



SERVICES POLICY REVIEW



ECOWAS (II)





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The publication is in two volumes. Volume I contains an overview of ECOWAS economy and its services sector. It also contains sectorial reviews of the following services: Banking and other financial services; Insurance and insurance-related services; Telecommunications services; Road transport services; Air transport services; and Tourism services. Volume II contains sectorial reviews of the following services: Energy services; Accounting services; Legal services; Architectural services; and Trade in education services. It also summarizes conclusions and recommendations for advancing development of key priority services sectors in ECOWAS Member States.

Values are presented in short scale and references to dollars are United States of American dollars, unless otherwise stated.

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ABBREVIATIONS AND ACRONYMS

| | |
|--------|---|
| AABWA | Association of Accounting Bodies in West Africa |
| AfCFTA | African Continental Free Trade Area |
| ANEE | <i>Agence Nationale d'Économie et de Maitrise de l'Énergie</i> |
| ARCON | Architects Registration Council of Nigeria |
| CAC | Corporate Affairs Commissions |
| CEET | Compagnie Énergie Électrique du Togo |
| CPC | central product classification |
| CTP | common trade policy |
| DGE | <i>Direction Générale d'Énergie</i> |
| DNE | <i>Direction Nationale de l'Énergie</i> |
| ECOWAS | Economic Community of West African States |
| EEEP | ECOWAS Energy Efficiency Policy |
| ECREEE | ECOWAS Centre for Renewable Energy and Energy Efficiency |
| EPSS | ECOWAS Payments and Settlements System |
| ERERA | ECOWAS Regional Electricity Regulatory Authority |
| FDI | foreign direct investment |
| GATS | General Agreement on Trade in Services |
| GATT | General Agreement on Trade and Tariff |
| GDP | gross domestic product |
| GiZ | <i>Gesellschaft für Internationale Zusammenarbeit</i> |
| ICT | information and communication technology |
| IPAWAS | Investment Promotion Agencies of West Africa States |
| LMT | labour market test |
| LPDSE | Policy Letter on Development of the Energy Sector |
| MFN | most favoured nation |
| NBS | National Bureau of Statistics |
| NEPAD | New Partnership for Africa's Development |
| NIA | Nigerian Institute of Architects |
| NIPA | National Investment Promotion Agency |
| OECD | Organization for Economic Co-operation and Development |
| OMVG | Gambia River Basin Development Organization |
| PAFA | Pan African Federation of Accountants |
| PEN | Energy Policy of Niger |
| PND | <i>Plan National de Développement/National Plan for Development</i> |
| PSD | <i>Plan Stratégique de Développement/Strategic Plan for Development</i> |
| PPPs | public private partnerships |
| RREA | Rural and Renewable Energy Agency |
| SDMEM | Development Strategy for Energy Management in Mali |
| REC | regional economic communities |
| SPR | Services Policy Review |

| | |
|--------|--|
| SWOT | strengths, weaknesses, opportunities and threats |
| TEVET | Technical and Vocational Education and Training |
| TNCDDB | Trade Negotiations and Commercial Diplomacy Branch |
| UEMOA | West African Economic and Monetary Union |
| UNCTAD | United Nations Conference on Trade and Development |
| UNECA | United Nations Economic Commission for Africa |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| USAID | United States Agency for International Development |
| WAEC | West African Examination Council |
| WAGP | West African Gas Pipeline |
| WAPCo | West African Gas Pipeline Company limited |
| WAMZ | West African Monetary Zone |
| WAPP | West African Power Pool |
| WTO | World Trade Organization |

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Chapter

ENERGY SERVICES

A. Introduction

A broad perspective of the energy sector includes a number of activities involved in the supply chain: Exploration, extraction, production, transportation, transmission, distribution, marketing and consumption, that is to say selling to the final consumer. It is also possible to include offshore activities, as a significant portion of oil and gas production takes place offshore; highly specialized equipment and services are developed for location, prospection, extraction, production and transportation of energy resources at sea.

It is not certain which activities in the energy supply chain could be considered as services. Neither the W/120 document in the WTO nor the provisional Central Product Classification (CPC) of the United Nations contain a separate section on energy services. Energy-related activities are nevertheless covered by these classifications. The main activities that expressly refer to energy in the upstream value chain of the oil sector are defined as follows:

- **The set of activities carried out to acquire geo-scientific data**, including geological, geophysical and geochemical surveys as well as processing, interpretation of data and information acquired on predefined areas.
- **Prospection or Exploration** which consists in superficial or deep investigations in order to discover commercial quantities of hydrocarbon deposit.
- **Development**, which represents all the activities related to preparation, construction and installation of hydrocarbon production facilities, including drilling of development wells and various pipelines of production activities.
- **Production**, which is the extraction of hydrocarbons from deposits, including drilling for the production of hydrocarbons, injection for improvement of recovery, assisted recovery, treatment, storage and preparation for transportation of hydrocarbons, construction and use of facilities for hydrocarbons production.
- **Transportation**, which refers to transport of hydrocarbons from the place of extraction of the deposits to the points of storage, processing, loading or delivery within the country.

- **Abandonment**, which are all activities related to preparation and implementation of interruption of petroleum activities, including interruption of the use of facilities, their dismantling and removal, as well as rehabilitation of the site.

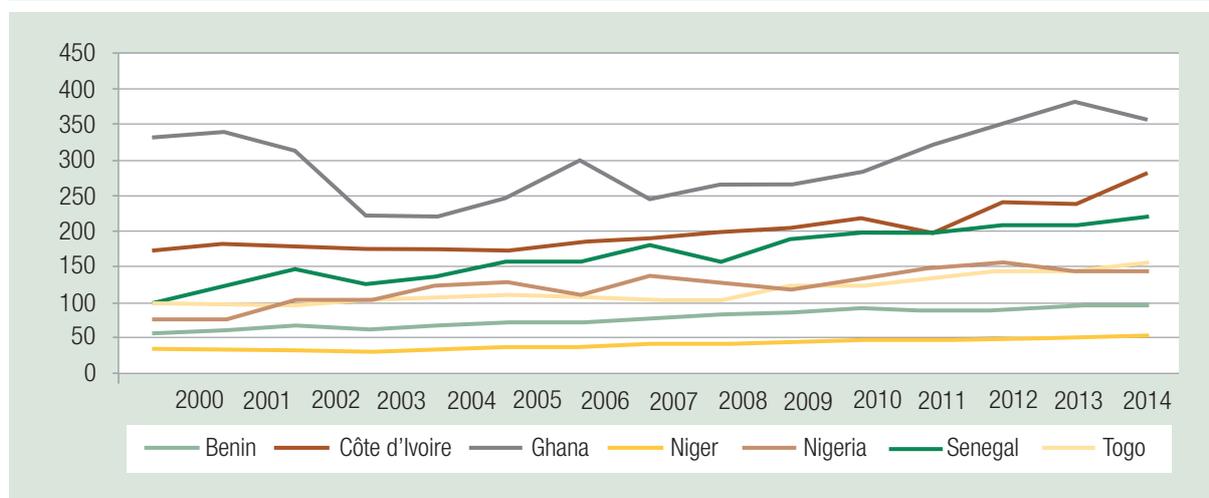
The downstream hydrocarbon services are classified as:

- **Transportation**: Road transport of hydrocarbons, gas transportation, marine transport of hydrocarbons, railway transport of hydrocarbons, hydrocarbon transportation by pipeline.
- **Storage**: Hydrocarbon storage, offshore oil and gas storage, gas storage.
- **Marketing**: Fuel distribution, distribution of aviation products and distribution of gas.
- **For electricity generation**, services are classified as transmission of electricity, services incidental to distribution of energy, distribution of electricity and services incidental to distribution of energy.

B. Performance of the sector

Given the ambitions of the ECOWAS region to provide decent living conditions to its population by promoting a dynamic regional economy, it is only natural that the issue of access to reliable, and affordable energy services is a key priority for the region and an area of focus for regional cooperation, policy development and investment. The projected continued growth of the region's population, which already accounts for around one third of Sub-Saharan Africa's total population, will imply rising energy demand in the years to come. Population growth, rapid urbanization, and economic development will place additional strain on the region's energy system. ECOWAS Member States have started to address these challenges, including by focusing on developing the region's renewable energy potential across a diverse set of resources, including modern biomass, hydropower, solar, and wind.

The current situation in Member States remains diverse with varying energy demand profiles. Not only does energy consumption differ from country to country (see Figure 1), it also varies from sector to sector in different countries. In low-income economies, the household sector tends to account for the vast majority of energy consumption while in other Member States economic sectors such as transport and industry represented a significant share.¹ Such

Figure 1. Consumption of electricity in ECOWAS Member States (kwh per inhabitant)

Source: World Development indicators, World Bank.

variance is essential for targeting specific sectors of the economies for energy efficiency improvements and renewable energy deployment.

While the region has set out the objective of providing its population and its economic operators access to modern energy services, it remains heavily dependent on traditional biomass resources like wood and charcoal, particularly in rural areas. Access to electricity remains a challenge in the ECOWAS. National electricity access rates vary widely (see Figure 2). While the access rate in one Member State remained as low as 10 per cent, Cabo Verde had nearly universal access at 90 per cent.

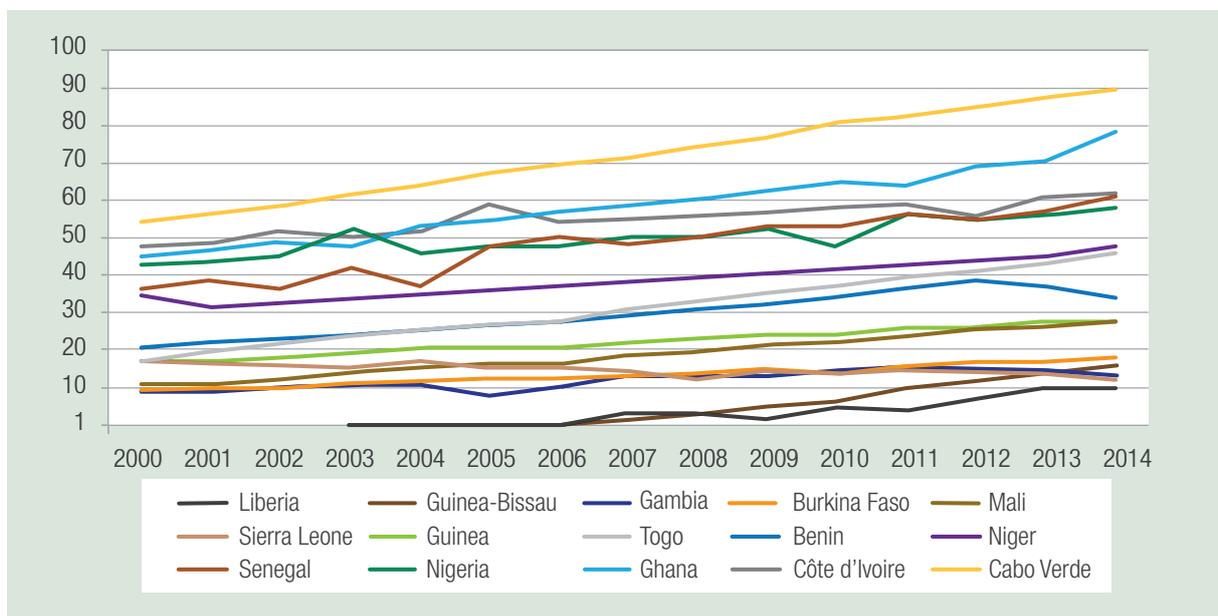
Despite the relative success of a few Member States in achieving commendable access rates, energy security in the ECOWAS region remains threatened by various factors including poor system reliability; limited infrastructure; and heavy reliance on fossil fuels, hydropower, and traditional biomass resources. It is particularly noteworthy that the region depends on imports of fossil fuels. A closer look at the electricity sector also indicates that the growing gap between generation capacity and demand is compounded by high losses (Figure 3). The losses vary significantly from member to member. It should be noted that technical and non-technical losses in the grid networks represent a major barrier to further energy sector development.² The loss-reducing schemes include: (i) improving and maintaining existing equipment; (ii) removing illegal connections; and (iii) optimizing billing to increase cost recovery.³

C. Linkages with other sectors

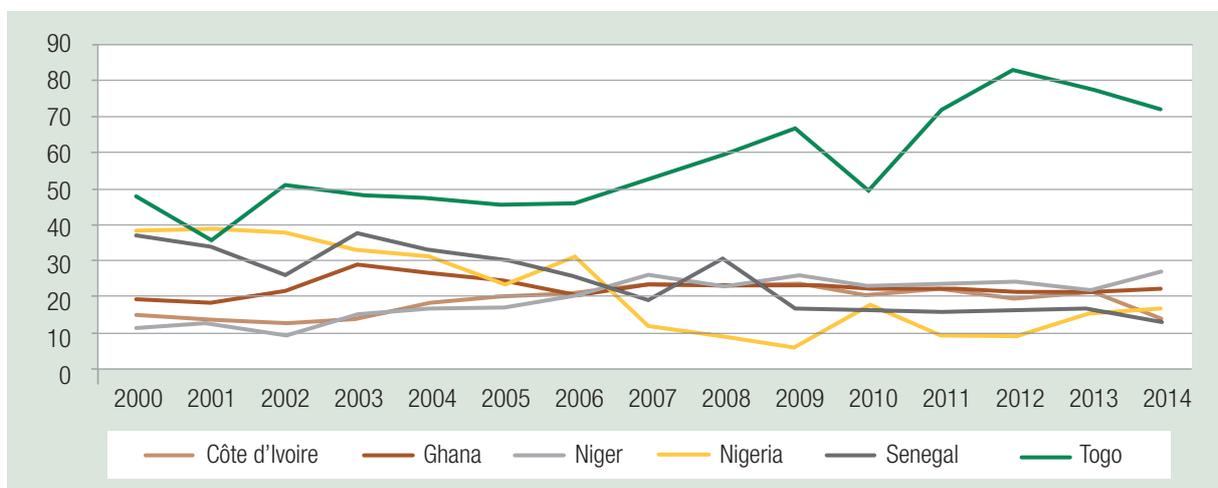
Article 28 of the revised ECOWAS Treaty sets out the major orientations of ECOWAS targets and policies in the energy services sector. It states that Member States agree to coordinate and harmonize their energy policies and programs and commit to:

- Effectively enhancing the region's energy resources.
- Establish appropriate cooperation mechanisms to ensure the regular supply of hydrocarbons.
- Promote the development of new and renewable energies, including solar energy as part of an energy diversification policy.
- Harmonize national energy development plans, including the interconnection of electricity distribution networks.
- Design a common energy policy, particularly in terms of research, exploitation, production and distribution.
- Create a mechanism for consultation and coordination to jointly solve the problems associated with energy development within the Community, in particular those related to energy transport, inadequacy of qualified technical staff and shortage of financial means for the realization of energy projects.

The existence of an efficient energy sector is essential for economic and social development, as almost all human activities use energy. Ensuring reliable

Figure 2. Access to electricity in ECOWAS Member States (in percentage of population)

Source: World Development indicators, World Bank.

Figure 3. Electricity transportation and distribution losses in ECOWAS Member States (in percentage of production)

Source: World Development indicators, World Bank.

and affordable energy supply is seen as one of the fundamental responsibilities of governments that regulate the sector in order to achieve various objectives, including the following:

- Provide people with reliable and affordable energy goods and services; (e.g. universal service for electricity).
- Mitigate the environmental effects of energy production and consumption.
- Diversify energy sources to ensure security of supply.
- Ensure the preservation and sustainable use of natural resources.

D. Institutional framework and main actors

The ECOWAS Energy Institutional Framework consists of the following:

i) The ECOWAS Centre for Renewable Energy and Energy Efficiency

The ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE) is a specialized agency of ECOWAS with a mandate to promote regional renewable energy and energy efficiency markets. It acts as an independent body but within the legal, administrative and financial framework of ECOWAS. The Centre was established in 2010 with support of ECOWAS, the Governments of Austria and Spain and key technical assistance of the United Nations Industrial Development Organization (UNIDO). ECREEE aims at the following objectives:

- To promote sustainable development in West Africa by improving access to modern energy services, energy security and climate change mitigation through the use of renewable energy and energy efficiency.
- To create an enabling environment for regional renewable energy and energy efficiency markets by mitigating various barriers for the dissemination of green energy technologies and services.

The ECREEE promotes the following energy technologies/solutions:

- All appropriate renewable energy and energy efficiency technologies and solutions, including partly renewable energy-based hybrid systems and mini-grids.
- Small-scale hydro-power projects usually with a maximum capacity of 30mw.
- Biofuel projects which prove to be sustainable.
- Liquid Petroleum Gas cooking projects, which are eligible due to their high relevance for low-income population groups.

The institutional structure of the Centre includes: (a) the Secretariat based in Praia, Cabo Verde; (b) the Executive Board; (c) the Technical Committee; and (d) the national focal institutions in the 15 ECOWAS Member States.

ii) The West African Power Pool

The West African Power Pool (WAPP) brings together the utilities of 14 of the 15 ECOWAS Member States, except Cabo Verde without electrical connection with the African continent. Its vision is to develop and put in place a cooperative power pooling mechanism for integrating national power system operations into a unified regional electricity market. WAPP is promoting the development of infrastructures and the elaboration of common electrical standards to achieve a complete synchronization of the WAPP area. Some countries like Ghana and Mali have several utilities represented (e.g. the 3 Ghanaian utilities: GRIDCO, VRA, and ECG).

The West African Power Pool's present priorities are to develop and build the necessary conditions of the emergence of a single power market within its boundaries, by developing and coordinating the WAPP Master Plan which should provide at the horizon 2020/25 a sufficient transmission and power capacity at the regional level. In 2011 the revised Master Plan was adopted.

iii) The ECOWAS Regional Electricity Regulatory Authority

The Regional Electricity Regulatory Authority (ERERA) is the regional regulator for cross-border electricity interconnections in West Africa. The mission and objectives of ERERA include the following:

- Regulation of cross-border electricity connections and trading among ECOWAS Member States.
- Establishment of clear and transparent tariff-setting methodology for regional power pooling.
- Facilitating the setting up of regulatory and economic environment for the development of the regional market.
- Technical regulation of the regional power pooling and monitoring of regional market operations.
- Assisting the ECOWAS Commission in defining the strategy for the regional energy policy.
- Establishing effective dispute resolution methods among regional market participants.
- Assisting national regulatory bodies in ECOWAS on capacity building and technical issues upon request.

The ERERA is governed by a decision-making and managerial body called the Regulatory Council. The Regulatory Council currently consists of three members, headed by the Chairman with two other members (to be enlarged to 5 members later). Council members appointed are for a fixed non-renewable term of 5 years. The Council is supported by a pool of experts who are responsible for the day to day operations of ERERA.

iv) The West African Gas Pipeline Company limited

The West African Gas Pipeline Company (WAPCo) is a limited liability company that owns and operates the West African Gas Pipeline (WAGP) under the auspices of ECOWAS. The company has its headquarters in Accra, Ghana, with an office in Badagry, Nigeria, and field offices in Cotonou, Benin; Lomé, Togo; Tema and Takoradi, both in Ghana.

The WAPCo is a joint venture between public and private sector companies from Nigeria, Benin, Togo and Ghana. The company's main mandate is to transport natural gas from Nigeria to Benin, Togo and Ghana in a safe, responsible and reliable manner, at prices competitive with other fuel alternatives. WAPCo is owned by Chevron West African Gas Pipeline Ltd (36.7 per cent); Nigerian National Petroleum Corporation (25 per cent); Shell Overseas Holdings Limited (18 per cent); Takoradi Power Company Limited (16.3 per cent), *Société Togolaise de Gaz* (2 per cent) and *Société BenGaz S.A.* (2 per cent). The West African Gas Pipeline Authority based in Abuja is the regulatory body for WAPCo.

v) The energy agencies

Member States have established agencies in charge of energy development in their respective countries. However, an assessment of the energy agencies shows that these agencies face significant difficulties in respect of human resources and financial resources (Table 1).

E. Policy and legal frameworks

As far as energy issues are concerned, the 15 ECOWAS Member States evolve in a complex framework where regional, sub-regional policies and national policies coexist at the same time:

- The ECOWAS White Paper for increasing access to energy services for rural and peri-urban populations by 2015.
- The 2011 Master Plan of the WAPP.
- The UEMOA context with its energy policy and programmes as the former Regional Biomass Energy Programme for the biomass and the present Regional Initiative for Sustainable Energy.
- The Permanent Inter-State Committee for Drought Control in the Sahel, which is covering six ECOWAS countries (Burkina Faso, Cabo Verde, Guinea-Bissau, Mali, Niger and Senegal), and is focusing on woody biomass, sustainable management of forest and wooded lands and sustainable use of wood-fuel, including substitution strategies (Liquid Petroleum Gas and kerosene).
- National energy policies and strategies.

In the 1980s, ECOWAS Member States identified the need for a more pragmatic approach to address energy needs by taking major decisions on the regional energy programme. These included the adoption in December 1982 of the ECOWAS Energy Policy, the December 1999 decision to establish a regional electricity market,⁴ the January 2003 adoption of the ECOWAS Energy Protocol, the January 2006 adoption of the ECOWAS Generation and Transmission Master Plan, as well as the adoption in January 2008 of a Supplementary Act establishing a regional regulator to ensure open and transparent energy trade in West Africa.

In 2006, ECOWAS/UEMOA adopted the White Paper on access to modern energy services for populations in rural and peri-urban areas. These initiatives reflect an increasing drive for integrated energy markets in the region and hence justify a regional approach in developing the renewable energy and energy efficiency sectors. For example, the ECOWAS/UEMOA White Paper foresaw that at least 20 per cent of new investments in electricity generation in the region will be driven by renewable resources. It was against this background that the ECOWAS Council of Ministers at its 61st Session in Ouagadougou, Burkina Faso, requested the Commission to re-focus its energy access agenda towards promoting the use of alternative energy sources, including solar, wind and other renewables and set the base for the establishment of the ECREEE on 23 November 2008.

