



BENIN  
INVESTMENT CLIMATE STATEMENT  
2015

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## Executive Summary

Benin continues its efforts to attract private investment in support of economic growth – a link President Thomas Boni Yayi emphasizes is central to boosting Benin’s development prospects. Reselection of Benin by the Millennium Challenge Corporation (MCC) for a second compact devoted entirely to the energy sector provides promise of needed reforms and infrastructure improvements in support of a business climate conducive to U.S. and foreign investment. The Government of Benin has identified energy, infrastructure, mining, health, and agriculture among its development priorities. There are promising business opportunities in digital broadcasting, poultry, rice, and automotive industries.

Benin’s major advantages include comparatively strong macroeconomic performance (i.e. low inflation and national debt), political stability; widely-observed religious tolerance; and low security and transportation costs relative to the region. In 2014, the Government set up and restructured a commercial section at the Court of First Instance in Cotonou that is responsible for expedited settlement of business-related disputes.

Additional reforms are needed to address endemic challenges and attract significant and sustained foreign investment. Benin is a low human development country and the 2014 United Nations Development Program’s Human Development Index ranked the country 165 out of 187. Life expectancy at birth is 56 years and the illiteracy rate for persons aged 15 and above is approximately 58 percent.

Benin’s overall macroeconomic conditions were positive in 2014. According to estimates by Benin’s National Institute of Economic Analysis and Statistics (INSAE), Benin maintained a 5.6 percent growth rate in 2013 and 2014, largely driven by Benin’s cotton industry, improvements at the Port of Cotonou, and developments in telecommunications. The country’s GDP is roughly 71 percent services, 21 percent agriculture, and 8 percent manufacturing. Cotton production increased to 359,000 metric tons in 2014/2015. Port customs revenue accounts for roughly 85 percent of the country’s customs revenue. The inflation rate was 1 percent in 2013. U.S.-Benin trade balance favors the U.S.: 2014 – USD 781.5 million; 2013 – USD 604.3 million. In 2014, Texas-based company Hunt Oil continued off-shore oil exploration in Benin and Elephant Oil (also based in Texas) signed a contract for oil exploration of one of Benin’s two onshore blocks.

Benin’s National Infrastructure Program is the country’s largest infrastructure venture planned in recent history. Envisioned as a series of Public Private Partnerships suitable for foreign investment, the proposed projects include construction of international airports, a new deep water seaport, inland ports, rail networks, and roads supporting major transport routes. At an estimated USD 2 billion, the Benin-Niger railway is the centerpiece project that calls for the rehabilitation and extension of 1000 km of railway infrastructure from Cotonou to Niamey. These projects have the potential to greatly increase regional trade and significantly boost container traffic at the Port.

The Port of Cotonou is the largest component of Benin’s economy, with revenues projected to account for more than 40 percent of Benin’s annual budget. Significant MCC investment in the port (2006-2011) helped attract private sector investment; encouraged security and management enhancing reforms; and contributed to increased customs receipts and cargo processing capacity.

Realizing the port's full economic potential requires concerted efforts to modernize, stem corruption, and expand access to foreign markets, particularly in neighboring Nigeria and Niger.

## **1. Openness To, and Restrictions Upon, Foreign Investment**

### **Attitude toward Foreign Direct Investment**

The Government of Benin (GOB) encourages foreign investment. The Presidential Investment Council (PIC) was established in 2006 to reinforce dialogue between the Government and investors and to hasten the implementation of reforms that improve Benin's business environment. The PIC works to reduce, and where possible, eliminate administrative barriers to doing business. The PIC's campaign to better Benin's World Bank "Ease of Doing Business" ranking for 2015 resulted in an improved ranking to 151 from 167 out of 189 economies. The PIC highlighted measures enacted in 2014 that aimed to reduce barriers to trade, including streamlined business start-up procedures; improved customs tracking and clearance procedures; improved processes for acquisition of construction permits; an instituted ban on illegal road checkpoints; and improved commercial access to credit services and utilities. The WB score placed Benin among the ten top most improved economies (according to these measures) in 2013/14.

Benin's investment code, revised in July 2008, establishes benefits under different investment regimes and grants extensive discretionary power to the Investment Control Commission at the Ministry of Commerce (MC). The MC operates a *guichet unique*, or single investment office to minimize bureaucratic delays for investors and facilitate registration of new businesses. The center has successfully reduced processing times for construction permits and registration of new companies from 90 and 30 and from 15 to 1 day, respectively. The GOB has also created a newly organized commercial section at the Court of First Instance in Cotonou responsible for expedited settlement of business related disputes. The GOB has plans to expand this section into a separate commercial court in Cotonou. In addition, in 2011 the Government established a full-service office to expedite customs clearances, reduce the cost of clearances, and minimize processing barriers to clearing cargo at the Port of Cotonou.

