

Combating tax evasion,
avoidance, and illicit
financial flows to mobilise
domestic resources in

West Africa



GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF
INFORMATION FOR TAX PURPOSES





West Africa covers a large geographical area¹ with an estimated population of over 400 million people, 43% of whom are under 15 years of age,² making it one of the youngest regions in the world. While each country within the region has its own specific characteristics, the region's economic activities are mainly based on the primary and tertiary sectors and most have a cross-border dimension. Average real gross domestic product (GDP) growth in West Africa is estimated at 3.3% in 2023.³ Although the region has seen an economic recovery from the COVID-19 pandemic, the lingering after-effects of this crisis, accentuated by geopolitical tensions, armed conflicts, and their global repercussions, pose a risk to the region's short- and long-term budgetary situation.⁴

A regional response to the contemporary challenges of West Africa for sustainable domestic resource mobilisation

West African states are facing major economic, social, health, environmental and security challenges that the Economic Community of West African States⁵ (ECOWAS) and the West African Economic and Monetary Union⁶ (UEMOA) intend to address in their respective Vision 2050⁷ and CAP 2025⁸ frameworks. These challenges make progress towards achieving and financing the Sustainable Development Goals (SDGs) all the more difficult.

Against a backdrop of a decline in traditional financing mechanisms, such as official development assistance, domestic resource mobilisation is a key challenge for ECOWAS, UEMOA and their Member States to ensure sustainable financing for development, especially as most Member States are struggling to increase their tax-to-GDP ratio above 20%⁹ (see Figure 1) and the informal sector accounts for between 20% and 65% of their economies.¹⁰

Between 2020 and 2023, the Fiscal Transition Support Programme in West Africa¹¹ (PATF) has supported the mobilisation of domestic resources in West Africa. With objectives set by the ECOWAS and UEMOA Commissions, funding from the European Union, and intensive technical support from the Organisation for Economic Co-operation and Development (OECD) and the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), PATF has delivered significant progress in the fight against tax evasion and avoidance and other illicit financial flows.