Table 1. The institutional capacity of ECOWAS energy agencies

| Member State | Name of institution | Human resources | Financial resources |
|---------------|---|---|---|
| Benin | <i>Agence Béninoise d'Électrification rurale et de Maitrise de l'Énergie (ABERME)</i> | 43 people, among whom 27 are technical experts and managers. Needs capacity-building on standards and labels program management. | About X of 3 billion (\$6 million), depending on on-going projects and the operating budget. Needs moderate support. |
| Burkina Faso | <i>Direction de la Promotion de l'Économie d'Énergie</i> , a division of the National Directorate of Energy | 3 people. No further detail was provided. | No specific budget allocated. Depends on the Ministry of Energy budget. Needs sufficient funding support. |
| Cabo Verde | Directorate of Energy of the Ministry of Energy | Engaged in household energy efficiency promotion program. | No information was provided. |
| Côte d'Ivoire | <i>Bureau Économie d'Énergie</i> of the National Directorate of Energy | 37 agents, among whom 16 are technical experts, mostly engineers and technicians. | X of 100 million (\$200,000) allocated in 2013 budget. No standards and labels funding. Needs financial support. |
| Gambia | Ministry of Energy | No information was provided. | No information was provided. |
| Ghana | Ghana Energy Foundation | Human resources seem sufficient in terms of technical experts and logistics. | Lack of funding to develop standards for other appliances, such as electric motors, and to strengthen its staff's competence. |
| Guinea | <i>Direction Nationale de l'Énergie (DNE) / Electricité de Guinée (EDG)</i> | DNE: 1 employee. EDG: 10 employees. Both organizations coordinate the compact fluorescent lamp distribution program. | DNE: No funding for energy efficiency programme. EDG: No information was provided. |
| Guinea-Bissau | <i>Direction générale de l'énergie</i> | Currently participating in some regional initiatives such as the UEMOA regional energy program. | Insufficient funding. |
| Liberia | Ministry of Energy, Department of Energy or Rural and Renewable Energy Agency (RREA) | Ministry of Energy: Capacity-building required. | Lack of funding |
| Mali | <i>Agence Malienne de Développement de l'Énergie Domestique et des Énergies Renouvelables</i> | 3 agents with very limited knowledge and experience regarding appliances energy efficiency programs. Needs capacity-building and strengthening related to standards and labels programs. | \$75,000, depending on National Directorate of Energy's budget. |

Table 1. The institutional capacity of ECOWAS energy agencies (cont'd)

| Member State | Name of institution | Human resources | Financial resources |
|--------------|--|---|--|
| Niger | Energy and Petroleum Ministry | 114 agents, among whom 100 are high-level managers. No energy efficiency program experience. Needs much capacity-building among staff Members. | No funding for standards and labels programs. |
| Nigeria | Energy Efficiency Unit of Energy Commission of Nigeria | No information was provided. | No information was provided. |
| Senegal | <i>Agence Nationale d'Économie et de Maîtrise de l'Énergie</i> (ANEE) | 13 agents, among whom 2 are experts. The ANEE is a newly created agency, so there is a need of much capacity-building. | X of 300 million (\$600,000) each year. One part is devoted to standards and labels. |
| Sierra Leone | Energy division of the Ministry of Energy | Very limited capacity. | No information was provided. |
| Togo | <i>Direction Générale d'Énergie</i> (DGE) / <i>Compagnie énergie électrique du Togo</i> (CEET) | DDGE: 21 employees. CEET: 750 employees. Both organizations are participating in the Lamps standards and labels program, which is currently ongoing in the country. | DGE: X of 25 million (\$50,000) per year. CEET: X of 36 billion (\$72 million). |

Source: ECONOLER (2013). Institutional and regulatory framework assessment for the ECOWAS appliance standards and labeling program, available at: <https://www.google.com/search?client=safari&rls=en&q=Institutional+and+regulatory+framework+assessment+for+the+ECOWAS+appliance+standards+and+labeling+program,&ie=UTF-8&oe=UTF-8>.

ECOWAS key legal instruments on energy included:

- The Revised ECOWAS Treaty and the ECOWAS Energy Protocol, which gave birth to the legal context for the WAPP.
- Articles of Agreement of the WAPP Organization and Functions (October 2005) defining the compulsory character of regional power projects. The WAPP has been created in 2006 and is based in Cotonou, Benin.
- Regulation C/REG.27/12/07 on the Composition, Organization, Functions and Operation of the ERERA.
- Supplementary Act A/SA.2/1/08 establishing the ERERA, which is constituted and based in Accra, Ghana, since 2007.
- Regulation C/REG.23/11/08 establishing the ECREEE, based in Praia, Cabo Verde.

- An assessment of the ECOWAS Member States shows that all Member States have put in place national policies and measures to implement their commitments under the ECOWAS regional energy policies, legal and institutional frameworks (Table 2). However, the actual implementation progress varies from one Member State to another.

F. Regulatory framework

The ECOWAS Energy Programme has developed coherent projects for all components of the energy value chain: (a) WAGP, (b) WAPP, (c) the ECOWAS regional policy on access to energy and (d) the promotion of renewable energy.⁵

a) The West African Gas Pipeline

The project was initially aimed at the construction of a 678-kilometre pipeline starting from the Escravos

Table 2. Summary of the national energy policies of the ECOWAS Member States

| Member State | Energy policy | Examples of planned energy efficiency actions | Implementation progress |
|---------------|--|--|---|
| Benin | <i>Politique nationale de maîtrise de l'énergie</i> , 2009 | <ul style="list-style-type: none"> • Foster public awareness. • Construct and implement adequate financial instruments and technical instruments for energy efficiency. | At the early stages of applying the <i>Politique Nationale de Maîtrise d'Énergie</i> . A steering committee has been put in place. |
| Burkina Faso | The Policy Letter on Development of the Energy Sector (LPDSE), 2009 and the Strategy for Accelerated Growth and Sustainable Development (SCADD), 2011 | <ul style="list-style-type: none"> • Look for sustainable solutions to a major gap in the power generation capacity (LPDSE). • Reduce the share that energy occupies in production costs (SCADD). • Promote rational use of energy (SCADD). | Part of the objectives of the LPDSE was accomplished. |
| Cabo Verde | The Energy Policy of Cabo Verde, 2008 | <ul style="list-style-type: none"> • 50 per cent of electricity production from renewable energy in 2020. • Promote efficiency and technological innovation in generation, transmission, distribution and use of electricity in the country. | Most actions have so far focused on renewable energy, such as tax exemption on importation of renewable energy equipment. |
| Côte d'Ivoire | The National Plan for Development (PND), 2012–2015 and the Strategic Plan for Development (PDS), 2011–2030 The PDS is accompanied by a detailed budget for each activity and an action plan | <ul style="list-style-type: none"> • Build awareness about energy savings and implement efficient public lighting projects and conduct energy audits in public buildings (PND). • Develop a labelling project for home appliances (PDS). | 10 audits in public buildings were completed. |
| Gambia | National Energy Policy, 2005 | No specific actions are related to energy efficiency. | No information was found on the implementation progress. |
| Ghana | National Energy Policy, 2010 | <ul style="list-style-type: none"> • Establish an appropriate pricing regime for energy services that would provide incentives to consumers to voluntarily manage their energy consumption. • Develop and implement programs and measures to help consumers optimize their energy use. • Support a sustained and comprehensive public education and awareness-building campaign about the methods and benefits of energy conservation. • Work toward establishing a center for energy efficiency • Discontinue, through legislation, local production, importing and use of high energy-consuming vehicles and inefficient electric equipment and appliances. | Complete mandatory S&L program enforced. |
| Guinea | Policy Letter for the Development of the Energy Sector, 2012 | <ul style="list-style-type: none"> • Creation of an Energy Management Fund. • Creation of the Guinean Agency for Energy management. | 4 million energy efficient lamps installed in households. |

Table 2. Summary of the national energy policies of the ECOWAS Member States (cont'd)

| Member State | Energy policy | Examples of planned energy efficiency actions | Implementation progress |
|---------------|--|--|--|
| Guinea-Bissau | Energy Policy Letter, 2010 | <ul style="list-style-type: none"> • Program of replacing one million light bulbs by energy-efficient light bulbs. | No information was found on the progress. |
| Liberia | National Energy Policy, 2009 | <ul style="list-style-type: none"> • Improve energy efficiency by 20 per cent by 2015. • Maximize energy efficiency and demand-side management to minimize the financial and environmental costs of energy development. | No information was found on the progress. |
| Mali | National Energy Policy, 2006 Policy on the Electricity Sector, 2009–2012 and Development Strategy for Energy Management in Mali (SDMEM), 2010 | Specific actions were mentioned in the SDMEM: <ul style="list-style-type: none"> • Distribute energy-efficient lights. • Pilot projects aimed at increasing buildings energy efficiency. • Energy performance classification of air-conditioners and refrigerators. • Pilot projects in the industrial sector. | 300,000 energy-efficient lights and 1,800 evaporative air coolers have been installed. The support project for energy management is currently being carried out in the industrial sector. |
| Niger | The Energy Policy of Niger (PEN), 2004 and The Strategy for Accelerated Development and Poverty Reduction, 2008–2012 | <ul style="list-style-type: none"> • Improve energy efficiency in the residential sector (PEN). | No information is available on the progress. |
| Nigeria | National Energy Efficiency Policy, 2015 | <ul style="list-style-type: none"> • Attaining 100 per cent penetration for energy-efficient lighting, refrigerators, freezers and air-conditioners by 2020. | Some actions were conducted, such as the enactment of the Nigerian compact fluorescent lamp standard. |
| Senegal | The Policy Letter on the Development of the Energy Sector, 2008 | <ul style="list-style-type: none"> • Distribute energy-efficient lights. • Conduct energy audits. • Reduce the public's electricity bill by 10 to 20 per cent by 2015. | A study was conducted in 2009 on electricity demand management. Ban on the importation or manufacturing of incandescent bulbs. |
| Sierra Leone | National Energy Policy and Strategic Plan of Sierra Leone, 2009 | <ul style="list-style-type: none"> • Regulate the safety and energy efficiency of household appliances. • Promote energy conservation measure implementation in commercial, institutional and industrial sectors. • Promote energy management and energy audits in industrial sector. • Launch an awareness campaign to promote energy efficiency. | No information is available on the progress. |
| Togo | The Energy Policy of Togo (still being developed) and The Strategy for Accelerated Growth and Employment Promotion, 2013 | <ul style="list-style-type: none"> • Further implement the program of energy efficiency and access to energy services. | Not yet applied. |

Source: ECONOLER (2013). Institutional and regulatory framework assessment for the ECOWAS appliance standards and labeling program, available at: <https://www.google.com/search?client=safari&rls=en&q=Institutional+and+regulatory+framework+assessment+for+the+ECOWAS+appliance+standards+and+labeling+program,&ie=UTF-8&oe=UTF-8>.

gas fields in the Niger Delta in Nigeria, through Benin and Togo, and ending in Ghana. The project began in 1982, when ECOWAS proposed the development of a pipeline to transport natural gas throughout West Africa.

The WAGP implementation agreement was signed in 2003. Construction works began in 2005 and the project has been fully completed, with 70 per cent of the onshore facilities are in place. Steps have also been taken to bypass the compressor station at Lagos beach and the pipeline is now ready to transport gas. A feasibility study is underway to extend the project to Côte d'Ivoire, and the discovery of gas and oil deposits in Ghana gives the project further impetus. Offshore activities, such as the laying of the pipeline, have been completed.

The pipeline has been operational since March 2011. However, the volume of gas transported by the pipeline is not enough to compensate for the energy deficit in the region.

b) The West African Power Pool

Since 2006, the West African sub-region has been experiencing an energy crisis mainly due to low rainfall. This crisis has led to severe power cuts in several countries and has had a negative impact on the economies of ECOWAS Member States.

To address this issue, the Authority of Heads of State and Government of ECOWAS hastened the creation of the West African Power Pool (WAPP), which became operational in 2006, to provide a mechanism and institutional framework for integrating national power systems of the Member States. This achievement is helping to meet the energy needs of ECOWAS Member States by providing a reliable and sustainable supply of electricity for economic development. As adopted by its General Assembly in 2006, the WAPP Plan of Action has defined the implementation strategy for infrastructural development up to the year 2020, at the cost of about \$16 billion, which is expected to result in the emergence of a regional electricity market.

The infrastructure programme involves the installation of about 5,500 km of high voltage power transmission lines, interconnecting all national power grids in ECOWAS Member States, and the injection of about

10,000 mw of new electricity capacity to be achieved during this period.

Furthermore, in January 2008, ECOWAS adopted a Supplementary Act on an Emergency Power Supply Security Plan (EPSSP) for WAPP Member States. The EPSSP is a regional approach to the energy crisis, aimed at using the West African natural gas pipeline and economies of scale to create regional interconnection centres with "Free-Zone Status" of 400 mw at Maria Gleta in Benin, 400 mw at Aboadze in Ghana, 150 mw within the OMVS system, and mobile infrastructures to generate electricity in autonomous electrical systems in Gambia, Guinea, Guinea-Bissau and Sierra Leone.

Concerning the connection and boosting of electricity grids of Member States, WAPP's first interconnection priority project linking Ikeja West (Nigeria) to Sakete (Benin) was inaugurated in January 2007. The 330 kw interconnection projects currently underway or being finalized are the 215 km transmission line from Aboadze to Volta (Ghana), the transmission line project from Bobo Dioulasso to Ouagadougou (Burkina Faso), and the 338 km power line from Volta (Ghana) to Sakete (Benin) via Mome Hagou (Togo). Moreover, feasibility studies have been conducted for the North Core Transmission line project, which links Nigeria, Niger, Benin, and Burkina Faso, and the transmission line project which connects Bolgatanga (Ghana) to Ouagadougou (Burkina Faso).

The WAPP also works in close collaboration with the Gambia River Basin Development Organization (OMVG) to complete the mobilization of funds for the OMVG Energy Project for the interconnection between Gambia, Guinea, Guinea-Bissau and Senegal, while additional hydropower capacity is being installed for Mali, Mauritania and Senegal. In addition, there are a number of cross-border medium voltage electrification projects targeting rural, peri-urban and island communities, estimated at 3.6 million euros for Ghana and Togo, 1.5 million euros for Ghana and Burkina Faso, and 9.9 million euros for Côte d'Ivoire and Liberia. These projects are at an advanced stage, while funds are being raised for similar projects between Senegal and Gambia, and between Senegal and Guinea-Bissau.

c) Regional Electricity Regulatory Authority

Six years after the ECOWAS Member States decided to establish a regional regulatory authority, in January 2008, the EREERA was established. The EREERA seeks to promote the development of electrical infrastructure and create a suitable environment to attract investments, based on facilitation which leads to unrestricted cross-border electricity exchanges between member states, in a competitive environment, with the application of non-discriminatory trade rules and the settlement of disputes, the protection and promotion of private investment, environmental protection, and promotion of energy efficiency.

d) Regional energy access programme

The ECOWAS energy access programme is fully consistent with the development goals and seeks to meet the goals of the New Partnership for Africa's Development (NEPAD) Action Plan. Its regional policy includes a Regional Action Plan and an implementation strategy for the development of a common investment programme within the region. According to the decision of the Council of Ministers adopted in December 2007, in Ouagadougou, Burkina Faso, the ECOWAS Commission set up a special unit responsible for implementing the ECOWAS White Paper on access to energy services. In the same vein, the Council requested the Commission to explore ways and means to promote the use of alternative energy sources, notably solar, wind, and other renewable energy sources.

e) Promotion of renewable energy

A regional centre for renewable energies, known as ECREEE, was created and set up in Cabo Verde in 2010. In September 2012, the Centre published an ECOWAS policy document on renewable energy. The policy seeks to provide renewable energy supply for 19 per cent of peak demand in mw by 2030, and to achieve universal access to energy within the Community.

f) National regulatory frameworks

An assessment (Table 3) shows that most ECOWAS countries have developed their own regulatory frameworks to tackle their energy issues. Several Member States have also developed laws related to consumer protection, which is an important element of energy regulation to ensure accessibility to energy and affordability of energy.

G. Trade commitments affecting the sector

Cabo Verde, Liberia, and Sierra Leone have made General Agreement on Trade in Services (GATS) commitments for energy services at the WTO.

Cabo Verde has made commitments on services incidental to mining. For both market access and national treatment, Liberia has made no limitations to Modes 1, 2 and 3. Mode 4 is unbound, except as indicated in the horizontal commitments that detail the requirement for the entry and stay of natural persons, which are business visitors, intra-corporate transferees, managers, specialists as well as contractual service suppliers.

Liberia has made commitments on services incidental to mining (liquefaction and regasification of national gas for transportation; derrick erection, repair and dismantling services and related services incidental to oil and gas extraction; services necessary for oil or gas extraction such as well casing cementing, pumping, plugging and abandoning of wells; specialized fire extinguishing services). For both market access and national treatment, Liberia has made no limitations to Modes 1, 2 and 3. Mode 4 is unbound, except as indicated in the horizontal commitments.

Sierra Leone has made a commitment in the category of other Business services. As Sierra Leone did not detail further (e.g. by providing a detailed list of specific CPC codes), it is understood that the commitment applies to all the subsectors listed under other business services in the WTO document W/120. This category includes services incidental to mining. For both market access and national treatment, Sierra Leone has made no limitations to Modes 1 and 2. For market access under Mode 3, a joint venture requirement is indicated, while national treatment indicates no limitations. Mode 4 is unbound, except as indicated in the horizontal commitments.

H. Strengths, weaknesses, opportunities and threats

Strengths

- The region is endowed with enormous natural energy resources for electricity generation including vast oil and gas reserves (Côte d'Ivoire, Ghana and Nigeria); hydro resources (Ghana, Guinea, Niger, Nigeria, Mali and Niger); coal reserves (Nigeria) and

Table 3. Summary of the national energy and energy efficiency regulatory frameworks of the ECOWAS Member States

| Member State | Main energy sector regulations | Consumer protection law |
|---------------|--|--|
| Benin | Law n° 2006-16 | Law n° 2007-21 |
| Burkina Faso | Law n° 53-2013/AN (electricity sector) | Law n° 33-2001 |
| Cabo Verde | Decree-Law n° 1/2011 of January 3 | Consumer Protection Act – Law No. 88/V/98 of December 31 |
| Côte d'Ivoire | Decrees 2011-472 and 2011-394 | None |
| Gambia | Electricity Act, 200 | None |
| Ghana | Energy Commission Act, 1997 (Act 541) | Consumer protection bill not yet adopted into a law. |
| Guinea | Decree n° D/2011/103/PRG/SGG, mars 2011 Law L/93/039/CTRN, September 1993 | Consumer protection law: 94/003/CTRN of February 1994 |
| Guinea-Bissau | Laws n° 2/2007 and n° 3/2007 | None |
| Liberia | Liberian law on energy, 2009 | Chapter 9 of Energy Law governs consumer protection (for the energy sector only) |
| Mali | Electricity Act | None |
| Niger | Law n° 2003-004, January 2003 Decree n° 2004-266/PNR/MME, September 2004 | None |
| Nigeria | Electricity to Act n° 32 of 1989 EPSRA Cap E7 LFN, 2004 | Consumer Protection Council Act (1992) |
| Senegal | Energy Law n° 83-04, January 1983 | None |
| Sierra Leone | National Electricity Act 2011 | None |
| Togo | Energy Laws: • Electricity: Law 2000-012 • Fossil fuels: Law 1999-003 and 2002-029 | No consumer protection law available other than the Law 1999-011 (December 1999), which forbids importing products that are not compliant with international standards |

Source: ECONOLER (2013). Institutional and regulatory framework assessment for the ECOWAS appliance standards and labeling program, available at: <https://www.google.com/search?client=safari&rls=en&q=Institutional+and+regulatory+framework+assessment+for+the+ECOWAS+appliance+standards+and+labeling+program,&ie=UTF-8&oe=UTF-8>.

uranium (Niger). Other renewable energy sources like solar and wind abound in the region.⁶

- The regional energy policy is one of the pillars of regional integration in West Africa.
- The ECOWAS Energy Programme has developed coherent projects for all components of the energy value chain, including the WAGP, the WAPP and it has developed policies for access to energy as well as the promotion of renewable energy.
- EREERA works to promote the development of electrical infrastructure and create a suitable environment to attract investments in the region.

Weaknesses

- Only 35 per cent of the ECOWAS population has access to electricity which includes 10 per cent in rural areas.⁷
- None of the 14 WAPP countries meets its national power demand.
- Severe power cuts in several countries continue to have a negative impact on the economies of ECOWAS Member States.
- The volume of gas transported by the WAGP is not enough to compensate for the energy deficits in the region.

- Achievement in terms of access to and consumption of electricity varies widely across ECOWAS countries; efforts are required to bring the less advanced countries to the level of the more advanced ones.
- The uncertainty surrounding whether the economic activities in the energy supply chain are services or goods may affect the development of negotiating positions for the sector and its inclusion as a priority sector for ECOWAS or AfCFTA services trade negotiations.

Opportunities

- The recently established regional programme on “Improving the Energy Governance in West Africa”

will contribute to harmonizing national, legislative and regulatory frameworks in order to promote investments in renewable energy, energy efficiency and universal access to modern energy.

- ERERA’s success would set a positive example for the establishment of other regulatory bodies in different sectors of the ECOWAS economy.

Threats

- Most of the national regulators did not have the requisite powers to carry out core regulatory activities such as tariff setting and market monitoring, most are under-funded and lack the requisite human and technical capacity to function effectively.⁸
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Chapter

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**ACCOUNTING
SERVICES**

A. Introduction

Accounting services can be defined as services focusing on the preparation and analysis of financial information to be communicated to internal and external users through financial statements. Auditing services involve assessment of reliability and credibility of financial information, as well as “systems and processes responsible for recording and synthesizing such information”.⁹

Accountants analyze, record, quantify, accumulate, summarize, classify, report and interpret financial facts and their cumulative effects on an organization. Their activities also include preparation and auditing of taxes and certification of accuracy of a company’s financial status. In the WTO Services Sectoral Classification (MTN.GNS/W/120), accounting, auditing and bookkeeping services are included in sub-sector “A” of section “1. Services provided to companies”, which corresponds to position 862 of the CPC.

