

IFC's OHADA Investment Climate Program (2007-2017)

An Impact Assessment of OHADA Reforms

Uniform Acts on Commercial, Company, Secured Transactions, and Insolvency



OHADA reforms as reflected by the Doing Business Report (2012-2017)



MINISTÈRE DE L'ÉCONOMIE
ET DES FINANCES



Creating Markets, Creating Opportunities

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An Impact Assessment of OHADA Reforms

Uniform Acts on Commercial, Company, Secured Transactions, and Insolvency

AN INDEPENDENT EVALUATION BY ECOPA AND ECONOMISTI ASSOCIATI

December 2018

**BENIN BURKINA FASO CAMEROON CENTRAL AFRICAN REPUBLIC
CHAD COMOROS CÔTE D'IVOIRE DEMOCRATIC REPUBLIC OF CONGO
EQUATORIAL GUINEA GABON GUINEA GUINEA-BISSAU MALI NIGER
REPUBLIC OF CONGO GABON SENEGAL TOGO**



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FOREWORD

The Organisation for the Harmonization of Business Law in Africa (OHADA) and International Finance Corporation (IFC) have always aspired to create a better environment for businesses to thrive. Working together, we have demonstrated how regional economic integration can help create markets, and how modernized, uniform legal and regulatory frameworks make it easier for businesses to flourish in OHADA member states.

This report is a significant milestone for our institutions, as it is the first time that a rigorous evaluation has been carried out to measure the impact of OHADA's initiative. IFC is proud to be a part of this important exercise alongside OHADA and member states. Assessing impact is a key part of IFC's strategy, and this independent evaluation makes a clear case for IFC's role in helping our partners create the right conditions for the private sector to have development impact.

Looking at four OHADA Uniform Act reforms, this report finds that they have had significant success in improving access to finance, business registration, and cost savings – all important hurdles that need to be overcome for a country to improve its business environment and investment climate. Most notably, the OHADA Uniform Act on Secured Transactions led to \$3.82 billion domestic credit to the private sector in seven member states between 2011 and 2015. The impact of the reform is especially encouraging in the context of conflict-affected countries, where mobilizing private resources is hugely difficult: In Central African Republic, OHADA reforms led to an increase in \$33 million in domestic credit to the private sector. This number is much higher in Mali, at \$607 million, even though the country's economy is still recovering from unrest in 2012.

While the results of this impact evaluation show that access to finance has mostly increased for larger companies, it is the small-scale business sector – the lifeblood of African economies – that has benefitted the most from improvements in business registration and cost savings. Concretely, this means that more entrepreneurs and small businesses in OHADA's 17 member states can afford to enter the formal sector, increasing their potential to grow and create jobs.

This evaluation draws some very useful lessons that will help the OHADA Permanent Secretariat and member states design the right policy interventions to create markets and boost private sector-lead growth. As OHADA is reaching its 25th anniversary, it is an opportune moment to reflect on this organization's remarkable accomplishments, and to highlight the longstanding partnership between OHADA and IFC. Moving forward, both institutions are committed to continuing this partnership, working together to strengthen coordination between national and regional entities, and creating markets in the OHADA region.



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Permanent Secretary
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The views expressed in this report are those of the authors as independent evaluators and should not be attributed to the Bank Group.

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ABBREVIATIONS

AFD	French Development Agency
APIP	Agency for the Promotion of Private Investment
APME	Small and Medium Enterprise Promotion Agency
APPECAM	Association of Professional Credit Institutions of Cameroon
AUDCG	Uniform Act on General Commercial Law
AUPCAP	Uniform Act on Insolvency
AUS	Uniform Act on Secured Transactions
AUSGIE	Uniform Act on Company Law
BCEAO	Central Bank of West African States
BEAC	Bank of Central African States
BCS	Business Cost Savings
CBF	Cameroon Business Forum
CCJA	Common Court of Justice and Arbitration
CEFORE	Center for the Formalities of Enterprises
CEPICI	Investment Promotion Center in Côte d'Ivoire
CFCE	Center of Enterprise Creation Formalities
CFE	Centre for the Formalization of Enterprises
CGA	Authorized Management Center
CNO	OHADA National Commission
CNUCED	United Nations Conference on Trade and Development
DB	Doing Business
DFID	Department for International Development
DTF	Distance to Frontier
EAC	East African Community
ERSUMA	Higher Regional School of Magistracy
EU	European Union
FIAS	Facility for Investment Climate Advisory Services
GDP	Gross Domestic Product
GFD	Global Financial Development
GICAM	Inter Patronal Groupings of Cameroon
GIE	Economic Interest Group
GNI	Gross National Income
GUFE	One-Stop Shop for Enterprise Formalization
IC	Investment Climate
IEG	Independent Evaluation Group
IFC	International Finance Corporation
IMF	International Monetary Fund
ISIC	International Standard Industrial Classification
IT	Information Technology
MDE	House of the Enterprise
OHADA	Organisation for the Harmonization of Business Law in Africa
PACI	Project for Improved Investment Climate within the OHADA
PARE/PME	Project for the Strengthening and Governance of Enterprises
PE	Private Equity
RCCM	Trade and Personal Property Credit Registry
RMSPE	Root Mean Square Prediction Error
SA	Stock Corporation
SARL	Limited Liability Company
SAS	Simplified Stock Corporation
SCM	Synthetic Control Method
SIGU	Integrated System of One-Stop Shops
SME	Small and Medium Enterprise
UA	Uniform Act
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
WDI	World Development Indicators

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EXECUTIVE SUMMARY

Established in 1993, the Organisation for the Harmonization of Business Law in Africa (OHADA) devises innovative, ambitious initiatives for francophone Africa, supplying uniform legal and regulatory frameworks encompassing accounting standards, arbitration, commercial law, collaterals, company law, and insolvency law.

This impact evaluation covers four OHADA reforms implemented with the support of the World Bank Group. Each reform is embodied in separate legislation:

1. The Uniform Act (UA) on General Commercial Law (2010) introduced the entrepreneur status, a simplified legal regime for microenterprises. The UA also formalized an OHADA-wide effort to computerize the Trade and Personal Property Credit Registry (RCCM).
2. The UA on Secured Transactions (2010) broadened the range of assets that can be used as collaterals and introduced out-of-court, autonomous collateral realization.
3. The UA on Company Law (2014) introduced a new legal form for businesses: the simplified stock corporation (SAS) and simplified registration of the limited liability company (SARL).
4. The UA on Insolvency (2015) simplified and safeguarded liquidation procedures, facilitating recovery after business discontinuation.

Methodology

This evaluation uses the synthetic control method (SCM) to estimate counterfactual outcomes (country-specific outcomes that would have been observed without the program). Program effects are estimated by measuring the difference between the outcomes that were observed, and these counterfactual outcomes. It also relies on three detailed case studies completed in Cameroon, Côte d'Ivoire, and Niger. These case studies involve more than 150 interviews with stakeholders from government, the business community, the financial sector, and the legal profession. Outcome and impact data have been collected in six additional countries: Burkina Faso, Democratic Republic of Congo, Gabon, Mali, Republic of Congo, and Senegal.

Findings

Impact on Access to Finance, Business Registration, and Business Cost Savings

This evaluation's principal finding is that the OHADA initiative had significant beneficial impact on access to finance, business registration, and business cost savings. The evidence shows impacts on access to finance, transmitted through sophisticated collateral mechanisms, concentrated on large businesses (including infrastructure projects). Similarly, equity funding has mostly benefited large or technologically-intensive businesses. Small businesses in traditional sectors – the typical clients of microcredit associations – have not benefited as much from the new collateral instruments, and even less so from equity funding. On the other hand, impacts on business registration and cost savings have largely benefited SARLs with low capital (i.e., mostly small businesses).

Access to Finance

SCM analysis enables rigorous estimates of the UA's impact on domestic credit in 10 member countries. Between 2011 and 2015, the UA led to additional private sector domestic credit of \$1.1 billion in Senegal, \$894 million in Burkina Faso, \$729 million in Togo, \$607 million in Mali, \$417 million in Cameroon, \$33 million in Central African Republic, and \$30 million in Comoros. Results were inconclusive for Benin, Côte d'Ivoire, and Gabon.

This finding is consistent with narratives and qualitative evidence collected through case studies, which show routine use of the UA's new collateral mechanisms, particularly autonomous collaterals and collateral syndication. Further, case studies in Cameroon and Côte d'Ivoire indicate that the UA on Company Law has provided timely support for private equity (PE) funding by providing equity funds with modern financial instruments. Specifically, the introduction of the convertible bond was a major contribution, largely adopted by funds in these two countries.

Business Registration

The UAs' effects on business registration can also be seen, although the SCM could not be fully implemented for lack of post-intervention data. In countries where data are available (Cameroon, Guinea, Guinea-Bissau, Côte d'Ivoire, Mali, and Senegal), the UA on Company Law was followed by a surge in the number of SARLs, with a sharp increase after 2014 – when capital requirements for SARLs were lowered and the use of notaries was made optional – and some initial reaction in SAS registration. In Senegal, which has quality data and a long-time series of available data, an increase of 700 additional SARL registrations per year is observable over the available span, an increment of about 30 percent. Similarly, in Niger, the OHADA reforms can be credited with some 400 additional SARL registrations per year. Overall, business registration (of all legal forms) has increased markedly in the 15 countries with available data, except Chad.

However, registrations may not have led to new business activity, and some newly established firms are likely to have gone out of business soon after incorporation. This possibility is regarded as all the more concrete under the assumption that minimum capital adequately protects creditors and constitutes “the price to be paid” for limited liability.

Overall, these findings show impact and are consistent with evidence that simplified key business registration procedures were effectively implemented and put into practice across the region, including: (i) lower capital requirements for SARLs; (ii) elimination of notarial deeds for articles of association, payment of share capital, and SARLs; and (iii) (temporary) substitution of a simple sworn statement for submission of criminal records at the time of registration.

Business Cost Savings

The UA on Company Law generated business cost savings (BCS) in the six countries where the reform was implemented (2014). These BCS range from 0.01 percent (Guinea) to 0.05 percent (Burkina Faso) of gross capital formation, and are cumulatively worth \$ 7.8 million. In addition, although the reform's full impact would typically be assessed over a four-year period, estimated BCS grew between 2015 and 2016 and started to materialize over a period of only two and a half years.

Limited Impact in Areas Outside the OHADA Core Competencies

Entrepreneur status has had little or no impact in the form of actual use or implementation in the nine countries evaluators visited. Additionally, a recent evaluation in Benin – the only country where significant entrepreneur implementation is reported – indicates that the cost-benefit adequacy of the reform is not demonstrated (Benhassine et al. 2016). In all three case studies, entrepreneur legal prerequisites – including tax-related and other national legislation – were only recently adopted (2016 and 2017), and the private sector perceives the regime as duplicating existing mechanisms for microenterprises while more generally lacking appeal and clarity. Côte d'Ivoire and Niger, for example, already have simplified tax regimes for small enterprises, with the same turnover threshold as entrepreneur.

Similar difficulties have affected RCCM computerization envisaged under the UA on General Commercial Law. Nationally developed software platforms in Côte d'Ivoire and Senegal compete with the OHADA-sponsored software platform and collateral registries emerging as RCCM alternatives. For example, in Cameroon, the central bank is developing a registry for collaterals with national-level World Bank Group support. RCCM computerization has experienced significant delays in most OHADA member states. However, this has not prevented significant impact on access to finance as the latter is transited through immovable collaterals, while RCCMs cover movable collaterals. Finally, regarding the UA on Insolvency – the most recent among the four UAs under review – the reform's legal effectiveness has been verified. With that said, the three case studies revealed no significant evidence of its key expected impact – access to finance – as lenders lack clear and efficient procedures to address insolvency. Some uses of the new mechanisms, including simplified insolvency resolution for small and medium enterprises (SMEs) in Côte d'Ivoire, were reported. However, informants stress that it is too early to reliably measure impact. Also, private sector stakeholders see this aspect of the business environment as less critical than others, such as collaterals or company law. Still, financial sector informants stress this reform as important for expediting and rationalizing insolvency resolution, indicating again that it is simply too soon to reliably assess this UA.

Lessons on What Helped or Hindered Impact

Need for Focus

First and foremost, OHADA's history, resources, and association make it an organization for lawyers specializing in business law. For example: OHADA National Commissions (CNOs) are hosted by ministries of justice; key staff at the OHADA Permanent Secretariat are senior judges and lawyers; and the design and drafting of each UA has benefited from participation by the best business lawyers in francophone Africa and France. Where OHADA has focused on its core mandate – business law – it has generated demonstrable impact.

Need for National-Regional Coordination

CNOs have provided adequate conduits for national stakeholder consultations, but not for regional-national coordination:

- The new collateral instruments in the UA on Secured Transactions are not reflected in the prudential rules applicable to West Africa's banking sector. This generates disincentives for banks to use the new collateral mechanisms; in other words, impact on access to finance could be even higher than levels already observed. A supranational coordination mechanism between OHADA and the regional central banks that aligns prudential rules with OHADA's collateral innovations could enhance impact on access to finance.
- Coordination between World Bank Group support at the national level in each of the 17 OHADA member states and its assistance at the regional OHADA level has not been entirely successful. For example, in some instances, national World Bank Group programs support national RCCM information technology (IT) solutions while the OHADA Permanent Secretariat, with World Bank Group assistance, promotes a pan-OHADA solution.

Need for Monitoring

OHADA does not systematically monitor implementation, outcomes, and impact. This makes it difficult to compare impact performance across UAs, limiting available information for decision makers attempting to steer the OHADA process to greater impact on the business environment. Admittedly, the data challenge for an

effective OHADA monitoring system is acute, and it cannot be addressed by the OHADA Permanent Secretariat alone. Upgrading national-level primary data sources is a necessary first step, especially regarding statistics in the financial (collaterals) and judiciary (insolvency resolution) sectors.

Recommendations

The following recommendations derive from the lessons drawn above, covering both OHADA strategy and World Bank Group assistance.

Support a Focused OHADA

The first and most important recommendation is to continue supporting the OHADA initiative:

- **Support Existing Focused UAs:** Information, legal profession training, and the judiciary are critical for the long-term impact of the UA on Insolvency and the UA on Secured Transactions.
- **Support Other Focused UAs:** The need for focus applies both to UAs under revision and to new UAs. For example, the UA on Arbitration, now undergoing revision, clearly fits within the business law focus. For such focused UAs, continued support related to consultation, technical assistance, and drafting is recommended.

Conversely, resources should be reviewed and reduced for programs that do not produce the intended effects:

- **Limit Entrepreneur Efforts at the OHADA Level:** Support for entrepreneur and similar regimes at the regional OHADA level could be limited to sharing national experiences in formalization and small business taxation among member states.
- **Review OHADA-level RCCM Computerization Efforts:** Review of RCCM computerization at the regional OHADA level is recommended to: (i) assess coordination between the regional OHADA level and the national levels, including coordination issues in World Bank Group assistance; (ii) audit the adequacy of the OHADA-level software with respect to national-level needs; and (iii) assess the OHADA Permanent Secretariat's capacity and needs to successfully deploy the OHADA-level software.

Improve National-Regional Coordination

Coordination efforts are recommended, including:

- The World Bank Group should strengthen coordination between its national support programs and its support for OHADA.
- OHADA should develop systematic coordination with regional central banks, focusing on one important agenda item: ensuring the banks' prudential rules are consistent with the UA on Secured Transactions. In addition, representatives from the equity funding industry should be included in CNOs.

Establish Monitoring Efforts

OHADA should develop systematic monitoring of implementation, outcomes, and impact, including:

- **Qualitative Scorecards:** Based on standard templates and providing at-a-glance status updates, qualitative scorecards should systematically track UA implementation. The objective would be to identify bottlenecks and risks affecting prerequisites through implementation.
- **Standardized Data-led Outcome and Impact Indicators:** Standardized, data-led outcome and impact indicators should be compiled regularly as part of successful monitoring.

Recommendation Matrix

Conclusions	Recommendations
1. Need to Focus on Business Law	<ul style="list-style-type: none"> • Reinforce support for information and training – on the UA on Secured Transactions, the UA on Company Law, and the UA on Insolvency – for the judiciary and the legal professions at large. • Limit entrepreneur information sharing effort among member states. • Review the OHADA-level RCCM computerization effort. • Support other UAs focused on business law.
2. Need for Stronger National-Regional Coordination	<ul style="list-style-type: none"> • Review the consistency of support for OHADA and for national member state programs. • Support institutional mechanisms for supranational coordination between OHADA and the region's central banks (Central Bank of West African States and Bank of Central African States). • Include equity fund representatives in CNOs.
3. Need to Improve Monitoring Processes	<ul style="list-style-type: none"> • Provide scorecards to monitor UA implementation. • Use data-led indicators to monitor outcomes and impact.

A. INTRODUCTION

Established in 1993, the Organisation for the Harmonization of Business Law in Africa devises innovative, ambitious initiatives for francophone Africa, supplying uniform legal and regulatory frameworks that encompass accounting standards, arbitration, commercial law, collaterals, company law, and insolvency law. By unifying these essential components of the business climate across its 17 member states, OHADA fosters economies of scale and contributes to economic integration by supporting the region's reform efforts.

This evaluation covers four OHADA reforms implemented with the support of an International Finance Corporation (IFC) Advisory Services Program under the Finance, Competitiveness, and Innovation Global Practice, each embodied in an individual piece of legislation:

- The UA on General Commercial Law (2010)¹ introduced the entrepreneur status – a simplified legal regime for microenterprises – and formalized the OHADA-wide effort to computerize the Trade and Personal Property Credit Registry (RCCM). RCCMs for companies and movable collaterals form part of the OHADA legal system and exists in all 17 member states.
- The UA on Secured Transactions (2010)² broadened the range of assets that can be used as collaterals and introduced out-of-court, autonomous collateral realization.
- The UA on Company Law (2014)³ introduced a new legal form for businesses – the SAS and simplified the creation of the SARL.
- The UA on Insolvency (2015)⁴ simplified and safeguarded liquidation procedures, facilitating recovery after business discontinuation.

Two IFC technical assistance projects supported the design and implementation of these four UAs: (i) Project OHADA Reform (2007 to 2011, ID 553006); and (ii) Project OHADA UA 2 (2012 to 2017, ID 592087), an extension of Project OHADA Reform focused on the same four UAs. The IFC's OHADA Investment Climate (IC) Program worked closely with the World Bank's Project for Improved Investment Climate within the OHADA (PACI⁵, 2012 to 2018), which also assisted the OHADA institutions.

The OHADA IC program was an important element of IFC's Investment Climate Advisory Services, designed and implemented with the support of the Facility for Investment Climate Advisory Services (FIAS), a multi-donor partnership. With FIAS support, the World Bank Group analyzed investment climate challenges facing countries, and implemented advisory programs to ameliorate legal and administrative obstacles to the investment climate. The OHADA program drew on the knowledge and implementation experience of this FIAS-supported team in guiding the program.

This evaluation was conducted with the following objectives:

- Assess the impact of OHADA reforms supported by IFC's Investment Climate Program (2007 to 2017);
- Extract lessons, particularly related to the program design, delivery, stakeholder engagement and communication;
- Assess the implementation gaps and the sustainability of OHADA reforms supported by the program.

The four UAs translated into 79 DB reforms across the OHADA region from 2012 to 2017. Figure 1 illustrates the geographic coverage of the four UAs, showing improvements as acknowledged by the World Bank Group's *Doing Business* (DB) 2012–2017 reports.