Beninese law guarantees the right to own and transfer private property. The court system enforces contracts, but the judicial process is routinely slow and its decisions challenging to enforce. An American firm wishing to start a business in Benin should work with an established local partner and retain a competent Beninese attorney. A list of English-speaking lawyers and legal counselors is available from the Embassy's commercial section and on the Embassy's website <http://www.cotonou.usembassy.gov>.

Opportunities for foreign investment may arise from privatization of the following parastatals: SBEE (electricity), SONEB (water), SOBEMAP (port cargo handling), Benin Telecoms (BT) S.A., and La Poste du Benin S.A. (mail). Foreign companies are invited to bid on privatizations. The open bid process is well-publicized.

## **Other Investment Policy Reviews**

In the past three years the GOB has not conducted an investment policy review through the Organization for Economic Cooperation and Development (OECD), the World Trade Organization (WTO), or the United Nations Conference on Trade and Development (UNCTAD).

The GOB cooperates with World Bank Group for the annual World Bank Group Doing Business Review. (<http://www.doingbusiness.org/data/exploreeconomies/benin>) and has improved its ranking to 151 out of 189 economies in the latest review.

## **Laws/Regulations of Foreign Direct Investment**

Benin's 2008 Investment Code creates Free Trade Zones and establishes incentives such as tax reductions for investors. Depending on the size of the investment, investors may benefit from reduced tax liability on profits, exported finished products, or imported industrial equipment for up to one year from the date the business registration. Investors must meet several criteria including employing a minimum number of Beninese nationals, safeguarding the environment, and meeting nationally accepted accounting standards. The Investment Control Commission monitors companies that receive these incentives to ensure compliance.

Reference:

- [www.GER.co](http://www.GER.co)
- <http://benin.eregulations.org/procedure/3/51?l=fr>
- <http://www.gouv.bj/investir-au-benin>
- <http://www.finances.bj/>

## **Industrial Promotion**

The GOB aims to attract investment in the following sectors:

**Agribusiness:** Benin produces over 400,000 metric tons of pineapples that meet international standards. Its processing offers a variety of products such as pineapple juice, pineapple jam, dried pineapple that are exportable to western and sub-regional countries. Benin is ranked 5th in global cashew production, but exports only 3% of this product to the international market. Other tropical fruits are also available for processing. Creation of fruit processing units offers new business opportunities in the country.

**Energy and Mining:** Mining resources such as iron, phosphate, diamond, kaolin, marble, gravels offer mining and export opportunities. Recent GOB-funded studies promote exploration opportunities in untapped oil fields. The extraction of oil and related activities are additional opportunities for business investment. Benin is also in need of stable electricity supplies to sustain growth. The GOB encourages private investment in this sector.

Other sectors for investments include agricultural, construction, building, automotive and ground transportation, food processing and packaging, information and communications, finance, and travel.

Additional information can be found at <http://www.gouv.bj/investir-au-benin>.

### **Limits on Foreign Control**

Benin does not limit foreign ownership or control. The GOB encourages and seeks to incentivize joint venture partnerships.

### **Privatization Program**

The GOB has elected to support targeted divestiture programs over total privatization of State-Owned Enterprises. In the past, the GOB opened the cotton ginning and the wood sector for the same program, but has experienced management challenges. The state owned telecommunications company, Benin Telecom SA, and its affiliate cell phone provider, Libercom, are targeted for divestiture.

Foreign investors can participate in privatization programs. In March 2015, the governments of Benin and Niger jointly signed a document that would repeal the legal existence of the Benin-Niger Railway Organization (OCBN) parastatal and assign its concession to foreign private investors.

The government procurement process is specified in accordance with the Beninese procurement code (Code des Marchés Publiques: <http://www.finances.bj/spip.php?article804>). Tenders from the central government are announced in major publications, newspapers, and posted on the website of the Ministry of Finance and Economy at [www.finances.bj](http://www.finances.bj). Published tenders often include local investor participation requirements.

Beninese procurement law allows for open and closed bid processes. Contracts are often awarded based on government solicitations to short-listed companies with industry-specific expertise often identified during commercial activities conducted in overseas markets. The public procurement process is not always deemed non-discriminatory. Foreign companies have expressed concerns about unfair treatment, biased consideration, and improper practices specific to the process of selecting companies.