In the provisional CPC, “Accounting, auditing and bookkeeping services” category is subdivided into: (a) Accounting and auditing services (CPC: 8621); (b) financial auditing services (CPC: 86211); (c) chartered accounting services (CPC: 86212); (d) financial statement reporting services (CPC: 86213); (e) other accounting services (CPC: 86219), (f) bookkeeping services, except for preparation of tax returns (CPC: 8622), (g) and bookkeeping services, except for tax reporting (CPC: 86220).

B. Description and performance of the sector

Many ECOWAS Member States’ accounting bodies belong to the Pan African Federation of Accountants (PAFA), which is the continental body representing Africa’s Professional Accountants. PAFA’s mission is to accelerate and strengthen the voice and capacity of the accountancy profession to work in the public interest, facilitate trade, and enhance benefits and quality services to Africa’s citizens. PAFA engages with its stakeholders at continental, regional and national levels to develop the profession in Africa. This is envisaged through the organisation’s drive for good financial management practices, accountability, transparency and good governance across public and private entities.

Table 4 shows the existence of substantial export and import of professional and management consulting

services in UEMOA and non-UEMOA country groups between 2005 and 2016, which run into millions of dollars. The UEMOA group has higher trade in professional and management consulting services than the non-UEMOA group, possibly because of lack of data for Nigeria and Ghana. For the group which has data, imports are higher than exports signifying a deficit in this services trade.

C. Linkages with other sectors

Accounting services are essential for transparency, financial integrity and good governance. Therefore, they can bring significant benefits to developing countries. This is particularly true insofar as large international accounting firms rely on domestic firms in developing countries to understand the language, rules and operational procedures in the relevant markets. As a result, developing countries could benefit from training programs, knowledge transfer, software implementation and timely staff support.

The analysis of the accounting services sectors in West Africa is hampered by lack of information on demand and supply, including data on market conditions and policies and regulations in accounting services.

Accountancy plays an important role in economic development (ACCA 2012). For example:

- A strong accountancy profession is essential to economic development and also economic confidence, both in the public and the private sectors.
- The accountancy profession can enhance its contribution to world trade by establishing globally credible standards that allow comparability of information and hence facilitate capital flows.
- Business benefits from not having to bear the compliance costs associated with struggling with a plethora of different financial reporting rules. This was stated in support of the use of global standards which is generally what accountancy firms try to adopt but would also be relevant in the case of regional harmonization.

D. Institutional framework and main actors

The existence and independence of the regulatory authority, the right to appeal and the possibility of prior observations in accountancy sector are

Table 4. Professional and management consulting services (in million dollars)

| | Exports | | | Imports | | |
|-----------|---------|-----------|--------|---------|-----------|--------|
| | UEMOA | Non-UEMOA | ECOWAS | UEMOA | Non-UEMOA | ECOWAS |
| 2005 | 114.9 | 0.3 | 115.2 | 183.5 | 11.6 | 195.1 |
| 2006 | 138.9 | 0.2 | 139.1 | 168.0 | 60.2 | 228.2 |
| 2007 | 160.7 | 3.5 | 164.2 | 188.5 | 35.1 | 223.6 |
| 2008 | 215.4 | 2.9 | 218.4 | 227.9 | 60.3 | 288.3 |
| 2009 | 200.3 | 2.1 | 202.3 | 196.6 | 43.9 | 240.5 |
| 2010 | 186.2 | 0.7 | 186.9 | 249.1 | 67.8 | 316.9 |
| 2011 | 202.5 | 4.7 | 207.2 | 266.2 | 164.9 | 431.1 |
| 2012 | 205.3 | 21.2 | 226.5 | 259.5 | 260.1 | 519.6 |
| 2013 | 211.9 | 16.6 | 228.5 | 305.3 | 202.7 | 508.1 |
| 2014 | 202.2 | 18.7 | 220.9 | 264.3 | 240.8 | 505.1 |
| 2015 | 228.8 | 17.3 | 246.1 | 269.7 | 71.3 | 341.0 |
| 2016 | 168.1 | 44.4 | 212.5 | 235.9 | 84.3 | 320.2 |
| 2005–2010 | 169.4 | 1.6 | 171.0 | 203.6 | 50.6 | 254.2 |
| 2011–2016 | 207.3 | 21.5 | 228.7 | 276.2 | 176.1 | 452.3 |

Source: Available at: <https://unctadstat.unctad.org/wds/TableViewer/downloadPrompt.aspx>.

important elements of the quality of the accountancy regulatory institutions. To evaluate the effectiveness of the institutional framework for trade in accountancy services, it is instructive to know whether an authority responsible for regulating the sector exists, or the regulatory authority was established under the relevant law as an independent body of the line ministry overseeing the sector or whether services providers have recourse to appeal procedures before the implementation of the new regime. In addition, the procedure that gives services providers the possibility to be consulted and submit their views when new regulations are proposed and under consideration is also important in the analysis of regulatory framework. Table 5 reveals responses regarding the countries' situations.

All accountancy regulatory institutions in the region have sectoral regulatory authority. However, with regard to other criteria of governance such as the independency of the regulator, the right to appeal and the possibility of prior observations for sectoral law changes, the landscape is heterogenous.

An Association of Accountancy Bodies in West Africa (AABWA) was established in 1982 in Lagos, Nigeria, to develop accounting in the region. Its members are the various councils of experts in the region. AABWA intends to collaborate with the ECOWAS Commission in 'harmonizing economic and financial policies as well as the legal framework to enhance cross border businesses and mobility of labour.'¹⁰

Regional cooperation in the field of accountancy has been much greater in UEMOA region, which involves 8 ECOWAS Member States. They have collaborated on a number of issues ranging from institutional framework and regulation to the reduction of trade barriers in accounting services in UEMOA. The outcomes of such collaborative efforts include:

- A common accountancy framework: SYSCOA (West African Accounting System).¹¹
- Harmonization of legal regimes of the National Council of Chartered Accountants, accredited Accountants.¹²
- Establishment of National Accounting Board.¹³

Table 5. Quality and heterogeneity of regulatory institutions in accountancy sector in ECOWAS Member States

| Member State/ Sectors | Existence of a regulatory body | Autonomy of the regulatory body | Right to appeal | Prior observations |
|--------------------------|-----------------------------------|------------------------------------|-----------------|--------------------|
| Côte d'Ivoire | | | | |
| Accounting | Yes | No | Yes | No |
| Auditing | Yes | No | Yes | No |
| Ghana | | | | |
| Accounting | Yes | ... | Yes | Yes |
| Auditing | Yes | Yes | Yes | Yes |
| Mali | | | | |
| Accounting | Yes | No | Yes | No |
| Auditing | Yes | No | Yes | No |
| Nigeria | | | | |
| Accounting | Yes | Yes | Yes | Yes |
| Auditing | Yes | Yes | Yes | Yes |
| Senegal | | | | |
| Accounting | Yes | No | No | No |
| Auditing | Yes | No | No | No |
| Guinea | | | | |
| Accounting | Yes | No | Yes | No |
| Auditing | Yes | No | Yes | No |

Source: World Bank's Services Trade Restrictions Database and Doumbouya (2013). *Les régimes réglementaires du commerce des services en Guinée, rapport de consultation, rédigé pour le Groupe Technique de Travail sur les Services de la CEDEAO.*

- Common training curriculum: Diploma of Accounting and Financial Expertise.¹⁴
- Free movement and the right for establishment.¹⁵
- Backup measures at the community level: The West African Accounting Council, the Permanent Council of the Accounting Profession and the Technical Secretariat.
- Backup measures (aid to trade) at national level: The Accredited Management Centera and the Single Window for submitting Financial Statements.

E. Policy framework

The Protocol on the Right of Establishment in the ECOWAS region is the basis of the work program on regional free trade in accounting services. Article 3.2.i of the revised ECOWAS Treaty on Standards, which seeks to promote harmonization, could serve as a

basis for the work program on a common policy for this sector. There has not been much progress in the two areas.

In order to appraise the quality of accounting/auditing regulatory policies and the heterogeneity of accounting/auditing regulatory policies in the region, it will be important to examine the transparency, the responsibility and the predictability in the issuing of accounting/auditing licenses (see Table 6). For that, the answers to the following questions contained in the World Bank database on trade services restrictions were used:

- Are the criteria which a company must meet to get an accreditation made public?
- Is the competent authority required by law to inform applicants of the reasons for the rejection of an application?

Table 6. Quality and heterogeneity of regulatory policies in accounting/auditing sector in ECOWAS Member States

| Member State/ Sectors | License criteria are made public | Obligation to inform applicants on reasons for rejection | License is automatic if public criteria are met |
|--------------------------|-------------------------------------|--|--|
| Côte d'Ivoire | | | |
| Accounting | Yes | Yes | Yes |
| Auditing | Yes | Yes | Yes |
| Ghana | | | |
| Accounting | Yes | n/a | n/a |
| Auditing | Yes | n/a | n/a |
| Mali | | | |
| Accounting | n/a | n/a | n/a |
| Auditing | n/a | n/a | n/a |
| Nigeria | | | |
| Accounting | Yes | n/a | Yes |
| Auditing | Yes | n/a | Yes |
| Senegal | | | |
| Land phone | n/a | n/a | n/a |
| Mobile | n/a | n/a | n/a |
| Guinea | | | |
| Accounting | Yes | Yes | Yes |
| Auditing | Yes | Yes | Yes |

Source: World Bank Services Trade Restrictions Database and Doumbouya (2013). *Les régimes réglementaires du commerce des services en Guinée, rapport de consultation, rédigé pour le Groupe Technique de Travail sur les Services de la CEDEAO.*

Note: n/a = not available.

- Does the fulfillment of publicly available criteria automatically ensure issuance of accreditation?

F. Regulatory framework

Like in other countries, the accounting and auditing sector is a regulated profession in ECOWAS Member States. Some regulations may be only applied to foreign suppliers of accounting or auditing services. According to the World Bank's database on restrictions on services trade, the main trade restrictions on services and accounting services implemented by some ECOWAS Member States are in Modes 1, 3 and 4. Specific measures vary from one country to another. For example, most of them place restrictions on Mode 1, except Mali and Nigeria. While Mali allows accounting and

auditing services to be provided under Mode 1 without any restriction, it does not allow foreign accounting and auditing firms to come to Mali and provide these services within the country under Mode 3. Nigeria does not seem to restrict trade in accounting and auditing services under Mode 1 either. However, under Mode 3, it does not allow a foreign branch to be established in the country and there is also a limit on ownership by foreign nationals. In addition, there must be at least one Nigerian professional sharing control. On Mode 4, all these member states adopt quota limitations, or nationality requirements.

Trade restrictions are persistent in the sector and very diverse in their nature: restrictions on market access and discriminatory measures. ECOWAS has

| Table 7. Nature of trade restrictions in accounting and auditing services in ECOWAS Member States | | | |
|---|---|---|---|
| Sectors | Mode 1 | Mode 3 | Mode 4 |
| Côte d'Ivoire | | | |
| Accounting | Allowed, but a foreign firm based abroad can only provide advice, and not certify or sign financial statements. | A branch is not allowed. Ownership by foreign nationals is limited to 25 per cent. Ownership by non-locally licensed professionals is also limited to 25 per cent. | There is a nationality requirement, but an exception applies if there is a reciprocity or mutual recognition agreement. At least five years' residency is required. There is an education requirement; foreign degrees from France and Senegal are recognized. Three years of training are required; training done in France, and in all countries adopting the French system of training in accounting, is recognized. Candidates must pass an examination. Foreign-licensed professionals are subject to labour market test (LMT). |
| Auditing | Allowed, but a foreign firm based abroad can only provide advice, and not certify or sign financial statements. | A branch is not allowed. Ownership by foreign nationals is limited to 25 per cent. Ownership by non-locally licensed professionals is also limited to 25 per cent. | There is a nationality requirement, but an exception applies if there is a reciprocity or mutual recognition agreement. At least five years' residency is required. There is an education requirement; foreign degrees from France and Senegal are recognized. Three years of training is required; training done in France, and in all countries adopting the French system of training in accounting, is recognized. Candidates must pass an examination. Foreign-licensed professionals are subject to LMT. |
| Ghana | | | |
| Accounting | Allowed, as long as the foreign firm is staffed with professionals licensed to provide the service desired. | There is a limit on ownership by non-locally licensed professionals, but no specific percentage limit except that they cannot have control. The firm must have at least one chartered accountant licensed in Ghana. | Foreign-licensed professionals are eligible to practice, subject to conditions: they must be Members of societies or institutes of accountants approved by the Council of the Institute of Chartered Accountants Ghana, including those in England, Scotland, Wales and the United States of America. Three years of work experience (foreign experience may be accepted) and passing an examination are required. Entry is possible only as an IP. The quota on foreign employees depends on the amount of foreign capital investment. Foreign-licensed professionals are subject to LMT and economic needs test. The duration of stay initially allowed differs on a case by case basis; extensions are possible. |
| Auditing | Allowed, as long as the foreign firm is staffed with professionals licensed to provide the service desired. | There is a limit on ownership by non-locally licensed professionals, but no specific percentage limit except that they cannot have control. The firm must have at least one chartered accountant licensed in Ghana. | Applicants must first become Members of the Institute of Chartered Accountants Ghana (which means the foreign-licensed applicant should be a Member of a society or an institute of accountants approved by the Council of the Institute of Chartered Accountants), and then apply for a practice license. Four years of work experience (foreign experience may be accepted) and passing an examination are required. Entry is only possible as an IP. The quota on foreign employees depends on the amount of foreign capital investment. Foreign-licensed professionals are subject to LMT and ENT. The duration of stay initially allowed differs on a case by case basis; extensions are possible. |

Table 7. Nature of trade restrictions in accounting and auditing services in ECOWAS Member States (cont'd)

| Sectors | Mode 1 | Mode 3 | Mode 4 |
|----------------|---------|--|--|
| Mali | | | |
| Accounting | Allowed | Not allowed | There is a nationality requirement, but exceptions apply to foreign accountants from UEMOA Member States, or from countries having a reciprocity agreement with Mali. There is a residency requirement, namely of a 'tax residence (domicile fiscal)' in Mali. There is an education requirement, but foreign degrees are recognized. If the exception does not apply, candidates may be authorized to practice under exceptional circumstances, but must have resided in Mali for the past five years. Information and communication technology (ICT) not allowed. |
| Auditing | Allowed | Not allowed | There is a nationality requirement, but exceptions apply to foreign accountants from UEMOA Member States, or from countries having a reciprocity agreement with Mali. There is a residency requirement, namely of a 'tax residence (domicile fiscal)' in Mali. There is an education requirement, but foreign degrees are recognized. If the exception does not apply, candidates may be authorized to practice under exceptional circumstances, but must have resided in Mali for the past five years. ICT not allowed. |
| Nigeria | | | |
| Accounting | Allowed | A branch is not allowed. There is a limit on ownership by foreign nationals; there must be at least one Nigerian professional sharing control. | Foreign-licensed professionals are eligible to practice subject to conditions, including their Membership in recognized accountancy Board of Directors such as in England, Scotland, Wales, Republic of Ireland Canada, Ghana and the United States, and in some other international associations. Candidates must go through a two-week intensive conversion course in Nigeria. They must also have 'sufficient' work experience; foreign experience is acceptable. There is a quota on foreign employees; the employer must make an application. The duration of stay initially allowed is two years. Extensions are possible, for 10 years maximum. |
| Auditing | Allowed | A branch is not allowed. There is a limit on ownership by foreign nationals; there must be at least one Nigerian professional sharing control. | Foreign-licensed professionals are eligible to practice subject to conditions, including their Membership in recognized accountancy Board of Directors such as in England, Scotland, Wales, Republic of Ireland Canada, Ghana and the United States, and in some other international associations. Candidates must go through a two-week intensive conversion course in Nigeria. They must also have 'sufficient' work experience; foreign experience is acceptable. There is a quota on foreign employees; the employer must make an application. The duration of stay initially allowed is two years. Extensions are possible, for 10 years maximum. |

Table 7. Nature of trade restrictions in accounting and auditing services in ECOWAS Member States (cont'd)

| Sectors | Mode 1 | Mode 3 | Mode 4 |
|----------------|---|--|---|
| Senegal | | | |
| Accounting | Authorized, but a foreign company cannot certify the financial statements of a local company. | A branch is not allowed. The participation of foreign nationals is limited to 33 per cent (1/3). | There is a nationality requirement, but there are exceptions for foreign accountants from UEMOA Member States, France or countries with reciprocal agreements with Senegal. (none to date). In this case, applicants must have their tax residence in Senegal, which generally means living in Senegal for more than 183 days in a calendar year; they must also be members of an accounting committee of an UEMOA Member State (under reciprocity) or have an accounting degree or equivalent. A foreign degree may be accepted if it is recognized as equivalent to the relevant benchmark. Period of stay for one year, which can be extended depending on the duration of the employment contract. |
| Auditing | Same requirement for accounting. | Same requirement for accounting. | Same requirement for accounting. |
| Guinea | | | |
| Accounting | Authorized, but a foreign company can only offer counselling, and not certify or sign financial statements. | Individuals must be Guinea citizens. The owners or shareholders of companies must have: at least two Guinean experts duly registered with the Council; demonstrate that two thirds (2/3) of their shares are held by Chartered accountants registered with the Council; elect their Chairman or Chief Executive Officer; their managers or attorneys should be certified public accounting associates who are also entitled to manage the company either in law or fact. | There is nationality requirement, but an exception applies in case of reciprocal arrangements with other countries or where a mutual recognition agreement has been struck. In these cases, the following conditions apply: tax residence in Guinea, recognition of foreign degrees by the Equivalence Committee of the Council, which is Member of the National Equivalence Committee; the degree must be one in chartered accounting recognized by the Ministry in charge of higher education or any other degree deemed equivalent by the Equivalence Committee; 3 years of internship must be done with possibility of reduction of duration if the internship has been done abroad. There is no professional examination, but an internship report is required every 6 months. |
| Auditing | Same requirement for accounting. | Same requirement for accounting. | Same requirement for accounting. |

World Bank Services Trade Restrictions Database and Doumbouya (2013). *Les régimes réglementaires du commerce des services en Guinée, rapport de consultation, rédigé pour le Groupe Technique de Travail sur les Services de la CEDEAO.*

no explicit specific rules on market access, as like GATS Article XVI, to address easily such restrictions. ECOWAS Common Trade Policy (CTP) needs to establish a work program on that. Experiences from UEMOA and GATS negotiations in the sector can help.

G. Trade commitments affecting the sector

Table 8 shows ECOWAS Member States, which have undertaken commitments covering all three subsectors, namely accounting, auditing and bookkeeping services.

H. Strengths, weaknesses, opportunities and threats

Strengths

- Experiences from UEMOA and GATS negotiations in the sector can help trade in accounting services in the region.
- Existence of a protocol on the Right of Establishment in the ECOWAS region as the basis for regional free trade in accounting services.

Weaknesses

- Persistence of trade restrictions in the accountancy/auditing sector.
- Lack of a work programme in the ECOWAS CTP on the sector.

Opportunities

- Existence of and the Article 3.2.i of the revised ECOWAS Treaty on Standards which seeks to promote harmonization could serve as a basis for the work program on a common commercial policy for this sector. There has not been much progress in the two areas.

Threats

- Presence of a high degree of heterogeneity in regulatory policies and institutions.
- Absence of market integration in the sector in West Africa.

Table 8. WTO Commitments in accounting/auditing services by ECOWAS Member States

| Member State | Accounting | Auditing | Bookkeeping | Total |
|--------------|------------|----------|-------------|-------|
| Cabo Verde | X | X | X | 3 |
| Gambia | X | X | X | 3 |
| Liberia | X | X | X | 3 |
| Sierra Leone | X | X | X | 3 |
| Total | 4 | 4 | 4 | |

Source: Member States Specific commitments lists.

Chapter

**LEGAL
SERVICES**

A. Introduction

In a broader context, legal services would include counselling and advocacy services and all activities relating to administration of justice (judges, clerks, prosecutors, attorneys general, etc.). Nevertheless, in reality, the latter activities are excluded from the scope of trade in services agreements, as they are considered in most countries as “services provided by the government”. Counselling and representation in various areas of law and regulatory procedures are, however, included in trade in services agreements.

In WTO “Sectoral Services Classification” (document MTN.GNS/W/120), “Legal Services” is a sub-sector of “(1) Services offered to corporations” and “A) Professional services”. This entry corresponds to code 861 of the 1991 CPC. In the CPC, the “Legal services” category is subdivided into “Legal advice and representation services in criminal law” (CPC: 86111), “Legal Counselling and Advocacy Services in Other fields of Law” (CPC: 86119), “Legal Counselling and Representation in Regulatory Procedures in almost-Judicial Courts, Councils, etc.” (CPC: 86120), “Legal documentation and certification services” (CPC: 86130) and “Other legal counselling and information services” (CPC: 8619). Sectoral Classification of Services and CPC refer to legal services of any jurisdiction whether such foreign services are considered to be legal services or not under the legislation of various jurisdictions.

B. Linkages with other sectors

An effective legal and judicial system is regarded as one of the main structural pillars of sustainable development and poverty reduction. The World Bank and the European Union have played a key role in promoting a number of legal reforms in ECOWAS economies. However, the commercial component of legal and justice reforms has received scant attention. Trade in legal services may be important in mitigating bottlenecks in resources and skills for other legal professionals, including lawyers, and thus help ensure the availability and quality of legal services in the region.

Unlike trade in goods, services trade has long been considered as non-tradable. Legal services, especially, were considered country specific and supposed to be embodied in a country’s legal heritage, tradition, and culture. But this opinion has proved obsolete.

Developments in public international law have led to the adoption of a large body of common rules in areas such as investment law, trade law, and transportation law. Also, globalization and the resultant movement of individuals, merchandise, and capital has surged trade in legal services. In recent times, legal services are rapidly progressing with the growth of manufacturing and services among multinational firms. This is an indication that the bigger the client, the more diversified its needs, and the broader the legal expertise to be provided. This trend forms the foundation of the concept of the global law firm that is capable of servicing its clients across regional blocs, countries, time zones, cultures, and the spectrum of legal needs, from mergers and acquisitions to labour, environmental, tax, and real estate law.¹⁶

Effective legal and justice systems and access to legal services improve the predictability of the business environment, facilitate commitments in contracts and mitigate investment risks.¹⁷ The analysis of legal services sectors in West Africa is hampered by the lack of information on demand and supply, including data on market conditions and policies and regulations in legal services.