1. Acte Uniforme portant sur le Droit Commercial Général (AUDCG). [Uniform Act on General Commercial Law]

2. Acte Uniforme révisé portant Organisation des Sûretés (AUS). [Uniform Act on Secured Transactions]

3. Acte Uniforme révisé relatif au Droit des Sociétés Commerciales et du Groupement d'Intérêt Economique (AUSGIE). [Uniform Act on Company Law]

4. Acte Uniforme portant Organisation des Procédures Collectives d'Apurement du Passif (AUPCAP). [Uniform Act on Insolvency]

5. See <http://projects.worldbank.org/P126663/improved-investment-climate-within-organization-harmonization-business-law-africa-ohada>.

Figure 1: DB Reforms in the Four UAs, by Country (2012-2017)

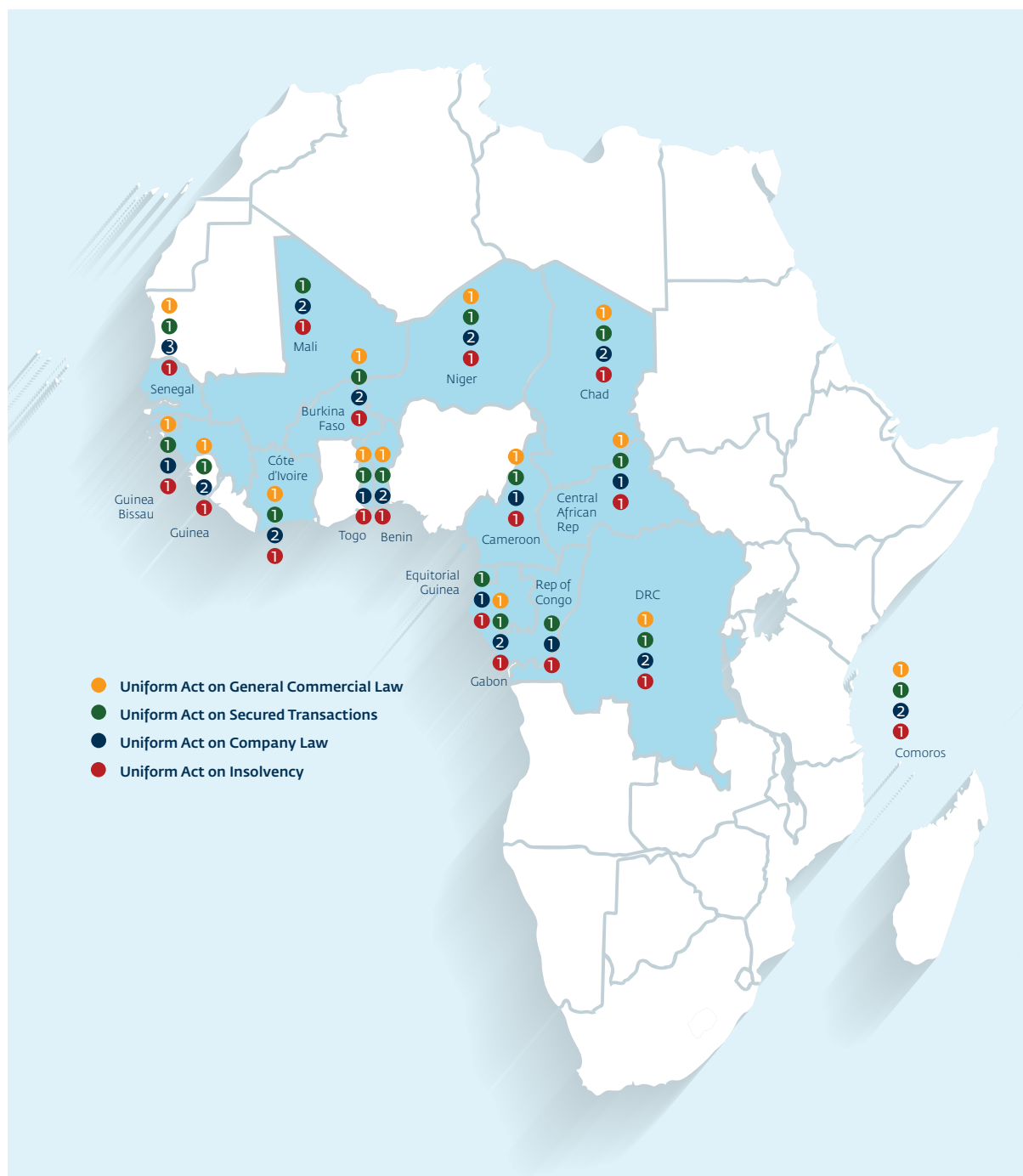
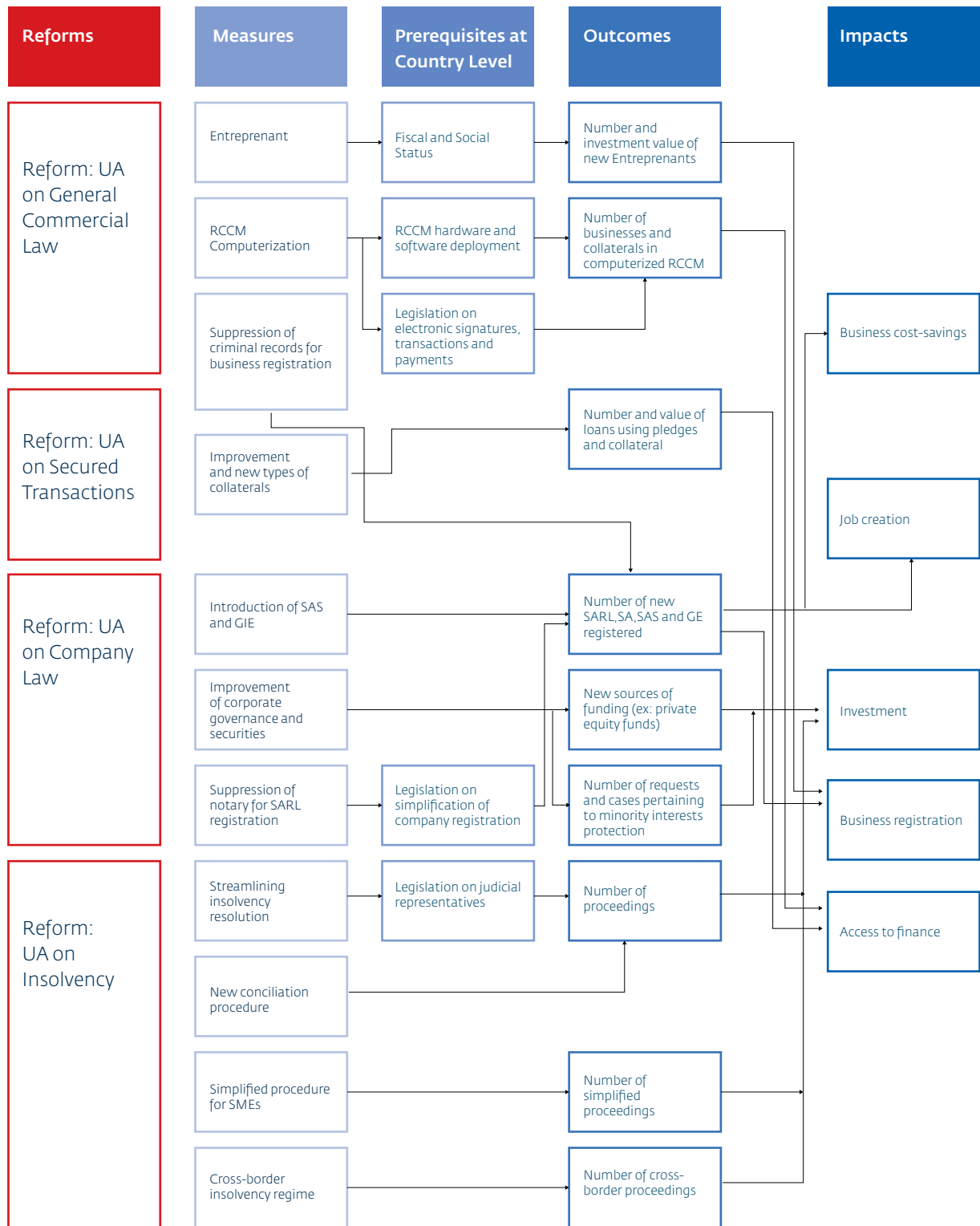


Figure 2 provides a logframe linking activities and measures, prerequisites, and expected outcomes and impacts for each UA. Reference to the logframe will be made throughout this report.

Following this introduction (Section A), the report is organized into five sections. Section B presents the evaluation's methodology. Section C reviews reform implementation. Section D covers the reforms' impact on access to finance, business registration, and business cost savings. This section also addresses the impact of the UA on Insolvency, and the broad impact of all four UAs on market creation. Section E presents the key lessons derived from the evaluation, and Section F summarizes the findings, offering recommendations for future work.

Figure 2: Logframe of Prerequisites, Outcomes, and Impacts



B. METHODOLOGY

This evaluation blends three types of analysis and corresponding data sources: (i) the synthetic control method; (ii) business cost savings analysis; and (iii) country-level analysis, including case studies and additional outcome and impact data collection.

THE SYNTHETIC CONTROL METHOD

For this evaluation, the classic statistical impact evaluation methods originally designed for randomized control trials were not suitable because the relevant assumptions were untenable: OHADA member states were not randomly chosen from a large set of eligible countries. The correct methodological choice for this context, given data availability and the plausibility of the required statistical assumptions, was the SCM, first introduced by Abadie and Gardeazabal in 2003 and recently described as “the most important innovation in the evaluation literature in the last 15 years” (Athey and Imbens 2016).

The SCM creates synthetic control units that estimate the country-level outcomes that would have occurred in the absence of the program (i.e., the counterfactual outcomes). Synthetic control units are constructed via a weighted average of comparable non-program countries, such that the synthetic control units resemble the program countries with respect to important pre-program characteristics. Because the comparable non-program countries contribute (donate) information to the synthetic control unit, the non-program countries are collectively called the ‘donor pool.’ SCM program impacts are calculated, on a country-by-country basis, by measuring the differences between observed outcomes and the synthetic control counterfactual outcomes.

Synthetic Control Units

The SCM is well-suited for estimating reform impact in a subnational region or a country, taking other subnational regions or countries as comparators to build a synthetic control. However, for this evaluation, using the entire OHADA zone as the treatment unit was not feasible simply because not enough comparable regional blocks were available to comprise a control group.

Individual OHADA member states are therefore used as treatment units, and control countries outside the OHADA zone are used to build synthetic control units. This has the added benefit of providing differential impacts by OHADA country, allowing comparisons of individual impacts by country.

Which Uniform Acts?

The UA on Secured Transactions came into force in 2011, providing about five or six years of post-intervention data. In addition, this UA has no prerequisites (see logframe, Figure 2), making it immediately effective upon coming into force. In particular, RCCM computerization is not a prerequisite for this UA, as the RCCMs currently run manually. The three case studies (Cameroon, Côte d’Ivoire, and Niger) further confirmed that the UA’s new collateral mechanisms are being effectively used by the financial sector, as the rest of this report shows. This UA was retained for the SCM analysis, with access to finance as the assessed impact.

The UA on General Commercial Law also came into force in 2011, but unlike the UA on Secured Transactions, it has prerequisites for effective implementation (see Figure 2). As detailed below, these prerequisites were not met in most countries; entrepreneur and RCCM computerization have not been implemented in most OHADA member states. For these reasons, SCM analysis cannot be performed on this UA.

The other two reforms, the UA on Company Law and the UA on Insolvency, came into force, respectively, in 2014 and 2015. With only one post-intervention data point (2015), these UAs are too recent to perform a full SCM analysis. See a detailed SCM methodology in Appendix 1.

Data Sources

The data for the SCM originates came from two sources:

- World Development Indicators (WDI), compiled by the World Bank and international partners, provide the most current and accurate global development data available. The WDI includes national, regional, and global estimates.
- The Global Financial Development (GFD) database, also from the Bank Group, is an extensive dataset of financial system characteristics in 206 economies. It includes measures of: (i) size of financial institutions and markets (financial depth); (ii) degree to which people can and do use financial services (access); (iii) efficiency of financial intermediaries and markets in intermediating resources and facilitating financial transactions (efficiency); and (iv) stability of financial institutions and markets (stability).

BUSINESS COST SAVINGS

Savings to businesses were among the anticipated benefits that would encourage participation following adoption of OHADA's UAs. BCS are defined as savings accruing to private economic agents as a result of IC reforms. In principle, BCS can arise from three sources:

- *Reduced out-of-pocket expenses* associated with: (i) the elimination or reduction of direct costs associated with a given procedure (for example, stamp duties and printing costs); and (ii) the elimination or reduction of services required for certain processes (such as eliminating the requirement for a notary deed to authenticate articles of association).
- *Time savings or savings in the opportunity cost of time* accrued by private operators from time formerly spent to deal with abolished or simplified procedures.
- Reduced financial burden shouldered by private operators resulting from changes in the payment modalities for certain fees or taxes, referred to as *financial savings*.

The detailed BCS methodology is outlined in Appendix 2.

COUNTRY-LEVEL ANALYSIS

Case Studies

Three nations – Cameroon, a large economy in Central Africa; Côte d'Ivoire, a large economy in West Africa; and Niger, a small and conflict-affected economy in West Africa – were selected for detailed case studies Appendix 3. In each country, about 50 interviews were conducted with key informants in government, the financial sector, the business community, and the legal profession, and focus groups were held with businesses and microfinance

associations (see Appendix 5). Questionnaires and tables used for the case studies are included in Appendix 4. The principal objective of the case studies was to supplement the quantitative analyses (the SCM and BCS) with a qualitative approach to garnering perceptions and examining business cases, as well as collecting data on selection outcome indicators.

Data Collection

Additional data for this OHADA evaluation were procured through visits to six countries – Burkina Faso, Democratic Republic of Congo, Gabon, Mali, Republic of Congo, and Senegal – where researchers collected data on outcome indicators and verified specific points regarding UA implementation.

C. IMPLEMENTATION

This section reviews the key features, prerequisites, and implementation status of reforms introduced by each of the four OHADA UAs under review in this report.

REFORM: UNIFORM ACT ON GENERAL COMMERCIAL LAW

Key Features

The revised Uniform Act on General Commercial Law was adopted December 15, 2010, and officially came into force on May 15, 2011. It includes three major innovations to promote enterprise formalization:

Feature 1: The legal status of entrepreneur was introduced. This simplified regime offered to small businesses was largely inspired by the auto-entrepreneur regime in French law.

Feature 2: Provisions were included to computerize the three-tiered commercial and movable collateral register, or the RCCM. The three RCCM levels include: (i) a local commercial register at each commercial court; (ii) at the national level, centralization; and (iii) at the OHADA regional level, centralization of the 17 national RCCMs at the Common Court of Justice and Arbitration. The objective of RCCM computerization is to enhance access to information on registered companies, including movable collaterals and indebtedness.

Feature 3: Company formation was simplified, particularly by the substitution of a sworn declaration in place of the previously required submission of the founders' criminal record. The extract of criminal records is now required within 75 days of registration.

UA on General Commercial Law Feature 1: Entrepreneur

Prerequisites

Each OHADA member state⁶ is invited to adopt specific legislation to make the entrepreneur regime effective, including definitions of turnover thresholds. The attractiveness of the new regime – as compared with existing microenterprise regimes and as suggested by the French experience – depends on accompanying measures at the national level: chiefly fiscal matters, but also social security.⁷ The prerequisites to impact from the entrepreneur regime are thus transversal, depending on the collaborative efforts of tax authorities, social security funds, and, possibly, the banking sector.

Implementation Status

Entrepreneur regime implementation has been very slow. In December 2011, Mali became the first country to

⁶ Art. 30: "chaque Etat partie fixe les mesures incitatives pour l'activité de l'entrepreneur notamment en matière d'imposition fiscale et d'assujettissement aux charges sociales." [Each member state shall set incentives for the activity of the entrepreneur, particularly with regard to taxation and social security contributions.]

⁷ The French auto-entrepreneur status, which inspired the entrepreneur, has some key advantages on these two dimensions, including the simplified calculation and payment of charges and social contributions, light bookkeeping requirements, and, critically, access to the strong French social security system, including unemployment insurance and the pension system.

introduce legal dispositions regarding entrepreneur status,⁸ followed by Cameroon, which adopted relevant legislation in 2012 and 2015.⁹ Neither Mali nor Cameroon, however, adopted a full package of fiscal and social incentives targeting entrepreneurs. Benin, with dedicated World Bank Group support, introduced a pilot package in 2014, followed by a full-scale launch in 2015. In 2017, Côte d'Ivoire adopted provisions for establishing the regime's legal existence.¹⁰ Chad, Democratic Republic of Congo, and Niger plan to implement entrepreneur regimes, in some cases with support from the donor community (Box 1).

Box 1: Selected Current Initiatives to Implement the Entrepreneur Regime

In Chad, implementation of entrepreneur and its accompanying measures is one objective envisaged in the National Priority Action Plan,¹¹ following the second Diagnostic Trade Integration Study for the 2016 to 2020 period.

In Democratic Republic of Congo, a large Department for International Development (DFID) Private Sector Development program – launched in 2012 – includes a component specifically aimed at enhancing the country's role in the OHADA community and embedding OHADA law in the national legal framework. Since 2016, activities to scale up promotion of the entrepreneur regime have been included under this component.*

In Niger, an interministerial committee to support entrepreneur implementation was recently established by ministerial order. In parallel and inspired by experience in Benin, the World Bank, the Authorized Management Center of Niamey, and the House of the Enterprise (MDE) jointly developed an action plan, which is currently under review by the government. A national World Bank-funded project, the Competitiveness and Economic Growth Support Project, is expected to support the execution of this plan.

* DFID (2016).

UA on General Commercial Law Feature 2: RCCM

Prerequisites

RCCM computerization is a complex project in each OHADA member state and at the regional level. Prerequisites to impact include:

- National legislation on electronic transactions, payments, and signatures, needed for the RCCM's online component.
- Capacities to develop uniform, technical norms and protocols for the exchange of data.
- Sustained IT development in terms of Internet penetration rate and hardware and software availability.
- Coordination at both the national level (between the ministry of SME and the ministry of justice) and the regional level (to ensure cross-country systems compatibility).

Implementation Status

Six years after inception, and despite the broad, and at times, uncoordinated, support extended by a variety of donors – including, among others, United Nations Development Programme in Niger; the European Commission

8 Intégration des démarches de déclaration d'activités d'entrepreneur au Guichet Unique pour la création d'entreprise de l'API-Mali, 22 décembre 2011. [Integration of the procedures of declaration of activity of the entrepreneur at the one-stop shop for enterprise registration at API-Mali, December 22, 2011.]

9 See (i) Circulaire interministérielle du 30 mai 2012 relative à la procédure devant les centres de formalités de création d'entreprises, (ii) Instruction administrative du 25 mai 2012 établissant la procédure à suivre, (iii) Loi n°2015/018/ du 21 décembre 2015 régissant l'activité commerciale au Cameroun. [(i) Interministerial Circular of May 30, 2012 on the creation of enterprises procedure in the centers of formalization (ii) Administrative instruction of May 25, 2012 establishing the procedure to be followed, (iii) Law n° 2015/018 / of 21 December, 2015 governing commercial activity in Cameroon.]