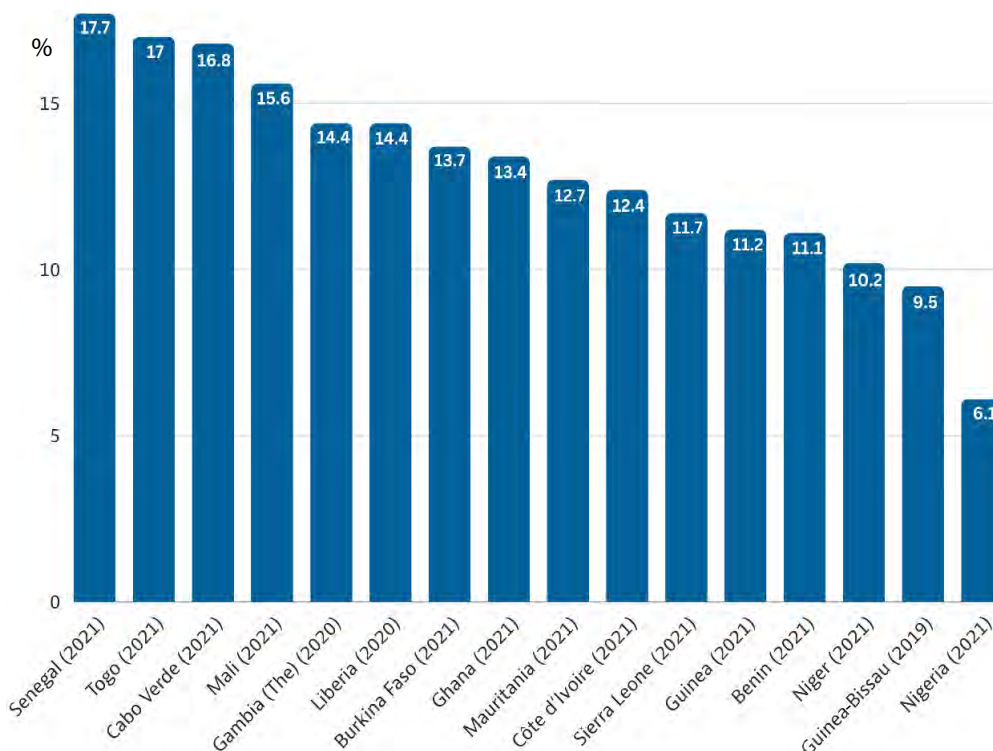




“ The fight against tax evasion and avoidance and other illicit financial flows is a key lever for domestic resource mobilisation in West Africa. The significant progress made under the European Union funded the PATF, in particular through the creation of Community tax legal instruments and capacity-building for tax administrations, should provide the region's states with additional and sustainable resources to meet the contemporary challenges they face. Through PATF, the European Union strengthens its support for the Addis Ababa Initiative for improving tax revenue in Africa. ”

Daniel Aristi Gaztelumendi,
Ambassador of the European Union to Burkina Faso

Figure 1: Tax-to-GDP ratios (excluding social security contributions)

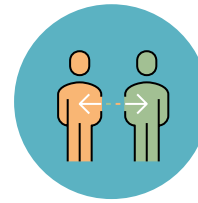


Source: OECD/AUC/ATAF (2023), *Revenue Statistics in Africa 2023*, OECD Publishing, Paris, <https://doi.org/10.1787/15bc5bc6-en-fr>.¹²



Strengthening the fight against tax base erosion, profit shifting and illicit financial flows

Under the PATF, 16 West African States (the 15 ECOWAS Member States and Mauritania) have benefited from a large and innovative programme of technical assistance in international taxation. This programme enables them to more effectively combat tax base erosion and profit shifting as well as illicit financial flows.



The development and adoption of three Community tax instruments in line with international standards

With the ongoing support of the ECOWAS and UEMOA Commissions and in close cooperation with their representatives, the OECD and the Global Forum have worked with experts from the 16 West African States, using a collaborative and inclusive approach, to develop three Community tax instruments dealing respectively with transfer pricing, beneficial ownership and mutual administrative assistance in tax matters. These instruments effectively adapt the most recent international standards to regional needs and circumstances, providing West Africa with tailored and effective tools in the fight against tax evasion and avoidance and illicit financial flows.

These three Community tax instruments, described in further details below, were adopted by the ECOWAS Council of Ministers at their 90th ordinary session on 6-7 July 2023 in Bissau (Guinea-Bissau) and as well as by the ECOWAS Conference of Heads of State and Government at their 63rd ordinary session on 9 July 2023 in Bissau (Guinea-Bissau) for the one on mutual administrative assistance in tax matters. ECOWAS Member States must transpose the Transfer Pricing and Beneficial Owner Community tax instruments into domestic law by 31 December 2026 and 1 January 2027, respectively.

“ These three Community tax instruments reflect our determination to strengthen tax transparency and tax integrity in West Africa. Together, in collaboration with the OECD and the Global Forum, we have taken a crucial step in the fight against tax base erosion and profit shifting. This harmonised tax framework, in line with the latest international standards, demonstrates our commitment to responsible and fair tax governance in the region. ”

Salifou Tientoré,

Director of the Customs and Taxation Union at the ECOWAS Commission

Directive C/DIR.6/07/23 on the harmonisation of transfer pricing rules

within ECOWAS Member States provides ECOWAS Member States with a unified and effective legal framework for transfer pricing, enabling them to combat more effectively profit shifting that erodes their tax bases. The Directive provides the region's tax authorities with the means to: (i) efficiently monitor prices charged between companies belonging to the same multinational enterprise group in order to ensure that they comply with the arm's length principle; and (ii) better target tax audits on companies that present the greatest tax risks, thereby promoting a better allocation of tax authorities' precious resources. This Community Instrument is also intended to enhance the legal certainty of taxpayers and improve the business climate in the region.

Directive C/DIR.2/07/23 on the harmonisation of rules on beneficial ownership of legal entities within ECOWAS Member States

enables the identification of the individuals who ultimately own or control a legal person or a legal arrangement such as a trust. The Directive imposes strict obligations to identify beneficial owners and requires the establishment of a register, kept by the national authorities, containing the identity of beneficial owners. Timely access to the information contained in the register by all relevant domestic authorities is also ensured. This Directive provides ECOWAS Member States with an appropriate Community framework for collecting and maintaining vital information to combat tax fraud and evasion, money laundering, financing of terrorism, and other illicit activities, whether in a domestic or cross-border context.