C. Institutional framework and main actors

Legal practice is conducted under the supervision of regulatory bodies that have been established to help guide legal practitioners across countries and ensure that fit and proper behaviours are exhibited by those called to the Bar Association (see Table 9).

D. Regulatory and Policy frameworks

Like in other countries, legal services are regulated in ECOWAS Member States. Some measures are applied to foreign legal services providers. According to the World Bank’s database on restrictions on trading services (Table 10), there are least restrictions on Mode 1 compared with Modes 3 and 4 for the ECOWAS Member States concerned. Except Ghana, all the other Member States in the database do not seem to place any limitations on Mode 1. For Ghana, Mode 1 of Legal counselling on national law is authorized as long as the foreign firm is staffed with professionals authorized to provide the desired service. On Mode 3, except that Mali does not allow

| Table 9. Institutional framework and main actors | | |
|--|---|---|
| Member State | Institutional framework | Main Actors |
| Benin | <i>Barreau du Benin/Conseil de l'Ordre</i> | <i>Barreau du Benin/Conseil de l'Ordre</i> |
| Burkina Faso | <i>Le Conseil de l'Ordre des Avocats du Burkina Faso</i> | <i>Le Conseil de l'Ordre des Avocats du Burkina Faso</i> |
| Cabo Verde | The National Council (<i>Conselho Nacional</i>) of the Cabo Verde Bar Association (<i>Ordem dos Advogados de Cabo Verde</i>) is responsible for approving the Code of Conduct for Lawyers (<i>Código Deontológico dos Advogados</i>) and the Board of Ethics and Discipline (<i>Conselho de Deontologia e Disciplina</i>) is responsible for ensuring compliance on the part of lawyers and trainee lawyers of ethics and standards of professional ethics. The Superior Council (<i>Conselho Superior</i>) of the Cabo Verde Bar Association (<i>Ordem dos Advogados de Cabo Verde</i>) is responsible for the regulations and general organization and orientation of the internship (<i>Estágio</i>) | The Board of Ethics and Discipline (<i>Conselho de Deontologia e Disciplina</i>) of the Cabo Verde Bar Association (<i>Ordem dos Advogados de Cabo Verde</i>) is responsible for taking disciplinary actions. |
| Côte d'Ivoire | <i>Conseil de L'Ordre des Avocats de Côte d'Ivoire, Commission de l'UEMOA.</i> | <i>Conseil de Discipline du Conseil de L'Ordre des Avocats de Côte d'Ivoire</i> |
| Gambia | General Legal Council (Chief Justice, Attorney General, nominees of the Gambian Bar Association plus some other Members) | Disciplinary Committee of the General Legal Council |
| Ghana | General Legal Council | Disciplinary Committee of the General Legal Council |
| Guinea-Bissau | <i>Ordem dos Advogados da Guiné Bissau</i> | <i>Ordem dos Advogados da Guiné Bissau</i> |
| Mali | <i>Conseil de l'Ordre des Avocats du Mali</i> | <i>Conseil de l'Ordre des Avocats du Mali</i> |
| Niger | <i>Le Conseil de l'Ordre des Avocats</i> | <i>Le Conseil de l'Ordre des Avocats</i> |
| Nigeria | Body of Benchers; Council of Legal Education; The Nigerian Bar Association Others include: Supreme Court of Nigeria; The Registrar of the Supreme Court; and Bar Council of the Nigerian Bar Association. | Legal Practitioners Disciplinary Committee (Art. 11) Legal Practitioners Act, CAP L11, LFN 2004) |
| Sierra Leone | General Legal Council | General Legal Council |
| Togo | <i>Le Conseil de l'Ordre des Avocats</i> | <i>Le Conseil de l'Ordre des Avocats</i> |

Source: International Bar Association, 2016.

| Table 10. Nature of trade restriction in legal services sector in ECOWAS | | | |
|--|--|---|---|
| Sectors | Mode 1 | Mode 3 | Mode 4 |
| Côte d'Ivoire | | | |
| Legal counselling on foreign law | Authorized | This must be set up by national lawyers, but an exception may be made for lawyers from Member states of West African Economic and Monetary Union (UEMOA). There are no restrictions on the acquisition of property. | There is nationality requirement, and quality requirement, but there is an exception in the case of countries with reciprocal agreements with Côte d'Ivoire or those with which mutual recognition agreements have been concluded (usually countries using the French system), otherwise a foreign license will be automatically recognized. Foreign-licensed professionals are subject to Labor Market Review). |
| Legal counselling on national law | | Same requirements for counselling on foreign law. | Same requirements for counselling on foreign law. |
| Representation in Court | | This must be done by national lawyers, but an exception may be made for foreign lawyers from Member States of UEMOA. There are no restrictions on the acquisition of property. | There is a nationality requirement, but there is an exception for countries with reciprocal agreements with Côte d'Ivoire or those with which mutual recognition agreements have been concluded (usually countries using the French system), otherwise a foreign license is automatically recognized. Entry in the form of Independent Employees or Independent Contractual Workers is possible. |
| Ghana | | | |
| Legal counselling on national law | Authorized, as long as the foreign firm is staffed with professionals authorized to provide the desired service. | There is limit to the acquisition of property by non-locally licensed professionals, but there is no specific percentage limit except that they cannot have control. | Professionals licensed abroad are entitled to practice, under certain conditions: they must be qualified in a country with a common law system similar to that of Ghana. They must also take a three-month course in Ghana, which covers Ghana's constitutional and customary law and then take examinations on these subjects. Entry is only possible as PI. The quota of foreign employees depends on the size of investment of foreign capital and is subject to an LMA and ENR. The initial authorized period for stay differs case by case; extension of stay is possible beyond the initial period. |
| Legal counselling on national law | | Same requirements for counselling on foreign law. | Same requirements for counselling on foreign law. |
| Representation in Court | | Same requirements for counselling on foreign law. | Same requirements for counselling on foreign law. |

| Table 10. Nature of trade restriction in legal services sector in ECOWAS (cont'd) | | | |
|---|------------|----------------------------|--|
| Sectors | Mode 1 | Mode 3 | Mode 4 |
| | Mali | | |
| Legal counselling on national law | Authorized | Not authorized | There is automatic recognition of foreign licenses. Applicants can only work as consultants. Intra-Corporate Transfers are not allowed. |
| Legal counselling on national law | | Not authorized | There is nationality requirement; exception applies only if the country of origin ensures reciprocity. There is requirement for education, but foreign qualifications are recognized. Two-year training is required; foreign training is recognized for a part of the requirement, under reciprocal agreement. Successful examination is required. Intra-Company Transfers are not allowed. |
| Representation in Court | | Not authorized | There is a nationality requirement, but there is an exception for foreign accountants from UEMOA Member States or countries with reciprocal agreements with Mali. Lawyers admitted in reciprocating countries can plead before Malian courts, but to do so, they have to be established in the office of a local lawyer for each case. All other lawyers must be explicitly authorized in advance to plead in a particular case. There is a requirement for an educational qualification, but foreign qualifications are recognized. Two-year training is required; foreign training is recognized for a part of the requirement under reciprocal agreement. Successful examination is required. Only entry in the form of EFS (Service Provider Employee) is allowed. |
| Nigeria | | | |
| Legal counselling on foreign law | Authorized | Authorized | There is automatic recognition of foreign licenses. There is quota for foreign employees. The employer must apply for a permit for the foreign employee. Period of stay for two years, which can be extended for 8 years, making the maximum period of stay for 10 years. |
| Legal counselling on national law | | A branch is not authorized | Foreign-accredited professionals are eligible to practice subject to the following conditions: applicants must have a law degree from a common law country. They must attend the Nigerian Law School for two years and then take an exam. There is a quota for foreign employees. The employer must apply for a permit for them. Period of stay for two years, which can be extended for up to 8 years, making the maximum period of stay for 10 years |

Table 10. Nature of trade restriction in legal services sector in ECOWAS (cont'd)

| Sectors | Mode 1 | Mode 3 | Mode 4 |
|----------------------------------|------------|--|---|
| Representation in Court | | A branch is not authorized | Foreign-accredited professionals are eligible to practice subject to the following conditions: applicants must have a law degree from a common law country. They must attend the Nigerian Law School for two years and then take an exam. There is a quota for foreign employees. The employer must apply for a permit for them. Period of stay for two years, which can be extended for up to 8 years, making the maximum period of stay for 10 years. Only Independent Professionals are allowed. |
| Senegal | | | |
| Legal counseling on foreign law | Authorized | Authorized | There is automatic recognition of foreign licenses period of stay for one year, which can be extended depending on the duration of the employment contract. |
| Legal counseling on national law | | Authorized | There is automatic recognition of foreign licenses Period of stay for one year, which can be extended depending on the duration of the employment contract. |
| Representation in the Court | | A branch is not authorized. There are limits to the acquisition of property or control by foreigners. | There is a nationality requirement, but there is an exception for foreign lawyers from countries with reciprocal agreements with Senegal (no agreement of this type has been concluded to date with any country). The exception to appear in a specific case is only possible with prior authorization of the President of the Bar Association and this also requires reciprocity. |
| Guinea | | | |
| Legal counseling on foreign law | Authorized | Authorized | There is automatic recognition of foreign licenses. |
| Legal counseling on national law | | Authorized | There is automatic recognition of foreign licenses |
| Representation in Court | | Only lawyers have the capacity to plead, to apply and represent parties in all matters. Legal entities governed by private law, state-owned companies and semi-public companies may intervene in court proceedings only through a lawyer registered with the Bar. A lawyer cannot be admitted to the Bar Association if he does not meet the following conditions: being Guinean or a national of a reciprocating State. | No foreign lawyer can practice in Guinea, even on temporary basis. |

Source: World Bank Services Trade Restrictions Database and Doumbouya (2013). Les régimes réglementaires du commerce des services en Guinée, rapport de consultation, rédigé pour le Groupe Technique de Travail sur les Services de la CEDEAO.

foreign legal service providers to provide any services, all the other Member states allow, but place limitations on them. However, lawyers from UEMOA may be exempted from such limitations in some Member States. For example, in Côte d'Ivoire, for a company to offer legal counselling on foreign law (*i.e.* Mode 3), it must be set up by national lawyers, but an exception may be made for lawyers from UEMOA Member States. Also, in the same country, legal counselling on national law must be done by national lawyers, but an exception may be made for foreign lawyers from UEMOA Member States. Côte d'Ivoire and Senegal place limit to the acquisition of property by foreign legal service providers while there are no such restrictions in the other member states. On Mode 4, national requirement is common among these Member States.

E. Strengths, weaknesses, opportunities and threats

As little information on the sector is available at the regional level, the case of Senegal is presented as an example for the strengths, weaknesses, opportunities and threats (SWOT) analysis based on the recent report written by Ndiaye and Doumbouya for the firm ICD¹⁸ in 2017.

Strengths

- College of Architects: a strong professional organization, engaging with the public authorities on issues of common interest.
- The Order of Architects is a Member of the Union of Architects of Africa, and the International Union of Architects.
- Senegalese architecture that has proven itself in Africa.
- Architects are familiar with the African context.
- Architects oriented towards research, innovation and education.
- Induced effects: The architects are the promoters, specifiers and inventors of Senegalese industry products.

Weaknesses

- Low involvement of architects in major Senegal Emergent Planworks for an architecture adapted to the climate, aesthetics and genius of the people.

- An orientation law of the architecture not applied.
- A public procurement price schedule that dates back to 1947 and is not updated.
- The absence of a school of architecture and urbanism; habitat research center.
- The shortage of architects in the public sector and local communities.
- The importation of almost all building materials and equipment, with the exception of locally produced cement.
- Absence of a local materials recycling policy to reduce construction costs, to allow as many people as possible to access decent housing.

Opportunities

- Construction Code: the architect is obligatory for areas of 200 m²; but passage to 150 m² with a declining system.
- Promotion of partnerships with foreign architects in major works.
- Award of architectural public contracts by competition versus shortlists and references.
- UEMOA:
 - accelerate the transposition in progress.
 - harmonization of architectural price scales.
 - harmonization of selection modes.
- Senegal Emergent Plan: fostering partnership with foreign architects.
- In the context of Sustainable Development, with the fight against climate change:
 - At the strategic level, architects have a primary responsibility to contribute to the implementation of international requirements and commitments through the Sustainable Development Goals (SDGs), the Paris Agreement for Climate, and the New Urban Agenda.
 - At the operational level, architects have the skills to integrate all scales of environmental, economic, social, cultural and spatial planning (spatial planning, urban planning, architecture, construction, heritage and landscape), thanks to the synergy of the habitat bioclimatic, energy and thermal efficiency, and renewable energies integrated into the typology of the habitat.

Threats

- Non-application of regulation (e.g., urban planning code, construction code and the law of orientation of Senegalese architecture).
 - Incoherence between the code of contracts and the law on architecture, such as that found in Senegal.
 - Confusion between architects, draughtsmen and engineers in tenders and procedures for issuing building permits.
 - UEMOA do not use the same scale system among Member States;
 - Procurement Codes of countries do not take into account the creative potential of architects, namely their triple scientific, artistic and technical competence.
 - Young architects (therefore without references) are *de facto* excluded in tendering procedures;
 - Foreign investors land with strung projects (where national architects are excluded because of the preponderance of financial considerations).
 - Non-compliance with the urban planning code by foreign investors.
 - Low involvement of architects in programming, design and management of works.
-

Chapter

IV

**ARCHITECTURAL
SERVICES**

A. Introduction

An architectural service is defined as a contractual economic relationship between the architect and his or her client. This transaction leads to an “architectural design”, which could go through the process of implementation. Architecture, however, enjoys a double status because if the transaction is of a private commercial nature, the result may not only be for private use. Indeed, any intervention shapes public perception or discourse. An architectural work can sometimes reach the quality of artwork which endures for a long time.

Architectural services mean services related to the art and science of designing and building structures for human habitation or use and includes planning, providing preliminary studies, designs, specifications, working drawings and providing for general administration of construction contracts.

According to the WTO, the sector includes work by engineering firms to provide blueprints and designs for buildings and other structures and by engineering firms to provide planning, design, construction and management services for building structures, installations, civil engineering work and industrial processes. As a result of the Uruguay Round and subsequent accessions to the WTO by new Members, 70 Members have made commitments in this sector.

B. Description and performance of the sector

In the Sectoral Classification of Services (MTN. GNS/W/120), architectural services fall under a sub-sector of professional services. The Associated Classification of the NCPC, Department of Architecture (CPC: 8671), contains five subdivisions:

i) Counseling and draft Architectural design services (CPC: 86711)

Assistance services, counseling and recommendations on matters relating directly or indirectly to architecture: The services in this sub-class include, for example, preliminary studies on issues such as project philosophy, development strategy, climatic and environmental conditions, occupancy requirements, financial constraints, Site selection analysis, timing for planning and construction, and all other issues related to design or implementation of a project. These

services do not necessarily involve a new construction project. These may include counseling on how to maintain, renovate, restore or recycle buildings, estimate the value and quality of buildings, or any other issue related to architecture.

ii) Architectural design services (CPC: 86712)

Architectural design services for the construction of buildings and other structures: These design services may include one or more of the following services: simplified plan preparation services, where the service provider meets with the client to determine the main characteristics of the project, i.e specify the end product of the project, space requirements, financial constraints and desired timeframes, and to prepare draft designs including floor plans, overall plans and external views. There are also project development services, which consist of presenting the project in terms of layout sketches, appearance of the building, materials to be used, building systems and mechanical and electrical systems to be adopted as well as the estimate cost of construction. There is also the final plan preparation services, which include written plans and specifications sufficiently detailed to be able to launch tenders and carry out the construction as well as providing counseling services to customers when launching calls for tenders or accepting offers.

iii) Contract administration services (CPC: 86713)

Counseling and technical assistance services are provided to clients during the construction phase to ensure that the structure is constructed in accordance with the final plans and specifications. These services include both administrative and field services; examples include inspection of works, preparation of progress reports, issuance of certificates for payments to be made to contractors, providing counseling services to the customer and contractor on the interpretation of the contractual documents, as well as any other advice on technical matters that may arise as a result of the construction works.

iv) Combined architectural design and contract administration services (CPC: 86714)

Combinations of architectural services are typically used for construction projects, namely: simplified

planning services, project development services, final plan preparation services and contract administration services. These services may include services provided after completion of construction work, such as the evaluation of defects in construction and instructions on repairs to be made within 12 months after completion of the work.

v) Other architectural services (CPC: 86719)

These include all other services requiring the intervention of architects, such as the preparation of promotional materials and exhibition, the drawing up of site plans for existing structures, permanent representation at the construction site during the construction phase, manuals development, etc.

Economic contribution of architectural services is embedded in the construction sector in virtually all the countries in the sub-region, probably due to poor record keeping. According to the National Bureau of Statistics (NBS) of Nigeria, the construction industry has become a key contributor to the economic recovery of the country since the meltdown in 2016. The NBS recently released gross domestic product (GDP) figures for the second quarter of 2018 indicating that for the first time since the country's exit from recession in 2017, economic growth was driven by the non-oil sector. According to the report, the construction sector grew by 7.66 per cent in the second quarter 2018 from -1.54 per cent in the first quarter 2018 and 4.14 per cent in the fourth quarter 2017. Although these figures hint at an improving industry, the Nigerian architectural service sub-sector has a lot of potential in terms of employment generation and income provision.

C. Institutional and policy regulatory framework and main actors

Regional cooperation in the area of architectural services has been developed in the UEMOA Region. Countries have collaborated on a number of issues ranging from institutional framework and regulation to the reduction of trade barriers in architectural services in UEMOA. The outcomes of such collaborative efforts include:

- Directive No. 007/2005/CM/UEMOA on the free movement and establishment of architects who are citizens of UEMOA Member States, dated 16 December 2005.
- Directive No. 01/2013/CM/UEMOA on harmonization of rules governing architectural profession in UEMOA region.

These UEMOA directives aim specifically to liberalize the GATS Mode 3 and the GATS Mode 4 of trade in architectural services at UEMOA level, and to harmonize regulatory issues. Five UEMOA Members have made varying degree of commitments in the WTO on architectural services (Table 11). While Gambia and Liberia have made the most liberal commitments by setting no limitations on market access under Modes 1, 2, and 3, Senegal only committed itself under Mode 2. Cabo Verde and Sierra Leone requires foreign architectural service provider to be locally incorporated or take the form of an association of persons. All the five member states committed not to set any limitations on national treatment on Modes 1, 2 and 3.

Table 11. Commitments at WTO in architectural services for ECOWAS Member States

| Member State | CPC | Limitations to market access | Limitations to national treatment |
|--------------|----------|--|---|
| Cabo Verde | CPC 8671 | 1) None 2) None 3) None, but only by incorporation of a company in Cabo Verde, foreign participation in the capital being limited to 65 per cent. Within five years from the date of incorporation, 100 per cent foreign ownership will be allowed 4) Unbound except for PBT and ICT (PE, E, S) and CSP | 1) None 2) None 3) None 4) Unbound except for PBT and ICT (PE, E, S) and CSP |

Table 11. Commitments at WTO in architectural services for ECOWAS Member States (cont'd)

| Member State | CPC | Limitations to market access | Limitations to national treatment |
|--------------|----------|---|---|
| Gambia | CPC 8671 | 1) None 2) None 3) None 4) Unbound except for ICT (E and S). Companies must also offer training programs to Gambian citizens to enable them gain access to specialized functions. Approval for expatriate staff or expatriate contingent is subject to the following conditions and requirements: 1) Payment of \$10,000 as salary contributions 2) Investment of \$1,000,000 3) Impossibility of recruiting qualified Gambians to fill positions | 1) None 2) None 3) None 4) Unbound except for persons referred to in the column on market access |
| Liberia | CPC 8671 | 1) None 2) None 3) None 4) Unbound except for PBT and ICT (SS and E) | 1) None 2) None 3) None 4) Unbound except for PBT and ICT (SS and E) |
| Senegal | CPC 8671 | 1) Unbound 2) None 3) Unbound 4) Unbound | 1) None 2) None 3) None 4) Unbound |
| Sierra Leone | CPC 8671 | 1) None 2) None 3) None, except that commercial presence must take the form of an association of persons. Foreign companies must be competitive and registered in their country of origin 4) Unbound except for senior managers and expert technicians who cannot be found on local labour market | 1) None 2) None 3) None 4) Unbound except for senior managers and expert technicians who cannot be found on local labor market |

Source: GATS Schedules

Note: ICT: Intra-Company Transfer; PBT: Person on Business Trip; SS: Supervisory staff; E: Executives; S: Specialist; CSP: Contractual Services Providers.

Meanwhile, in Nigeria there are two professional bodies overseeing and asserting authority in this sector. These include Nigerian Institute of Architects (NIA) and Architects Registration council of Nigeria (ARCON). NIA is a nongovernmental organization; it performs some statutory functions on behalf of ARCON and cooperates with governmental and nongovernmental agencies and institutions with the objective of ensuring and sustaining the quality of

the built environment. The NIA/ARCON conducts periodic accreditation exercises at the schools offering architecture to ensure that set standards are met and that students are adequately prepared for professional practice. NIA code of conduct and the bylaws regulate the practice of architecture from the point of view of client-architect; architect-architect; architect-employee and architect-public relationships.

D. Strengths, weaknesses, opportunities and threats

As little information on the sector is available at the regional level, the case of Senegal is presented as an example for the SWOT analysis based on the recent report written by Ndiaye and Doumbouya for the firm ICD¹⁹ in 2017.

Strengths

- College of Architects: a strong professional organization, engaging with the public authorities on issues of common interest.
- The Order of Architects is a Member of the Union of Architects of Africa (UAA), and the International Union of Architects.
- Senegalese architecture that has proven itself in Africa.
- Architects are familiar with the African context.
- Architects oriented towards research, innovation and education.
- Induced effects: The architects are the promoters, specifiers and inventors of Senegalese industry products.

Weaknesses

- Low involvement of architects in major Senegal Emergent Planworks for an architecture adapted to the climate, aesthetics and genius of the people.
- An orientation law of the architecture not applied.
- A public procurement price schedule that dates back to 1947 and is not updated.
- The absence of a school of architecture and urbanism; habitat research center.
- The shortage of architects in the public sector and local communities.
- The importation of almost all building materials and equipment, with the exception of locally produced cement.
- Absence of a local materials recycling policy to reduce construction costs, to allow as many people as possible to access decent housing.