10 Décret portant modalités d'acquisition et de perte du statut de l'entrepreneur, adopté en Conseil des Ministres du 21 juin 2017. [Decree on the terms of acquisition and loss of the status of the entrepreneur, adopted by the Council of Ministers on 21 June, 2017.]

11 République du Tchad: Présidence De La République, Primature, et Ministère de l'Economie, du Commerce et du Développement Touristique, Plan d'Actions Prioritaires 2016–2020 de la 2ème Etude Diagnostique sur l'Intégration du Commerce au Tchad.

in Cameroon, Congo, and Niger; DFID in Democratic Republic of Congo; and French Development Agency (AFD) in Cameroon – RCCM computerization has not yet been achieved, with most RCCMs in the region still running manually and using paper-based systems.

Standardized OHADA-wide software to manage national registers and RCCM files was only recently developed as part of the World Bank-funded PACI. This software was delivered to OHADA in 2016.¹² With a pilot in 2017 and 2018, it will be deployed at the national level in Togo. The copy installed in Côte d'Ivoire at the Abidjan Commercial Court is not in effective use. Respectively in 2014 and 2015, Côte d'Ivoire and Senegal¹³ computerized their RCCMs, but by developing their own software packages. National RCCMs in Benin, Chad, and Republic of Congo use a back-office software tool with no online component called Alinea 4, and the other 11 countries exclusively use paper-based systems.

UA on General Commercial Law Feature 3: Simplified Company Formation

Prerequisites

The substitution of company founders' sworn declarations in place of criminal records copies represents a purely legal reform involving no prerequisites other than the time needed for national administrations to adjust procedures to the modified requirement.

Implementation Status

According to primary and secondary sources, as of June 2017, this measure has been introduced in all OHADA member states. This is confirmed by the *Doing Business* 2012 report.

REFORM: UNIFORM ACT ON SECURED TRANSACTIONS

Key Features

The revised Uniform Act on Secured Transactions was published in the OHADA Official Gazette on December 15, 2010, and came into force on May 16, 2011. Its key objective is to support access to credit by providing new collateral mechanisms. Key improvements include:

Feature 1: The legal regime applicable to existing types of collateral was improved. Important examples include: (i) physical dispossession is no longer required for pledges on tangible movable assets; (ii) obligations were removed to deliver title to pledged receivables to the secured creditors and to a bailiff's notification of the pledged debtor about the pledge; and (iii) registration of pledges with the tax authorities is no longer required – they can now be legally perfected against third parties by filing at the appropriate RCCM through inscription.

Feature 2: New types of collaterals were created, including: (i) collaterals on future assets; (ii) collaterals on land in the public domain; (iii) cash collaterals held in escrow accounts; (iv) collaterals on receivables; and (v) collaterals on intellectual property rights.

Feature 3: New methods of realization of autonomous collaterals were introduced, based on the first-demand principle, including judicial attribution (Art. 198) and the forfeiting clause (Art. 199). Marking a major innovation, the forfeiting clause allows the secured creditor, in the event of a payment default, to self-appropriate

¹² Reported at the 41st Session of the Council of Ministers of OHADA held in Brazzaville in June 2016. Republic of Chad: Presidency of the Republic, Primature, and Ministry of Economy, Trade and Tourism Development, Priority Action Plan 2016-2020 of the 2nd Diagnostic Study on Trade Integration in Chad.]

¹³ See <http://seninfogreffe.com/>.

the pledged or mortgaged asset.

Feature 4: The security agent was introduced. This agent – which must be a domestic or foreign credit institution – may constitute, register, manage, and enforce collaterals on behalf of other creditors. Collaterals held by the security agent are segregated from the agent's own assets and cannot be seized by its creditors, even if the agent becomes insolvent. This new mechanism targets syndicated lending.

Prerequisites

No national legislation is necessary to make the provisions of this UA effective; by virtue of their supranational character, they are automatically applicable in all member states, as acknowledged by the *Doing Business* 2012 report. In practice, however:

- The effectiveness of first-demand, autonomous collateral instruments, such as the forfeiting clause, implies that the judiciary system consistently accepts them.
- Another factor affecting impact relates to new collateral types and mechanisms being integrated into the commercial banks' prudential rules regarding risky assets and capital requirements.

RCCM computerization is not a prerequisite for implementing this UA because collaterals in the OHADA region, even before the UA, had obtained full legal force under the following mechanisms:

- Under OHADA legislation, the RCCMs have been run on paper-based systems and have been used to file movable collaterals and grant legal force. For example, Cameroon has 120 RCCMs, one per local jurisdiction, each manually run (mostly paper-based), without consolidation at the national level. Each of these RCCMs, specifically those in Douala and Yaoundé, has filed movable collaterals and granted them legal force as per OHADA law.
- Immovable collaterals, which include mortgages, are managed outside the RCCMs, generally in mortgage-specific registries managed by the fiscal administration; in this case, RCCM computerization is not relevant.
- Fiscal administrations have added legal security to movable collaterals by registering them. As noted above, an innovation of this UA is that it grants full legal force to movable collaterals without registration with fiscal authorities. Filing with local RCCMs, regardless of computerization, is now sufficient.

Implementation Status

As key prerequisites are automatically satisfied, these new mechanisms have been effective in all OHADA member states since the UA came into force. Limitations include:

- The registration of pledges with tax authorities remains effective in most countries because taxation does not fall within OHADA's legal scope – OHADA cannot prevent tax authorities from collecting taxes on collateral registration. Republic of Congo is an exception; a recent national law¹⁴ abolished registration of movable pledges with the tax administration, although registration fees at the RCCM were doubled.
- The new collateral mechanisms have not been integrated into the prudential rules of the Central Bank of West African States (BCEAO).

¹⁴ Arrêté n° 3556 du 11 mai 2017 portant tarification des actes et des formalités de justice.

REFORM: UNIFORM ACT ON COMPANY LAW

Key Features

The revised Uniform Act on Company Law was published in the OHADA Official Gazette on February 4, 2014, and came into force on May 5, 2014. This UA introduced the following major legal improvements:

Feature 1: A new legal form of limited liability company, the SAS, was introduced to provide greater flexibility for contractual arrangements among shareholders. With this reform, shareholders may organize their governance as they see fit and tailor articles of association to their needs; no minimum share capital is required; shares have no minimum value; and share transfer restrictions are freely determined by the articles of association. Any commercial company formed prior to the UA's entry into force can be converted into a SAS. The SAS is well suited to joint ventures, consortia, minority interests, and similar entities, and hence is expected to foster (foreign) PE investments.

Feature 2: Corporate governance rules were modernized, facilitating corporation creation and operation – including the use of videoconferencing to attend board meetings, which helps protect minority investors – and reinforcing shareholder control over stock corporation (SA) management. For instance, the definition of related-party transactions was extended to cover transactions by or of interest to shareholders owning 10 percent.

Feature 3: New categories of securities for the SAS and SA were created, including hybrid securities, such as convertible bonds, bonds with shared warrants, bond warrants, and preferential shares covering a wide range of governance arrangements tailored to specific investments – for example, non-voting shares, shares with double voting rights, shares conferring special rights to dividends, and special information rights.

Feature 4: The company registration process for the SARL was further simplified. Key changes include:

- Member states can waive the requirement for articles of association to be established by a notarial deed.¹⁵
- Member states can remove the requirement that SARLs be established with minimum capital of 1 million West African CFA francs.¹⁶
- Member states can make optional notarial statements of subscription and payment of SARL share capital.¹⁷

Prerequisites

These changes are automatically effective, except for the simplification of SARL registration, because national legislation is necessary to change minimum capital requirements and the role of the notaries.

Implementation Status

As shown in Table 1, as of mid-2017, 13 OHADA member states had introduced national legislation reducing minimum registered capital for SARLs from 1 million West African CFA francs to 5,000 West African CFA francs per shareholder, that is, the minimum nominal value of shares. In Guinea, the amount is about 6,630 West African CFA francs (or 100,000 Guinean francs). Except for Mali and Senegal, national legislation in all countries has made the use of notary services optional.

15. Art. 10: "sauf dispositions nationales contraires, les statuts sont établis par acte notarié ou par tout acte offrant des garanties d'authenticité dans l'Etat du siège de la société déposé avec reconnaissance d'écritures et de signatures par toutes les parties au rang des minutes d'un notaire. Ils ne peuvent être modifiés qu'en la même forme." [Art. 10: "Unless otherwise provided by national law, the statutes shall be established by notarial deed or by any act offering guarantees of authenticity in the State of the registered office of the company deposited with acknowledgment of writing and signatures by all the parties at the level of minutes of a notary. They can only be changed in the same form."]

16. Art. 311: "sauf dispositions nationales contraires, le capital social doit être d'un million (1,000,000) de francs FCFA au moins. Il est divisé en parts sociales égales dont la valeur nominale ne peut être inférieure à cinq mille (5,000) francs FCFA." [Art. 311: "Unless otherwise provided by national law, the share capital must be at least one million (1,000,000) FCFA francs. It is divided into equal shares whose nominal value cannot be less than five thousand (5,000) FCFA francs."]

17. Art. 314: "sauf dispositions nationales contraires, la libération et le dépôt des fonds sont constatés par un notaire du ressort de siège social, au moyen d'une déclaration notariée de souscription et de versement." [Art. 314: "Unless otherwise provided by national law, the release and the deposit of the funds shall be certified by a notary of the registered office, by means of a notarial declaration of subscription and payment."]

Table 1: Simplification of SARL Creation

Country	Year	National Legislation	Minimum Paid-in Capital (in West African CFA francs)	Optional Use of Notary ¹⁸
Benin	2014	Décret N° 2014-220 du 26 mars 2014	Minimum is close to zero (specifically, 5,000 per shareholder; i.e., the minimum nominal value of shares)	✓
Burkina Faso	2014	Décret N° 2014-462/PRES/PM/MJ/MEF/MICA du 26 mai 2014	100,000	✓
Cameroon	2016	Loi n° 2016/014 du 14/12/2016	100,000	✓
	2017	Décret n° 2017/0877/PM du 28 février 2017 (detailing additional procedures if no notary is used)	See above	
Central African Republic	2017	Décret du 7 novembre 2017 sur les SARL	100,000	✓
Chad	2015	Décret N° 17 1792/PR/PM/MJDH/2015 du 24 Aout 2015	100,000	✓
Comoros		No SARL simplification legislation reported		
Côte d'Ivoire	2014	Ordonnance N°2014-161 du 02 Avril 2014	Minimum is close to zero (specifically, 5,000 per shareholder; i.e., the minimum nominal value of shares)	✓
Democratic Republic of Congo	2014	Arrêtés interministériel n°002/CAB/MIN/JGS&DH/014 et n°243/CAB/MIN/FINANCES/2014 du 30 décembre 2014	Minimum is close to zero (specifically, 5,000 per shareholder; i.e., the minimum nominal value of shares)	✓
Equatorial Guinea		No SARL simplification legislation reported		
Gabon	2016	Loi n° 013/2016 du 5 September 2016	100,000 (100,000 Guinean francs)	✓ ¹⁹
Guinea	2014	Décret D/2014/124/PRG/SGG du 30 mai 2014	6,627	
Guinea-Bissau		No SARL simplification legislation reported		
Mali	2015	Loi n°2015 014 du 30 Mai 2015	5,000	No legal measure taken
Niger	2014	Décret n° 2014-503/PRN/MC/PSP/MJ du 31 juillet 2014 Modifié en 2017	100,000	✓
Republic of the Congo	2017	Décret n° 2017-41 du 28 mars 2017	Minimum is close to zero (specifically, 5,000 per shareholder; i.e., the minimum nominal value of shares)	✓
Senegal	2014	Loi N° 17/2014 du 15 Avril 2014	100,000	No legal measure taken
	2015	Loi 2015-07 du 09 avril 2015 abroge et remplace la loi de 2014, et permet ainsi aux fondateurs de la SARL de déterminer librement son capital social.	Minimum is close to zero (specifically, 5,000 per shareholder; i.e., the minimum nominal value of shares)	No legal measure taken
Togo	2014	Décret N° 2014-119/PR du 19 mai 2014	100,000	✓

¹⁸ Articles of Association and Funds Payment

¹⁹ "Les statuts sont établis par acte notarié et l'acte sous seing privé établi par un avocat ou un conseil juridique agréé." ["The articles of association are established by notarial deed and the private deed issued by a lawyer or an authorized legal counsel!"]

REFORM: UNIFORM ACT ON INSOLVENCY

Key Features

The revised Uniform Act on Insolvency was published in the OHADA Official Gazette on September 25, 2015, and came into force on December 24, 2015. Key improvements include:

Feature 1: Procedures for reorganizing and liquidating insolvent businesses were streamlined and clarified, including: (i) new mandatory deadlines to speed up proceedings; and (ii) a clarified priority order for creditors, with reference to the UA on Secured Transactions.

Feature 2: A new preventive conciliation procedure (Art. 5-1) was established for companies not yet insolvent, but facing actual or foreseeable difficulties. This feature helps companies avoid payments suspension and safeguards debtors by concluding amicable agreements with creditors and other counterparts.

Feature 3: Insolvency proceedings for small businesses were simplified. Small businesses were defined as sole proprietorships, partnerships, or other non-public legal entities with 20 or fewer employees and turnover not exceeding 50 million West African CFA francs.

Feature 4: A new cross-border insolvency regime was established, based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency. This regime provides cooperation between jurisdictions and competent authorities in OHADA member states and foreign countries where, for instance, the same debtor has insolvency proceedings pending in both an OHADA member state and a foreign country.

Feature 5: A legal framework for judicial representatives was created. This specifies the use of experts in preventive settlements and trustees for judicial recovery and assets liquidation, ensuring appropriate skills and ethics are deployed. It also provides guidelines for expert and trustee remuneration.

Prerequisites

Legal prerequisites only concern the introduction of judicial representatives in national legislation. All other innovations are automatically incorporated into national law.

Implementation Status

No national-level legal prerequisites apply to the new conciliation procedures and special procedures for small businesses; therefore, these were effective when the UA came into force, as reflected by the *Doing Business* 2017 report, which acknowledged 17 reforms on the 'resolving insolvency' indicator in 17 OHADA member countries.

The judicial representatives mechanism has national-level legal prerequisites, and as of July 2017, four member states had introduced the relevant legislation: Burkina Faso,²⁰ Côte d'Ivoire,²¹ Senegal,²² and Mali.²³ Three additional countries – Democratic Republic of Congo, Republic of Congo, and Niger – have similar legislation in advanced stages of preparation.

²⁰ Decree No. 2016-736 of 8 August 2016 and Law No. 035/2016 / AN of 15 November, 2016.

²¹ Decree No. 2016-48 of February 10, 2016.

²² Decree No. 2016-570 of April 26, 2016.

²³ Decree No. 2017-02 6 5 / P – RM of 21 March, 2017.

IMPLEMENTATION OF FOUR UAs AS REFLECTED IN *DOING BUSINESS* REPORTS

DB indicators reflect the effective implementation of the four reforms in each member state. The impact of the reforms on DB indicators is useful for two reasons: (i) it provides information on the relevance of the reforms, on the assumption that DB measures relevant dimensions of the business climate; and (ii) it provides information on the impact of the reforms, on the assumption that DB indicators have real effect on investor expectations and behavior.

DB indicators are consistent with the implementation analysis above (DB 2012 to DB 2017):

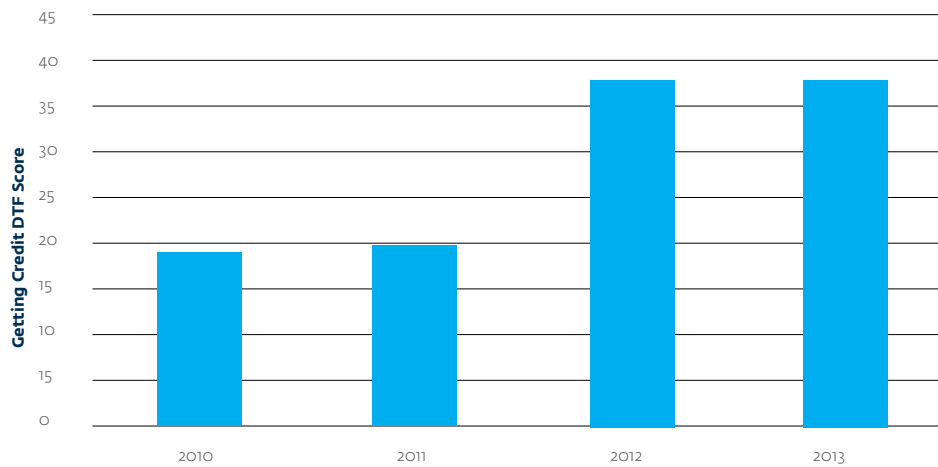
- Replacement of a criminal record with a sworn declaration under the UA on General Commercial Law is reflected in 16 changes across the zone.
- Following adoption of the UA on Secured Transactions, 17 improvements were recorded (one per member state), reflecting that the UA “broadens the range of assets that can be used as collateral (including future assets) and the range of obligations that can be secured, extends security interests to the proceeds of the original asset, and introduces the possibility of out-of-court enforcement.”
- Two sets of measures in the UA on Company Law produced 29 DB reforms. These measures were: (i) the reduction of the minimum capital requirements for company registration; and (ii) the increased level of minority investor protection.
- Following passage of the UA on Insolvency, the *Doing Business* 2017 report showed improvement in the ‘resolving insolvency’ indicator for all 17 OHADA member states. Primary causes were the new conciliation procedure for companies in financial difficulty and the simplified preventive settlement procedures for small businesses.

Table 2: OHADA Reforms as Reflected by DB (*Doing Business* 2012 - 2017 reports)

	UA on General Commercial Law	UA on Secured Transactions	UA on Company Law	UA on Insolvency	TOTAL
DB Indicators	Starting a Business and Getting Credit	Getting Credit	Starting a Business and Protecting Minority Investors	Resolving Insolvency	
Benin	1	1	2	1	5
Burkina Faso	1	1	2	1	5
Cameroon	1	1	1	1	4
Central African Republic	1	1	1	1	4
Chad	1	1	2	1	5
Comoros	1	1	2	1	5
Côte d'Ivoire	1	1	2	1	5
DRC	1	1	2	1	5
Equatorial Guinea	1	1	1	1	3
Gabon	1	1	2	1	5
Guinea	1	1	2	1	5
Guinea-Bissau	1	1	1	1	4
Mali		1	2	1	4
Niger	1	1	2	1	5
Republic of Congo	1	1	1	1	3
Senegal	1	1	3	1	6
Togo	1	1	1	1	4
TOTAL	16	17	29	17	79

A more precise view of the 'getting credit' indicator appears in Figure 3, which shows that the indicator increased markedly between 2011 and 2012, following the UA on Secured Transactions.