### **Screening of FDI**

The GOB does not operate screening of FDI.

### **Competition Law**

The Public Procurement Monitoring Authority (Autorité de Régulation des Marchés Publics) reviews transactions for competition-related concerns. More information is available at <http://www.armp.bj/>.

## Investment Trends

*Table 1*

Measure	Year	Index or Rank	Website Address
<b>TI Corruption Perceptions index</b>	2014	80 of 175	<a href="http://transparency.org/cpi2014/results">transparency.org/cpi2014/results</a>
<b>World Bank's Doing Business Report "Ease of Doing Business"</b>	2015	151 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
<b>Global Innovation Index</b>	2014	127 of 143	<a href="http://globalinnovationindex.org/content.aspx?page=data-analysis">globalinnovationindex.org/content.aspx?page=data-analysis</a>
<b>World Bank GNI per capita</b>	2013	USD 750	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

### *Millennium Challenge Corporation Country Scorecard*

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) or USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015>.

## 2. Conversion and Transfer Policies

### Foreign Exchange

Benin is a member of the West African Economic and Monetary Union (WAEMU). Benin's currency is the CFA Franc, issued by the Central Bank of West African States (BCEAO). The CFA Franc is fixed to the Euro at CFA 655.957/Euro. The currency exchange rate as of March 31, 2015 is approximately CFA Franc 601/USD.

### *Remittance Policies*

Foreign exchange is readily available. There are no restrictions on the remittance of profits by companies that invest in Benin. Remittance of profits by individual resident investors is not restricted.

Benin is a member of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), a FATF-style regional body. Its most recent mutual evaluation can be found at: [www.giaba.org/reports/mutual-evaluation/Benin.html](http://www.giaba.org/reports/mutual-evaluation/Benin.html). Additional information is available at <http://www.state.gov/j/inl/rls/nrcrpt/2014/database/index.htm>.



### **3. Expropriation and Compensation**

Based on a 1992 privatization law, the Government is forbidden from nationalizing private enterprises operating in Benin.

In conformity with World Bank structural reform commitments, the Government opened the cotton sector and its related components (namely ginning and inputs) to the private sector in the 1990s, and in 2008 partially divested the ginning industry parastatal SONAPRA (Société Nationale pour la Promotion Agricole) while maintaining regulatory control over the sector. In October 2012, prompted by concerns over performance and mismanagement, the Government assumed control of cotton production and ginning holdings.

In 2006 the Government took over the management of previously privatized oil company SONACOP on the grounds that the company was in financial disarray, lacked funds for its operations, and was unable to supply gas stations throughout the country.

### **4. Dispute Settlement**

#### **Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts**

Benin is a member of the Organization for the Harmonization of African Business Law (OHADA), and has adopted OHADA's Universal Commercial Code (codified law) to manage commercial disputes and bankruptcies. Benin is also a member of OHADA's Common Court of Justice and Arbitration and the International Center for the Settlement of Investment Disputes (ICSID).

A newly-organized commercial section at the Court of First Instance in Cotonou responsible for expedited settlement of business-related disputes has been created to address a backlog of civil cases.

There is no executive interference in court rulings. Benin's courts enforce foreign court judgments.

#### **Bankruptcy**

OHADA provisions govern bankruptcy. Debtors may file for reorganization only and the creditor may file for liquidation only.

Benin's score on the 2015 World Bank Group Doing Business score of 115 (out of 189) under the "Resolving Insolvency" category is a downgrade from the 2014 score of 112.

#### **Investment Disputes**

Post has no reports of GOB interference in judicial handling of investment disputes. Of three known investment disputes between U.S. investors and the GOB, two were resolved in favor of the U.S. investors and one is still pending.

## **International Arbitration**

Benin is a signatory to investment agreements subject to binding international arbitration of investment disputes. Local courts enforce international arbitration. The OHADA arbitration court based in Abidjan, Cote d'Ivoire serves as the domestic arbitration body.

### *ICSID Convention and New York Convention*

Benin is a member of the International Center for the Settlement of Investment Disputes (ICSID).

## **Duration of Dispute Resolution**

The judicial process including dispute resolution is routinely protracted and slow.

## **5. Performance Requirements and Investment Incentives**

### **WTO/TRIMS**

No reports of TRIMs violations. Benin does not impose requirements on imported or exported goods.

