



IMPROVED BUSINESS AND INVESTMENT CLIMATE IN WEST AFRICA PROJECT ECOWAS INVESTMENT POLICY AND PROMOTION (IPP) WORKSHOP

June 6-8, 2017, Lagos, Nigeria

Increasing Investment Retention and Expansion and Investor Protection

The Investment Climate Solutions Area supports client countries in creating a business environment that provides relevant, up-to-date, fair and transparent policies and regulations that reduce unnecessary burden on the private sector and minimize business risks, while meeting social goals such as environmental protection or health and safety standards

Context

In today's global economy, companies have a multitude of location options and governments must compete to attract the investment mix that will yield the most suitable development benefits. It is typically easier to achieve development benefits through investors that have already established a presence in the country (i.e. existing investors). Retaining investment and encouraging investment expansion by ensuring a long and deep engagement of investors in the host country is therefore as critical as attracting new investment.

Countries' ability to retain and encourage expansion of investment is impacted by perceptions of political risk. Disruption of business operations by political forces or events and in particular by conduct of the government, is commonly referred to as political risk. Government conduct, in this context, most prominently includes expropriation, transfer and convertibility restrictions, breach of contract, lack of transparency, unpredictable and arbitrary action, discrimination, political violence and general absence of regulatory transparency. Notably, investors are protected against such government conduct under "investor protection guarantees" typically included in a country's international

investment agreements as well as in domestic legal frameworks. Investors participating in the annual MIGA-EIU Political Risk Survey—whether from industrialized or developing countries—rank political risk as one of the most significant constraints to foreign investment in developing countries over the medium term.¹ The survey also showed that more than a quarter of global corporate investors interviewed said that in the past year political risk constraints had caused their companies to withdraw existing investments or cancel planned ones.

In this context, there is a clear link between investor protection and investment retention and expansion. Without protection for investors, retention and expansion becomes virtually impossible- only very few investors with very specific objectives and plans will bear the risks associated with malfunctioning political, regulatory and legislative systems. Enhanced levels of investor protection will boost investor confidence, leading to generation of new investment and encouraging already existing investors to not only stay but also expand operations.

What the World Bank Group Offers

We help governments implement reforms to

¹ See MIGA, World Investment and Political Risk 2013 report

enhance the policy and regulatory framework on investor protection and its implementation on the ground. We draw on a set of tools and activities that help assess the quality of the legal, regulatory and institutional framework, its application, its objectives and its impact on businesses. The offerings include:

Improve legal and regulatory framework on investor protection guarantees

For investors, strong protection guarantees in the foreign investment and other related laws is amongst the most powerful and critical signs of a country's positive commitment towards respecting investor rights once they have set up their business in the host country. Therefore countries often use these guarantees as a promotion tool. Not having strong protection guarantees in the domestic law makes investors vulnerable to wrongful acts of the government without domestic remedy and leaves them with no recourse other than to enforce their rights under international investment agreements using international arbitration. Further, improvement in investor protection standards in the country's domestic laws can greatly benefit domestic investors, who otherwise cannot take recourse to the guarantees provided under international investment agreements. Governments often have a narrow window of opportunity for regulatory reform and look to the Bank Group to engage quickly, often within weeks.

Key deliverables for client governments include:

- Benchmarking domestic legal frameworks with international investment agreements of the country and international good practices.
- Development of reform recommendations including determining structure and content of proposed laws/provisions.
- Stakeholder mapping and consultations.
- Other support to implement reforms.

Streamlining regulatory procedures

Assistance is provided to the government in streamlining procedures relating to inbound and

outbound foreign exchange transactions. Being able to repatriate profits is central to investors' business decision to invest in a country. Equally important is the ability to freely receive and repatriate capital for specific business purposes, once the operations of investors have begun.

Key deliverables for client governments include:

- Diagnostic assessments such as inventories of regulations and procedures, stakeholder identification and mapping of business processes and assessment of institutional capacity.
- Development and implementation of reform recommendations, including through streamlining of regulatory requirements and process re-engineering.
- Provision of procedural and other regulatory information that is accessible, reliable, and timely.

Strengthening implementation of legal and regulatory frameworks to help clients retain and expand FDI

- Enhanced legal frameworks on investor protection can greatly increase investor confidence. Yet the biggest challenge faced by investors in developing countries is the lack of actual "implementation" of laws and regulations, which makes the overall investment climate unpredictable and unstable. In addition to negatively impacting retention of investment, lack of implementation often ultimately culminates into costly legal disputes between investors and host countries. In this context, assistance is provided to client governments to set up suitable mechanisms for investment retention to track and address investor grievances or to set up broader aftercare systems.

Key deliverables for client governments include:

- Promoting best practices in tracking and resolving key grievances relating to lack of implementation of legal and regulatory frameworks to enable host country governments to resolve grievances well before they escalate into legal disputes.

- Designing and implementing ICT tools to enable governments to track investor grievance and their impact on business of the investor (e.g. investment retention, job losses).
- Designing and implementing investor aftercare programs that help clients build strong relationships with existing investors in priority sectors to facilitate company retention, expansion, and diversification.

For further information:

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Project examples

In **Bosnia and Herzegovina**, an investment climate program is helping the government to harmonize investment laws at a subnational level and to establish mechanisms to track and address investor grievances in a systematic and effective manner. This included setting up a technology tool to track investor grievances and capacity building to address grievances in an effective manner. The mechanism has helped the government receive new investments and re-investments by existing investors, which in turn have generated hundreds of new jobs.

In **Georgia**, in 2015 the government established a Business Ombudsman (BO), transforming a former tax ombudsman agency established in 2011. The BO is part of the Government and has direct access to the Prime Minister's Cabinet. The main role of the BO is to oversee the protection of rights and legitimate interests of entrepreneurs and investors doing business in Georgia and support restoration of violated rights. The investment climate program is helping establish the Systemic Investment Response Mechanism for the new BO and entails the development of an IT tracking tool to measure investment retained and expanded.

In **Dominican Republic**, an investment climate project is helping the government in designing and implementing a mechanism for tracking and addressing investor protection grievances in the manufacturing and tourism sectors.