Supplementary Act A/SA.3/07/23 on Mutual Administrative Assistance in Tax Matters between ECOWAS Member States

establishes an advanced legal framework for administrative cooperation between the tax administrations of ECOWAS Member States. This framework covers not only the exchange of information for tax purposes, whether on request, spontaneous or automatic, but also more advanced forms of cooperation, such as simultaneous tax audits or cross-border assistance in the recovery of tax claims. This Community instrument thus provides ECOWAS Member States with a comprehensive mechanism for obtaining information to combat tax evasion and other forms of illicit financial flows in West Africa and should help increase public revenue.¹³ As part of the work on the Supplementary Act, a model set of legislative and regulatory provisions relating to the introduction of automatic exchange of information on financial accounts was also developed to support the gradual adoption of this type of exchange in the region, while taking into account the specific situation of each ECOWAS Member State.

- **1 Supplementary Act** on Mutual Administrative Assistance in Tax Matters
- **2 Directives** harmonising respectively the rules applicable to transfer pricing and beneficial ownership
- **1 model set of legislative and regulatory provisions** to establish a framework for the introduction of automatic exchange of information on financial accounts
- **1 global report** analysing the tax treaties of the 16 West African States (including regulation No. 08/2008/CM/UEMOA adopting rules to avoid double taxation within UEMOA and rules on assistance in tax matters)
- **16 reports** - one for each of the 16 West African States - drafted in the official language of each State concerned (English, French or Portuguese), analysing the network of tax treaties in force for each of the 16 West African States and making recommendations to treaty negotiators with a view to remedying the shortcomings and gaps identified
- **4 working groups** responsible for drafting Community instruments, facilitated by experts from the OECD and the Global Forum, and made up of representatives from the 16 West African States and the ECOWAS and UEMOA Commissions
- **15 plenary meetings** organised between 2021 and 2023
- **34 technical notes** in French and English
- **14 workshops and training courses** on transfer pricing, tax treaty negotiations and exchange of information organised between 2020 and 2023
- **342 tax officials trained** between 2020 and 2023



UEMOA Commission Headquarters - Ouagadougou (Burkina Faso)

Sustainable capacity building for tax administrations

To support the work on Community tax instruments, a capacity-building programme for tax administrations, developed jointly with the ECOWAS and UEMOA Commissions, was implemented by the OECD and the Global Forum. Between 2020 and 2023, tax officials from the 16 West African States and representatives of the ECOWAS and UEMOA Commissions have benefited from a training cycle on transfer pricing, and training workshops on the negotiation of tax treaties and the exchange of information for tax purposes.

Training cycle on transfer pricing

From 2020 to 2023, the OECD organised a three-year transfer pricing training cycle, composed of five skills-building workshops, to train in transfer pricing audit around 30 tax auditors from the 16 West African States' tax administrations and the ECOWAS and UEMOA Commissions. The objective of this cycle is to create a network of transfer pricing experts within ECOWAS and ensure sustainable capacity building. Participants in the training cycle were trained using a progressive approach.

The cycle began with the fundamentals of transfer pricing, before progressing onto more complex issues (comparable data, intangible assets, corporate reorganisations, etc.). Each training workshop was designed to be practical and interactive, with theoretical presentations illustrated by practical case studies and role-playing, thereby exposing participants to concrete transfer pricing issues, and enabling them to share their experiences and best practices.

Transfer pricing training cycle : Workshop from 7 to 9 February 2023 in Dakar (Senegal)

As part of the three-year transfer pricing training cycle, the OECD organised a training workshop from 7 to 9 February 2023 in Dakar (Senegal), attended by thirty officials from the tax administrations of the 16 West African States and the ECOWAS and UEMOA Commissions. The workshop focused on the alternative approaches that developing jurisdictions could consider utilising to address the challenges posed by the lack of comparable data and the difficulties in accessing such data for transfer pricing analysis, which are also presented in the toolkit for addressing difficulties in accessing comparable data for transfer pricing analyses¹⁴ developed by the Platform for Collaboration on Tax.¹⁵ Through this workshop, which included real-life case studies, participants acquired knowledge and know-how to remedy the difficulties of accessing comparable data, which is one of the major concerns of tax auditors in developing jurisdictions when auditing multinational enterprises operating on their territory.