### **Investment Incentives**

Benin's 2008 Investment Code creates Free Trade Zones and establishes incentives such as tax reductions for investors. Depending on the size of the investment, investors may benefit from reduced tax liability on profits, exported finished products, or imported industrial equipment for up to one year from the date the business registration. Investors must meet several criteria including employing a minimum number of Beninese nationals, safeguarding the environment, and meeting nationally accepted accounting standards. The Investment Control Commission monitors companies that receive these incentives to ensure compliance.

### *Research and Development*

There are no restrictions regarding the participation of U.S. and foreign firms in GOB research and development programs.

### **Performance Requirements**

According to Benin's 2008 Investment Code, investors must meet criteria including employment of a minimum number of Beninese national in order to qualify for tax reductions and other incentives.

### **Data Storage**

Not applicable/information not available.

## **6. Right to Private Ownership and Establishment**

Beninese law and authorities respect the right to private ownership and investment. Beninese law guarantees freedom of commerce; choice of customers and suppliers; free movement throughout the country; the right of foreign employees and their family members to leave the country; and freedom from government interference in the management of private enterprises.

## **7. Protection of Property Rights**

### **Real Property**

The Benin Land Property Act, enacted by the President of Benin on August 24, 2013, codifies real property rights. The Land Property Act is designed to ensure fair access to land for purchasers; protect ownership rights; establish a transparent legal procedure for obtaining ownership; reduce property speculation in urban and rural areas; and encourage land development.

Secured interests in real and personal property are recognized and enforced. Benin's legal system protects and facilitates acquisition and disposition of property, land and buildings and mortgages. Secured interests in property are registered with the Land Office of the Ministry of Finance.

### **Intellectual Property Rights**

Benin is a signatory to both World Intellectual Property Organization Internet treaties. Enforcement of intellectual property rights continues to be constrained by Benin's limited capacity.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en>.

#### *Resources for Rights Holders*

Marilyn Gayton  
Political-Economic Officer  
229 21 300 650  
[BeninCommercial@state.gov](mailto:BeninCommercial@state.gov)

For a list of local lawyers, visit <http://cotonou.usembassy.gov/lawyers3.html>

## **8. Transparency of the Regulatory System**

Benin is a member of UNCTAD's international network of transparent investment procedures <http://benin.eregulations.org/>. Foreign and national investors can find detailed information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures,

required documents and conditions, costs, processing time and legal bases justifying the procedures.

## **9. Efficient Capital Markets and Portfolio Investment**

Government policy supports free financial markets, subject to oversight by the Ministry of Finance and Economy and the Central Bank of West African States (BCEAO). A minimum of ten commercial banks operate in Benin. Foreign investors may seek credit from Benin's private financial institutions and the WAEMU stock exchange.

There are not any restrictions for foreigner investors to establish a bank account in Benin. However, proof of residency or evidence of company registration is required to open a business bank account.

### **Money and Banking System, Hostile Takeovers**

Benin has a healthy banking sector. More than ten private commercial banks operate in Benin.

## **10. Competition from State-Owned Enterprises**

With the exception of public utilities (including electricity and water) and land-line telephone service – for which the public telephone company retains a monopoly – many private enterprises compete with public enterprises on equal terms and conditions.

State-owned enterprise (SOE) senior management may report directly to a Government ministry or board of directors, whose seats are allocated to senior government officials and political leaders, as well as representatives of civil society and other parastatal constituencies. SOEs are required by law to publish annual reports and hold regular meetings of their boards of directors. Financial statements of SOEs are reviewed by certified accountants and private auditors.

The Government of Benin has established a website detailing plans to promote good governance and transparency particularly among SOEs. (<http://www.gouvernancebenin.org/>).

SOEs are subject to the same tax policies as the private sector.

### **OECD Guidelines on Corporate Governance of SOEs**

SOEs are created pursuant to presidential orders and decrees which define SOE attributions. The GOB appoints senior management and members of the Board of Directors. SOEs are run as private institutions.

Benin adheres to the OECD Guidelines on Corporate Governance of SOEs.

The courts independently process disputes between SOEs and private companies or organizations without the GOB interference.

## **Sovereign Wealth Funds**

Benin does not have a sovereign wealth fund.

## **11. Corporate Social Responsibility**

A number of private corporations systematically support corporate social responsibility, notably cellular phone service providers and banks. Such CSR efforts often follow OECD guidelines, and are an important aspect of corporate public relations.

## **OECD Guidelines for Multinational Enterprises**

Not applicable/information not available.

## **12. Political Violence**

There has been no political violence affecting private investment in Benin since the end of its socialist period in 1990.