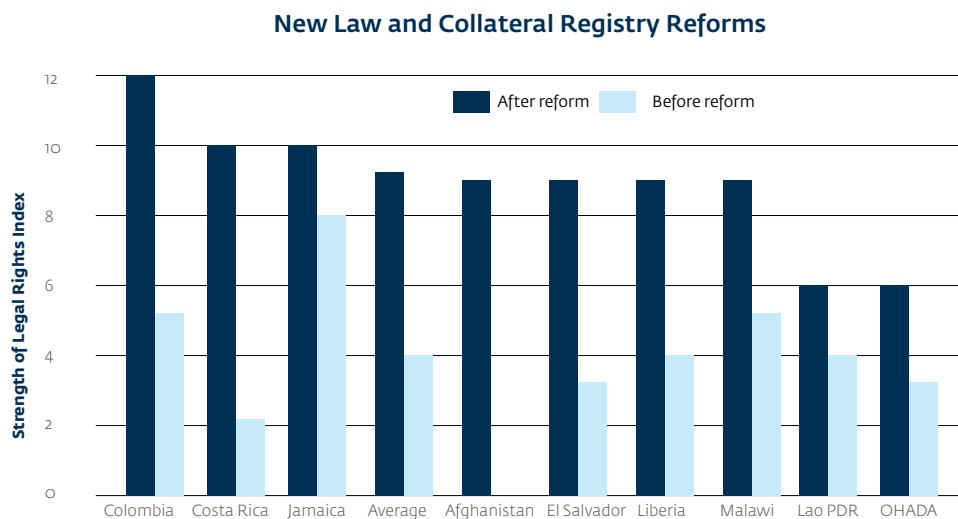
Figure 3: Average OHADA Distance to Frontier on Getting Credit (2010 to 2013)



Source: World Bank 2016a.

The *Doing Business* 2017 report (World Bank 2016a) similarly stresses progress made by OHADA member states in insolvency resolution and creditor rights (see Figure 4).

Figure 4: Legal Rights of Secured Creditors in Economies that Reformed from 2014 to 2016



Source: World Bank 2016a.

To summarize, notable improvement of all OHADA member states' *Doing Business* standing followed adoption of the four UAs, except for two specific reforms: entrepreneur and RCCM computerization (both from the UA on General Commercial Law), which earned no DB indicator points for any member state.

D. IMPACT

1. ACCESS TO FINANCE

Adoption of the relevant OHADA UAs under review was expected to impact access to finance. This effect – a major expected result – was anticipated from two UAs: the UA on Secured Transactions and the UA on Company Law (see Figure 2). The UA on Secured Transactions, which provided important new collateral mechanisms, is analyzed using the SCM, with a full description of the analysis process included below. The UA on Company Law, which introduced innovations in practical aspects of equity funding, also influences access to finance; it is analyzed based on country-level evidence collected through case studies.

Finally, the review covers the impact of the UA on General Commercial Law's RCCM, which is also expected to impact access to finance.

Synthetic Control Analysis of the Uniform Act on Secured Transactions

Variables Used

The Uniform Act on Secured Transactions was expected to produce increased access to finance. Consequently, the SCM analysis looked at gross domestic product (GDP), using “domestic credit to private sector (percent of GDP)” – code GFDD.DI.14, often referred to as “domestic credit” – as the impact variable. Following standard SCM practice, the selected control variables captured structural characteristics of the economies under analysis. The control variables were:

- **“Liquid liabilities to GDP (percent)” (GFDD.DI.05 in the GFD database):** Ratio of liquid liabilities to GDP. Liquid liabilities are also known as broad money, or M₃.
- **“GDP growth (annual percent)” (NY.GDP.MKTP.KD.ZG in the WDI database):** Annual percentage growth rate of GDP at market prices based on constant local currency.
- **“Agriculture, value-added (percent of GDP)” (NV.AGR.TOTL.ZS in the WDI database):** Agriculture corresponds to International Standard Industrial Classification (ISIC) divisions one to five and includes forestry, hunting, and fishing as well as cultivation of crops and livestock production.
- **“Industry, value-added (percent of GDP)” (NV.IND.TOTL.ZS in the WDI database):** Industry corresponds to ISIC divisions 10 to 45 and includes manufacturing (ISIC divisions 15 to 37). It comprises value added in mining, manufacturing (also reported as a separate subgroup), construction, electricity, water, and gas.
- **“Services, value-added (percent of GDP)” (NV.SRV.TETC.ZS in the WDI database):** Services correspond to ISIC divisions 50 to 99 and include value added in wholesale and retail trade (including hotels and restaurants), transport, government, financial, professional, and personal services, such as education, health care, and real estate services. Also included are imputed bank service charges, import duties, and any statistical discrepancies noted by national compilers, as well as discrepancies arising from rescaling.

The SCM analysis was conducted for the 1995 to 2015 period. 2011 was the year of reform implementation, and the pre-reform years are thus 1995 to 2010.

Selection of Control Countries

Step 1: Basic Pool of Control Countries

As described above, a synthetic control country is constructed by assigning weights – which may include weights of zero – to a predetermined donor pool of countries that did not receive the treatment.

Potential control countries include 122 non-OHADA Sub-Saharan African countries and countries elsewhere in the world with low, lower-middle, and upper-middle-income economies, per World Bank classification.²⁴ The list of donor pool countries for this evaluation appears in Appendix 1.

Step 2: Filtering Out Control Countries That Implemented Similar Reforms During the Intervention Period

Countries were removed from the basic donor pool if they had undertaken similar reforms during the intervention period or had experienced large idiosyncratic shocks affecting the areas of interest (Abadie, Diamond, and Hainmueller 2015). The 'distance to frontier' (DTF) score of the DB databases' 'getting credit' indicator was used to identify countries for removal. Available for 2005 to 2014,²⁵ it uses a scale of 0 to 100 to indicate the depth of the credit information index and the strength of legal rights regarding credit, therefore covering strength of collaterals, which is the principal contribution of the UA under review. Countries were excluded if the difference between their maximum and minimum values was at least 18.75, the precise Getting Credit DTF score increase observed in OHADA countries. After this filter was applied, the donor pool dropped 52 countries (see Appendix 1).

Step 3: Filtering Out Control Countries with Missing Values

Some countries were dropped because of missing values for either the impact variable or the control variables. Exact criteria for eliminating countries based on missing values were:

- The impact variable measurements were required for all years in the analysis, both pre and post-reform. Countries with even one missing observation of this variable were removed. Countries removed for this reason were: Bosnia and Herzegovina, Cuba, Eritrea, Ethiopia, the Gambia, Iraq, Kiribati, Kosovo, Lao People's Democratic Republic, Libya, Mauritania, Papua New Guinea, Republic of Korea, São Tomé and Príncipe, Somalia, South Sudan, Tajikistan, Turkmenistan, Tuvalu, Yemen, and Zimbabwe.
- Control variables were averaged over the pre-intervention period. Countries with no observations on any of the control variables over the pre-intervention period were removed. Countries removed for this reason were Haiti and Samoa.

In addition, data from two OHADA countries – Democratic Republic of Congo and Guinea – were discarded because impact variable values were missing, leaving 15 OHADA countries.

Step 4: Final Pool of Control Countries

The following 46 control countries remained and were used as the final donor pool for this evaluation: Algeria, Angola, Argentina, Bangladesh, Belize, Botswana, Brazil, Burundi, Colombia, Djibouti, Dominica, Ecuador, El Salvador, Fiji, Grenada, Guyana, Jamaica, Jordan, Kenya, Lesotho, Madagascar, Malawi, Malaysia, Mexico, Moldova, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Panama, Pakistan, Paraguay, Seychelles, Sierra Leone, South Africa, St. Lucia, St. Vincent and the Grenadines, Sudan, Suriname, Swaziland, Tanzania, Thailand, Turkey, and Uganda.

24. Low-income economies have gross national income (GNI) per capita of \$1,025 or less; lower-middle-income economies have a GNI per capita between \$1,026 and \$4,035; upper-middle-income economies have a GNI per capita between \$4,036 and \$12,475.

25. In 2015, the methodology for computing this score changed. Recent values cannot be compared with pre-2015 values.

Valid Synthetic Controls

According to the mathematical theorems underlying the SCM, credible analysis requires that the values of the synthetic control unit's pre-intervention outcome trajectory and control variables closely approximate those of the treated unit (Abadie, Diamond, and Hainmueller 2010 and 2015).

Pre-reform Root Mean Square Prediction Error (RMSPE), or RMSPE-Pre,²⁶ in Table 3 provides an absolute measure of the fit between the impact variable and its synthetic counterpart in pre-reform years: the lower this number, the more reliable the SCM analysis. Appendix 1 presents the full pre-reform impact and control variables for treated and synthetic countries. A relative measure of pre-reform fit – preferred as a more appropriate criterion across countries – is the ratio of RMSPE-Pre to Mean-Pre, where Mean-Pre is the impact variable average in the treated country in the pre-reform years (see Appendix 1 for formal definitions). The criterion retained for the validity of synthetic controls is that the ratio of RMSPE-Pre to Mean-Pre should fall below a threshold value of 0.2. Of the 15 countries for which data are sufficient, 10 satisfied this criterion: Benin, Burkina Faso, Cameroon, Central African Republic, Comoros, Côte d'Ivoire, Gabon, Mali, Senegal, and Togo. The SCM analysis was thus successfully implemented in these 10 countries, for which valid and credible synthetic controls could be built. SCM analysis was not possible for the Democratic Republic of Congo and Guinea, which lacked impact variable values for pre-reform years.

Size of Impact

The impact in each post-reform year (2011 to 2015) appears as the gap between the observed impact variable and its value in the synthetic control unit. The impact variable – domestic credit to the private sector – is expressed as a percentage of GDP and converted into a monetary value (United States dollars) by multiplying it by GDP.²⁷ Summing this transformed variable over the post-reform years provides the total absolute size of impact, interpretable as the increase in the impact variable due to the reform.²⁸ Burkina Faso's domestic credit to the private sector, for example, is \$894 million higher than it would have been without the reform (see Table 3).

Table 3: Impact of the UA on Secured Transactions on Domestic Credit

Impact	Country	RMSPE-Pre	Mean-Pre	RMSPE-Pre / Mean-Pre	Size of Impact (millions)	Relative Impact (2010 domestic credit)
No	Benin	1.06	11.65	0.09	\$103.60	0.07
Yes	Burkina Faso	0.99	12.14	0.08	\$893.70	0.62
Yes	Cameroon	0.34	9.19	0.04	\$417.00	0.14
Yes	Central African Republic	0.62	6.00	0.10	\$32.85	0.18
Yes	Comoros	0.68	11.39	0.06	\$30.29	0.32
No	Côte d'Ivoire	0.53	14.10	0.04	\$153.30	0.04
No	Gabon	1.15	9.59	0.12	\$-174.40	-0.15
Yes	Mali	1.03	13.11	0.08	\$607.00	0.35
Yes	Senegal	0.53	18.38	0.03	\$1111.00	0.34
Yes	Togo	1.87	16.31	0.11	\$729.10	1.03

²⁶ The Root Mean Square Prediction Error (RMSPE) measures the lack of fit between the path of the impact variable for any particular country and its synthetic counterpart. RMSPE-Pre is calculated over the pre-reform years (1995 to 2010) and RMSPE-Post over the post-reform years (2011 to 2015). See Appendix 2 for formal definitions.

²⁷ Expressed in constant 2010 United States dollars (\$): NY.GDP.MKTP.KD in the WDI database.

²⁸ Note that this measure can be negative.

The relative size of impact, also reported in Table 3, can be defined as the ratio of absolute impact on the value of the impact variable in the baseline year (2010) just preceding the reform. Using a threshold of 0.1, seven countries exhibited impact on this criterion: Burkina Faso, Cameroon, Central African Republic, Comoros, Mali, Senegal, and Togo. Togo and Burkina Faso show the strongest impact, and, at the other end of the spectrum, no impact is discernable for Benin, Côte d'Ivoire, and Gabon.

Expanding on the information provided in Table 3, Table 3A shows country-by-country impact on a yearly basis, linked to GDP. The table measures the UA on Secured Transactions' impact on each country as a yearly percentage of the nation's GDP.

Table 3A: Impact of the UA on Secured Transactions on Domestic Credit by Percent (GDP) Yearly

Country	Impact	2011	2012	2013	2014	2015	TOTAL (millions)
Burkina Faso	% of GDP (million)	0.6 \$9.0	2.4 \$45.0	7.7 \$186.0	10.4 \$297.0	11.6 \$357.0	\$894
Cameroon	% of GDP (million)	1.4 \$50.4	1.7 \$60.7	2.1 \$86.3	2.3 \$104.3	2.3 \$115.3	\$417
Central African Republic	% of GDP (million)	0.9 \$1.9	3.1 \$8.3	5.8 \$11.8	4.2 \$8.2	1.5 \$8.2	\$33
Comoros	% of GDP (million)	1.9 \$1.9	4.5 \$5.4	4.8 \$6.3	4.6 \$6.5	6.2 \$9.9	\$30
Mali	% of GDP (million)	0.7 \$12.8	2.0 \$38.3	4.8 \$106.0	6.4 \$162.2	9.3 \$287.7	\$607
Senegal	% of GDP (million)	3.8 \$145.5	4.1 \$145.5	6.2 \$279.1	5.6 \$279.1	4.5 \$237.8	\$1.111
Togo	% of GDP (million)	6.3 \$59.2	8.6 \$90.7	15.2 \$209.0	12.0 \$158.3	14.1 \$211.8	\$729
TOTAL							\$3.82 billion

Figure 5 shows the evolution of domestic credit in West African OHADA member states and in their respective synthetic controls.

Benin and Côte d'Ivoire show weak impact as the two curves – real country and synthetic country – remain close, even after 2011, when the reform went into force. This is reflected by the low values for relative impact in Table 3. In the other four countries, the impact is clear, as also illustrated in Table 3.

Among the four countries displaying impact, Senegal and Togo exhibit a gap between the two curves beginning in 2011, the exact year of the intervention. For Senegal, where the curves are very close until 2010, this explanation is less compelling. A stronger possibility, applicable to both countries, is that the reform may have had a strong incidence in its first year in effect. Note that the significance analysis below does, in fact, confirm the impact effect on these two countries (see Table 4).

Figure 5: Domestic Credit to Private Sector (Percent of GDP): West Africa

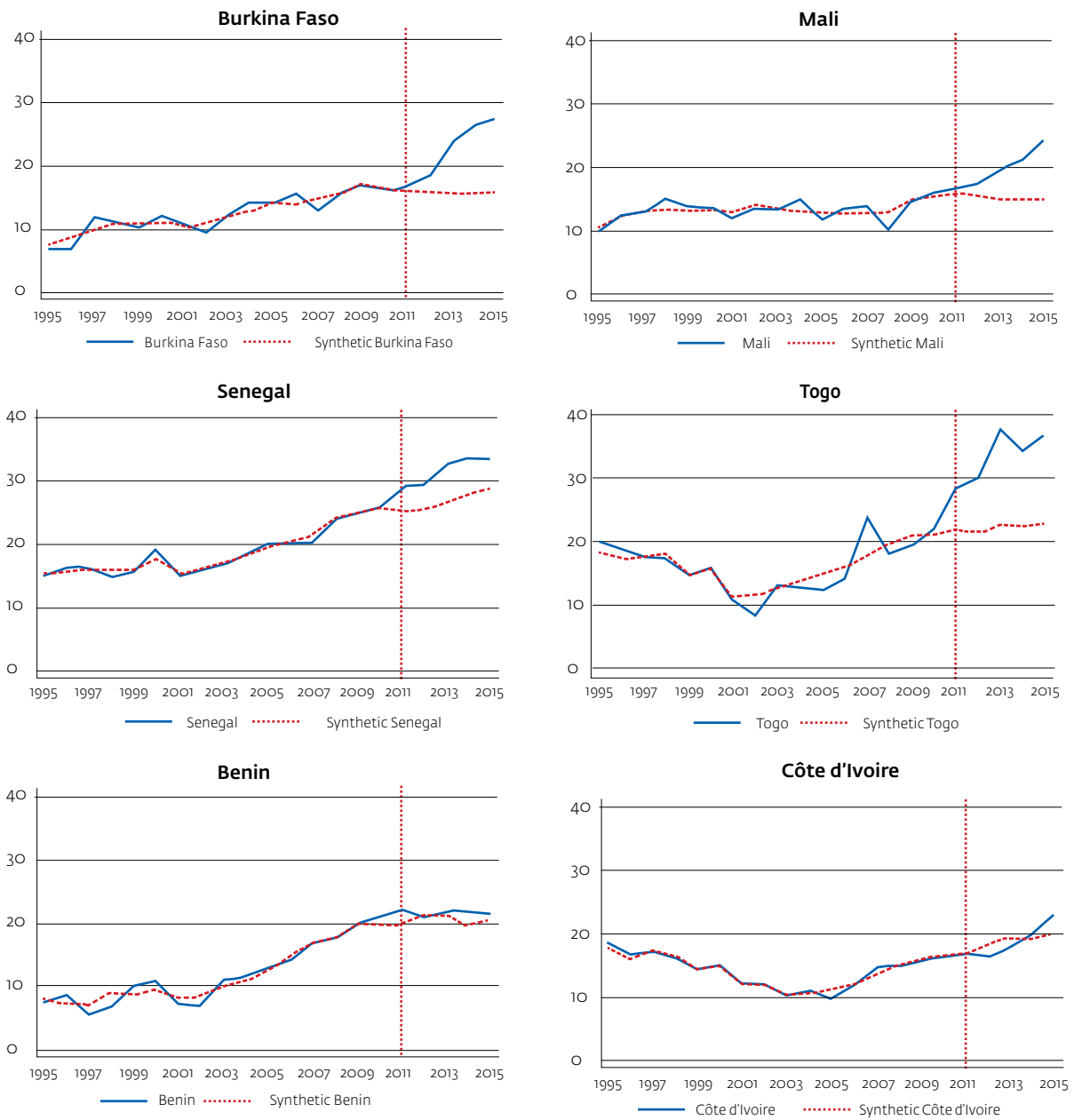
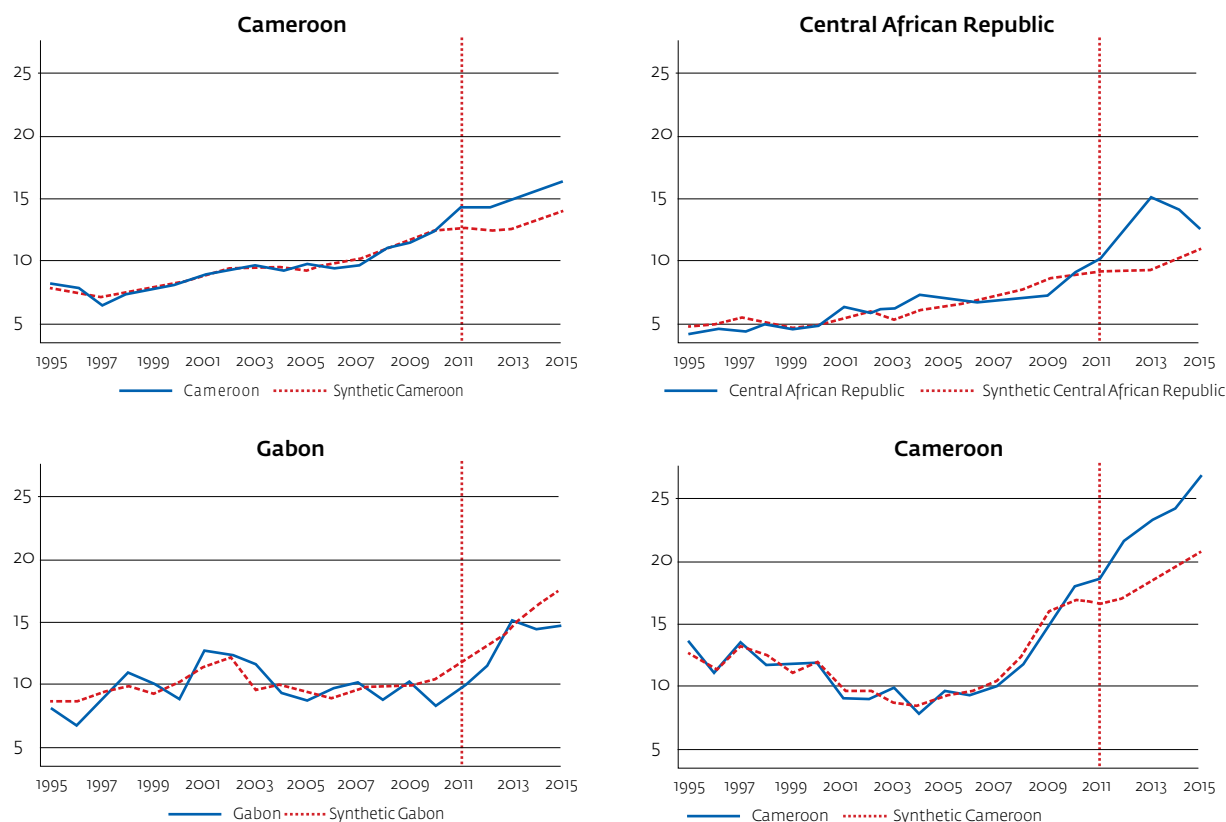


Figure 6 reports the evolution of domestic credit to the private sector in the Central African OHADA member states and in Comoros, as well as in their respective synthetic countries.