Opportunities

- Construction Code: the architect is obligatory for areas of 200 m²; but passage to 150 m² with a declining system.

Promotion of partnerships with foreign architects in major works.

Award of architectural public contracts by competition versus shortlists and references.

UEMOA:

- accelerate the transposition in progress
- harmonization of architectural price scales
- harmonization of selection modes.
- Senegal Emergent Plan: fostering partnership with foreign architects.
- In the context of Sustainable Development, with the fight against climate change:
 - At the strategic level, architects have a primary responsibility to contribute to the implementation of international requirements and commitments through the Sustainable Development Goals, the Paris Agreement for Climate, and the New Urban Agenda.
 - At the operational level, architects have the skills to integrate all scales of environmental, economic, social, cultural and spatial planning (spatial planning, urban planning, architecture, construction, heritage and landscape), thanks to the synergy of the habitat bioclimatic, energy and thermal efficiency, and renewable energies integrated into the typology of the habitat.

Threats

- Non-application of regulation (e.g., urban planning code, construction code and the law of orientation of Senegalese architecture).
- Incoherence between the code of contracts and the law on architecture, such as that found in Senegal.
- Confusion between architects, draughtsmen and engineers in tenders and procedures for issuing building permits.
- UEMOA do not use the same scale system among Member States.

- Procurement Codes of countries do not take into account the creative potential of architects, namely their triple scientific, artistic and technical competence.
 - Young architects (therefore without references) are *de facto* excluded in tendering procedures.
 - Foreign investors land with strung projects (where national architects are excluded because of the preponderance of financial considerations).
 - Non-compliance with the urban planning code by foreign investors.
 - Low involvement of architects in programming, design and management of works.
-

Chapter

V

**CULTURAL
SERVICES**

A. Introduction

The cultural services industry is a dynamic and rapidly growing sector of the global economy. The industry is contributing to growth, allowing diversification of national economies, income generation and job creation.

Culture plays an important role in uniting people, building identities, fostering tolerance, facilitating trade, creating revenue, and promoting linguistic and cultural diversity. All these attributes make it an essential vehicle in the quest for regional integration. In light of the evolving socio-political and economic context, and the enormous cultural challenges to development, it is indispensable for ECOWAS to have a regional cultural policy that would strengthen the cultural sector's role in the regional integration process.

ECOWAS Member States have enormous cultural and creative assets, a wealth of ideas, artists and creative people. The AfCFTA offers the opportunity for ECOWAS Member States to increase cultural exchanges and business cooperation on the continent and beyond.

B. Description and performance of the sector

According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), cultural heritage comprises cultural and natural heritage on the one hand and intangible heritage on the other hand. Cultural and natural heritage comprises museums, archaeological and historical tourist sites (such as archaeological sites and monuments), cultural landscapes (combined works of humanity and nature) and natural heritage (natural monuments, geological and physiographic formations and demarcated areas constituting habitats for animal and plant species). Intangible cultural heritage, on the other hand, is composed of “practices, representations, expressions, knowledge and know-how – as well as related cultural instruments, objects, artefacts and spaces – that communities, groups and, where necessary, individuals recognise as being part of their cultural heritage”.

In 1987, Heads of State and Government adopted the ECOWAS Protocol on the Cultural Framework Agreement with the objective of promoting the cultural dimensions of development to create Community

awareness with a sense of belonging founded on historical, linguistic and geo-political links. The Agreement encompassed several sectors, ranging from education to training, scientific and technological research, cultural tourism and exchanges. Culture was considered in its largest dimension, extending beyond the usual aspects of the sector.

Since the adoption of the Agreement, the stakes in the cultural dimension have increased and diversified. The cultural sector, which was marginal at the outset, has recorded immense boom and growing interest from stakeholders. The emergence of other cultural development issues, notably political and particularly economic, stemming from the recognition of the sector's growth potential in terms of contribution to GDP, foreign and domestic trade, tourism, etc., justifies the renewed interest of States and Communities. Hence, the Convention on the protection and promotion of the diversity of cultural expressions played an important sensitisation and incentive role. By adopting this international legal instrument, ECOWAS Member States have become aware of both the huge benefit of culture to the economy and the threats confronting their cultures. Indeed, culture is often perceived as a marginal sector, while its contribution to development seems to be sparsely shared. The image portrayed by certain categories of artists has improved over the years, but it should be noted that generally, culture can be hard to understand from within and may be negatively affected by decision makers, opinion leaders and investors keen to replicate advancement of other countries without due regard to the unique benefits their own culture can bring. Additionally, the flow of cultural exchanges between countries in the region seems to be weaker than that of trade with countries outside the region. This may be attributable to a common fallacy that the more “exotic” (*i.e.* distant) another culture is compared to the “familiar” (*i.e.* closer) culture, the better it is.

There is no doubt that culture, being a regional development sector just as other sectors, should effectively contribute to co-operation and integration objectives.

C. Linkage with other sectors

ECOWAS Member States' cultural stakeholders have instituted numerous organisations that constitute many networks working for the region's cultural development. They include PANAFEST for Africans

and people of African descent (Ghana); FESPACO for films (Burkina Faso); DAK'ART for visual arts (Senegal); MASA for performing arts (Côte d'Ivoire); SIAO for crafts (Burkina Faso), FITHEB for theatre (Benin); FIMA for fashion and textiles (Niger); Atlantik Music Expo for music (Cabo Verde); and Chale Wote for arts (Ghana); among many others.

Prior to 1990, most activities in the cultural sector were led by States or communities. Since then, there has been a massive influx of increasingly organised and structured independent actors, initially motivated to volunteer. In 2010, on the initiative of the Fund for Cooperation and Cultural Exchange in West Africa, funded by the European Union and under the aegis of ECOWAS and UEMOA, some 245 cultural organisations were identified as ECOWAS Member States plus Mauritania, including 182 in UEMOA Member States with the exception of Guinea Bissau: Benin (27), Burkina Faso (39), Côte d'Ivoire (25), Mali (18), Niger (13), Senegal (38) and Togo (22).

D. Institutional and organizational frameworks

The Revised ECOWAS Treaty provided for the setting up of a technical and specialised Commission for Social and Cultural Affairs.²⁰ Chapter 11 of the Revised ECOWAS Treaty is devoted to Cooperation in Human Resources, Information, Social Affairs and Culture. The desire of Member States to map out culture as a regional co-operation sector came to fruition in 1987 with the adoption of the Cultural Framework Agreement and the adoption of a Cultural Development Program in Lomé (1996), which was relaunched in 2002 as part of a New Partnership for Africa's Development (NEPAD), laying the groundwork for a regional cultural policy.

The Cultural Framework Agreement has remained the only roadmap to date in terms of guidelines for the cultural sector. Member States were also mindful of the need to establish a form of cultural co-operation which will make it possible to take into account the cultural aspect of projects within the framework of regional development plans and strategies, and to foster a sense of belonging to the same cultural community.

In 1985, a Culture Division was created within the Department of Education, Science and Culture of the ECOWAS Commission. The key programmes run

by the division are: (a) the copyright and intellectual property rights programme; (b) the heritage and cultural exchange programme; (c) the education for the culture of peace programme; and (d) the Cultural Industries Development Programme.

This division is highly understaffed, which seriously undermines the ambitions of the Division.

Most Member States of the Community have a Department in charge of Culture. A central administration (the Ministry of Culture) exists in the French-speaking part of the Community, with many decentralised cultural institutions. The adoption by these countries of formal national cultural policies was a gradual process: Niger in 2008; Burkina Faso in 2009; Benin in 2011 (cultural charter); Togo in 2012; and Côte d'Ivoire in 2014, among many others.

In the English-speaking Member States, cultural policy is implemented by a semi-public organ called the National Council of Arts and Culture, under the auspices of the Ministry of Culture. The organ, in collaboration with specialised institutions (offices, agencies and other public and private institutions such as cultural associations, houses and centres, art workshops, theatres, etc.), is in charge of the development, promotion and dissemination of arts and knowledge throughout the country. This model is found in Ghana, Nigeria and also in the Gambia.

In the case of Portuguese-speaking Member States, Guinea-Bissau drew on the French model, but with small institutions attached to a General Directorate of Culture.

The statistics of ECOWAS Member States with formal cultural policies are indicated in Table 12.

Thirteen ECOWAS Member States have formal cultural policies set forth in special documents and adopted by governments or parliaments. Public policies on culture suffer from the limited publication of cultural works and lack of statistical data. As a matter of fact, few cultural studies of socio-economic impact have been conducted in the region to determine the strengths and weaknesses of the sector, in view of formulating sound policies or strategies.

Table 12. ECOWAS Member States cultural policies

| No. | Member State | Title of cultural policies | Date of Adoption |
|-----|---------------|---|------------------|
| 1 | Benin | National Cultural Policy | 2013 |
| 2 | Burkina Faso | National Strategy for Culture and Tourism | 2018 |
| 3 | Cabo Verde | 2016-2021 Outlook | 2016 |
| 4 | Côte d'Ivoire | 2014 Law on the National Cultural Policy of Côte d'Ivoire | 2014 |
| 5 | Gambia | Cultural Policy of The Gambia | 1988 |
| 6 | Ghana | Cultural Policy of Ghana | 2004 |
| 7 | Guinea | The New Cultural Policy of the Republic of Guinea | 2018 |
| 8 | Guinea-Bissau | Non-existent | - |
| 9 | Liberia | National Cultural Policy of Liberia | 2003 |
| 10 | Mali | National Cultural Policy Framework Document | 2013 |
| 11 | Niger | National Cultural Policy Declaration | 2008 |
| 12 | Nigeria | Cultural Policy of Nigeria | 1998 |
| 13 | Senegal | Letter on the development of cultural sector policy | 2016 |
| 14 | Sierra Leone | Non-existent | 2006 |
| 15 | Togo | National Cultural Policy | 2011 |

Source: ECOWAS Commission.

E. Policy frameworks

The inventory, safeguard and preservation of tangible, natural and intangible cultural heritage was one of the priority axes of the Regional Action Plan for Culture, adopted by the First Conference of ECOWAS Ministers of Culture held in Dakar in 2003. A review of the state of West African cultural heritage reveals the following:

i) Major Centuries-old but inadequately safeguarded relics

The protection and promotion of tangible cultural and natural heritage is governed by several conventions, including the 1972 UNESCO Convention, which promotes the identification, protection and conservation of cultural and natural heritage, considered invaluable to humanity. The Convention was ratified by all ECOWAS Member States, demonstrating their will to protect cultural and natural heritage.

Table 13 presents the statistics of properties inscribed on the World Heritage List.

Of a total of 1092 properties inscribed on the world cultural and natural heritage list, the ECOWAS region

has 30 properties, that is 2.74 per cent of the total properties inscribed. This situation suggests a low level of inscription and protection of its tangible cultural heritage, despite the enormity of relics inherited from old empires and kingdoms.

The movable cultural heritage is preserved in more and more museums,²¹ of which 145 public and private museums were listed in 2000. A significant part of this heritage is also preserved in museums in Europe and America including objects with high symbolic value as the throne of King Béhanzin of Dahomey which, originated from modern-day Benin and, now sits in the *Musée du Quai Branly-Jacques Chirac* in Paris, France. Since 2017, the President of the French Republic has pledged to repatriate African cultural properties unduly taken and held in French public museums. African states are working to return these properties to their heritage.

ii) A rich, diversified, but poorly harnessed intangible cultural heritage

The protection and promotion of intangible cultural heritage is governed by UNESCO's 2003 Convention

Table 13. Statistics of properties inscribed on the world heritage list in ECOWAS Member States

| Member State | Benin | Burkina Faso | Côte d'Ivoire | Gambia | Ghana | Guinea | Mauritania | Niger | Nigeria | Senegal | Togo | Total |
|-----------------------------|-------|--------------|---------------|--------|-------|--------|------------|-------|---------|---------|------|-----------|
| No. of properties inscribed | 02 | 02 | 04 | 02 | 02 | 01 | 04 | 03 | 02 | 07 | 01 | 30 |

Source: ECOWAS Cultural Policy.

for the Safeguarding of the Intangible Cultural Heritage. The Convention encourages the adoption of legal, administrative and financial measures necessary to ensure the safeguarding of the heritage through inventories and special offices, in order to involve communities in charge of their intangible cultural heritage, encourage scientific, technical and artistic studies, and ensure the recognition, respect and enhancement of that heritage. ECOWAS Member States have over 325 million inhabitants within about 600 ethnic communities speaking many languages. This reflects the enormous cultural diversity and the resulting multiplicity of cultural expressions, constituting an inexhaustible potential for wealth that can be exploited for sustainable development. Of a total of 399 elements inscribed, 17 belonging to 10 countries of the region are inscribed on the Representative List of the Intangible Cultural Heritage of Humanity (see table 14), representing a 4.26 per cent rate of the total number of elements. Despite the potential of the region, it must be noted that there is a low level of protection (4.26 per cent of the total number of elements) and exploitation of intangible cultural heritage due to lack of inventories and appropriate strategies.

Some countries, such as Mali and Nigeria, have apparently made significant efforts to inscribe several elements. On the contrary, 5 countries have no items inscribed. In general, the tangible and intangible cultural heritage of the region suffers from the lack of strong public safeguarding and development policies.

F. Regulatory framework

ECOWAS Member States have signed main agreements and conventions that stipulate rights related to culture (see Table 15). These international texts define the normative framework and guide the adoption of measures for the sector. International conventions and agreements have considerably influenced the drafting of national legal instruments.

While ECOWAS Member States have signed a number of international conventions, the domestication of these conventions into national public policies remains problematic because of the weak capacity of the departments in charge of culture. The Charter for Cultural Renaissance is yet to be ratified by many Member States, jeopardising its entry into force.

G. Strengths, weaknesses, opportunities and threats

Strengths

- Existence of major relics and heritage sites.
- Predominance of rich and diversified intangible cultural heritage.
- Nearly complete value and production chain in various Member States.
- Dynamic stakeholders.
- Success stories.
- Cultural training institutions in many countries.
- Cultural Framework Agreement setting the guidelines for cultural development.
- Cultural administration through a specific department and division in charge of culture.
- A department in charge of culture in all Member States.
- Formal cultural policies in some Member States.
- the UEMOA cultural development program.
- Creation of the Regional Observatory in 2016.
- Existence of many regional and sub-regional organisations.
- Minimal production, dissemination and preservation infrastructure.
- Gradual emergence of funding mechanisms in States.
- Implementation of a 2015-2017 cultural programme focused on 4 components.

Table 14. Culture diversity in ECOWAS Member States

| Member State | Member State's element | Shared elements |
|----------------------|---|---|
| Benin | | The oral Gèlèdé heritage (Benin, Nigeria, Togo), 2008. |
| Burkina Faso | | Cultural practices and expressions linked to the balafon of the Senufo communities of Mali, Burkina Faso and Côte d'Ivoire, 2012. |
| Côte d'Ivoire | Zaouli, popular music and dance of the Guro communities in Côte d'Ivoire, 2017. Gbofe of Afounkaha, the music of the transverse trumps of the Tagbana community, 2008. | Cultural practices and expressions linked to the balafon of the Senufo communities of Mali, Burkina Faso and Côte d'Ivoire. |
| Gambia | | Kankurang, Manding initiatory rite (Senegal and The Gambia), 2008. |
| Guinea | Cultural space of Sosso-Bala, 2008. | |
| Mali | Coming forth of the masks and puppets in Markala, 2014. Manden Charter, proclaimed in Kurukan Fuga, 2009. Septennial re-roofing ceremony of the Kamablon, sacred house of Kangaba, 2009. Cultural space of the Yaaraal and Degal, 2008. "Kôrê dougaw" wisdom rite of the Sénoufo and the bambaras. "Sanké mon" collective fishing rite of the Sanké. | Cultural practices and expressions linked to the balafon of the Senufo communities of Mali, Burkina Faso and Côte d'Ivoire. Practices and knowledge linked to the Imzad of the Tuareg communities of Algeria, Mali and Niger (Algeria-Mali-Niger), 2013. |
| Niger | Practices and expressions of joking relationships in Niger, 2014. Argungu international fishing and cultural festival, 2016. Ijele masquerade, 2009. Ifa divination system, 2008. | Practices and knowledge linked to the Imzad of the Tuareg communities of Algeria, Mali and Niger (Algeria-Mali-Niger), 2013. Oral heritage of Gelede (Benin-Nigeria-Togo), 2008. |
| Senegal | Xooy, a divination ceremony among the Serer of Senegal, 2013. | Kankurang, Manding initiatory rite (Senegal and The Gambia), 2008. |
| Togo | | The oral Gèlèdé heritage (Benin, Nigeria, Togo), 2008. |
| Total | 12 | 05 |
| Overall total | 17 Elements | |

Source: ECOWAS Commission.

Weaknesses

- Poor protection of vestiges.
- Insufficient strategies for safeguarding and exploiting intangible cultural heritage.
- Fragile small and medium cultural enterprises.
- Weakness in some links of the production chain.
- Low product competitiveness.
- Low collection of royalties from copyright and neighbouring rights.
- Insufficient staff at the Commission's Culture Division.
- Absence of formal cultural policies in some Member States.
- Low production of information and statistics on culture.
- Weak ratification of the Charter for African Cultural Renaissance.
- Low inter-state cultural co-operation.

Table 15. List of key cultural treaties and conventions

| | Title | Issue covered |
|----|---|--|
| 1. | 1886 Berne Convention for the Protection of Literary and Artistic Works, supplemented by the 1971 Convention. | Intellectual Property Governance. |
| 2. | 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. | Control of archaeological excavations, conservation of products derived from them, and control of the export and import of cultural assets. |
| 3. | 1972 Convention on the Protection of the World Cultural and Natural Heritage. | Definition of elements of cultural and natural heritage. National and international protection measures. |
| 4. | 1996 WIPO Copyright Treaty. | Intellectual Property Governance. |
| 5. | 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. | Safeguarding cultural heritage in the areas of oral traditions and expressions, performing arts, social practices, rituals and festivities, knowledge and practices. |
| 6. | 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. | Protection and promotion of cultural and artistic expressions; promotion of cultural activity sectors; promotion of cultural cooperation. |
| 7. | 1995 General Agreement on Trade in Services. | Liberalisation of global trade in services (including tourism). |
| 8. | 2006 Charter for African Cultural Renaissance. | Cultural policy; integration of culture into economic and social development plans. |
| 9. | 1987 ECOWAS Cultural Framework Agreement. | Culture, Education, Science and Cultural Tourism. |

Source: ECOWAS Commission.

- Low level of organisation of stakeholders in Member States.
- Non-operationalisation of the Regional Intellectual Property Observatory.
- Low implementation of international conventions in Member States' policies.
- Absence of a policy that would improve peaceful coexistence among tribes, traditional religious leaders and the youth.
- Absence of cultural exchanges among Member States.
- Insufficient qualified human resources.
- Many dilapidated cultural infrastructures.
- 90 per cent of cinemas closed.
- Low public budgets for culture funding.
- Difficulty in accessing private funding.
- Ignorance of cultural orientations and actions by Member States.

Opportunities

- An international normative framework for heritage protection and development of cultural and creative Industries.
- Growing interest of universities in cultural and artistic education.

Threats

- Proliferation of piracy and counterfeiting.
- Stiff competition from Asian and Northern goods and services.
- Low consideration for the cultural sector by some key stakeholders.

Chapter

VII

**EDUCATION
SERVICES**

A. Introduction

Education is a key part of strategies to improve individuals' well-being as well as societies' economic and social development. Progress towards better governance, more effective conflict resolution, increased competitiveness and specialization, controlled population, improved health and general well-being and most importantly accelerated poverty reduction, are ultimately related to progress in education and training.

In line with ECOWAS objectives, the ECOWAS education sector was established in 2003 to provide all community citizens with greater access to quality education and training opportunities available in the region through harmonization of policies, strategies, programmes and activities, as well academic programmes and certificates.

B. Description and performance of the sector

Trade in education services refers to the real or virtual mobility of students, teachers, knowledge and academic programmes across borders and involves the export and import of education services from one country to the other (see Table 16).

The distinction between various categories is mainly based on teaching at different levels of education,

from primary education to higher education. The other two categories, adult education and other types of education, are educational services provided to a large extent outside the formal education system.²² Adult education is somewhat a separate category not only because education is provided outside the formal educational system but also because it is defined in relation to beneficiaries of the service.²³ In addition, this category overlaps with the category of "other educational services" (CPC: 929), a residual category that also includes educational services that cannot be categorized by level of education. In the category of "higher education services", a distinction is made between post-secondary education leading to a university degree or the equivalent (*i.e.* other higher education services) and studies which do not lead to such outcomes (*i.e.* vocational and technical education). The dynamic nature of the education sector, along with the evolution of curricula and qualifications, has greatly shifted the lines separating the different categories, especially as regards to post-secondary education (*i.e.* higher education, adult education and other educational services).

These four modes correspond to the cross-border supply of programmes, students and suppliers of education services (Table 17).

The future of education in the ECOWAS Region is bright. In the last decade, the majority of ECOWAS Member States have made extraordinary gains. In

Table 16. Categories of education and activities

| Sectoral classification list | Activities included in each category |
|---|--|
| Primary education services (CPC: 921) | <ul style="list-style-type: none"> • Preschool education services [excludes child day-care services (CPC: 93321)] • Other primary education services [excludes adult education services n.e.c (CPC: 92400)] |
| Secondary education services (CPC: 922) | <ul style="list-style-type: none"> • General secondary education services • Higher secondary education services • Technical and vocational secondary education services • Technical and vocational secondary school-type education services for handicapped students |
| Higher education services (CPC: 923) | <ul style="list-style-type: none"> • Post-secondary, technical and vocational education services • Other higher education services |
| Adult education (CPC: 924) | <ul style="list-style-type: none"> • Adult education services n.e.c. [excludes post-secondary technical; and vocational education services (92310)] and [Other higher education services (CPC: 92390)] |
| Other education services (CPC: 929) | <ul style="list-style-type: none"> • Other education services [excludes Sporting services (CPC: 9641) and Private households with employed persons (CPC: 98000)] |

Source: United Nations (1991). Provisional Central Product Classification.

