated at meeting of experts in Accra in August 2006 along a draft on Supplementary Act equally prepared by the expert. Before MMC meeting in September 2006, the experts met with the Consultant to jointly conclude the two documents for presentation for MMC's consideration. Impressed by the work done on the subject, MMC made some useful suggestions on the documents. The regional experts with the Consultant met again in Lome in March 2007 to harmonize the MMC's position, and thereafter the documents were sent to UNCTAD for further comments. As expected, UNCTAD was equally impressed about the quality of such a home-made Supplementary Act and Policy Framework on regional investment initiative. The validation of the documents was therefore concluded at Bamako in August 2007.

From February to May 2008, the EU, through BizClim, finalized a study on ECOWAS Common Investment Code (CIC) and Investment Policy Framework to assist the region in fast-tracking the implementation of its Common Investment Market. Simultaneously, the Council of Ministers during their 60th Session on 17 - 18 June, 2008 adopted the two documents signalling the commencement of the process towards the harmonization of community investment rule into a code. Basically, the Supplementary Act to guide the investment rules provide for the following:

- ❖ Transparency of national policies, laws and regulations and administrative practices affecting foreign and domestic investment;
- ❖ Coherence and stability of these laws, regulations and administrative practices;
- ❖ National treatment for foreign investors at both the pre- and post - establishment stage;
- ❖ Timely and unrestricted transfer of the proceeds of the investment and guarantee for the repatriation of the capital when the investment is terminated;
- ❖ Fair and equitable treatment of domestic and foreign investments with full protection of property rights including intellectual property;
- ❖ High standards on expropriation and compensation;
- ❖ Unrestricted access of investors to effective dispute settlement mechanisms including international arbitration;
- ❖ Movement of key personnel for the investment and simplification of visa regulations;
- ❖ Transparency of incentive measures;
- ❖ Simplification of administrative procedures for the establishment of new companies, the take-over of existing companies, the granting of permits, concessions and licenses as well as for other operations or transactions needed for the establishment or development of private investment;
- ❖ Respect of agreed principles of corporate social responsibility ;
- ❖ Good corporate governance and integrity in public administration;
- ❖ Removal of barriers to trade, which have a negative effect on investment, through increased regional cooperation; and
- ❖ Promotion of investment policies and measures consistent with their commitments to sustainable development, protection of the environment and the observation of recognised core labour standards.

The overall objective of establishing ECOWAS common investment market is to enable the region to attract greater and sustainable levels of investment into the region through creating an international competitive investment area, which allows for free movement of capital, labour, goods and services across borders of Member States. The creation of a common investment market is particularly useful as national markets in most ECOWAS countries are too small to attract investment on their own. Furthermore, multinationals, fund managers and other investors now give preference to regional, rather than national markets in making decisions where to invest. The focus of the ECOWAS common investment market will be to make ECOWAS one of the major destinations for regional and international investors while simultaneously enhancing national investment. Investment is critical not only for sustainable regional integration, but also for overall socio-economic development of the entire region. Investment, particularly in the productive sectors and export-oriented enterprises, is critical if the region is to benefit from globalisation and strengthen the bonds of integration. The common investment market would therefore act as catalyst for accelerated investment in the region.

The prospects for attracting and sustaining enhanced investment can be significantly improved when commitment to regional integration and the harmonisation of investment policies based on a high level commitment to the key principles and best practices for successful investment policies prevail. The Commission is convinced that such commitment will enhance the ability of ECOWAS member countries to attract the required level of investment, help them attain international standards, as well as further enhance their constructive integration into the global economy. Thus we must continuously engage in efforts aimed at the following:

- aligning of private investment to a single ECOWAS space(that is, the making of the treatment of private investments uniform/similar throughout the Community) so as to permit economies of scale for regional economic actors small or large;
- achieving an increased flow of intra-ECOWAS and extra-ECOWAS investments; and
- improving the competitiveness of existing companies to benefit from the single market economy on investment in ECOWAS region and subsequently enhance their global competitiveness.

In other words, the primary purpose of the ECOWAS Common Investment Market is the integration of national economies to create large internal markets that can sustain production efficiency at levels comparable to those in industrial

countries. The harmonization of national investment laws towards a regional best practice of investment code is therefore expected to strike a better community balance between private interests (investor rights) and public goods (investor obligations towards the Region) that will be attractive to investors within and outside the region.

Enlarged ECOWAS regional markets provide incentives for private cross-border investments and foreign direct investment. The establishment of optimum-sized industrial and service projects, constrained by the limited size of individual country markets, could be facilitated by appropriate trade and macroeconomic policy regimes. For example, the economies of most individual ECOWAS countries are too small to support a viable steel industry, a sector pivotal to industrialization. The combination of a stable common regional investment climate, transport and communication infrastructure, and sound regional economic policy could provide adequate incentives for large-scale investment in manufacturing and service projects subject to economies of scale.

The Workshop is put in place to acquaint you - regional stakeholders - with this move towards up scaling the economic integration of the region to the next phase as this will allow her to effectively participate in the current globalization process as an equal partner with the world.

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