Figure 6: Domestic Credit to Private Sector (Percent of GDP): Central Africa and Comoros



The figure shows the same pattern observed in the west African countries, with very visible impact in Cameroon, Central African Republic, and Comoros, but no impact in Gabon. This is consistent with the results in Table 3.

In contrast to other countries, however, domestic credit in Central African Republic began to fall after 2013. Recent episodes of conflict may account for this observation, as discussed below.

Interpretation of Results in Light of Recent Conflicts

Central African Republic, Côte d'Ivoire, and Mali – three countries for which a valid control could be built – have experienced episodes of conflict in recent years:

- In Central African Republic, a coalition of rebel groups, Séléka, took over towns in the northern and central regions of the country in November 2012. In March 2013, they seized the capital, Bangui, forcing then president, François Bozizé, to flee the country. Sectarian tensions between Muslims and Christians have continued to this day.
- The 2010 presidential election in Côte d'Ivoire led to a crisis from 2010 to 2011, resulting in military action by United Nation (UN) and French forces against Laurent Gbagbo, fraudulently elected in November 2010. Internationally monitored elections were held in 2011, signaling the end of the crisis.
- In January 2012, a Tuareg rebellion, helped by terrorist groups, began in northern Mali. French armed forces intervened in January 2013, and a month later, Malian and French forces recaptured most of the country's north. The Malian economy has been recovering since then.

These events affect this analysis, as they modify the interpretation of findings for these countries.

- In Central African Republic, the sharp decline of credit observed in 2014 and 2015 clearly correlates with the conflict (see Figure 6). As Central African Republic's synthetic control did not experience conflicts in the post-intervention period, the true impact of the OHADA reform is likely, in fact, to be underestimated.
- Côte d'Ivoire's crisis helps explain the lack of significant impact from the reforms; conflict likely depressed credit over the post-intervention period, while no conflict occurred in the synthetic control. Starting in 2013, after the crisis, Ivorian domestic credit begins to rise again.
- Similarly, reform impact in Mali is also likely to be underestimated.

Could Other Access to Finance Reforms Have Influenced the Evaluation?

If other reforms with impact on domestic credit in OHADA countries had overlapped with those under the UA on Secured Transactions, this evaluation's findings could have been affected. However, no other significant reforms took place in the region over this period. One relatively minor related reform did occur in the countries in the Central African Monetary Union, including Cameroon, Central African Republic, Chad, Congo, Gabon, and Equatorial Guinea. In these countries, banks gained online access to information in the public credit registry.

Significance of Impact

Placebo tests were used to examine the statistical significance of impact and to obtain *p-values*. The three major types of placebo tests are placebos in space, placebos in time, and placebos with respect to impact variables. All three of these placebo tests involve running the methodology for cases with a treatment effect known to be at, or very close, to zero. An estimated effect at or close to zero will confirm that the SCM methodology has produced the correct answer.

A placebo in space test involves identifying a non-OHADA country as a treated unit, and a placebo in time test sets the year of treatment at a pre-reform year (such as 2007). The results for placebo tests in space are presented below. The placebo in time analysis can be found in Appendix 1.

Countries in the donor pool did not conduct reforms similar to those in the treated countries; "impacts" estimated when running placebos in space should therefore be zero, subject to random error. Thus, the distribution of impacts for credible placebos in space provides information about how much the SCM results vary purely due to chance. This information can be used to determine whether the result for a treated unit (a program country) is statistically significant.

Figure 7 shows the ratio between the post-reform and the pre-reform RMSPE for Burkina Faso along with all countries in the donor pool. Burkina Faso ranks first of 47 countries. This means that the probability of observing a RMSPE-Pre/Mean-Pre ratio as large as Burkina Faso's, the *p-value*, is $1/47 = 0.02$. Retaining the significance threshold of 10 percent indicates significant reform impact in Burkina Faso.

Figure 7: Placebo in Space: Burkina Faso (RMSPE Ratio)

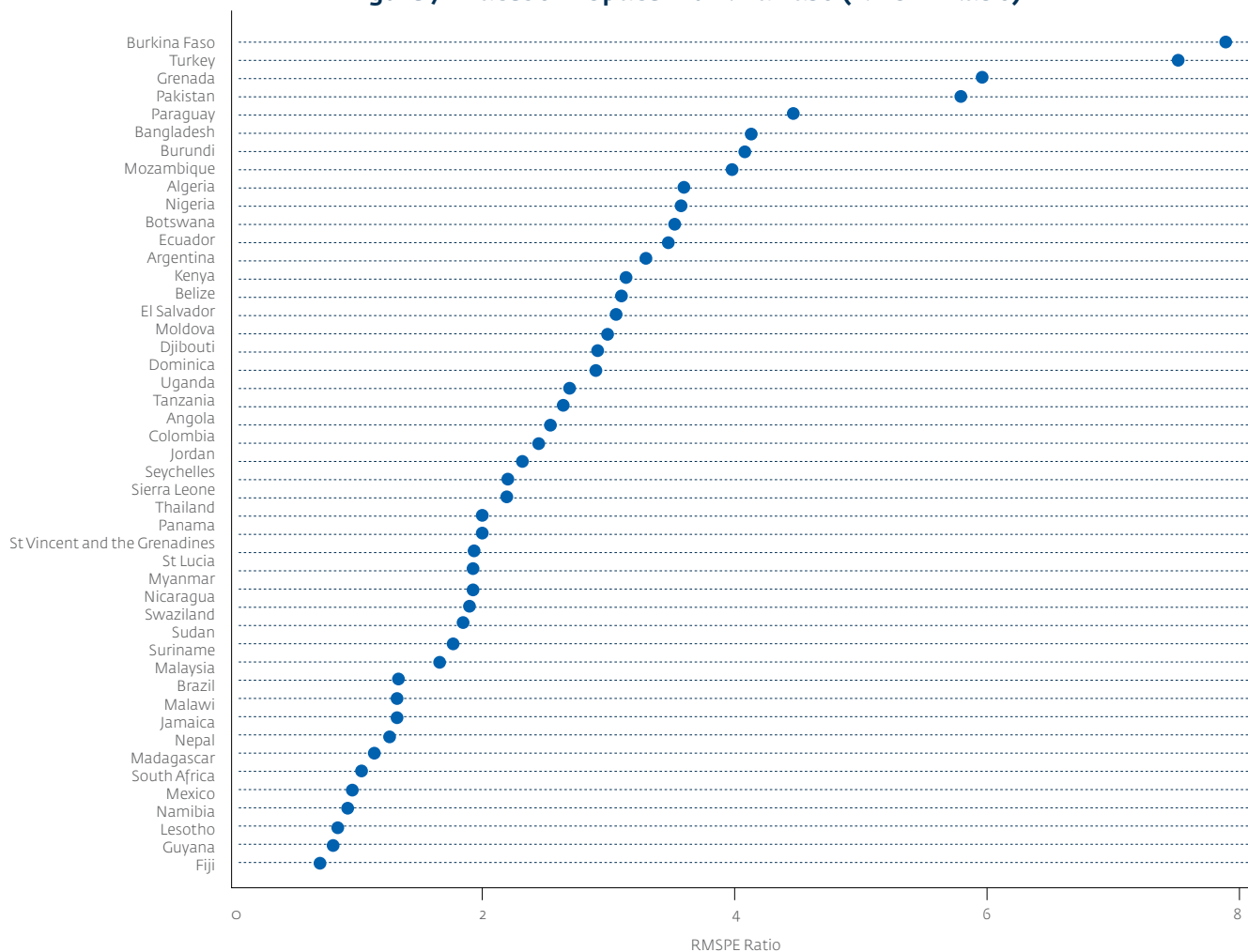


Table 4 reports significance tests for the 10 OHADA member states for which the SCM was successfully implemented.

Table 4: Placebo in Space: Significance Test of Impact (RMSPE-Post/RMSPE-Pre)

Country	RMSPE-Post/RMSPE-Pre		P-value	Significant
	Value	Ranking		
Benin	1.47	37	0.32	No
Burkina Faso	7.93	1	0.02	Yes
Cameroon	6.16	2	0.04	Yes
Central African Republic	5.79	4	0.09	Yes
Comoros	6.76	2	0.04	Yes
Côte d'Ivoire	3.38	11	0.45	No
Gabon	1.70	35	0.66	No
Mali	5.41	4	0.09	Yes
Senegal	9.32	1	0.02	Yes
Togo	6.26	2	0.04	Yes

At the 10 percent significance level, seven out of 10 countries have a *p-value* below the threshold, indicating significant impact: Burkina Faso, Cameroon, Central African Republic, Comoros, Mali, Senegal, and Togo. Five of these countries – Burkina Faso, Cameroon, Comoros, Senegal, and Togo – show impacts at an even lower significance level of 5 percent.

Robustness of Results

This section looks at whether the obtained results were driven by any particular control country. The SCM was run iteratively, omitting at each iteration one of the countries receiving a positive weight in the respective synthetic countries (see Table A1.3, Appendix 1). This procedure is called a “leave-one-out” test. The RMSPE-Post/RMSPE-Pre ratios obtained in each iteration are displayed in Appendix 1.

Overall, test results are shown to be robust. Burkina Faso and Togo were the least sensitive to it. In Burkina Faso, the RMSPE-Post/RMSPE-Pre ratio obtained with the iterative procedure was between 6.14 and 8.31, while the RMSPE-Post/RMSPE-Pre ratio obtained with the full sample of control countries was 7.93. In Togo, the full RMSPE ratio is 6.26; leave-one-out ratios are between 5.12 and 6.51.

In other countries, exclusion of a particular country from the donor pool had a more pronounced influence on RMSPE ratios. For example, in Central African Republic, the RMSPE-Post/RMSPE-Pre ratio is 1.86 – instead of 5.79 – when Sierra Leone is excluded. Exclusion of Sierra Leone also has a substantial, although less dramatic, impact on Cameroon, Comoros, and Mali. Finally, Senegal’s results are sensitive to the removal of Fiji and the removal of Ecuador from the donor pool.

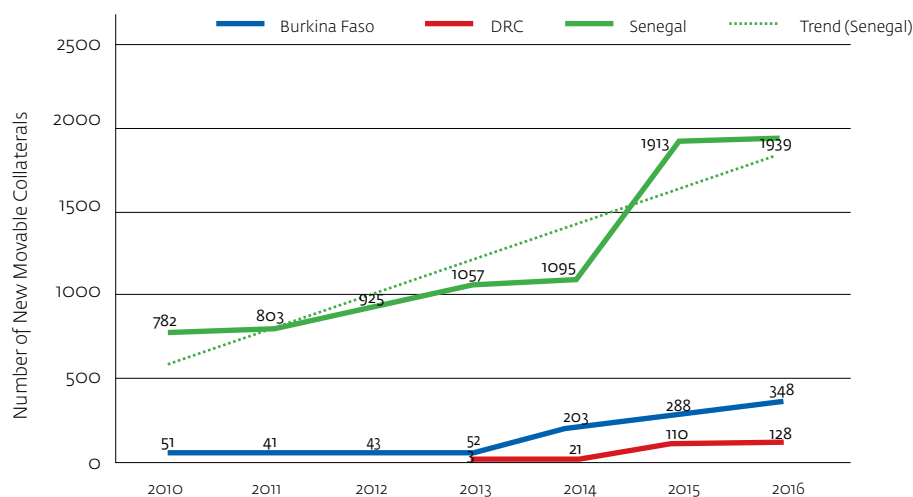
However, it should be noted that even if the results are less robust for some countries – such as Central African Republic – the estimated effect remains positive when removing one country at a time from the donor pool. In other words, the reform has a positive impact, even if its statistical significance may be reduced.

Country-Level Evidence

Outcome Indicators

Figure 8 shows data on movable collaterals for the three OHADA member states with data available: Burkina Faso, Democratic Republic of Congo, and Senegal. An upward trend can be observed, especially after 2014. The SCM analysis found significant impact in Burkina Faso and Senegal. With the number of collaterals as an outcome indicator – an intermediary step identified in the expected causality chain from reform to impact (see Figure 2) – these statistics are consistent with the SCM results showing that impact on access to finance can be attributed to the UA on Secured Transactions.

Figure 8: Movable Collaterals



Evidence from Case Studies

Evidence from the Cameroonian, Ivorian, and Nigerien case studies support these findings; reforms under both the UA on Secured Transactions and the UA on Company Law created impact on access to finance.

Impact From the UA on Secured Transactions

Cameroon's business sector confirms that the new collateral mechanisms of the UA on Secured Transactions are not only legally effective, as reported above, but they are also in actual use. Interviews and focus groups with banks, microfinance associations, and lawyers provided detailed narratives and business cases in which the 2010 UA was implemented and considered a significant improvement:

- **Autonomous Collaterals:**²⁹ Cameroon's commercial banks report that they use this feature regularly when, for example, a warranty is needed from the parent company of a subsidiary in Cameroon.
- **Collateral Agent:**³⁰ Commercial banks use this new mechanism for syndicated loans, allowing the lead bank to also act as the lead of the collateral syndicate, that is, as the collateral agent. Banks report this mechanism is instrumental in syndicated lending.
- **The Forfeiting Clause:**³¹ Banks extensively use this clause, another example of an autonomous collateral, for mortgages.
- **Pledges on Receivables:**³² Banks and their lawyers value these pledges, another autonomous collateral mechanism.
- **Collaterals on Land in the Public Domain:**³³ Cameroon's banking sector considers this form of collateral an important innovation (see Box 2).

Note that none of these mechanisms depend on functional RCCMs.

Box 2: Using Collaterals on Public Domain Land for Infrastructure Projects in Cameroon

Article 201, Alinea 3, of the UA on Collaterals introduced the collateral on public domain land.

As an example, the mechanism is commonly used in Cameroon to structure funding for infrastructure projects. If an electricity company wishes to build a network on public land, it obtains a concession on that land from the government, and then uses that concession as collateral for a syndicated loan to fund the project. If the loan goes into arrears under specified conditions, the lending syndicate receives the concession rights, which are then transferable to another operator.

As in Cameroon, banks, microfinance associations, and lawyers in Côte d'Ivoire report that the UA on Secured Transactions substantially improved collaterals and report that the new approach is being used. Observed from fieldwork, the forfeiting clause is commonly used for mortgages by Côte d'Ivoire's commercial banks. In addition, the Commercial Court of Abidjan reports that it recognizes the validity of the forfeiting clause mechanism, referencing a positive decision on a 2017 case involving 100 million West African CFA francs processed in under 15 days by the emergency procedure.

29. Garantie autonome, or autonomous collateral (Art. 30), is a "first-demand" collateral.

30. Agent des sûretés, Art. 5. [Security agent, Art. 5]

31. Pacte comissoire, Art. 199. With a pacte comissoire, or the forfeiting clause, a mortgage can trigger an automatic property transfer to the lender without a court decision after a determined time period in arrears.

32. Nantissement de créance, or the pledge of accounts receivable, and saisie conservatoire des créances, or the preventive seizure of accounts receivable (Art. 127) enable lenders to cover debt service by gaining access without a court decision to borrowers' revenue flows, such as rents.

33. Sûretés sur terrains du domaine public, or collaterals on public domain land (Art 203, Al. 3).

However, Côte d'Ivoire's financial sector, lawyers, and commercial court point out a limitation of the forfeiting clause: the value of the mortgaged property is often significantly higher than the value of the secured loan; the lender is therefore legally bound to pay a differential equal to the variance between the estimated property value and the value of the pending debt. In practice, this leads to situations in which the bank must pay the differential to the defaulting borrower before recovering any portion of the defaulted facility. In general, however, Côte d'Ivoire has made actual use of the UA, and key financial sector informants praise it as a substantial improvement.

Banks in Niger report effective and routine use of the new collateral instruments, such as the forfeiting clause for mortgages. Niger's banks also report using the new option of creating a security interest over a *future asset*³⁴ for home financing.

Importantly, both Niger and Côte d'Ivoire stress issues relating to prudential rules in the banking sector. The new collateral mechanisms – even if legally secured by the UA and acknowledged as such by banks – are not reflected in the prudential rules for risky assets and capital requirements implemented by the BCEAO.³⁵ This is a disincentive to use the new collaterals, as argued by the Côte d'Ivoire banking association³⁶ in its exchanges with the BCEAO on the topic.

UA on Company Law: Equity Funding

As a thriving regional industry, PE funds are flourishing in Côte d'Ivoire and include both local and international players with considerable experience and ambition, among them:

- Investisseurs and Partenaires
- Emerging Capital Partners (global)
- AfricInvest (global)
- Amethis Finance (France)
- Cauris Invest (Côte d'Ivoire)
- Phoenix Capital Partners (Côte d'Ivoire)
- Adenia Partners (Côte d'Ivoire, France, and Mauritius)

These funds have been active in the region since the 1990s, as reported in Table 5. Côte d'Ivoire is the largest market for equity funding, with 44 deals out of 124 since 1996.

Côte d'Ivoire's strong PE activity arises from general economic factors, rather than from the OHADA reforms alone. As shown in Figure 9, the trend in PE deal numbers did not change substantially after 2014. However, case study informants noted that improvements in the 2014 UA on Company Law were valuable and did support the equity boom, including:

- The new convertible bonds have improved legal clarity and security for quasi-equity deals, leaving the legal environment for PE funding at par with international best practices.
- The new option to videoconference board meetings has been an important practical enhancement, especially for international investors.

Cameroon's PE activity is not as strong as activity in Côte d'Ivoire (see Table 5), but Cameroonian industry professionals report that convertible bonds have been adopted by equity funds and systematically used in deals since 2014.

34. Sûretés sur les biens futurs, or collateral on future assets (Art. 96). Building loans are provided to salaried workers willing to build a new home. Funds are advanced to them in stages or progress payments during the construction period.

35. See BCEAO, "Dispositif prudentiel applicable aux banques et aux établissements financiers de l'UEMOA à compter du 1er janvier 2000." This dispositif has not been updated with the 2010 UA on Secured Transactions.