## **13. Corruption**

The Government has demonstrated strong political will to reduce corruption and has imposed administrative sanctions and removals from office against high-profile, allegedly corrupt officials. None, however, have faced prosecution in Beninese courts. Corruption remains a problem in areas including customs administration, government procurement, and the judicial system.

Bribery is illegal and subject to up to ten years imprisonment. The Government has identified the fight against corruption as a national priority. Efforts reflecting Government focus on fighting corruption include the 2013 creation of the new National Anti-Corruption Authority (ANLC) in charge of referring corruption cases to court. By law, the ANLC has the ability to combat money laundering, electoral fraud, economic fraud, and corruption in the public and private sectors. Benin's State Audit Office is also responsible for identifying and acting against corruption in the public sector.

*UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Benin is signatory of UN Anticorruption Convention and OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.

*Resources to Report Corruption*

ANLC Contact:

Guy Ogoubiyi

President of ANLC

Tel. +229 21 308 686

Fax: +229 21 301 010

Email [anlc.benin@yahoo.fr](mailto:anlc.benin@yahoo.fr)

#### **14. Bilateral Investment Agreements**

Benin has bilateral investment agreements with the United States, France, Germany, the United Kingdom, Switzerland, Portugal, Canada, Guinea-Conakry, Ghana, Mauritius, Chad, Mali, Burkina Faso, the Netherlands, and China.

Benin is listed as a member country to International Investment Agreements with ECOWAS, the African Union, and the West African Economic and Monetary Union. See UNCTAD's database for this information at [http://www.unctadxi.org/templates/docsearch\\_\\_\\_\\_779.aspx](http://www.unctadxi.org/templates/docsearch____779.aspx).

#### **Bilateral Taxation Treaties**

Benin does not have a bilateral taxation treaty with the United States.

#### **15. OPIC and Other Investment Insurance Programs**

The Overseas Private Investment Corporation (OPIC) offers financial underwriting for companies wishing to invest in Benin. Diplomatic missions purchase local currency (CFA) at the official BCEAO rate.

#### **16. Labor**

The Government adheres to internationally recognized rights and labor standards. Benin's Constitution guarantees workers freedom to organize, assemble, and strike. Government authorities may declare strikes illegal if they are deemed a threat to public order or the economy and may require those on strike to maintain minimum services. Approximately 75 percent of salaried employees belong to unions. There are several union confederations. Unions are obliged to operate independent of government and political parties. Benin's labor code remains favorable to employees. Most of Benin's working population is engaged in agriculture or other primary-sector activities. Child labor remains salient, particularly in agriculture. Cotton is included on the U.S. government's Executive Order 13126 List of Goods Produced by Forced and Indentured Child Labor. Additionally, cotton and crushed granite are included on the U.S. government's List of Goods Produced by Child Labor or Forced Labor. The unemployment rate in Benin in 2012 was 14.3%. Unskilled and skilled labor and qualified professionals are generally available.

## 17. Foreign Trade Zones/Free Ports/Trade Facilitation

There is a Foreign Trade Zone near the Benin-Nigeria border. Foreign-owned firms have the same investment opportunities as host country entities. Companies must export at least 65 percent of their annual production to qualify for tax-free status and benefit from duty-free importation of equipment and other production inputs.

## 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
<b>Host Country Gross Domestic Product (GDP) (\$M USD)</b>	N/A	N/A	2013	8,307	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>
<b>Foreign Direct Investment</b>	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
<b>U.S. FDI in partner country (\$M USD, stock positions)</b>	N/A	N/A	2013	18	<a href="http://bea.gov/international/factsheet/factsheet.cfm?Area=409">http://bea.gov/international/factsheet/factsheet.cfm?Area=409</a>
<b>Host country's FDI in the United States (\$M USD, stock positions)</b>	N/A	N/A	2013	0	<a href="http://bea.gov/international/factsheet/factsheet.cfm?Area=409">http://bea.gov/international/factsheet/factsheet.cfm?Area=409</a>
<b>Total inbound stock of FDI as % host GDP</b>	N/A	N/A	N/A	N/A	

*Table 3: Sources and Destination of FDI*

IMF Coordinated Direct Investment Survey data are not available for Benin.

*Table 4: Sources of Portfolio Investment*

IMF Coordinated Portfolio Investment Data are not available for Benin.

**19. Contact for More Information**

Political-Economic Officer  
01 BP 2012 Cotonou  
Republic of Benin  
229 21 300 650  
BeninCommercial@state.gov