Training workshop on transfer pricing - Dakar (Senegal) - February 2023

“Access to comparable data is a challenge for countries in the region, so this workshop has therefore been a major contribution for them as it has addressed their concerns through the presentation of approaches they can implement to overcome the lack of comparable data for transfer pricing analyses.”

Hamadoum Dicko,

Tax Officer at the UEMOA Commission and a participant in the workshop

Training workshops on tax treaties and exchange of information

Training workshops have also been organized by the OECD and the Global Forum, together with the ECOWAS and UEMOA Commissions, to train tax officials from the 16 West African states and the two Commissions in the negotiation of tax treaties and the use of international legal instruments for the exchange of information for tax purposes.

Working closely with experts from the United Nations and countries from across Africa, the OECD and the Global Forum delivered workshops that enabled more than 280 tax officials from West Africa to acquire knowledge and know-how in negotiating international tax treaties and exchanging information, which they will be able to put to use to better protect their jurisdictions' tax bases and more effectively combat tax evasion and avoidance.

Series of training courses on exchange of information: Workshop from 30 January to 2 February 2023 in Abidjan (Côte d'Ivoire)

From 30 January to 2 February 2023, 33 tax officials from the 16 West African States and representatives of the ECOWAS and UEMOA Commissions took part in a seminar in Abidjan on the linkages between national tax investigations, the intelligence gathering framework and the international information exchange system. This workshop, organised by the Global Forum, concluded the series of training courses on exchange of information delivered under the PATF from 2020 to 2023.

Through presentations, practical case studies and an exchange of information simulation, participants deepened their understanding of the key concepts in tax transparency. The aim of the workshop was to guide participants towards more effective use of information exchange tools to support their audits and investigations, leading to more and better quality requests and more accurate responses to and from their foreign counterparts.



Training workshop on exchange of information - Abidjan (Côte d'Ivoire) - January/February 2023

The provision of online learning tools

As a complement to the training workshops and in order to disseminate knowledge and know-how to a larger number of tax officials, the OECD and the Global Forum have made available to the tax administrations of the 16 West African States the following tools:

- E-learning modules on key international tax topics (transfer pricing, tax treaty negotiations, BEPS, exchange of information, beneficial ownership, etc.), via the KSP_{TA}¹⁶ knowledge-sharing platform. Tax officials can use these tools to learn at their own pace, at their convenience, and acquire a common base of knowledge.
- Extensive documentation on international taxation (model tax conventions, transfer pricing guidelines, model manual on exchange of information for tax purposes, etc.) and several practical toolkits for tax administrations published by the OECD, the Global Forum,¹⁷ and the Platform for Collaboration on Tax.¹⁸



A unique study of tax treaties concluded by West African States

Since 2021, the OECD has made its expertise and experience in international tax treaties available to support the 16 West African States and the ECOWAS and UEMOA Commissions in their analysis of West Africa's bilateral and multilateral tax treaties.

Tax treaties are generally negotiated with the aim of promoting cross-border trade, international investment, and the transfer of skills and technology, as well as to strengthen cooperation between states to combat international tax evasion and avoidance more effectively. In some circumstances, however, tax treaties may be used abusively for treaty shopping purposes, resulting in significant losses of revenue for the countries that have signed them.

As part of its support, the OECD conducted a study of all the tax treaties in force on 31 December 2020 in the 16 West African States, including Regulation No. 08/2008/CM/UEMOA, adopting rules to avoid double taxation within UEMOA and rules on assistance in tax matters. This analysis was intended to identify gaps or other shortcomings in these treaties, in particular with respect to provisions to combat tax treaty abuse and protect their tax bases against the improper use of treaties. This study resulted in 16 unique reports, one per country, which contain specific recommendations to the negotiators of each country and highlight relevant considerations that they could take into account as part of the development of their tax treaty negotiation strategy and priorities.