36. Association Professionnelle des Banques et Etablissements Financiers de Côte d'Ivoire.

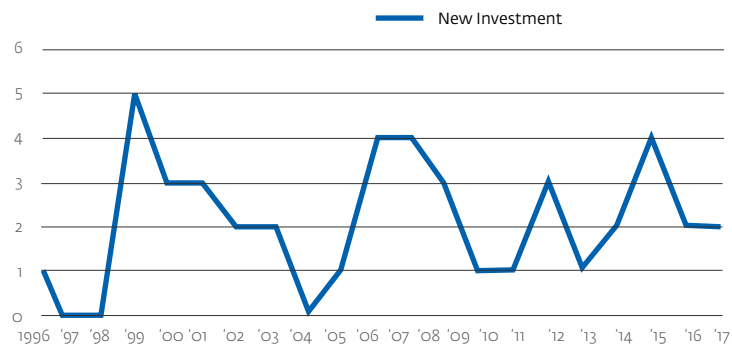
PE managers report that OHADA's regionally uniform legal instruments and frameworks are significant and positive for their businesses. Additionally, several funds with regional coverage – for example, Investisseurs and Partenaires, which is active in Burkina Faso, Cameroon, Côte d'Ivoire, and Senegal – state that region-wide legal arrangements for equity deals (for example, since 2014, convertible bonds) achieve economies of scale. This uniformity is seen as a positive factor for fundraising, since international investors like the clarity and visibility of the regional OHADA legal system.

The equity industry is not represented in CNOs. While fund managers strongly support the OHADA environment, they stress that they were not consulted during the elaboration of the UA on Company Law. In effect, the equity industry remains unrepresented in CNOs (see chapter E, Box 4).

Table 5: Number of Private Equity Deals in OHADA Member States from Selected Funds

	1996	1997	1998	1999	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	TOTAL
Benin	1	1							1	3	1							1				8
Burkina Faso		1	1	1	1	1						2						1	1			8
Cameroon			1	1	2	4			1	1	1						2	1				14
Côte d'Ivoire	1	5	3	3	2	2	2	1	4	4	3	1	1	1	3	1	2	4	2	2	2	44
Comoros						1												1				2
DRC												1										1
Gabon											1											1
Guinea																				1		1
Mali		1		1	3	1	3	1	1		1								1	1		8
Niger		1			1	2	1	2	1	2	1	1										8
OHADA												1						1				2
Republic of Congo										1												1
Senegal	1	2		1	3	1	3	1	3	1	1	1	1	1	1	2	1		1	1	1	20
Togo			1	1	1	1	1	1	1	2	2	1										6
TOTAL	2	1	4	8	6	3	9	8	7	5	8	6	12	6	3	7	7	5	7	5	5	124

Sources: Investisseurs & Partenaires, <http://www.ielp.com/>; Emerging Capital Partners, <http://www.ecpinvestments.com/>; Amethis, <http://www.amethisfinance.com/fr/>; Cauris, <http://www.caurismanagement.com/>; Phoenix, <http://pcmcapitalpartners.com/>; Adenia, <http://www.adenia.com/>; Afrinvest does not provide dates and is not included.

Figure 9: Number of Private Equity Deals in Côte d'Ivoire, Selected Funds

Source: Data from Table 5.

Consistency with SCM findings

Country-level outcome data from Burkina Faso, Cameroon, and Senegal are consistent with the positive SCM findings, and available outcome data are consistent with impact. Supporting these findings, key informants in the financial sector stated that the new collateral instruments are in use and are perceived as improvements.

However, in Côte d'Ivoire, the UA's impact on domestic credit is not statistically significant (see Table 3). As detailed above, the 2010 to 2011 conflict could help explain this apparent inconsistency with widespread UA implementation observations from the ground.

The case studies also suggest that the new collateral mechanisms were adopted to fund large companies, especially those with foreign participation. Examples include syndicated collaterals and infrastructure projects, and collaterals taken on the public domain. Microfinance associations and their customers are positive about the UA, but they do not report systematic use of the new collateral mechanisms to the same degree as commercial banks, who use them on behalf of their larger clients. This is compatible with the positive and significant impact demonstrated in the SCM analysis, as impact is measured as the aggregate ratio of domestic credit on GDP.

RCCM Computerization

RCCM computerization's objective is to enhance access to information on registered companies, including movable collaterals and indebtedness. As noted in the logframe in Figure 2, it is expected to generate impact on access to finance.

Low Impact

Of the nine countries visited for this report, only Senegal and Côte d'Ivoire have a functional computerized RCCM. The RCCMs in the seven other countries are not computerized, and they do not contain computerized business registrations. In addition, in both Senegal and Côte d'Ivoire, the RCCMs are based on nationally developed systems, not on the OHADA-sponsored software package.

In Cameroon and Niger, the case studies show that the RCCM computerization process introduced by the 2010 UA on General Commercial Law has not been completed. As of June 2017, the RCCMs – 120 in Cameroon and 10 in Niger – were still manually run, using paper-based systems. Côte d'Ivoire's RCCM in Abidjan, while computerized, is based on a nationally developed IT system, the E-TribCom.

Factors of Low Impact

High Levels of Technical Complexity Outside OHADA Core Expertise

RCCM computerization, like any public-sector, large-scale IT project, involves complex technical issues beyond the legal and judiciary subject matter at the OHADA program's core. A pan-OHADA software package – made available in 2016 and called the Geolmage system – was developed and deployed in a major technical endeavor that included integration with existing and developing national-level IT systems, causing major data migration challenges. For example, Côte d'Ivoire's E-TribCom handles all of the Abidjan Commercial Court's judiciary processes in addition to the RCCM, something that the OHADA-sponsored Geolmage system by nature cannot do. The Abidjan Commercial Court considers converting the E-TribCom data and files to Geolmage to be considerable effort without clear benefit.

Similarly, in Cameroon, the RCCM computerization effort began in 2011, but was delayed repeatedly by software development issues at the OHADA level, caused by problems and changes in providers. The project's institutional setup in Cameroon is especially complex, requiring technical assistance funded by France's AFD, support from the Bank Group, and, importantly, a direct management role for the OHADA Permanent Secretariat. As a result of delayed RCCM computerization, two competing projects have emerged in Cameroon:

- The United Nations Conference on Trade and Development (CNUCED), with European Union (EU) funding, is assisting Cameroon's SME Promotion Agency (APME) in deploying its e-regulation product for enterprise registration, overlapping with the RCCM's business registration role.
- With World Bank Group support, the Bank of Central African States (BEAC), the central bank, is developing a centralized register of collaterals, covering both mortgages and movable collaterals.³⁷

Similar problems affected RCCM computerization in Niger. Various development partners have unsuccessfully supported the modernization of the RCCM since 2011, all without any tangible impact in terms of computerization.

Difficulties in National-Regional Support Coordination

These difficulties have been compounded by coordination problems between donor support at the national level and regional OHADA efforts. As noted above, Côte d'Ivoire maintains and uses its preferred E-TribCom system at the Abidjan Commercial Court. The OHADA Permanent Secretariat and its providers asked for Geolmage package installation on one of the court's servers, and although the OHADA-sponsored software was installed, it was not tested and is not being used by the court. The court reports no intention of moving away from E-TribCom. This situation involves the World Bank Group at both the national and the regional OHADA levels. At the national level, the World Bank supported the development of E-TribCom through the Project for the Strengthening and Governance of Enterprises (PARE/PME)³⁸ and at the OHADA level, PACI funds the deployment of the regional Geolmage system.

In Niger, inadequate regional-national interaction and coordination of World Bank support has also been reported, with requests for collaboration between the national Bank Group-sponsored Competitiveness and Economic Growth Support Project and the OHADA regional software development project left unanswered.

37. The activity only covers movable collaterals and is being carried out with the National Credit Council (a public – private forum presided over by the minister of finance and housed in the national central bank. Members include: the governor of the central bank, the secretary general of the Banking Commission, the president of the Capital Markets Authority, the minister of SMEs, the minister of commerce, the minister of economy, chambers of commerce, business associations, bankers associations, and microfinance institution associations, among others). The RCCM is included in the centralized directory of registries. Even after the complete computerization of the RCCM, there would still be movable collateral registered in other registries, hence the necessity, as per stakeholder interviews, to have an instrument that brings together all movable collateral on one website that the public can consult.

38. See <http://documents.banque mondiale.org/curated/fr/500051468247811490/C%C3%B4t%C3%A9-d'Ivoire-Projet-d'Appui-%C3%A0-la-Revitalisation-et-%C3%A0-la-Gouvernance-des-Entreprises-PARE-PME>.

The Objective of Regional Consolidation

Regional-level data consolidation is a stated objective of OHADA's RCCM computerization process.³⁹ This ambitious goal has raised the bar in terms of technical constraints in each OHADA country as well as for the OHADA-wide software package. For example, periodically transferring the data to the Common Court of Justice and Arbitration (CCJA) can be daunting and poses a technical challenge when nationwide Internet difficulties already cause considerable delays.

Importantly, informants reported no compelling business case requiring regional data consolidation, which is not required to share financial and collateral information across the OHADA region. Online information access is a goal set by each national RCCM, making it possible for a bank in Côte d'Ivoire to access data on a company located in Senegal over the Internet. Based on the informant interviews, the only benefits of regional centralization were: (i) ease of producing statistics for economic analysis at the regional level; and (ii) ease of consolidating financial information on businesses spanning several OHADA countries. Informants do not view the cost-benefit balance of regional RCCM data consolidation favorably, given each country's difficulties in completing the transition.

The Issue of Immovable Collaterals

Banking sector informants viewed the RCCM's inclusion of immovable collaterals (mortgages) as potentially very valuable, but this is not currently being pursued by PACI or by the OHADA Permanent Secretariat. The UA on General Commercial Law includes mortgages in the scope of the RCCMs (Art. 73, 75, 76, and 77). The collateral registry in Côte d'Ivoire, which has emerged as an alternative to the RCCM, also covers mortgages. Managers in the financial sector did not accept the RCCM's current thinking about isolating movable from immovable collaterals, especially because they view mortgages as significantly more important than pledges.

2. BUSINESS REGISTRATION

This section reviews the reforms' impact on business registration, first covering entrepreneur, then detailing the more successful simplification of SARLS and other legal forms.

Entrepreneur: Limited Impact

Seven years after the UA on Commercial Law, one of this evaluation's key findings is the limited impact of entrepreneurs. Benin is the only country where outcome, measured as the number of entrepreneurs in existence, is tangible. Benin had 341 entrepreneurs as of April 2016 (Benhassine et al. 2016). In contrast, of the nine countries surveyed by the mission, Democratic Republic of Congo was the only to report (a small number of) entrepreneurs (see Table 6). As of June 2017, the remaining eight countries had no entrepreneurs at all.

Table 6: New Entrepreneurs in Democratic Republic of Congo

	2013	2014	2015	2016
Number of New Entrepreneurs Registered	0	1	8	3

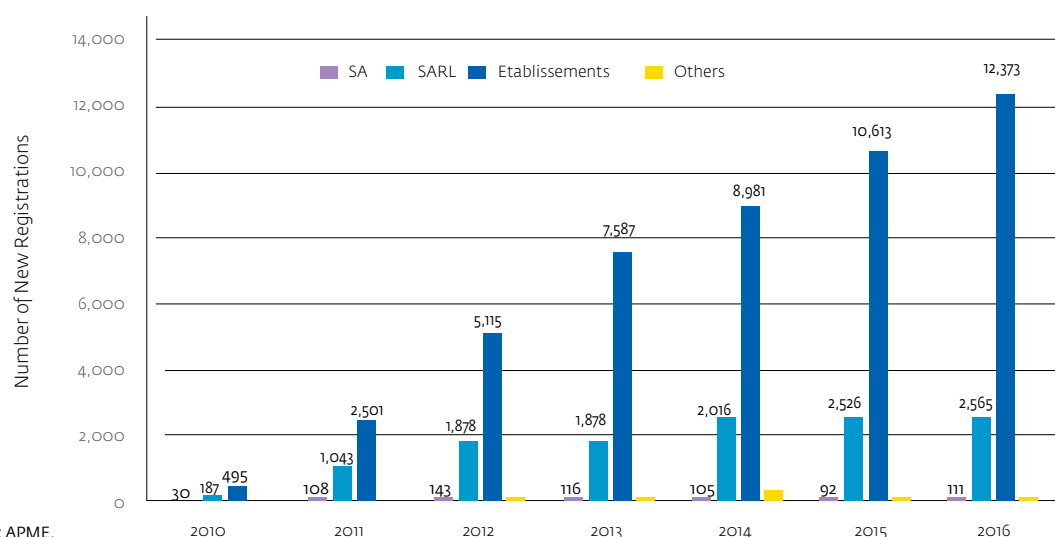
Benin's achievement in this area, as indicated by the 2016 World Bank evaluation (Benhassine et al. 2016), benefited from considerable Bank Group-sponsored efforts to provide an attractive entrepreneur package to informal micro business candidates. These efforts included personal visits to potential entrepreneurs, targeted business training, special banking services, and tax mediation services. Quoting the 2016 evaluation: "Such efforts are costly, and we find that firms which formalize do not appear to benefit much from this status in the first two years afterwards."

39. UA on General Commercial Law, Livre 4. All RCCM data is to be centralized at the CCJA.

The outcome figures are consistent with qualitative evidence collected through the three case studies, which suggested the following factors may help explain the absence of entrepreneurs:

- The prerequisite national legislation was either not fulfilled or fulfilled very recently.
- The entrepreneur regime is either unfamiliar to many small businesses, business associations, banks, and microfinance associations, or it is redundant with existing mechanisms:
 - ◊ In Cameroon, the entrepreneur is redundant with existing legal forms for microenterprises. The *établissement*, which already benefits from simplified withholding tax – with turnover below 10 million West African CFA francs, the same threshold as the entrepreneur – is well understood by the business community and the financial sector. As shown in Figure 10, the number of *établissements* has increased since 2010, indicating the preference of *établissement* over entrepreneur.
 - ◊ In Niger, with the largest informal sector of the three case study countries, associations and the business community see the entrepreneur regime as lacking specific appeal:
 - Business registration costs are already marginal, due to the Nigerien government’s considerable streamlining of the business registration process through several reforms. These reforms include:
 - A one-stop shop for enterprise registration was created in Niamey in 2003. The first regional branch was opened in 2005, and other regions were covered by 2007.
 - In 2012, business registration procedures were simplified and the registration process was shortened to a maximum of three working days.
 - Business registration costs were reduced to 17,500 West African CFA francs, and dedicated, free assistance is provided by one-stop shop staff.
 - The national investment code already provides fiscal incentives to various business categories, including microenterprises.
 - Since 2015, fiscal incentives targeting young entrepreneurs (up to 40 years of age) have included fiscal exoneration for the first year and a 50 percent reduction of the tax in the second year.
 - ◊ In Côte d’Ivoire, the entrepreneur regime is redundant with existing microenterprise legal forms. The *entreprise individuelle* – which is well-understood by the business community and the financial sector – already benefits from the simplified lump-sum tax for turnover below 5 million West African CFA francs and the synthetic tax below 50 million West African CFA francs.

Figure 10: Business Registration in Cameroon



Source: APME.

This limited impact is consistent with the international experience of enterprise formalization (Kenyon 2007; Dabla-Norris, Gradstein, and Inchauste 2008). Providing the right incentives for micro businesses to formalize is a complex undertaking, which is best addressed at the national level to reflect specific country contexts and to involve local stakeholders, including social security funds, banks, authorized management centers, and others.

On a more positive note, the OHADA Permanent Secretariat has taken an active role in disseminating the Benin entrepreneurial experience throughout the OHADA member states and reports that member states are in demand for this type of experience sharing.

Simplification of SARLs and Other Legal Forms: Significant Impact

Data on Business Registration

For other legal forms, particularly SARLs, outcomes are significantly better than entrepreneurial outcomes. Data collected on business registration in individual OHADA countries and information from the case studies both show UA impact. Table 7 reports the total number of newly registered businesses – based on all legal forms – for the 15 countries for which data were obtained. These data are not homogeneous across countries; they include individual businesses for Burkina Faso, Cameroon, and Democratic Republic of Congo, but not for the other member states. Still, the dynamic toward growth can be seen.

Table 7: Number of Newly Registered Businesses (All Legal Forms)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Benin	N/A	N/A	N/A	N/A	N/A	N/A	1,758	2,559	3,559	3,786
Burkina Faso	3,189	3,264	3,651	4,570	4,949	5,928	8,524	9,799	8,540	13,412
Cameroon	N/A	2,695	2,231	2,267	3,668	7189	9,706	11,498	13,374	15,219
Central African Republic	N/A	N/A	N/A	N/A	N/A	N/A	429	498	743	1,081
Chad	1,474	1,563	1,861	2,701	2,323	3,202	3,225	3,479	4,235	3,619
Comoros	N/A	N/A	N/A	N/A	N/A	N/A	588	524	523	688
Côte d'Ivoire	N/A	N/A	N/A	N/A	N/A	N/A	2,698	6,378	9,317	14,784
Democratic Republic of Congo	N/A	N/A	N/A	N/A	N/A	N/A	1,809	8,437	9,509	8,376
Guinea	N/A	N/A	N/A	N/A	2,003	4,820	3,210	3,032	4,911	8,814
Guinea Bissau	N/A	N/A	N/A	N/A	278	345	413	441	562	639
Mali	N/A	N/A	1,029	2,735	3,044	2,295	4,489	6,629	7,877	9,559
Niger	807	1,249	1,173	1,913	2,194	2,177	1,913	2,372	4,280	4,609
Republic of Congo	N/A	N/A	N/A	N/A	N/A	N/A	878	N/A	2,567	3,124
Senegal	1,363	1,682	1,489	1,736	1,626	1,714	1,980	1,849	4,460	4,576
Togo	447	551	3,551	3,836	4,581	5,848	7,445	8,289	10,816	9,913

Data Source: One-stop shops, commercial courts.

To illustrate the visible upward trends behind these figures, Figure 11 reports the same data using 2013 or 2014 as a normalized baseline; Figure 11 analyzes these data by focusing on those countries for which longtime series are available: Burkina Faso, Cameroon, Chad, Mali, Niger, and Senegal. Figure 11's principal indication is that simple analysis using a linear trend shows that the two post-reform years – 2015 and 2016 – are clearly above that trend in Burkina Faso, Mali, Niger, and Senegal. This reflects a reaction to business registration attributable to the UA on Company Law. In Cameroon and Chad, the effect is less clear.