Table 17. Four Modes of education services supply

| Mode of supply | GATS definition | Examples in education |
|--|---|---|
| Mode 1: Cross-border supply | The supply of a service “from the territory of one Member into the territory of any other Member”. The service travels, but both the provider and the consumer stay home. Comparable to the export of a good. | <ul style="list-style-type: none"> • Distance or online education • Virtual education institutions • Education software • Corporate training through ICT delivery |
| Mode 2: Consumption abroad | The supply of a service “in the territory of one Member to the service consumer of any other Member”. Comparable to tourism or business travel by the consumer. | <ul style="list-style-type: none"> • A student travels to another country to enrol in a school for a course or study/degree programme |
| Mode 3: Commercial presence | The supply of a service “by a service supplier of one Member, through commercial presence in the territory of any other Member”. GATS-speak for foreign direct investment. | <ul style="list-style-type: none"> • Local university or satellite campuses • Language training companies • Private training companies, <i>e.g.</i> Microsoft, CISCO, etc. |
| Mode 4: Movement of natural persons | The supply of a service “by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member”. Comparable to temporary emigration or business travel by the service provider. | <ul style="list-style-type: none"> • Professors; lecturers; teachers; and researchers providing education services aboard on a temporary basis |

Source: OECD, 2004 (p. 360).

Senegal, for example, 79 per cent of students are enrolled in primary school, up from only 46 per cent in 1990.²⁴ Across the West African sub-region more students are completing primary school, and schools are enrolling more female students than ever before.

Student mobility through international education has also gained a lot of traction in the region. An analysis of the region’s higher education landscape shows that there has been a significant increase in the number of academic institutions since 2010.²⁵ They attributed this to deliberate efforts by higher education institutions and Member States to provide their services to international students through various delivery modes such as these students coming and studying in the different Member States or doing online programmes or remaining overseas and taking courses offered in the respective Member States. Some of the Member States’ exports have also been boosted by joint programmes and the establishment of international private universities.

Stemming from the levels of education in which ECOWAS Member States were committed to, the level of literacy can easily be predicted. The literacy level predicted in Table 18 suggests that the average literacy level is highest in Cabo Verde among the ECOWAS Member States. 88.5 per cent of the

adult population in that country were literate for the period 2010–2015. This is diametrically opposed to the lowest percentage of 19.1 per cent of the adult population in Niger being literate. The countries that closely followed Cabo Verde, in terms of literacy level, are Ghana with 76.6 per cent, Togo, with 66.5 per cent and Guinea-Bissau, with 59.8 per cent. Countries like Nigeria scored 59.6 per cent and the Gambia and Senegal performed moderately with 55.6 per cent each for the period 2010–2015.

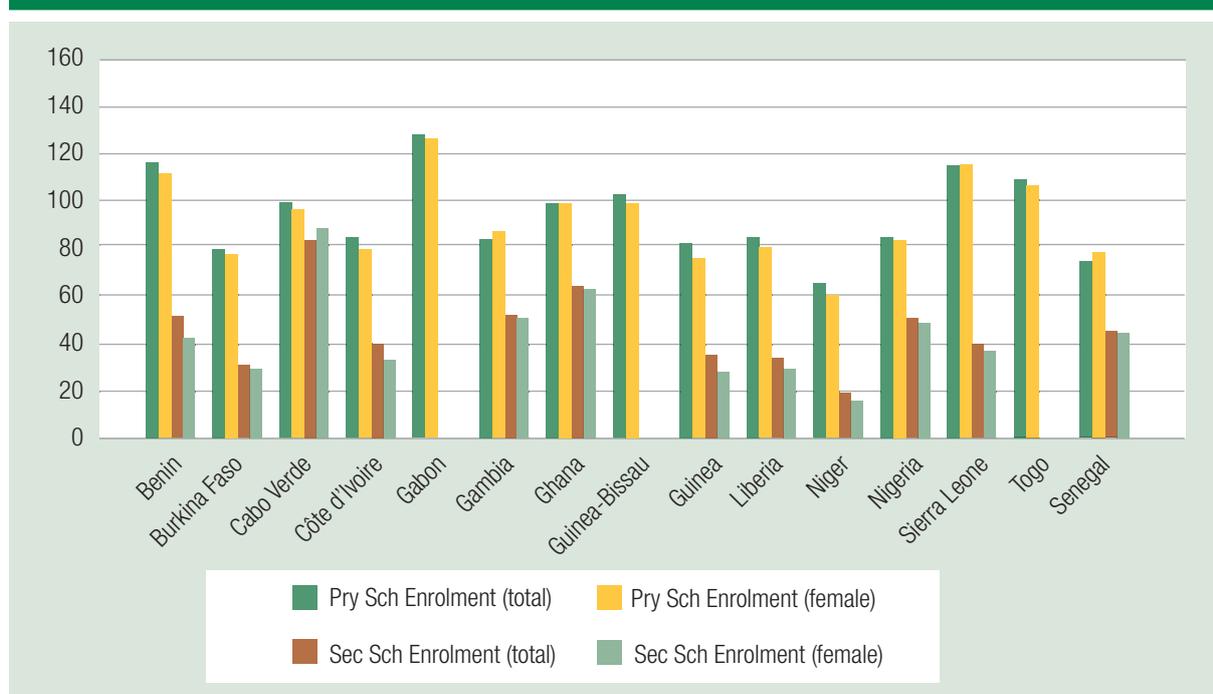
The gender distribution of adult literacy in the West African sub-region largely indicates that males are more literate than their female counterparts in virtually all countries. However, a few countries have bridged the gap between male and female counterparts. Cabo Verde takes the lead in this regard with 92.5 and 84.7 per cent adult literacy for male and female respectively. Liberia, Senegal and Togo lead the pack of countries that have large disparities between male and female adult literacy levels for the period 2010–2015 respectively (see Table 18).

Expectedly, the primary and secondary school enrolments are the bases for adult literacy level. As detailed in Figure 4, Benin, closely followed by Sierra Leone and Togo, has the highest level of educational development as indicated by the primary school

Table 18. Literacy level in ECOWAS Member States, 2010–2015 (in percentage)

| Member State | Adult literacy rate | Adult literacy rate (male) | Adult literacy rate (female) |
|---------------|---------------------|----------------------------|------------------------------|
| Cabo Verde | 88.5 | 92.5 | 84.7 |
| Ghana | 76.6 | 82.00 | 71.4 |
| Togo | 66.5 | 78.3 | 55.3 |
| Guinea-Bissau | 59.8 | 71.7 | 48.1 |
| Nigeria | 59.6 | 69.2 | 49.7 |
| Gambia | 55.6 | 63.9 | 47.6 |
| Senegal | 55.6 | 68.5 | 43.8 |
| Sierra Leone | 48.4 | 59 | 38.2 |
| Liberia | 47.6 | 62.4 | 32.8 |
| Côte d'Ivoire | 43.3 | 53.3 | 32.7 |
| Benin | 38.4 | 49.9 | 27.3 |
| Burkina Faso | 37.7 | 47.6 | 28.3 |
| Guinea | 30.5 | 38.1 | 22.9 |
| Niger | 19.1 | 27.3 | 11.00 |

Source: African Development Bank Group (2017).

Figure 4. Educational development in ECOWAS Member States, 2010–2016

Source: African Development Bank Group (2017).

enrolment. Niger has the lowest primary school enrolment. Burkina Faso and Senegal have also low levels of primary school enrolment.

However, it is evident that school enrolment drastically reduces from primary to secondary levels. The implication is that a number of students in the ECOWAS Member States were not able to continue to secondary school level. Benin decreased by more than 50 per cent; from 129.0 primary school enrolment level to 56.8 while Niger decreased from 72.5 of primary school enrolment to 20.7 per cent secondary school enrolment (see Figure 4). In 2007, Benin abolished school fees which led to an increase in underage and overage children attending school in subsequent years. This trend is consistent for all ECOWAS Member States, irrespective of gender. In order to assess the level of discrimination against the women, primary and secondary school enrolment for the female is compared with the total and it is clear that access to education could not be considered to be of statistical significance; both for the primary and secondary school enrolment levels.

The estimated percentage of GDP allocated to education in these countries depends largely on GDP expenditure. The amount expended on education also depends on the population figure in each country. By implication, the size of the economy and the growth of population are two important factors that determine the amount devoted to every sector of the economy; including education. Also, of importance is the historical expenditure and the macroeconomic objectives set out by each country. However, the average percentage values within a five-year span should be considered indicative enough to guide the discussion on the practical commitment that countries have devoted towards developing the educational sector.

Interestingly, the percentage of GDP devoted to the educational sectors did not correspond to the level of adult literacy in these countries. The continent average is 5.0 and only Ghana, Niger, Senegal and Togo spent above the continental average with 6.2, 6.7, 7.2 and 5.3 per cent of their GDP devoted to the educational sector (Table 19). Of these four countries, only Niger has an abysmal adult literacy rate 19.1 per cent while the three others have adult literacy level above the 50 per cent mark. In contrast, Guinea-Bissau, which ranked fourth place (Table 18) in adult literacy, only devoted 2.2 per cent of her GDP to the educational

Table 19. Percentage of gross domestic product spent on education in ECOWAS Member States, 2010–2015

| Member State | Percentage of gross domestic product spent on education |
|---------------|---|
| Africa | 5.0 |
| Benin | 4.3 |
| Burkina Faso | 3.9 |
| Cabo Verde | 5.0 |
| Côte d'Ivoire | 4.7 |
| Gabon | 2.7 |
| Gambia | 2.8 |
| Ghana | 6.2 |
| Guinea | 3.2 |
| Guinea-Bissau | 2.2 |
| Liberia | 2.8 |
| Niger | 6.7 |
| Nigeria | |
| Sao Tome | 3.9 |
| Senegal | 7.2 |
| Sierra Leone | 2.7 |
| Togo | 5.3 |

Source: African Development Bank Group (2017).

sector (Table 19) while Cabo Verde, which devoted 5.0 per cent of its GDP on education, achieved the highest adult literacy level in the sub-region.

Only four countries (Ghana, Niger, Senegal and Togo) exceed the continental percentage average of five per cent for the period 2010–2015.

Factors affecting student mobility in ECOWAS

Several factors affect student movement, notable among them being the propensity of tertiary students to study abroad. UNESCO reported that there were over 4.8 million international students in 2016, up from 2 million in 2000.²⁶ The top 6 countries in the international student market are the United States of America, United Kingdom, Australia, France, Germany and Russia. Prominent sending countries identified

included China, India, Germany, Republic of Korea and Nigeria.

Studies of student mobility in the ECOWAS region tend to focus on the conditions (push and pull factors) that motivate students to study abroad. The following are key factors influencing the movement of international students into Ghana:²⁷

- Lower cost of education: cost is increasingly likely to motivate students to a particular destination and deter them from applying to others. Cost of living and tuition fees are generally lower in most ECOWAS Member States than in other countries and regions.
- Parity of admission requirements: flexibility of admission requirements to tertiary institutions in Ghana is also a significant factor. Already there are regional regulatory bodies like the West Africa Examinations Council WAEC, which ensure quality standards of the appropriate level of education in its area of jurisdiction. Similarity of programmes and medium of instruction between Ghana and other Anglophone countries could be a great opportunity that will allow for easy mobility of students into Ghana.
- Socio-cultural similarities: socio-cultural similarities of the international students' home countries and that of Ghana always make the student feel at ease. The degree of homesickness of the international student is minimal due to similar socio-cultural factors among these West African nations. Linguistic, dietary, and cultural identities such as

food, music, religion, dance etc. are quite similar, making the student feel more at home.

- Immigration requirements/procedures: ECOWAS Free Movement Protocols allow for easy mobility in the region.

In addition, it is believed that students base their choice on a number of other factors including government policies, proximity to home country, fees and infrastructure capacity (see Table 20).

In Ghana, records available from the National Council for Tertiary Education showed a total of 3,607 international students who pursued higher education in the country's public Universities as at the 2009/2010 academic year, 2,606 international students for the 2010/2011 academic year. For the 2011–2012 academic year, a total of 3,356 international students enrolled in the country's public universities, while a total of 2,507 enrolled for the 2012–2013 academic year. In the year 2013–2014 academic year, a total of 2,723 enrolled in the country's public universities. Records further indicate that most of these students came from Gabon, Liberia, Nigeria, Sierra Leone, United States, etc.

The opening of economies, the technology improvements, and the new needs derived from globalization and a more integrated international market have resulted in a new way of thinking about education services. Besides the importance of this sector on its own, there is a strong intrinsic relation between the skills and training required and the needs of a new workforce that are forced to operate in a global scenario. Education services are no longer

Table 20. Distribution of international students in Ghanaian universities

| University | 2009–2010 | 2010–2011 | 2011–2012 | 2012–2013 | 2013–2014 |
|--|-----------|-----------|-----------|-----------|-----------|
| Kwame Nkrumah University of Science and Technology (KNUST) | 838 | 1 035 | 1 263 | 1 445 | 1 549 |
| University of Cabo Coast | 189 | 226 | 245 | 245 | 283 |
| University for Development Studies | 0 | 2 | 3 | 11 | 11 |
| University of Education | 1 214 | 9 | 773 | 22 | 12 |
| University of Ghana | 1 307 | 1 270 | 1 035 | 684 | 732 |
| University of Mines and Technology | 59 | 73 | 83 | 101 | 121 |
| University of Professional Studies | - | - | - | 20 | 12 |

Source: Nyarko and Ephraim (2016).

destined to be provided just for the local market; higher education services and vocational and training services can be viewed very much as an export sector and an important earner of foreign exchange, replacing or supplementing the more traditional views of exported products and services. In this respect, some of the trends taking place during this 'next wave of globalization of education' include potential gains from the export of higher education services.²⁸

C. Institutional framework and main actors

In 2003, ECOWAS adopted a convention on the recognition and equivalence of qualifications, requiring the mutual recognition (accreditation) of certificates among Member States.

In 2013, there were about 775 higher education institutions in the ECOWAS region. The educational programmes and curriculum of ECOWAS Member States vary depending on the respective country's colonial past. In the English-speaking Member States, secondary education lasts 6 years, while it is 7 years in the French-speaking Member States and only 5 years in the Portuguese-speaking Member States.

The post-secondary structure also varies. The titles, certificates and degrees are different from one Member State to another. In the English-speaking Member States, a bachelor's degree is awarded after 4 consecutive years, while in the French-speaking Member States a License is awarded after 3 years, punctuated by intermediate diplomas of general study at the end of the first and second years. Due to the continuing links between the African and European countries, current developments such as the Bologna Process have found their way into West Africa. In the French-speaking Member States, the Licence-Master-Doctorate (LMD) system is being actively promoted by *Conseil Africain et Malgache pour l'Enseignement Supérieur* (CAMES), an evaluation and accreditation body among the Francophone countries. There is also the Program on the Analysis of Education Systems, a French-speaking network for monitoring learning achievement. Following the British system, the English-speaking Member States already had a Bachelor-Master-Doctorate (BMD) model. Regarding the Portuguese-speaking Member States, in Cabo Verde, degrees are being revised in the framework of Bologna Process, which is facilitated through the Association of Portuguese-speaking universities. A

Committee set up by ECOWAS on the harmonization of degrees and diplomas in Member States has recommended that the Bachelor's, Master's and Doctorate degrees of the higher education institutions in the Community should be standardized in terms of their entry requirements, credit load, graduation requirements and grading system.

The landscape of Technical and Vocational Education and Training (TVET) in ECOWAS Member States is not easy to capture well due to lack of information and data. While some countries such as Burkina Faso, Gambia, Ghana and Nigeria have developed comprehensive strategies and action plans for improving TVET provisions, others such as Togo are yet to activate their policy documents into implementable action plans. On the other hand, Liberia has only recently in 2014 developed a national TVET policy that has been approved at the highest level of Government.

The TVET provision in the region cuts across all levels of the education system, from the post-primary through secondary to the tertiary level. However, the bulk of TVET provision takes place at the secondary level. At the tertiary level, higher level skills training takes place in polytechnics, universities, institutes of technology and similar institution types. However, the informal sector accounts for about 80 per cent of all skills training in the region. Skills development in the informal economy is led by master crafts persons who impart the skills they themselves have acquired in the informal economy to their apprentices or trainees. In most Member States, apprenticeship training is unorganized, unrecognized and does not collaborate with the formal TVET sector. While some countries have established national regulatory and coordination bodies to drive their TVET systems at all levels, both public and private, in others TVET is coordinated from the Ministries of Education or TVET.

Available data on the deployment of TVET teachers in Member States reveals inadequate numbers of pedagogically and professionally qualified staff in some countries, where teacher-student ratios can be as high as 1:35, well above the international norm of between 1:15 and 1:20.²⁹ Female TVET teachers are few, accounting for less than 20 per cent of the TVET academic staff in most Member States.

In general, access and participation in TVET is low at less than 10 per cent of enrolments at the secondary education level, a key factor being the

low prestige and poor public perception of TVET. In most countries, female participation is less than that of males, averaging about only 28 per cent. In all countries, private providers dominate the TVET landscape. However, many private providers lack the human and material resources that are required for quality provision.

D. Policy and regulatory framework

As mentioned earlier, the educational programmes and curriculum of ECOWAS Member States vary depending on the respective country's colonial past. In the English-speaking Member States, secondary education lasts 6 years, while it is 7 years in the French-speaking Member States and only 5 years in the Portuguese-speaking Member States. Each ECOWAS Member State has its own university system, and majority of countries have several reputed public and private universities. However, access to higher education is not evenly distributed. In 2013, the Gambia had only one university, while Nigeria had 47 universities.

A major landmark in the delivery of education in the sub-region is the First Conference of ECOWAS Ministers of Education which was held in Dakar, Senegal on 24–26 September 2002. The conference laid a solid foundation for education in the region by adopting the ECOWAS Protocol on Education and Training; the ECOWAS Convention on Equivalence of Certificates; and 5 regional priorities in education:

- HIV/AIDS preventive education
- Girls education
- Teacher training
- Science and Technology
- TVET³⁰

The Second Conference that was held at Accra on 9–10 January 2004, was dedicated to developing implementation strategies for the priority programmes. To that effect, lead countries were designated for each thematic group comprising Member States and strategic partners. The third edition that was held at the Commission's Headquarters on 17–20 March 2009 undertook a critical review of the structures and programmes that were put in place by the first and second Conferences of Ministers and made concrete recommendations that will impact positively on the lives of people.

Recommendations:

- Adoption of regional education framework documents and regional priority programmes by the Ministers of Education and Heads of States.
- Regular consultation by experts in the identified priority areas.
- Constitution of regional networks of experts to promote uniformity and standards in education (HIV/AIDS preventive education, Vice Chancellors and Rectors, girls' education, technical and vocational education).
- Constitution of a regional task force on education.
- Constitution of an ECOWAS Task Force on e-learning to implement the ECOWAS e-learning Initiative.
- ECOWAS Nnamdi Azikiwe Academic Mobility Scheme.

i) Promotion of Higher Education – ECOWAS Nnamdi Azikiwe Academic Mobility Scheme

In order to promote access to education and by so doing produce high level personnel that can act creatively on the environment and engage in withy inventions that can solve the multi-faceted problems of the Community, the ECOWAS Nnamdi Azikiwe Academic Mobility Scheme (ENAAMS) was instituted beginning from the 2015/2016 academic year. The Scheme has been designed to cater for three categories of beneficiaries, namely: Scholarship offers to 50 students at master's level; scholarships to 25 students at PhD level; and exchange programs for 13 lecturers across the region. In order to also promote integration, successful scholarship awardees were assigned to institutions outside their respective countries and language blocs.

After due consultation among specialized experts in the region, the Mobility Scheme has also been designed to focus on Science, Technology, Engineering and Mathematics; Earth and Life Sciences including Environment and Climate Change; Health (Medical, Veterinary and Health Sciences); Agriculture; History of Africa and; Information Communication Technology which were considered to be of strategic importance to the Region.

ii) Equivalence of certificates

Following the adoption of the ECOWAS Convention on the Recognition and Equivalence of Degrees, Diplomas, Certificates and other qualifications in 2003 as annex to the Protocol on Education and Training, a number of steps were taken, such as the inauguration of the Ad-hoc Committee in 2005, conduct of a feasibility study for the Convention in 2010; and a series of consultations and validation meetings on the outcome of the study between 2010 and 2015. A major milestone was the development of regional benchmarks for the establishment of certificate equivalencies and ultimately for the harmonization of education systems in the course of 2015. In particular, the experts developed the benchmarks along the lines of bachelors, masters and PhDs and agreed on a broad framework for definition of terms or nomenclatures that will facilitate certificate equivalences and harmonization of education systems in the region.

iii) Harmonization of Basic Education and Literacy

In the course of 2015 a status report on basic education in the region was commissioned with a view to harmonizing education. Areas of harmonization included: administrative structure; duration; curriculum content and evaluation procedure. It is anticipated this will eventually lead to a harmonization of at least 9 years of basic education in the ECOWAS region. It is also hoped that the mechanism would be used for advocacy and as reference document for Member States.

iv) Technical and Vocational Education and Training

A survey was concluded in 10 Member States and the country reports, consisting of general and technical components, are available. These reports formed the basis for the development of an ECOWAS Regional strategy on TVET in 2016. The issues for the revitalization of TVET in the region regarding access, quality, relevance, sustainability, curriculum and learning materials, articulation of TVET with the rest of Education systems; and harmonization of TVET policies will be holistically covered.

In addition, a series of capacity building sessions were held in each country for over 1,000 TVET personnel (teachers, curriculum developers, inspectors, advisors)

on ICT, Entrepreneurship and Competency-based approach, curriculum and instructional materials development.

Additionally, innovative TVET programs and projects that will promote employability of ECOWAS citizens shall be attained, leading to the revitalization of TVET in the ECOWAS region.