Engagement with a wide range of stakeholders to fight illicit financial flows

The issue of tax evasion is closely linked to the more general issue of illicit financial flows (of which the proceeds of tax evasion are a major component). The fight against illicit financial flows involves many stakeholders at a national level and is a major concern for civil society.

On 18 July 2023 in Accra (Ghana), the Global Forum organised a dedicated seminar attended by 27 representatives of tax authorities, anti-money laundering and counter-terrorist financing units from 12 West African States, together with civil society organisations from the region, to discuss the progress made under the PATF in terms of tax transparency and to initiate a discussion between the various stakeholders in the fight against illicit financial flows.

The seminar provided an opportunity for tax and anti-money laundering experts to discuss their activities and the obstacles encountered in the fight against illicit financial flows, as well as to build connections in terms of domestic exchange of information and share best practices. Civil society organisations shed light on the social and economic impact of illicit financial flows in West Africa.

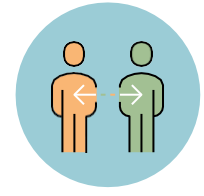
Participants welcomed the progress made on tax transparency through the adoption of the Directive on the harmonisation of rules relating to beneficial owners and the Supplementary Act on mutual administrative assistance in tax matters, which ensure transparency of information on beneficial owners and improved administrative cooperation within the region.

The success of a concerted regional approach

As part of the EU-funded PATF, the OECD and the Global Forum, in close consultation with the ECOWAS and UEMOA Commissions, have implemented a concerted regional approach to deliver support. This regional approach has created a positive dynamic in favour of sustainable domestic resource mobilisation (see Figure 2).

This successful experience with a regional approach provides valuable lessons for capacity building:

- It ensures the coherence of the actions undertaken at regional level.
- It catalyses political support through the development of regional instruments which require high level engagement, and commitments - including on implementation - of both Commissions, and Ministers/Heads of State in Member States.
- It promotes inter-state cooperation, while taking into account the diversity of economic and administrative realities in beneficiary countries.
- It provides a conducive environment to the development of a harmonised Community legal framework that meets the concerns of each Member State, while providing greater legal certainty for taxpayers.
- It helps build the capacity of tax administrations in the development of Community instruments, their transposition into national legal frameworks and their effective use by the officials concerned.
- It supports peer learning and the pooling of experience, knowledge, and skills, resulting in the more effective acquisition of knowledge and development of skills, as well as the harmonisation of practices within the region, thus fostering the emergence of a regional network of tax experts.



“ The combined efforts of the UEMOA and ECOWAS Commissions, the OECD and the Global Forum, with the essential support of the European Union, embody the vision of a West Africa determined to adopt the best international tax standards. These significant advances demonstrate our collective determination to ensure that every company and every individual makes a fair tax contribution to the development of our region. ”