Figure 11: Business Registration (All Legal Forms)

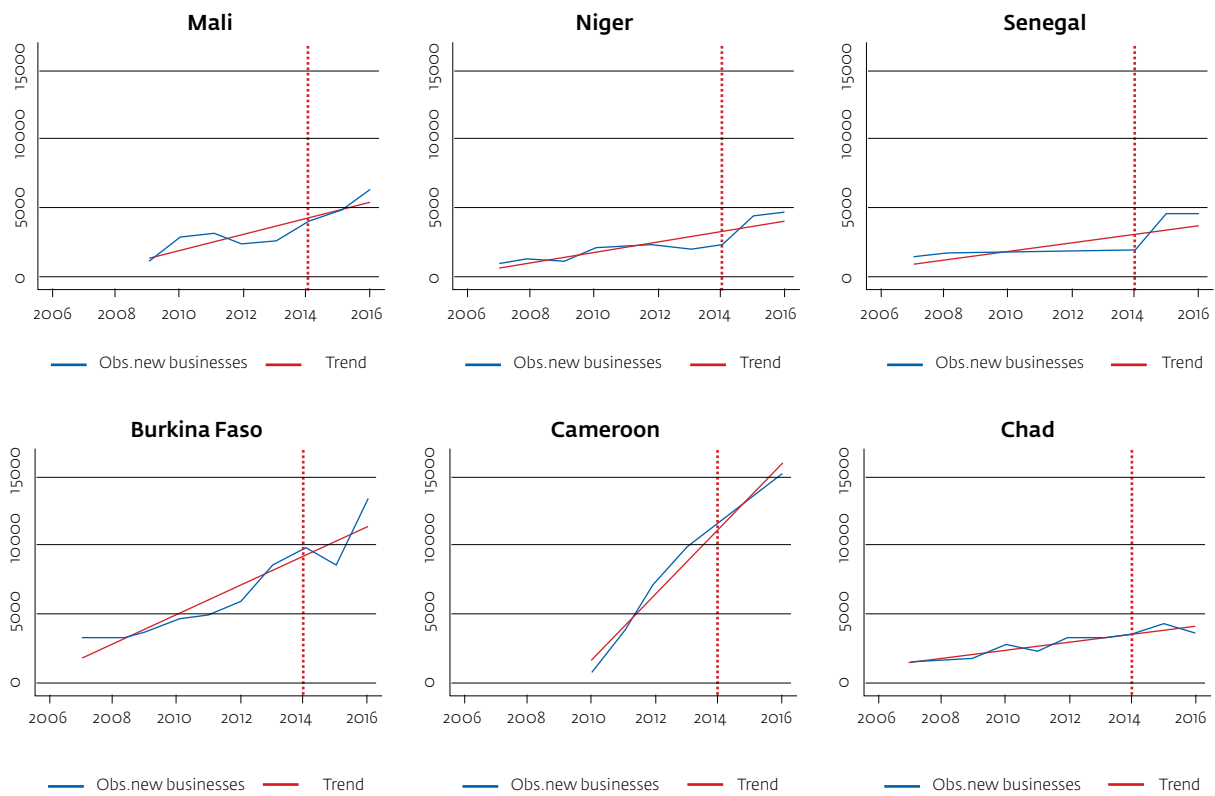
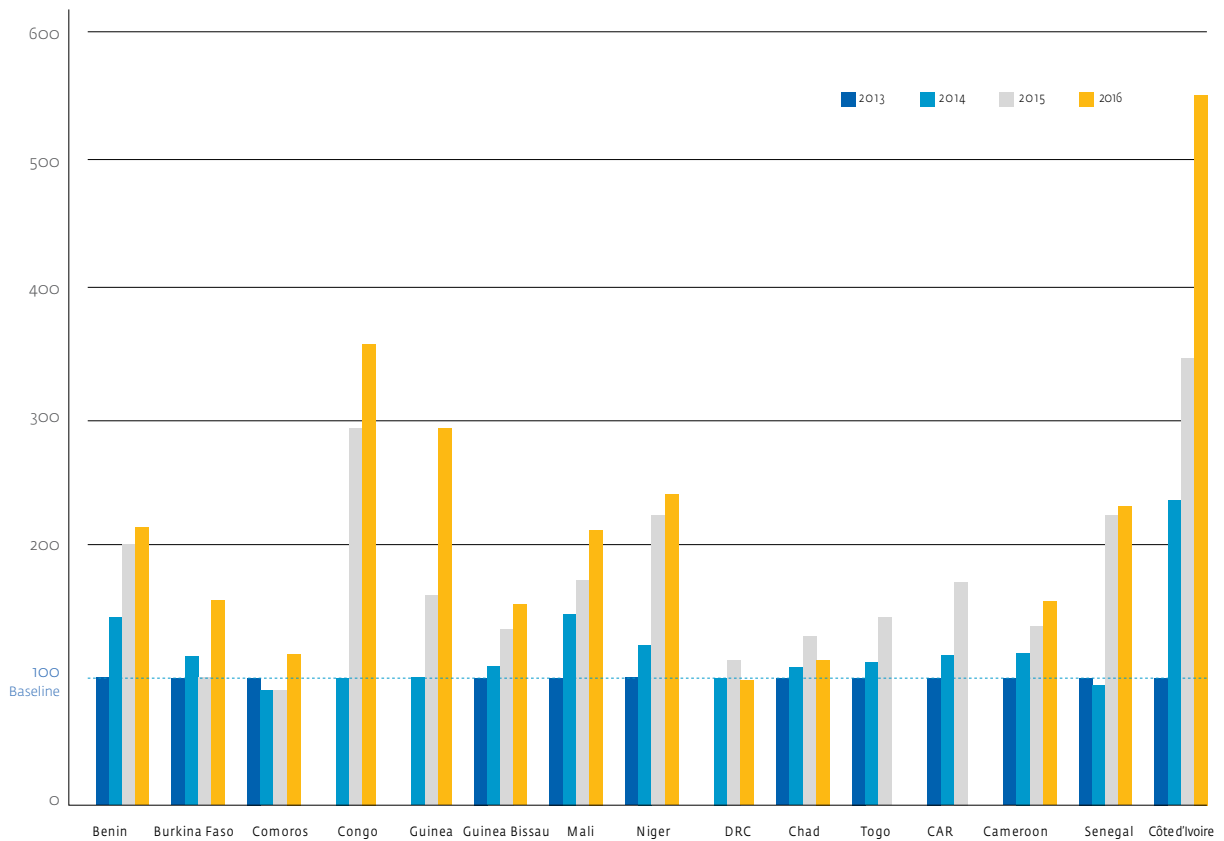


Figure 12: Number of Newly Registered Businesses (All Legal Forms)



Data Source: One-stop shops, commercial courts.
 Note: Base 100 is year 2013, or 2014 when 2013 is not available.

Focusing on SARL registration, Table 8 shows a similar trend. After the minimum capital requirement for SARLs was lowered in 2014, the six countries where data were obtained show a surge in 2015. Figure 13 reports the same data for the three countries with the longest SARL time series: Cameroon, Mali, and Senegal. In Senegal after 2014, a marked reaction of about 700 SARL registrations per year appears – an increase of about 30 percent. In Mali, the reaction is also discernible.

Table 8: Number of New Registered SARLs

	2009	2010	2011	2012	2013	2014	2015	2016
Cameroon		187	1,043	1,878	1,878	2,016	2,526	2,565
Côte d'Ivoire						2,949	7,069	9,189
Guinea					751	749	1,455	1,853
Guinea Bissau			262	310	376	380	503	592
Mali	535	1,474	1,818	1,541	1,643	2,386	2,879	3,092
Senegal	791	862	624	984	617	1,067	2,836	2,889

Data Source: One-stop shops, commercial courts.

Figure 13: SARL Registration

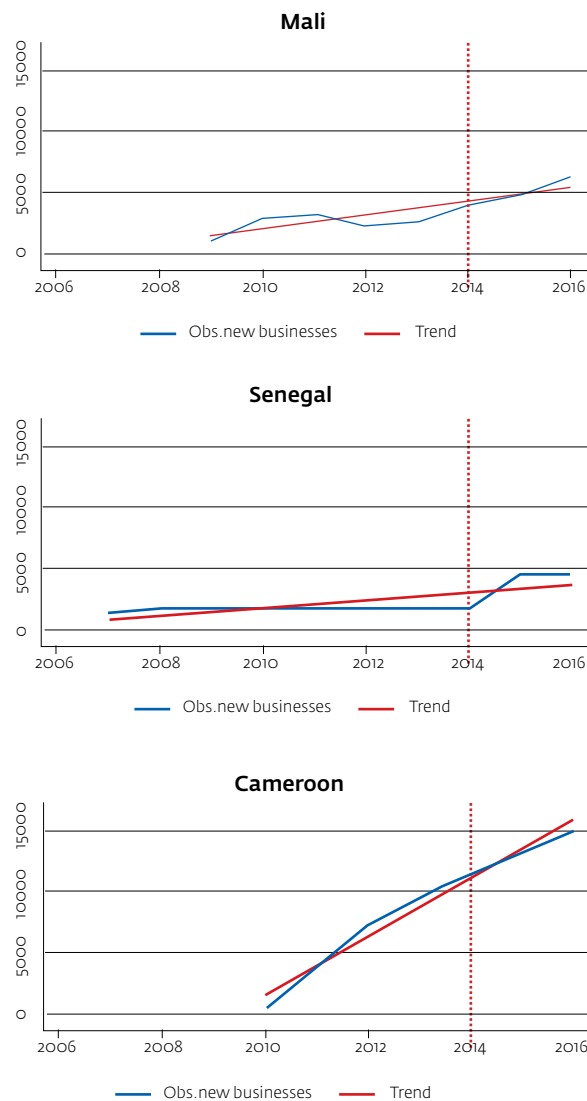
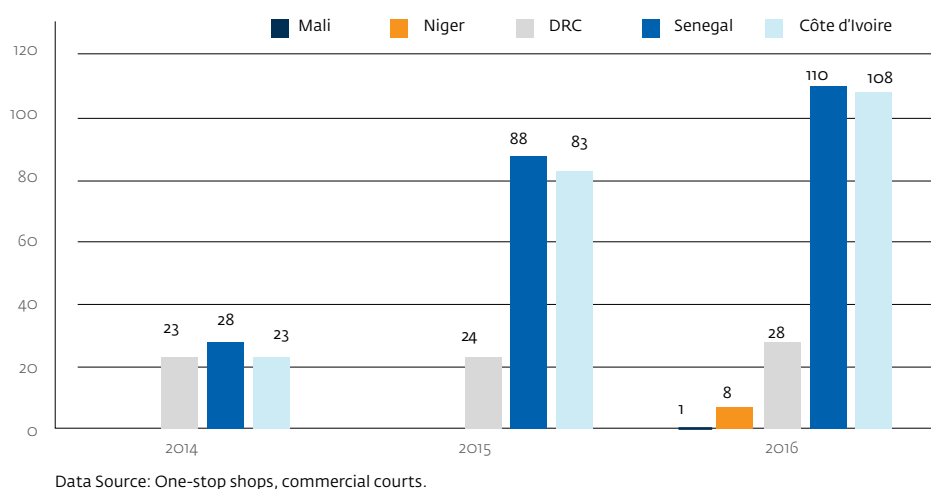


Figure 14 shows the initial reaction regarding SAS registration in five countries, another innovation of the same UA. Senegal and Côte d'Ivoire show a solid adoption of SASs.

Figure 14: SAS Registration



Evidence from Case Studies

Consistent with these outcome data, evidence from the three case studies suggests significant adoption of the OHADA simplification of SARL registration, as described below.

Ex ante Verification of Business Registration: Lawyers and businesses report progress on company registration as a direct result of the UA on General Commercial Law, even without effective RCCM computerization. In Cameroon, Article 50 of the UA has translated into a strong reduction in business registration time – from two months to two weeks – according to estimates provided by lawyers, businesses, and business associations, and as confirmed by the CNO and the Ministry of Justice of Cameroon. Article 50 of the UA states that the RCCM officer must verify registration documentation not on an ex ante, but rather on an ex-post basis within three months.

Ex-post Submission of Criminal Records: The same UA substituted the sworn declaration for the criminal record, allowing registrants 75 days to produce criminal records. This reform was confirmed as mostly effective in all three countries:

- In Cameroon, its usefulness is confirmed for business registrations going through a Center of Enterprise Creation Formalities (CFCE).⁴⁰ However, reports indicate that if the registration process starts directly at the RCCM, as opposed to being mediated by a CFCE, then the extract of criminal records is still requested from the application date.
- In Niger, key informants – including ministry of justice, legal, and private sector representatives – confirmed the possibility of substituting the founders' criminal records with a sworn declaration during company registration. However, this option is given only to entrepreneurs born outside the capital, conditional on provision of a certificate of residence. This reform is nonetheless regarded as beneficial in a large country like Niger.⁴¹
- In Côte d'Ivoire, the business registration simplification was confirmed through the Investment Promotion Center in Côte d'Ivoire's (CEPICI) one-stop shop for enterprise registration and for direct registration with the RCCM at Abidjan's Commercial Court.

40. Cameroon's lawyers and business associations also point out that the extract, or extract of criminal records, is seen to have limited usefulness. This is because Cameroon's criminal records are not centralized: the extract only covers a single geographic jurisdiction. This situation has strengthened perceptions of the reform's rationale and acceptance.

41. Private sector representatives report that it can take up to one week to travel from Niamey to a hometown in the interior of the country to procure the document, then return to Niamey. This requirement also involved expenses, estimated at 25,000 West African CFA francs to reach the nearest Maradi, and about 80,000 West African CFA francs in the case of Diffa, including travel costs of 50,000 West African CFA francs, accommodation costs of 20,000 West African CFA francs, and duty stamp fees of 10,000 West African CFA francs.

Interestingly, in both Niger and Côte d'Ivoire, no sanction is applied if the criminal record is not presented within the prescribed 75 days.

Lowering SARL Capital Requirements and Dispensing with Notarial Deeds for SARLs: This reform has had tangible impact on the ease and speed of company registration in Cameroon, Côte d'Ivoire, and Niger:

- In Cameroon, notaries, APME,⁴² and businesses confirm that:
 - ◊ The minimum capital for SARLs is now effectively 100,000 West African CFA francs, a decrease from the 1 million West African CFA francs formerly required.⁴³
 - ◊ SARLs with capital below 1 million West African CFA francs can waive notarial deeds for articles of association and payment of capital.
- In Niger:
 - ◊ In 2015, the minimum paid-in capital for a SARL was reduced to 100,000 West African CFA francs. Additionally, the use of notaries for articles of association and payment of capital was made optional.⁴⁴ In the second semester of 2016, most SARL registrations (60 percent) were completed without recourse to a notary; for about half of them, the share capital deposited by shareholders was exactly 100,000 West African CFA francs, the legal minimum.
 - ◊ Since 2017, the authorized minimum paid-in capital for a SARL has been freely determined.⁴⁵
 - ◊ Interviewed local Nigerien firms associate these reforms with a significant reduction of the formerly high SARL registration costs, with corresponding savings for the business community, estimated at about \$500,000 between 2015 and the first semester of 2017 (see Box 3).
 - ◊ The number of business registrations increased twenty-fold between 2004 and 2014. Newly registered firms increased from little more than 100 in 2004, to more than 2,300 in 2014. In the two years following the introduction of the UA on Company Law, the number of business registrations and modifications – typically sole proprietorships converted into a SARL or unipersonal limited liability (SARLU) – doubled. Since then, SARLs have accounted for a significant and growing share of total business registrations: 14 percent and 17 percent in 2015 and 2016, respectively.
- In Côte d'Ivoire, simplification of SARL registration has had tangible impact, as lawyers and the CEPICI confirm:
 - ◊ Minimum capital for SARLs is now effectively 100,000 West African CFA francs, down from 1 million West African CFA francs.
 - ◊ SARLs with capital below 1 million West African CFA francs can waive notarial deeds for articles of association and payment of capital.

42. Agence pour les PME (APME). [SME Promotion Agency (APME)]

43. Loi n° 2016/014 du 14/12/2016.

44. Décret n° 2014-503/PRN/MC/PSP/MJ de juillet 2014.

45. Décret n° 2017-284/PRN/MC/PSP/MJ/MF d'avril 2017.

Box 3: SARL Registration in Niger: Entrepreneur Savings

In 2014, a young entrepreneur wishing to set up a media and communications firm found registering a SARL too expensive, at about 2 million West African CFA francs, including 1 million West African CFA francs of minimum capital, 500,000 West African CFA francs for notary fees, and an additional 500,000 West African CFA francs for out-of-pocket expenses. As a result, he registered as a sole proprietorship instead. Over the next two years, the company managed to secure a sizable revenue stream, with contracts worth between 20 million West African CFA francs and 30 million West African CFA francs, while also significantly increased its number of employees from one to 15. The entrepreneur decided to convert the sole proprietorship into a SARL. The conversion was fast – completed in 24 hours – and cost-effective, using the template for articles of association provided by the MDE: 17,500 West African CFA francs plus 100,000 West African CFA francs of minimum capital.

Another entrepreneur, an authorized management center (CGA), confirmed that when its SARL was created in 2009, it had to disburse about 1.35 million West African CFA francs, including 300,000 West African CFA francs for notary fees, 50,000 West African CFA francs to open the dossier, and the 1 million West African CFA francs minimum capital.

A third entrepreneur was recently asked a much higher amount – 1 million West African CFA francs – by a notary to create a SARLU. He instead went to the MDE, where he created his SARLU in 48 hours at the fixed cost of 17,500 West African CFA francs.

Although still limited in volume, SASs, introduced by the same UA, also have tangible legal existence in all three countries:

- In Cameroon, a business focus group included one small business incorporated as a SAS: Tara SAS, a Yaoundé-based small business involved in cocoa processing and export. However, lawyers and business associations generally report that the SAS is not yet commonly used in Cameroon. Unfortunately, obtained business registration statistics do not distinguish between standard SAs and SASs (see Figure 11), but lawyers report that the SA is better-understood by the legal profession and is still preferred over the SAS. SASs are widespread in France, and tellingly, Tara SAS has French partners who specifically pushed for that legal form.
- In Niger, both the private sector and representatives from the legal profession see the SAS as a useful innovation. Still, as in Cameroon, it is not well known and, given the considerable degree of contractual freedom it allows, it is considered risky and is therefore not yet widely used. According to MDE data, only eight SASs were registered in 2016 and three in the first six months of 2017.
- In Côte d'Ivoire, SASs do legally exist, but specific registration figures were unavailable.

Finally, these largely encouraging findings – especially those for SARL registration – should be nuanced with perceived limitations. Several key informants in Niger suggested the high likelihood that many new SARLs will rapidly fail. Representatives from the legal profession similarly criticize the OHADA reforms – specifically SARL registration, but also the criminal record reform – which they believe could contribute to weakening legal security, as many new SARLs reportedly: (i) have a (standard) status that inadequately reflects their actual activities; (ii) lack the preliminary authorizations needed to operate in some sectors (such as construction); (iii) fail to fulfill legal obligations (such as filing tax returns by April each year); and (iv) are created to obtain specific contracts and disappear soon after, with outstanding debt. Unfortunately, no evidence is available to even tentatively assess proposed changes in the proportion of these reportedly non-operational SARLs following the introduction of the OHADA reforms.

3. BUSINESS SECTOR COST SAVINGS

Business cost savings were another important expected outcome from the adoption of the four OHADA UAs reviewed in this report. BCS are defined as savings accruing to private economic agents from IC reforms. Due to simplified procedures, the OHADA reforms under review were expected to produce BCS through reduced out-of-pocket expenses, or “cost savings.” Simplified procedures can involve: (i) reduced direct costs associated with a certain action or procedure (such as printing costs, or transportation expenses); or (ii) reduced expenditure for professional services related to a given procedure (such as expenses for notarizing documents).⁴⁶ Estimating BCS involves multiplying the unit savings from a specific reform by the number of relevant businesses or transactions impacted by the reform. BCS encompass all savings associated with a given IC reform from its effective implementation, that is, from the date the private sector operations improvements materialized. Because the reforms under review were implemented in the OHADA countries at different times, the savings achieved in various years were compounded using the relevant interest rate, which allowed for proper comparison. Accordingly, results are in 2017 dollars.⁴⁷

For this evaluation, BCS estimates were based on a single reform introduced by the UA on Company Law. This reform simplified SARL creation by giving OHADA member states the power to waive the requirements for a notarial deed to establish articles of association. Also, the reform allowed for a notarial statement to accompany subscription and payment of share capital. Initially, some additional measures introduced by other OHADA UAs under review were identified as likely to generate BCS, but these measures were discarded during the analysis for reasons explained in Table 9.