E. Trade commitments affecting the sector

According to the sector-based classification of services (W/120),³¹ education services are classified into five categories: primary education services; high school education services; higher education services; adult education; and a residual category that includes other educational services. Table 21 indicates the commitments of selected ECOWAS Member States to some levels of educational services. Commitments to educational services are anchored on 5 major arms. These are primary education services (CPC: 921), secondary education services (CPC: 922), higher education services (CPC: 923), adult education (CPC: 924) and other education services (CPC: 929). As indicated in Table 21, only the duo of Liberia and Sierra Leone are committed to the five levels of educational services. Mali focused only on one level (which is the adult education) while Ghana is more committed to secondary education and other education services.

F. Strengths, weaknesses, opportunities and threats

Just like every sector of the economy, the educational sector has its avowed strengths that is employed to exploit the available opportunities and minimize its threats and eliminates its weaknesses. The SWOT analysis of the educational sector are as follows:

Strengths

- The existence of a youthful population that is capable of taking on new opportunities and breaking new grounds.
- The absence of language barrier as the countries in the ECOWAS sub-region are largely English-speaking.
- The similarity of teaching syllabus and curriculum; commonality of Secondary School Certificate Examinations organized by the WAEC.

Table 21. Overview of the education services commitments of ECOWAS Member States at the WTO, 2017

| Member State | a | b | c | d | e | Total |
|--------------|----------|----------|----------|----------|----------|-------|
| Cabo Verde | | X | X | X | X | 4 |
| Gambia | X | | | X | X | 3 |
| Ghana | | X | | | X | 2 |
| Liberia | X | X | X | X | X | 5 |
| Mali | | | | X | | 1 |
| Sierra Leone | X | X | X | X | X | 5 |
| Total | 3 | 4 | 3 | 5 | 5 | |

Source: WTO.

Legend:

- a. Primary education services (CPC: 921)
- b. Secondary education services (CPC: 922)
- c. Higher education services (CPC: 923)
- d. Adult education (CPC: 924)
- e. Other education services (CPC: 929)

- The renewed awakening to eliminate gender disparities within the sub-region has created opportunities for people of all backgrounds.

Weaknesses

- Proliferation of private higher education institutions.
- Difficulties in ensuring quality standards in all these institutions.
- Presence of trainers who do not have the required pedagogical skills (no certification in training of trainers).
- Outdated curriculum and non-committed teachers and trainers in the educational sector across the sub-region.

Opportunities

- Increasing demand for training at national and continental level (explosion of the number of graduates).

- The coexistence of several international programs facilitates the hiring of leavers by large companies and international organizations.

Threats

- Loss of confidence as a result of their proliferation, which risks diverting some African students to other countries.
- Lack of funding for foreign students enrolled in West African institutions.
- Explosive population growth of the sub-region.
- Over-ambitious political class who do not see the need to revamping the educational sector as a panacea to the development of the sub-regional economy.

Chapter

VII

**CONSTRUCTION AND
RELATED ENGINEERING
SERVICES**

A. Introduction

Activities covered under construction and related engineering services are listed below. Construction services are primarily supplied through the establishment of service suppliers at or near the site of the work by local, regional or international operators. On-site establishment is normally confined to the duration of a particular project, while regional or local presence may be ensured on a permanent basis to service or promote several projects at one time. Joint ventures between foreign and domestic firms are quite common, often out of necessity for the financing of projects, transfers of technology and know-how, and assistance to the foreign firms in clearing local laws, regulations and practices.

i) General construction work for buildings (CPC: 512)

Building construction including: Building of complete constructions or parts thereof; civil engineering (*i.e.* construction of buildings, homes and other buildings).

ii) General construction work for civil engineering (CPC: 513)

Building construction including: Building of complete constructions or parts thereof; civil engineering (*i.e.* construction of parts of civil engineering structures and specialist structures).

iii) Installation and assembly work (CPC: 514 and 516)

Civil Engineering and other construction including: Building Installation (*i.e.* plumbing, electrical contracting, shop-fitting).

iv) Building completion and finishing work (CPC: 517)

Civil engineering and other construction including: Building completion (*i.e.* painting and decorating and other completion).

v) Other (CPC: 511, 515 and 518)

Pre-erection work at construction sites, special trade construction work (*i.e.* foundation work, water well drilling, roofing, concrete work, steel bending and erection, and masonry work) as well

as renting of construction or demolition equipment and renting of construction and civil engineering machinery and equipment.

B. Performance of the sector

Table 22 demonstrates that imports of construction far exceeded the exports for all ECOWAS Member States throughout the years under review (2010–2015). A further examination of Table 22 on the construction services of all ECOWAS Member States revealed that all West African countries are net importers of construction services. In fact, for the six years under review, Nigeria exported no construction services at all; while both Ghana and Sierra Leone had no figures for both exports and imports. The highest level of imports of construction services by all ECOWAS Member States was in 2013 when \$524.7 million worth of construction services was imported into the region; against the lowest of \$57.6 million in 2015. On the export side, the highest level of construction services exported from the region was in 2014 valued at \$196.9 million; against the \$0.5 million recorded the following year (2015). This analysis suggests the lack competitiveness of West African construction services in the export market as well as the high level of demand for foreign construction services providers in the region.

With the exception of Nigeria, many other ECOWAS Member States are small, with relatively low levels of construction activities. The essential benefit of regional infrastructure is to make possible the formation of large, competitive markets in place of the present collection of small, isolated, and inefficient ones. ECOWAS Commission, as a regional executive arm of the community has continued to drive the integration imperative as well as creating opportunities for an array of large infrastructure projects that span borders of Member States. The various road projects earlier mentioned in this document present massive opportunities for public private partnerships (PPPs) in construction activities. The idea behind the PPPs is the recognition that such arrangements could assist Member States governments to close material financial, managerial and technical gaps, while supporting further regional integration.

While opportunities abound, there are yet some risks and challenges that need to be navigated in undertaking construction projects in a regional context. They include:

Table 22. Construction services in ECOWAS Member States, 2010–2015 (in million dollars)

| Member State | 2010 | | 2011 | | 2012 | | 2013 | | 2014 | | 2015 | |
|---------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|------------|-------------|
| | Export | Import | Export | Import |
| Benin | 2.8 | 5.0 | 6.9 | 10.2 | 9.2 | 20.1 | 25.5 | 30.5 | 50.5 | 68.6 | - | - |
| Burkina Faso | 71.1 | 75.8 | 62.7 | 69.0 | 65.7 | 68.8 | 65.6 | 80.6 | 86.3 | 75.1 | - | - |
| Cabo Verde | - | - | 0.5 | 2.6 | 6.2 | 13.4 | 4.5 | 22.9 | 1.1 | 1.5 | 0.5 | 2.1 |
| Côte d'Ivoire | 5.0 | 18.4 | 0.6 | 89.3 | 15.2 | 8.7 | - | 14.7 | - | - | - | - |
| Gambia | 5.9 | 2.0 | 3.5 | 0.6 | 1.9 | 0.9 | 0.7 | 0.5 | - | - | - | - |
| Ghana | - | - | - | - | - | - | - | - | - | - | - | - |
| Guinea-Bissau | - | 1.0 | - | 0.2 | - | 0.0 | - | - | - | - | - | - |
| Guinea | 6.7 | 5.8 | 14.2 | 10.5 | 17.6 | 45.4 | 1.4 | 1.3 | - | - | - | - |
| Liberia | - | - | - | - | - | 35.7 | - | 38.7 | 1.0 | 19.7 | - | - |
| Mali | 5.1 | 51.6 | 3.2 | 61.0 | - | 59.5 | - | 67.6 | - | 69.2 | - | - |
| Niger | 0.1 | 77.9 | - | 0.2 | - | 98.2 | - | 125.6 | - | 124.0 | - | - |
| Nigeria | - | - | - | 88.7 | - | 111.1 | - | 86.6 | - | 69.4 | - | 55.5 |
| Senegal | 69.2 | 51.9 | 63.2 | 52.6 | 68.5 | 40.9 | 61.3 | 47.4 | 57.5 | 42.7 | - | - |
| Sierra Leone | - | - | - | - | - | - | - | - | - | - | - | - |
| Togo | 5.7 | 10.3 | 3.8 | 11.3 | 3.2 | 10.4 | 2.3 | 8.3 | 0.5 | 8.1 | - | - |
| Total | 171.6 | 299.7 | 158.6 | 396.2 | 187.5 | 513.1 | 161.3 | 524.7 | 196.9 | 478.3 | 0.5 | 57.6 |

Source: ITC International Trade Statistics, 2016.

- Challenges of accessing funding for property developments in many parts of the region.
- For construction projects that cross Member States' borders, there is a lack of alignment between national and regional priorities and legislative frameworks.
- Construction costs (and professional fees) in the region are high due to the non-availability of specialist building materials as well as cost of land in some areas.

Regional integration is firmly in stakeholders' sights, with promotion of "infrastructure development to support a competitive business environment, sustained development and cooperation in the region" commitment of the ECOWAS Regional Strategic Plan (2011–2015). Although projects of this nature take time in West Africa as energy supply and backlogs can still present constraints, other construction initiatives such as rail, road and port developments are enabling the region to make significant activities in construction and related engineering services.

C. Linkages with other sectors

The construction industry is one of the oldest industries, retaining its role as a core economic activity from the early days of human civilization to this day. It not only provides the infrastructure for other industries, but also constitutes one of the largest single sectors in most economies on its own. With its close link to public works and hence the implementation of fiscal policy, it has always been considered as a strategically important industry for creating employment and sustaining growth. It is for this reason that UNCTAD referred to it as a barometer of the health of the economy considering its strong linkage to cyclical fluctuations in the economy.³²

The industry is of importance to developing countries, not only because of its role as source of employment, but also because the sector carries the added responsibility of facilitating economic development by establishing basic infrastructure, and by contributing to technology and skills transfer. Construction services have the capacity to generate demand for

services in other sectors following an increase in their own output. The importance of construction services as inputs for other sectors implies that not only is their availability essential for production to continue in other sectors of the economy but a cheap and better supply of services will substantially reduce the costs of production of other sectors.

The local characteristics of construction output delivery, and its high labour and material intensity, are also among the factors explaining why the industry remains mainly oriented towards domestic markets.

An important defining characteristic of construction services is that they may be costly to trade across borders (under Modes 1 and 2 of the GATS). Hence foreign providers seem to have an advantage when they can set up commercial presence (Mode 3). A model to examine the benefits that a liberalized investment regime for intermediate services can have on a host economy even when the foreign provider “imports” from its home country much of the services that it supplies, and economizes on labour in the host country has shown that:

- liberalization of restraints on inward foreign direct investment (FDI) in the service sector has a very powerful positive impact on the income and welfare of the FDI importing country and the impact is much stronger than in traditional competitive models of goods trade.
- the increase in the variety of imported services leads to increased total factor productivity in downstream industries.
- policies that aim to protect domestic skilled labour against competition from imported services can have the perverse effect of lowering the returns to domestic skilled labour.³³

While the first two points are directly analogous to trade and investment in goods, the third point merits special attention.

From their results it can be concluded that even when foreign providers are engaged to supply services, the positive productivity and scale effects on the downstream industry can be sufficiently powerful that the real wage of skilled labour increases after the liberalization. This implies that protecting a domestic construction services sector from foreign competition under Mode 3 could have adverse impacts not only

on the various industries that consume those services, but also on service professionals themselves.

The commitment to trade in services liberalization could allow local and foreign contractors to establish joint ventures to carry out local construction projects. The benefits from such joint venture arrangements may range from acquisition of new technology, access to marketing and distribution experts, access to established distribution channels and increased profit margins for new construction projects. This will provide opportunities for local contractors to work with foreign contractors that have the expertise and technology. Indirectly, they can increase the capacity and capability of local contractors through transfer of expertise and technology from foreign contractors.

D. Institutional framework and main actors

Foreign service suppliers of construction services are not only affected by the nature of the restrictions that they face but also by the fact that the required permits and licenses are granted by the regulatory agencies, local authorities or industry associations of each Member State. For instance, registration fees and other charges could place a burden, particularly on small operators.

In all ECOWAS Member States, the regulatory framework within which investors and enterprises have to operate are overseen usually by the relevant Corporate Affairs Commissions (CAC) and National Investment Promotion Agencies (NIPAs). While the CACs register the companies, the NIPAs are responsible for facilitating their work through the provision of *inter alia*, subsidies and tax incentives to promote construction work or to encourage growth of the construction sector. For instance, in Senegal, various investment incentives are offered to companies, including those establishing construction services.³⁴ The incentives provided are similar to those provided by other IPAs in the region, including the Ghana Investment Promotion Commission and the Nigerian Investment Promotion Commission.

At the regional level, there is the Association of Investment Promotion Agencies of West Africa States (IPAWAS) comprising of all the IPAs of the 15 ECOWAS Member States. It is a Member of World Association of Investment Promotion Agencies. The IPAWAS platform can play an important role by building consensus

on issues and representing IPAWAS on appropriate platforms within ECOWAS and at continental level within the Africa Union Commission.³⁵

Subsidies and other forms of incentives granted by Investment Promotion Agencies are usually not only to local suppliers but also to foreign service providers, as not doing so may be inconsistent with a Member's national treatment obligations. However, restrictions on the ownership of land by foreigners are applied in many sectors in the ECOWAS region. These may have a strong effect on the construction industry, since property developers will not be able to own apartments and houses under construction until completion. When preferential treatment is provided to suppliers of certain countries in the bidding process, a most-favoured nation (MFN) exemption is required. MFN exemptions concerning the movement of personnel, research and development subsidies, and foreign investment listed for all sectors would also affect this sector significantly.

Most ECOWAS Member States have registration requirements for qualified suppliers in the construction sector such as civil engineers, architects, and quantity surveyors and construction contractors. These requirements are administered by several professional bodies, regulated by the government or are self-regulating. However, the functions of these professional bodies tend to be similar. Registration is based on a minimum qualification, which is usually a degree from a recognized university, practical experience for a specified period of time, and adherence to a code of conduct.

The professional bodies also perform other functions such as monitoring and evaluation, studying developments in the profession, sharing of information, education, disciplinary actions and at times inspection. These requirements tend to be applied in a non-discriminatory manner, although there may be slight variations in requirements for foreigners in terms of work experience or fees payable. In addition, some ECOWAS Member States provide foreign construction professionals with the option of temporary registration for the duration of their project in the country. The absence of a region-wide authority increases costs and effectively acts as a barrier.

E. Policy framework

Despite the importance of the construction and engineering related services sector in terms of

facilitating other sectors in the national and regional economy of ECOWAS Member States, not much has been done to have a harmonized construction policy. There is no ECOWAS Protocol or cooperation framework in the construction sector in support of liberalization commitments undertaken by the Member States. While specific policies and bodies vary across ECOWAS Member States, the overall areas of focus remain similar in terms of building codes/regulation; legislation governing the regulator/ministry; land use requirements such as land ceiling requirements or urban planning; environment and labour regulation amongst others. In addition to the above, public procurement policy affects this sector across Member States. Further, there has been slow progress in the recognition of qualifications across the region, limiting the cross-border movement of professionals in the construction industry.

Currently, many domestically owned companies find it difficult to fund sizeable projects. With the notable exception of Nigerian-owned construction firms, only few large construction companies owned by Community citizens have the resources to fund large projects. Construction companies across the globe face the challenge of limited resources to fund large projects but developed country companies pool their resources together when bidding for large projects. However, ECOWAS-owned companies, in general, do not undertake such pooling of resources. This leads to a comparative disadvantage of ECOWAS Member States companies which do not have well-established and capitalised banks to lend to their construction firms at competitive rates, hence no export credits at competitive interest rates to defer payments. In ECOWAS, the Commission for such credit opportunities is putting an Investment Guarantee Mechanism in place.

On the external front, the highly skill-intensive and technological capabilities requirement of trade in construction services disadvantage ECOWAS Member States. In addition, considerable weightage to non-price factors, such as prior international experience, size of firms, reputation and affiliations of firms are problematic for ECOWAS firms to meet. In order to compete, ECOWAS firms require an organised transnational approach in getting managerial expertise, information systems, and linkages and scale for operating overseas affiliates and joint ventures. Further, tied aid support from developed countries' construction industry and loans

and grants for specific infrastructure, utility or other construction projects gives a distinct advantage over West African competitors while the recipient countries are pressurised to award contracts to firms from the donor countries.

F. Regulatory framework

Like all other services, construction services are affected by a variety of domestic regulations, including those relating to licensing and certifications, which differ according to the services industry in the economy. Hence, construction services trade is affected by a variety of regulations, which may pursue legitimate policy objectives such as building and product standards, restrictions on establishment and restrictions on the movement of personnel. Liberalization of trade in construction services normally takes more probing, in order to ensure that domestic regulations support rather than impede the development of this services sector.

In ECOWAS Member States, the construction sector is subject to many different aspects of domestic regulations. They include controls on land use, building regulations and technical requirements, building permits and inspection, registration of proprietors, contractors and professionals, regulation of fees and remunerations and environmental regulations. Such measures are applied not only at the national level, but also very frequently at the sub-federal or local government level. In all the countries, standards are fixed by the governments or by standard-setting bodies or private-sector associations.

A significant proportion of legislative measures by Construction and Development Control Agencies of the government is intended: (a) to maintain the safety of the objects constructed and the construction work involved, (b) to implement urban and land use planning, or (c) to protect the health and safety of workers and users, as well as environmental quality, all in the public interest.³⁶ These measures are usually applied on a non-discriminatory basis, although some technical standards and specifications may be applied only to foreign suppliers. Even if the same measures are applied to all suppliers, domestic or foreign, they may be found to be more onerous on foreign suppliers. Measures which affect the mobility of labour at all levels of skills affect suppliers, but restrictions on the movement of experts or specialists may have

a particularly strong impact on foreign construction firms, as high-level skills are not easily replaceable. Measures which affect the mobility of construction equipment and those which affect the supply of related services such as insurance and transport also have a bearing on the construction sector. Capital and exchange controls are also relevant, particularly for foreign suppliers.³⁷

Issues of concern include the lack of transparency concerning the rules that apply, as well as the informal nature of business practices, particularly at local government levels.

Restrictions on the establishment and operation of foreign firms' affiliates, as well as limits on foreign ownership or on the types of legal entity allowed (such as a local incorporation requirement) are not pervasive as most Member States have few restrictions on foreign suppliers in this sector. Domestic counterparts are rather weak and have limited experience. The formation of a joint operation or a joint venture company with local suppliers or subcontractors are permitted in all ECOWAS Member States.³⁸

With its extensive use of skilled and unskilled labour, the construction sector is strongly affected by limitations on the movement of natural persons. Nationality and residency requirements or other staffing requirements for persons employed by foreign firms could constitute limitations on market access and national treatment. Since requirements to employ and train local staff may place a burden on foreign suppliers, they are sparingly implemented. Such requirements, even if they affect equally domestic and foreign firms, could still constitute *de facto* discrimination against the Foreign Service provider. Although outside the scope of the GATS, immigration policy, labour market regulations levies and charges for social security feature in the relevant frameworks of all ECOWAS Member States.

Problems associated with the recognition of certificates, diplomas, credentials and licenses for foreign individuals and firms are also experienced in the construction industry. This is exacerbated by the fact that ECOWAS has three official languages (English, French and Portuguese), which *per se* may not constitute a trade barrier.

G. Trade commitments affecting the sector

Many ECOWAS Member States did not undertake any commitments in this sector under the GATS. Only seven out of the fifteen ECOWAS Member States have scheduled commitments in this sector. The seven countries are: Cabo Verde, Côte d'Ivoire, Gambia, Ghana, Liberia, Sierra Leone and Togo. Furthermore, the individual commitments by the countries vary in scope. While some have scheduled commitments across all the subsectors of the construction services sector, others have scheduled just a few segments. Cabo Verde has the same commitments across all the subsectors. Ghana has the same commitments for 3 subsectors and Liberia for 4 subsectors. Four countries scheduled commitments in only one subsector. These are Côte d'Ivoire and Togo (installation and assembly work); Gambia (other construction services); and Sierra Leone (General construction work for Civil Engineering). A further breakdown of the commitments shows as follows:

i) General construction work for buildings (CPC: 512)

Cabo Verde, Ghana and Liberia have scheduled commitments under this subsector.

For Cabo Verde, market access is unbound for Modes 1 and 4 (except as scheduled in the horizontal commitments) but free of limitations for Modes 2 and 3. There are no limitations on national treatment for all the modes, except Mode 4, which is unbound, except as scheduled in the horizontal commitments.

Ghana's commitment under this segment has no limitations for both market access and national treatment for Modes 1, 2 and 3. Mode 4 is left unbound, except as indicated under the horizontal commitments, which provides for automatic entry and work permit for up to 4 expatriate senior executives and specialized skill personnel. Approval is required for any additional expatriate workers. Moreover, training in higher skills must be provided for Ghanaians.

Liberia's commitments on market access and national treatment are identical. Modes 1 and 4 are unbound, while there are no limitations on Modes 2 and 3.

ii) General construction work for civil engineering (CPC: 513)

Countries that have scheduled commitments under this subsector are Cabo Verde, Ghana, Liberia and Sierra Leone.

Cabo Verde, Ghana and Liberia maintain the same commitments as in "i." above.

For Sierra Leone, there are no limitations on market access and national treatment across all the modes, except Mode 3, which is unbound both ways. However, market access and national treatment for Mode 4 are subject to the regulations in force concerning the employment of foreign personnel.

iii) Installation and assembly work (CPC: 514+516)

Cabo Verde, Côte d'Ivoire, Ghana and Togo are the countries that have commitments in this segment.

Cabo Verde and Ghana have the same commitments as in "i." above.

Côte d'Ivoire has left its commitments on market access unbound for Modes 1, 2 and 4 and liberalised mode 3. Mode 4 allows the entry and temporary stay of natural persons (managers, senior executives, and specialists) who are employees of a company and transferred to a company incorporated in Côte d'Ivoire belonging to, controlled by or a subsidiary of the former. National treatment is unbound for Modes 1 and 2, while Mode 4 is free of limitations. Côte d'Ivoire scheduled a specific regulatory requirement under mode 3 obliging foreign enterprises to receive government approval. The criteria for the grant of approval include the preferential use of local services to the extent that they are available under competitive conditions – quality, price, and delivery – and equivalent to like products of foreign origin; and the employment and training of local executives and supervisors.