Habasso Traore,

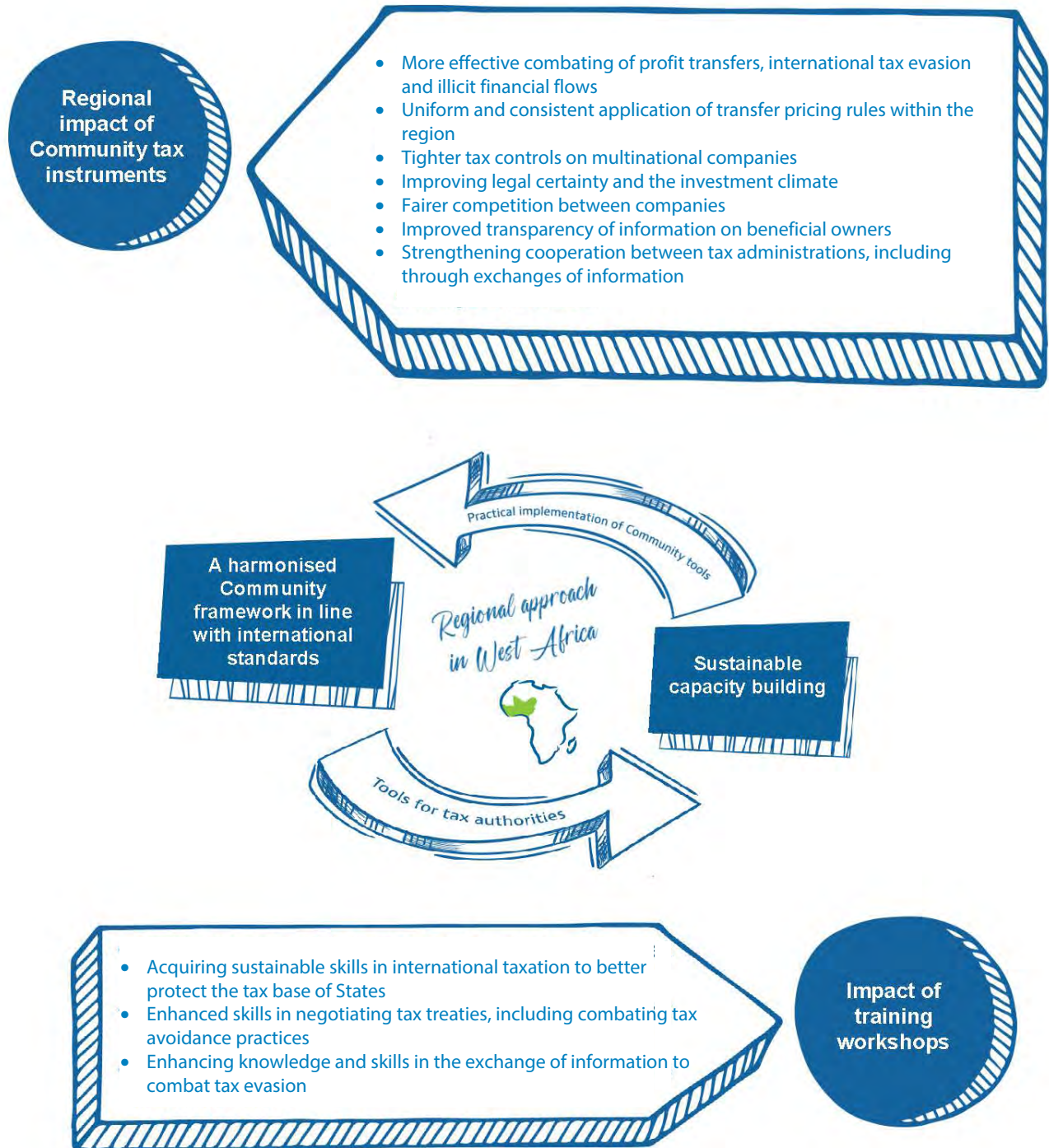
Director of Public Finance and Internal Taxation at the UEMOA Commission



Meeting of representatives of the ECOWAS and UEMOA Commissions, the EU delegation to Burkina Faso, the OECD and the Global Forum - Ouagadougou (Burkina Faso) - September 2022

The success of the technical assistance programme for the 16 West African States also demonstrates the strong commitment of these States and the ECOWAS and UEMOA Commissions throughout the programme. Despite the constraints and difficulties inherent to the COVID-19 pandemic, the level of participation of the representatives of the said States and of the Commissions was very high, testifying to the willingness of experts to share their experience, put forward their point of view with regard to national and regional issues, and contribute actively both to the development of Community tax instruments and to skills development. In this respect, it is worth noting the very positive feedback received from participants in the training workshops.

Figure 2: The impact of regional dynamics in West Africa



Source: OECD.



Experience feedback

"Acquiring knowledge of transfer pricing is essential for controlling and broadening the tax base and preventing large-scale fraud, tax evasion, etc." - A participant from Mali at the virtual training workshop on transfer pricing from 15 to 18 March 2022.

"The strength of the programme lies in its interactive nature and the vast experience of the experts." - A participant from Côte d'Ivoire at the transfer pricing workshop from 7 to 9 February 2023 in Dakar (Senegal).

"This training is very practical and opens the way to learning from each other and from the experiences of other Member States. The Member States are not all at the same level, some are more experienced or more exposed than others. It was therefore very useful to learn from each other in order to avoid the mistakes made by others. We also had practical sessions, case studies, which were very useful" - A participant from Nigeria at the workshop on the exchange of information from 30 January to 2 February 2023 in Abidjan (Côte d'Ivoire).

"This collaboration continues to foster networking among tax officials, providing options for addressing tax challenges. We will explore all available avenues to engage decision-makers to support us in our efforts to combat illicit financial flows and related activities in the region" - A participant from Liberia at the workshop on illicit financial flows on 18 July 2023 in Accra (Ghana).

Source: Evaluation questionnaires for training workshops organised by the OECD and the Global Forum.

The challenge of consolidating achievements and meeting new challenges

On the basis of the significant progress achieved by West African States through their collaboration, but also aware of the challenges they still face to improve domestic resource mobilisation, the ECOWAS and UEMOA Commissions have expressed their wish to continue to benefit from technical assistance from the OECD and the Global Forum after the end of the PATF.

The continuation of this collaboration will enable:

- Consolidation of what has been achieved, particularly in terms of building, and sustaining the capacity of tax administrations in the 16 West African States, and especially within the new Community fiscal framework;
- Monitoring of the effective implementation of the three Community tax instruments and their transposition, including technical transposition, at national level; and
- Addressing new challenges, such as the implementation by the 16 West African States of the Two-Pillar Solution to address the tax challenges of the digitalisation of the economy.¹⁹



Meeting of representatives of the EU delegation to Burkina Faso, the OECD and the Global Forum - Ouagadougou (Burkina Faso) - September 2022

Notes


1. West Africa comprises the following 16 countries: Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo.
2. www.prb.org/international/geography/western-africa/.
3. www.worldbank.org/en/region/afr/overview.
4. African Development Bank (2022), *African Economic Outlook 2022*, www.afdb.org/en/documents/african-economic-outlook-2022.
5. The ECOWAS Member States are the following: Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.
6. The UEMOA Member States are the following: Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.
7. ECOWAS Commission (2022), *ECOWAS Vision 2050*, https://ecowas.int/wp-content/uploads/2022/09/Vision2050_EN_Web.pdf.
8. Commission de l'UEMOA (2021), *Cadre d'Actions Prioritaires de la Commission de l'UEMOA 2021-2025*, www.uemoa.int/sites/default/files/bibliotheque/uemoa_synthese_cap_2025.pdf.
9. United Nations Conference on Trade and Development (2020), *Tackling Illicit Financial Flows for Sustainable Development in Africa*, <https://unctad.org/publication/economic-development-africa-report-2020>.
10. ECOWAS Commission (2022), *ECOWAS Vision 2050*.
11. www.patf-ao.org/.
12. Data for Benin, The Gambia, Guinea-Bissau and Liberia come from othersources, respectively : IMF (2022), IMF Country Report No.22/246, <http://www.imf.org/-/media/Files/Publications/CR/2022/English/1BENEA2022003.ashx> ; ATI (2020), 'Tax systems' at a glance: Recent progress and reforms in the Gambia, www.addistaxinitiative.net/sites/default/files/drm-profile-documents/The%20Gambia_0.pdf ; World Bank (n.d.), World Bank Open Data, <https://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS?locations=GW> ; ATI (2020), 'Tax systems' at a glance: Recent progress and reforms in Liberia, www.taxcompact.net/sites/default/files/drm-profile-documents/Liberia_0.pdf.
13. A World Bank report of February 2023 according to which the exchange of information could increase tax revenues by 5 to 19% I.M. Traore, S. Coulibaly, and Y. Arvanitis (2023), *Cross-Border Exchange of Information and Tax Revenue Mobilization in Africa*, Policy Working Paper 10299, <https://doi.org/10.1596/1813-9450-10299>.
14. Platform for Collaboration on Tax (2017), Toolkit for addressing difficulties in accessing comparables data for transfer pricing analyses. <https://www.tax-platform.org/sites/pct/files/publications/116573-REVISED-PUBLIC-toolkit-on-comparability-and-mineral-pricing.pdf>
15. The Platform for Collaboration on Tax (PCT) is a joint initiative of the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD), the United Nations (UN), and the World Bank Group (WBG) to strengthen collaboration on domestic resource mobilisation.
16. Knowledge Sharing Platform for Tax Administrations, <https://ksp-ta.org/>
17. www.oecd.org/tax/transparency/documents/key-publications-and-documents.htm.
18. www.tax-platform.org/publications.
19. www.oecd.org/tax/beps/outcome-statement-on-the-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2023.pdf



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