For Togo, market access and national treatment on Modes 1, 2 and 4 are free of limitations; while Mode 3 is unbound both ways. Furthermore, market access and national treatment under Mode 4 are subject to the regulations in force concerning the employment of foreign personnel.

iv) Building completion and finishing work (CPC: 517)

Cabo Verde and Liberia are the only countries that have scheduled commitments under this segment. The individual country commitments are the same as those under “i.” above.

v) Other construction services (CPC: 511+515+518)

The commitments for Cabo Verde are the same as those in the other segments.

The Gambia has a commitment in relation to services covered by the United Nations CPC, maintaining no limitation on market access and national treatment across the different modes, except Mode 4, which is unbound, except as indicated in the horizontal commitments in both cases. The horizontal commitments refer to the entry and stay of natural persons in management and expert jobs for the implementation of foreign investment.

Across ECOWAS Member States, the most commonly observed market access limitations specific to the construction services sector are limitations on the type of legal entity allowed for commercial presence of service suppliers, followed by limitations on the participation of foreign capital and on the value of transactions or assets, applying to commercial presence. Restrictions on the number of natural persons to be employed are also relatively common (Mode 4). With regard to national treatment limitations, the most prevalent were references to licensing, standards and qualifications as they relate to the presence of natural persons (Mode 4). Nationality and residency requirements are also fairly common.

H. Strengths, weaknesses, opportunities and threats

Strengths

- The construction industry is crucial to ECOWAS’ economic growth and contributes a significant portion to the region’s GDP.
- It is also a significant source of employment.

Weaknesses

- Most of the big players in the construction sector in the ECOWAS region are foreign-owned.
- Growth within the ECOWAS construction industry has declined in the recent years.
- The deterioration of business confidence and the volatility of the labour markets have resulted in limited foreign investments in ECOWAS Member States generally, and specifically in the construction industry.
- Governments have been reducing expenditure on infrastructure related projects.
- Competition between construction firms has continued to drive down profit margins, leading to declining productivity in construction network across the region.
- Expansion into a new market has been hindered by volatile exchange rates.

Opportunities

- Deeper regional and continental integration will lead to new opportunities for many construction businesses looking beyond domestic markets.
- Ambitious infrastructural programmes that governments wish to implement at the national and regional level offers construction companies business opportunities.

Threats

- The economies of ECOWAS Member States have been affected by the global economic downturn causing the economic growth of the region to slow substantially, affecting the construction industry.
- Major domestic currencies witnessed serious knocks and their value decreased drastically, thus raising project costs along with the price of construction materials such as steel and reducing the profitability of construction companies.
- The unreliable power supply in most ECOWAS Member states continues to be a significant concern for construction companies.

Chapter

VIII

RECOMMENDATIONS

A. GENERAL RECOMMENDATIONS

The ECOWAS region is endowed with abundant natural resources but remains among the poorest regions in the world. The vehicle through which its leaders hope to turn this situation around is economic integration. In this context and given the increasing role of services in productivity and economy-wide growth, it is expected that policymakers and researchers would turn their attention to the sector and to services trade as a vehicle for growth. Not only do services act as essential inputs to other products and services, but many of them have emerged as promising tradable services for developing countries and as catalysts for the structural transformation of economies and the expansion of regional and global value chains. ECOWAS Member States would do well to continue exploring the growing importance of services for the achievement of regional integration and of the overall sustainable development objectives of the region.

Despite the ambitious goals that the ECOWAS Member States have set for themselves, this report acknowledges that deeper progress on regional collaboration has so far been negatively affected by the lack of consistent political commitment from Member States, the weakness of certain ECOWAS institutions and the significant differences between the English – and French – speaking countries stemming from historical antecedents, which have led to two distinct sub-regional groupings within ECOWAS. Indeed, the existence within the region of two sub-regional blocs – UEMOA and West African Monetary Zone (WAMZ) – has led to a situation where the emergence of common policies, the harmonization of regulations and the establishment of centralized institutions are occurring at varying paces, with UEMOA progressing at a faster pace in several of the services sectors analysed in this report. While this will allow the ECOWAS regional block to learn lessons from UEMOA's experiences in specific sectors and to build on these achievements in ECOWAS-wide initiatives, the region should also be mindful that recent developments in the AfCFTA will imply that countries further away on the continent will also be expecting to increase their economic and trade ties with the region. In order to clearly determine the extent and depth of the economic relation and trade liberalization that it is ready to extend at continental level, ECOWAS Member States need to have clearly identified their interests and objectives in terms of deeper, intra-ECOWAS integration. What the region will be in a position to offer at continental level will

to a large extent be determined by how far it wishes to pursue deep integration amongst the 15 Member States and the regional economic communities REC-level *acquis* on which their negotiating positions in the AfCFTA negotiations can be based.

Several of the sectors analysed have confirmed that the Community has not reached higher levels of trade due to lack of trade-related hard and soft infrastructure and of an enabling environment; the non-implementation of regional protocols and decisions; and persisting trade barriers and high levels of informal trade. Also, in given sectors, the absence of a sufficiently skilled labour force has impeded the expansion of quality services, including for export markets.

The following recommendations could be considered:

- In order to increase the potential leverage of the services sector and of services liberalization for the achievement of regional integration, it may be useful to assess whether the existing approach of harmonization of regulatory regimes across Member States is sufficient to address the existing barriers to trade in services. Alternatively, a more formal liberalization framework with specific liberalization targets or schedules of liberalization could be useful to promote deeper integration of the services economies of ECOWAS Member States.
- Services liberalization is complex and should ideally be accompanied by adequate policies, regulations and institutional frameworks aimed at pursuing services sector performance while ensuring universal access to essential services, the promotion of regional supply capacity, a competitive trade environment, and sustained investment flows. Not all the services sectors across the ECOWAS economies may necessarily be ready for immediate or full liberalization. ECOWAS Member States, with the support of the ECOWAS Commission, should seek to determine which sectors could be prioritized and the ideal sequencing of liberalization, particularly at intra-REC and continental level.
- The pursuit of policy coherence and coordination should not solely be limited to highlighting the linkages between service sectors. Though many ECOWAS economies may be undergoing structural change, in many cases marked by agriculture ceding its pre-eminent role to industry and the services sector, both agricultural production and manufacturing are likely to remain

politically and economically important. The trend towards *servicification* of economies – the growing importance of services in all economic sectors – should be incorporated in the development of the regional strategy, as it highlights the role of services in facilitating production and exports throughout productive processes.

- It may be appropriate to focus on the least complex and least costly elements that generate significant benefits first and subsequently on the more difficult, more costly elements or those that generate fewer benefits. Different criteria could be considered in making this determination, including the status of existing liberalization within ECOWAS; the existence of regional institutions or policies at the regional level; multilateral commitments of ECOWAS Member States at the WTO level, and the selection of specific services sectors for liberalization in the context of the AfCFTA. Also, ECOWAS Member States may wish to consider interim agreements or phasing in of commitments. There could be an agreement that certain sensitive provisions in the agreements would take effect after the lapse of a period of time. Pre-commitments preserve the policy space of countries, while allowing time for the establishment of appropriate regulatory frameworks before liberalization or for strengthening or emergence of regional service suppliers before they are exposed to increased competition.
- The ECOWAS region could seek to increase awareness-raising of the trade in services dimension of the regional integration project and of the specific approach that the Community will use to incorporate going forward services in the CTP. Not only should such awareness-raising target the trade-related institutions in Member states and at the Community level, but also the services-specific institutions (line ministries, regulators, SOEs, etc.) the private sector (professional associations, services coalitions) and related institutions such as national statistics offices.
- The difference in pace between the UEMOA and WAMZ integration should be specifically addressed in the services trade liberalization strategy that will be developed both for intra-regional integration and continental-wide integration under the auspices of the AfCFTA. A detailed mapping of these differences will be needed. The work of the Joint Technical Secretariat of ECOWAS and UEMOA on

various programmes which provide assistance to the technical secretariat (such as the enhanced regional trade information system supported by the European Union and GiZ) could be particularly relevant in this area. There is a need to generate more research that will help inform policy dialogue and more effective advisory services in the area of ECOWAS CTP in services and ECOWAS Member States' participation in AfCFTA, GATS and future economic partnership agreement negotiations in services.

B. SECTOR SPECIFIC RECOMMENDATIONS

1. Energy services

- Apart from the ERERA, a Regional Power Trade Coordination Committee comprised of energy ministries, power generators and regulators could be established to provide policy guidance on cross-border power trade.
- Coordination among various initiatives should be enhanced to ensure concerted efforts are made in the same direction of providing sufficient supply in the region. This involves the WAPP, which aims to create a single power market in the region, the ERERA which regulates cross-border electricity interconnections in the region, and the WAGPC, which supplies gas in the region.
- WAPP, ERERA and WAGPC could enhance their exchange and cooperation with similar entities in other regions, including through twinning programmes, to address the shortage of competent professionals.
- National regulatory bodies should be equipped with sufficient funds and staff with necessary technical capacity to carry out core regulatory activities such as tariff setting and market monitoring. Twinning programmes with regulatory bodies in the developed countries and other developing countries could be considered.
- There is need for more empirical analysis on the effects of energy services trade policies on the performance of firms in ECOWAS, employment levels, productivity and export performance in ECOWAS “downstream” manufacturing and agricultural firms/sectors that rely on energy services as input.

In making trade commitments in the energy sector, the state and development of other services related to discovery and development of energy resources such as engineering, construction, distribution, transport, etc. should be considered.

2. Accounting services

- Persistent trade restrictions on market access and discriminatory measures in the accountancy/auditing sector in ECOWAS should be negotiated for removal.
- ECOWAS CTP needs to establish a work program removing market access and discriminatory barriers to facilitating accountancy/auditing services in the region.
- The conditions for regional market integration in the sector should integrate cooperation on regulatory policies and institutions which currently are heterogeneous.
- To address the limited knowledge on the accountancy sector in ECOWAS Member States, there is a need to generate more research that will help inform policy dialogue and more effective advisory services in this area.

3. Legal services

- Policies should be established to increase cross border operation of legal services in ECOWAS, for example, by reducing entry barriers or through mutual recognition of qualifications and work experiences.
- A standard legal education curriculum should be put in place at national level.
- Law firms should put in place strategies to increase the number of staff and the skillsets among current staff members.
- The administrative procedures in law firms should be rendered efficient, for example by using information technology tools.

4. Architectural services

- Governments should increase the involvement of architects in major plan designs in the region adapted to the climate, aesthetics and genius of the people, as well as in the programming, design and management of works.

- In some countries there is a need to establish an architect-specific legislation and offer architecture courses in higher education institutes to ensure the quality and standards of architectural services.
- There is the need to update public procurement price schedule which dates back to over half a century.
- The training and capacity of regional architects need to be strengthened to reinforce the professionalism of architecture in the region.
- There is a need to urgently address the shortage of architects in the public sector by offering necessary incentives to attract or retain architects.

5. Cultural services

- ECOWAS could develop an ECOWAS Cultural Policy.
- Government and the ECOWAS need to strengthen the mechanisms for the national and regional recognition of the economic gains of creative arts.
- There is the need to increase the export opportunities of cultural and creative arts by policies that will enhance the tourism industry.
- Institutional support is required to create and improve experience in creative service production.
- Incentives need to be created to reliably access to visual arts raw material.
- The regional and national institutions responsible for generating market information should be supported to increase their foreign market surveillance and access to provide understanding of foreign market and the competition for regional and national practitioners.
- Establishing a market for University graduates who majored in the arts is inevitable to grow the cultural sector and maintain the interests of artistically inclined citizens of the region.
- All stakeholders involved in the cultural services sector should be encouraged to cooperatively work together to develop the sector.

6. Education

- ECOWAS could develop a deliberate regional support policy for higher education exports.
- The academic curriculum must be made to align with job placements in the industries.

- Due to the explosive population growth in the sub-region, a stakeholder's approach must be adopted to make education available and affordable to all.
- Sound institutional framework should be put in place to check the procedure for expenditure made. A quality assurance mechanism in the form of a value-for-money audit should be established.
- Governments should provide a sustainable regulatory framework that will not be affected by changing regimes and political portfolios.
- There should be significant adoption of technology and the promotion of sciences, technology, engineering and mathematics courses to enhance human capital progress and stimulate economic development within the West African sub-region.

7. Construction and related engineering services

- Considering the ambitious infrastructural programmes that governments wish to implement at the national and regional level, governments should create opportunities for local construction companies to take advantage of these programmes. In case foreign companies win the construction bids, governments could, for example, organize business matching events, for local construction companies to be partnering with foreign construction companies.
- There needs to be less restrictions in the ECOWAS region to allow construction companies from one Member State to provide services in another Member State.
- Movement of architects and engineers and skilled construction workers should be encouraged and facilitated through less burdensome entry requirements, such as visa procedures, and through mutual recognition of certificates, diplomas, credentials and licenses for individuals and firms from other ECOWAS Member States.
- Government should set a short and medium-term plan, within the limits of their budget, to allow as many people as possible to access decent housing construction.
- A regional materials recycling policy is required to reduce construction costs and preserve the environment.

ANNEXES

| Annex 1. Illustrative classification of upstream hydrocarbon services and the link with the United Nations Central Product Classification | | | |
|--|--|--|-----------------|
| Classification | Description (non-exhaustive) | Corresponding service according to CPC provisions | CPC Code |
| Recognition | Acquisition of seismic data | Underground prospection services | 86752 |
| | Processing of seismic data | Geological, geophysical and other scientific prospection services | 86751 |
| | Interpretation of seismic data | Geological, geophysical and other scientific prospection services | 86751 |
| Prospection or exploration of resource | Prospection management services | Project management services other than construction projects | 86601 |
| | Positioning services | Surface survey services | 86753 |
| | Gravimetry surveys | Underground prospection services | 86752 |
| | Magnetic measuring campaigns | Underground prospection services | 86752 |
| | Geoelectrical measurement campaigns | Underground prospection services | 86752 |
| | Rock properties | Geological, geophysical and other scientific prospection services | 86751 |
| | Dating | Geological, geophysical and other scientific prospection services | 86751 |
| | Analysis of cores and other laboratory tests | Technical testing and analysis services | 8676 |
| Resource development | Design and construction design services | Engineering drafting services for industrial processes and production | 86725 |
| | Preliminary design study services | Engineering drafting services for industrial processes and production | 86725 |
| | Engineering, procurement and construction services | Engineering drafting services for industrial processes and production | 86725 |
| | Design and construction of production platforms | Engineering drafting services for industrial processes and production | 86725 |
| | Floating production, storage and offloading unit | Engineering drafting services for industrial processes and production | 86725 |
| Resource production | Services related to stimulation (fracturing and acidification, pressure pumping) | Services incidental to extractive industries | 88300 |
| | Maintenance and repair of wells services | Services incidental to extractive industries | 88300 |
| | Deposit engineering and assisted asset recovery services | Related scientific and technical consulting services | 8675 |
| | Design, construction and installation of production equipment | Engineering services | 8672 |
| | Production control services | Services incidental to extractive industries | 88300 |
| | Management and engineering services for energy resources development | Consulting services for production Management | 8311 (Ver. 1.1) |
| | Firefighting and crisis management services in oil and gas fields | Services incidental to extractive industries | 88300 |
| | Oil spillage prevention services | Services for protection of environment, pollution control, sewage, or pollution prevention | 94900 |
| | Distribution services (separators, oil pipelines, storage) | Services incidental to energy distribution | 8870 |

Annex 1. Illustrative classification of upstream hydrocarbon services and the link with the United Nations Central Product Classification *(cont'd)*

| Classification | Description (non-exhaustive) | Corresponding service according to CPC provisions | CPC Code |
|----------------|--|---|----------|
| | Mining and quarrying services | Services incidental to extractive industries | 88300 |
| | Site preparation services | Site preparation works for mining | 5115 |
| | Installation work | Installation work | 5161 |
| Transportation | Transportation of crude oil or gas by pipeline | Transportation of crude oil or gas by pipeline | 7131** |
| | Preparation and positioning of drilling rigs | Pushing and towing services | 72140 |
| Abandonment | Clogging and abandonment of wells | Services incidental to extractive industries | 88300 |

Source: Adapted from Proposed Guide for Scheduling Commitments on Energy Services in the WTO, JOB(03)/89, 12 May 2003.

| Annex 2. Illustrative classification of downstream hydrocarbon services and link with the United Nations Central Product Classification | | | |
|---|--|--|----------|
| Classification | | Corresponding service according to CPC provisions | CPC Code |
| Processing | | Services ancillary to manufacturing industries (1.F.i) Manufacture of coke, refined petroleum products and nuclear fuel, on package or contract basis | 8845** |
| Transportation | Road transport of hydrocarbons | Road transport services – freight transport (11.F.b) Road transport of liquids or gases in bulk in special tank trucks. | 7123** |
| | Gas transportation | (see transport of hydrocarbons) | |
| | Marine transport of hydrocarbons | Maritime transport - freight transport (11.A.b) Maritime transport of bulk liquids or gases in special tanks. | 7212** |
| | Railway transport of hydrocarbons | Railway transport services – transport of goods (11.E.b) Transport by rail and in special tank wagons of bulk liquids or gases. | 7112** |
| | Hydrocarbon transportation by pipeline | Pipeline transportation services – transport of fuel (11.G.a) | 7131** |
| Storage | Hydrocarbon storage | Auxiliary and ancillary services of all modes of transport – Warehousing services (11.H.b) Storage services in bulk of liquids and gases. | 7422** |
| | Offshore oil and gas storage | | |
| | Gas storage | | |
| Marketing | Fuel distribution | Retail trade services (4.C) Retail trade of fuel, coal gas, coal and wood. | 632* |
| | | Retail sale of automotive fuel (no references in W120) | 613** |
| | Distribution of aviation products | Retail trade services (4.C) | 632* |
| | Distribution of gas | Retail trade of fuel, coal gas, coal and wood. | |

Source: Adapted from Proposed Guide for Scheduling Commitments on Energy Services in the WTO, JOB(03)/89, 12 May 2003

Note: An asterisk (*) indicates that the specified service is part of CPC position elsewhere in this table, that has a higher level of aggregation. Two asterisks (**) indicate that the specified service constitutes only a part of all the activities covered by the corresponding CPC position (for example, crude oil transport is only one component of the position 7131 of the CPC).

| Annex 3. Illustrative classification of electricity services and the link with the United Nations Central Product Classification | | |
|---|--|-----------------|
| Classification according to value chain | Corresponding service according to CPC provisions | CPC Code |
| Electricity generation | | |
| Transmission of electricity | Services incidental to distribution of energy | 887* |
| Distribution of electricity | Services incidental to distribution of energy | 887** |

Source: Adapted from Proposed Guide for Scheduling Commitments on Energy Services in the WTO, JOB(03)/89, 12 May 2003

Note: An asterisk (*) indicates that the service specified in the first column is part of CPC position, which is elsewhere in this table, with higher level of aggregation. Two asterisks (**) indicate that the specified service constitutes only a part of all the activities covered by the corresponding CPC position (for example, crude oil transport is only one component of the position 7131 of the CPC).

ENDNOTES

- ¹ Ren21(2014). ECOWAS Renewable Energy and Energy Efficiency Status Report, available at: http://www.ren21.net/Portals/0/documents/activities/Regional%20Reports/ECOWAS_EN.pdf
- ² Non-technical losses included unmetered, unbilled, and unpaid electricity, including theft, which could be significant in developing countries. Properly separating true losses (and hence the efficiency potential of transmission systems) from exogenous location and scale factors and nontechnical losses would require detailed studies of system-dynamic interactions and real operating requirements.
- ³ REN21 (2014). ECOWAS Renewable Energy and Energy Efficiency Status Report, available at: http://www.ren21.net/Portals/0/documents/activities/Regional%20Reports/ECOWAS_EN.pdf
- ⁴ The West African Power Pool (WAPP) is a specialized institution of ECOWAS. It covers 14 of the 15 countries of the regional economic community (Benin, Côte d'Ivoire, Burkina Faso, Ghana, Gambia, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo).
- ⁵ UNECA (2015). An Assessment of Progress towards Regional Integration in ECOWAS.
- ⁶ Ikeonu I (2017). Perspectives on Regulating a Regional Electricity Market: The ECOWAS Experience, ERERA, available at: https://erranet.org/wp-content/uploads/2017/09/Winner-2-Ikeonu_ECOWAS_ERRA-Award-2017-4.pdf.
- ⁷ "ECOWAS Launches Energy Governance Programme for West Africa", available at: <http://www.ecowas.int/ecowas-launches-energy-governance-programme-for-west-africa/>
- ⁸ Ikeonu I (2017). *op. cit.*
- ⁹ Messier W, Glove, S. and Prawitt D (2006), Auditing and Assurance Service: A Systematic Approach, New York: McGraw-Hill, p. 5-6
- ¹⁰ See for example: <http://www.4-traders.com/news/ECOWAS-Economic-Community-of-West-African-States-West-African-Accounting-Bodies-Association-look-t--25339848/>.
- ¹¹ Regulation No. 04/96/CM/UEMOA of 20 December 1996 adopting SYSCOA of 20 December 1996 applied since 1 January 1998; Regulation No. 04/2001/CM/UEMOA; Regulation No. 05/2003/CM/UEMOA of 26 June 2013, which entered into force on 1 January 2014.
- ¹² Regulation No. 02/97/CM/UEMOA of 28/11/1997.
- ¹³ Order No. 03/97/CM/UEMOA of 28 November 1997.
- ¹⁴ Regulation No. 12/2000/CM/UEMOA.
- ¹⁵ Regulation No. 05/2006/CM/UEMOA of 02 May 2006.
- ¹⁶ Cattaneo O and Walkenhorst P (2010). "Legal Services: Does More Trade Rhyme with Better Justice?," in Cattaneo O, Engman M, Saez S and Stern R (eds.) International Trade in Services: New Trends and Opportunities for Developing Countries. The World Bank.
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- ²⁰ Article 49.
- ²¹ West African Museums Program (2000). West Africa Museums Directory.
- ²² The definition of education services currently contained in the CPC excludes "predominantly recreational educational services" which are classified in category 9641 (sports services).
- ²³ Traditionally, "adult education" tends to mean studies undertaken outside the formal education system for general or community interest reasons.
- ²⁴ Available at : <https://www.worldbank.org/en/news/feature/2013/07/29/investing-in-science-and-technology-across-west-africa>
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