Table 9: Reforms Expected to Generate BCS Excluded from Computation

OHADA UA	Specific Reform	Reasons for Exclusion
UA on General Commercial Law	Business Registration (SARL and SA): Requiring a copy of the founders' criminal records replaced by requiring a sworn declaration	This reform was principally introduced for the benefit of entrepreneurs born outside the capital of each member state, as criminal records must be issued by a court located in the requestor's birth place. Case studies confirm that this new measure is seen as useful by the business community, which reported sizable time and cost savings for travel and accommodation – for instance, in the Niger case study (see Appendix 3). However, the savings are temporary, as founders' criminal records still must be provided within a 75-day period. ⁴⁸ Because permanent savings can only derive from violating the law, no BCS can be attributed to this reform.
UA on Secured Transactions	Pledge Perfection: Requirement to register pledges with the tax authorities abolished – filing now occurs at the RCCM	This reform was expected to generate both cost and time savings. However, it has been verified that although registering a security with local tax authorities is no longer required, member states still collect this tax. Based on information gathered during fieldwork, the cost of registering with the tax administration in the region is usually modest, and the number of securities registered is low.
UA on Insolvency	Simplified Proceedings: Proceedings simplified for preventive settlement, judicial recovery, and assets liquidation for the benefit of small businesses	Cost and time savings from this reform are expected to accrue to businesses with fewer than 20 employees and annual turnovers below 50 million West African CFA francs. The reform was recently introduced, and micro and small enterprises in the region are generally reluctant to resort to formal insolvency proceedings; consequently, only a marginal number of relevant transactions have been undertaken thus far. Region-wide, only a handful occurred in 2016.

46. As detailed in Appendix 1, BCS can also result from: (i) reduced time spent handling administrative procedures, or “time savings;” and (ii) cash flow benefits from changed payment modalities for some fees or taxes, or “financial savings.” These types of savings have not thus far been seen as relevant to the IC reforms under analysis.

47. A detailed description of the methodology appears in Appendix 2.

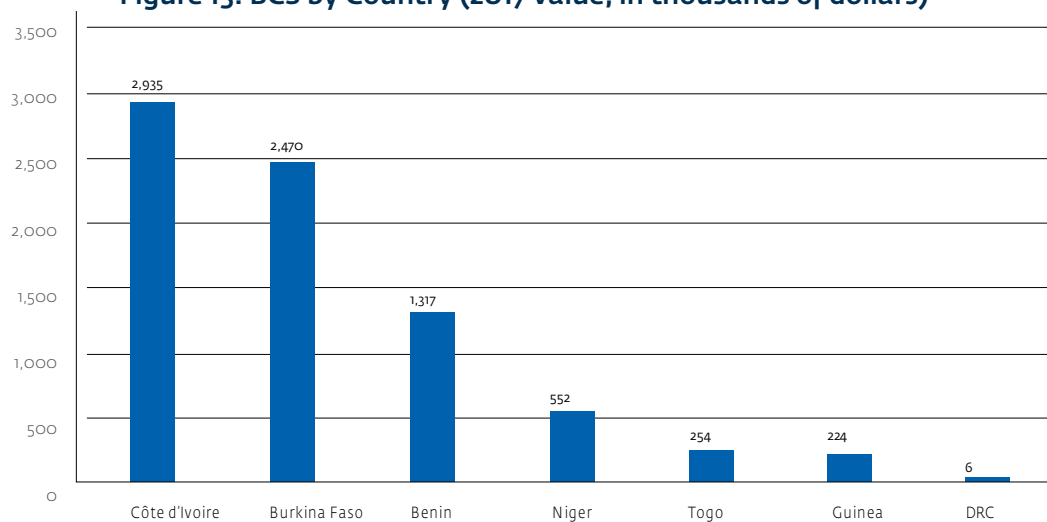
48. Section 2, Immatriculation des personnes morales, Art 47: “[...] une déclaration sur l'honneur signée du demandeur et attestant qu'il n'est frappé d'aucune des interdictions prévues par l'article 10 ci-dessus. Cette déclaration sur l'honneur est complétée dans un délai de soixante-quinze jours à compter de l'immatriculation par un extrait de casier judiciaire ou à défaut par le document qui en tient lieu.” [“Section 2, Registration of legal persons, Art. 47: “[...] a declaration of honor signed by the applicant and certifying that he is not subject to any of the prohibitions provided for in Article 10 above. This declaration on his honor shall be completed within seventy-five days from the date of registration by an extract from a criminal record or, failing that, by the document which takes the place of it.”]

BCS were estimated for the seven OHADA countries – Benin, Burkina Faso, Côte d'Ivoire, Democratic Republic of Congo, Guinea, Niger, and Togo – that adopted national enacting legislation in 2014. For all other OHADA countries, the BCS value was estimated to be nil or negligible for the following reasons:

- Relevant national legislation was reportedly not enacted in Central African Republic, Comoros, Equatorial Guinea, and Guinea-Bissau. In Mali and Senegal, the enacted legislation focused exclusively on reducing the minimum paid-in capital requirement without modifying the notaries' role in the SARL registration process.
- The national enacting legislation was introduced so recently—late 2016 to 2017— that the number of relevant transactions as of mid-2017 was negligible. This was true for Cameroon, Gabon, and Republic of Congo.
- Despite timely introduction of relevant national legislation, in some cases – in mid-2015 in Chad, for example – the business community reportedly has not altered its SARL registration practices and continues to rely on notaries.

Total BCS generated by World Bank-supported OHADA reforms from 2015 through late June 2017 are estimated at about \$7.8 million. As indicated above, this amount comes entirely from cost savings, because SARL registration reform enables businesses to save on legal fees. Other types of savings remain marginal. Key informants consulted during fieldwork indicate that the time entrepreneurs previously spent with notaries is broadly offset by that currently spent at the one-stop shop for enterprise registration; time savings are thus negligible. Côte d'Ivoire has the highest value of BCS, at \$2.9 million, followed by Burkina Faso at \$2.5 million, and Benin at \$1.3 million (see Figure 15). In three other countries – Guinea, Niger, and Togo – the value of BCS falls within the \$220,000 to \$550,000 range, while in Democratic Republic of Congo, BCS has been estimated as marginal (about \$6,000) because public notaries charge insignificant fees to authenticate articles of association.

Figure 15: BCS by Country (2017 value, in thousands of dollars)



Higher BCS values are usually achieved in countries recording higher numbers of transactions. Benin, Burkina Faso, and Côte d'Ivoire recorded higher levels of SARL registrations per year – for 2016, the numbers were about 3,600 to 3,700 in Benin and Burkina Faso, and almost 9,200 in Côte d'Ivoire. The vast majority, between 70 percent and 80 percent, were created without notaries. Member states showing comparatively smaller business community acceptance of the reform – with the share of SARLs created under private agreement falling between 33 percent and 65 percent – had a much smaller number of yearly business registrations, between 800 and 1,800. On the other hand, differences in notary fees across OHADA are less marked, with the average value of legal savings typically ranging from \$250 to \$650. Democratic Republic of Congo, where the notarial profession has only recently been liberalized, serves as the notable exclusion with notary fees of only \$10.

The relative importance of BCS for the private sector can be seen in the annual current (that is, un-compounded) values compared with the gross private capital formation value in the private sector. As shown in Table 10, the OHADA reforms' cost savings impact has been modest so far, between 0.01 percent and 0.05 percent of private investment. However, these conditions may change. IFC (2012) typically measures BCS over four years, assuming that after that period, reforms would be implemented even without IFC assistance. The reform impacts are only partially accounted for because BCS only began to materialize two-and-a-half years ago. Additionally, because the reform is recent, BCS was computed for only seven OHADA member states – savings are expected in more countries soon. Further, the BCS impact of the UA on Company Law, due to its important role in fostering business registration, goes beyond what has thus far been measured, as detailed in the Business Registration section.

Table 10: Ratio of BCS over Private Sector Investment

	2015	2016
Benin	0.03%	N/A
Burkina Faso	0.03%	0.05%
Côte d'Ivoire	0.02%	0.02%
Guinea	0.01%	0.01%
Niger	0.01%	N/A
Togo	0.01%	0.02%

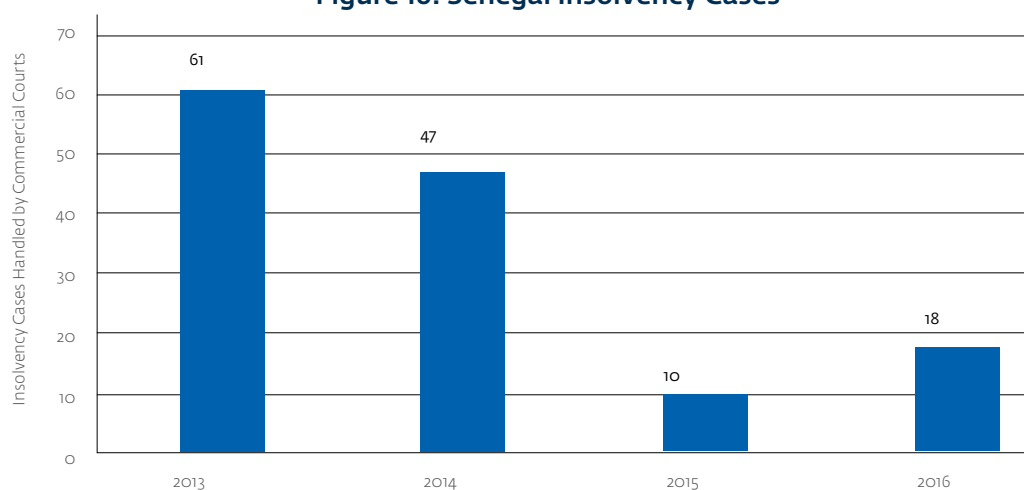
Source: Report estimates and World Development Indicators.
Note: BCS annual values are in current terms.

4. INSOLVENCY RESOLUTION

Outcome Indicators

Outcome data on insolvency resolution, the most recent UA among the four under review, are very scarce. Only Senegal's commercial courts maintain statistics on the number of insolvency cases, and, as shown in Figure 16, no upward response can be observed after 2014, the year of the reform.

Figure 16: Senegal Insolvency Cases



Case Studies

In Cameroon, Côte d'Ivoire, and Niger, impact from the 2014 UA on Insolvency, although legally implemented, was marginal as of June 2017.

The following points illustrate its very low impact in Niger:

- Even though the OHADA text is sufficiently detailed and directly applicable, no small business entity has filed with the commercial court under the simplified proceedings for preventive settlement, judicial recovery, and liquidation of assets.
- No request was received or sent under the new cross-border insolvency regime based on the UNCITRAL Model Law.
- A handful of collective proceedings for resolving debts – two liquidations, one preventive settlement, and one legal redress – were ongoing as of June 2017.
- National legislation to enact judicial representatives is currently being drafted.

In Cameroon and Niger, the rare use of collective proceedings to address insolvency as a business practice has contributed to the reform's limited impact. Interviewees in the business and financial sectors report that insolvency procedures still bear a negative stigma, rather than being seen as providing protection during a turnaround phase. In Côte d'Ivoire, outcomes are similar. The Abidjan Commercial Court reported 42 insolvency cases in 2015, only one conciliation case, and no simplified procedure for an SME. On a more positive note, in 2016 Côte d'Ivoire passed national legislation regarding judicial representatives, and in February 2016 it established the National Commission for Judicial Representatives to supervise the profession.

These points indicate that it is simply too soon to assess this UA's impact. However, banks and lenders from Cameroon and Côte d'Ivoire stress that, in principle, these improvements are important to their operations because they reinforce legal security surrounding bad debt management.

5. MARKET CREATION

To what extent did the four UAs enhance market function in the OHADA region? This section examines the impact of the reforms on market entry, exit, and competition.

Impact on Markets

The OHADA program provides critical public goods to the market economy, notably: company law, insolvency resolution, collaterals, conflict resolution, and accounting standards. In that sense, OHADA reforms are clearly relevant to securing the transversal institutions that are indispensable to all regional markets.

Further, the findings show that the reforms under study have actually improved these institutions:

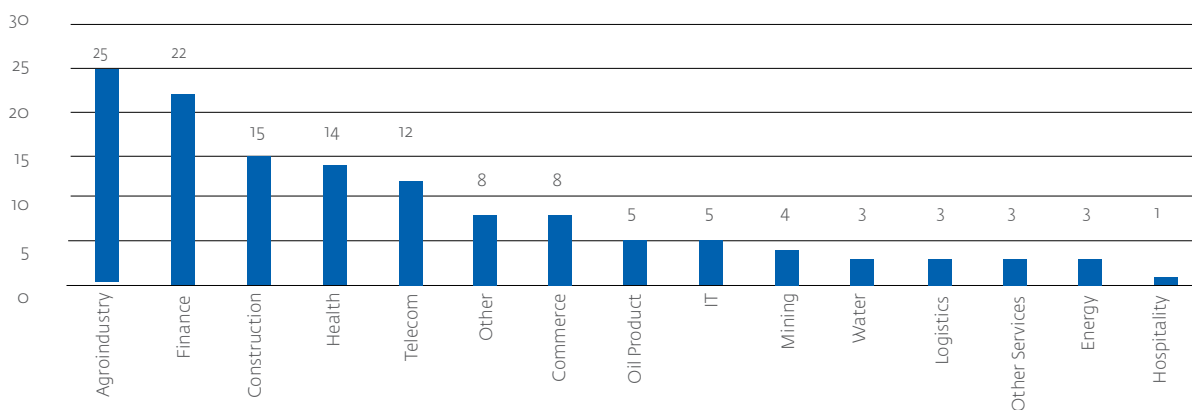
- The UAs on General Commercial Law and Company Law lowered the cost of forming companies, thus contributing to reduced entry costs. Forming companies is easier and less costly throughout the region thanks to the OHADA reforms studied in this report. As reported above, this example is illustrated by the surge in business registrations across the region, particularly SARLs.
- The UA on Secured Transactions has improved collateral mechanisms, which have enhanced access to finance across the region, again contributing to lower entry costs and increased competitive pressure.

Impact on the Financial Market

As reported, evidence indicates that the UA on Company Law has supported the emergence of PE funding, increasing competitive pressure on the banking industry. In Cameroon, Côte d'Ivoire, and Senegal, PE funds have been very active in providing long-term, equity or semi-equity, finance. Although the emergence of PE funds cannot be solely attributed to OHADA reforms, the reforms supported this evolution by providing appropriate legal mechanisms where needed, especially at the introduction of convertible bonds. This has increased competitive pressure and financial sector innovation by providing long-term funding alternatives to banks.

In turn, in the industries where PE funds have been typically involved – agroindustry, finance, and construction, but also health and telecoms (see Figure 17) – PE funds have likely lowered entry costs and increased competitive pressure.

Figure 17: Private Equity Deals by Industry (1996 to 2017, Selected Funds)⁴⁹



This evidence supports the conclusion that the reforms under evaluation have contributed to market creation in the region.

49. See Table 5

E. KEY LESSONS

This section provides insights while reviewing some of the key takeaways based on the impact analysis of all four UAs.

LESSON 1: FOCUSING ON CORE COMPETENCIES

Regional Programs Need Objectives Aligned with Capacities

A key finding from international experience is that regional programs work best when scope matches capacities and core competencies. Regional programs tend to be less focused than their national counterparts, making this lesson especially valuable for initiatives such as OHADA. The Independent Evaluation Group (IEG) reports that of the seven regional programs evaluated in 2007, only four adequately focused on their core competencies and goals, compared with 92 percent of national programs funded by the World Bank. Misalignment between capacities and objectives has “undermined both the implementation of activities and the sustainability of outcomes” of the evaluated regional programs (IEG 2007).

OHADA Has Impact When it is Focused

Findings from this evaluation suggest that the lesson on focus fully applies to the OHADA initiative. First, OHADA has generally held a focused mandate and a correspondingly focused set of core competencies; it clearly centers on the business environment’s legal and judiciary aspects. OHADA’s history, organization, and resources essentially make it a lawyers’ organization that specializes in business law. Article 2 of the OHADA Treaty specifies the scope covered by the initiative: “business law, entirety of regulation pertaining to company law, legal forms of businesses, debt recovery, collaterals...insolvency resolution, arbitration, labor law, [and] accounting law.” Consistent with this scope, CNOs are hosted by ministries of justice in their respective countries; key staff at the Permanent Secretariat are senior judges and lawyers; and the best business lawyers in francophone Africa and France contributed to the design and drafting of each UA.

Second, although the UA on General Commercial Law involves critical aspects of taxation (entrepreneur) and IT development (RCCM computerization), the other three UAs are closely aligned with OHADA’s core expertise in business law. The other UAs address: legal aspects of collaterals (UA on Secured Transactions); company law/minority interest protection (UA on Company Law); and insolvency resolution (UA on Insolvency).

This clear divide helps explain the impacts of the three business-law-focused UAs. Notably, these include measurable impacts on access to finance and business registration, versus the significant delays and difficulties implementing entrepreneur and RCCM computerization reforms. Interestingly, this divide was already apparent at the intermediary step of legal implementation: DB analysis in each of the 17 OHADA member states recorded no improvements from entrepreneur and the RCCM, but many from business law reforms (see Section C).

LESSON 2: ALIGNING NATIONAL INTEREST AT THE REGIONAL LEVEL

Successful Regional Programs Align with Stakeholder Interests at the National Level

Another lesson from regional integration experiences in Africa and other developing regions is that interest groups and coalitions – mostly at the national level – influence regional program impact. For example, Southern African Development Community experience suggests that “the diversity of power and interests of non-state actors affects how business and civil society organizations engage at national and regional levels on regional processes.” Effective implementation of reforms rests on effective consultation of national-level interests (Vanheukelom, Byiers, and Woolfrey 2016).

CNOs Are Instrumental to Stakeholder Consultations

Case study interviews and narratives show that the private and financial sectors, the legal profession, and national authorities have been, by and large, appropriately represented and consulted through CNOs (see Box 4). In Côte d'Ivoire, statutory CNO members – including business representatives, business lawyers, and the banking sector – report substantial upstream consultations. These consultations have been a positive factor, increasing impact on access to finance. As reported, the new collateral mechanisms mostly responded to stakeholder needs. The new collateral mechanisms are also actually being used. For example, the Côte d'Ivoire Chamber of Commerce, a statutory CNO member, reported adopting its suggestion to remove a requirement from the final UA on Insolvency resolution – the requirement that at least two creditors launch a legal action.

CNOs could possibly be improved by statutory inclusion of equity funds representatives, as the equity industry is clearly vital to the region's economic growth and innovation. In addition, equity funds are de facto key “clients” for the innovations the UA on Company Law introduced. The fund managers interviewed expressed interest in participating in CNOs.

Box 4: OHADA National Commissions

The OHADA National Commissions, or CNOs, play an essential role by involving various national-level business and business law actors in drafting, assessing, and improving the UAs. These OHADA National Commissions exist alongside the principal OHADA institutions.* They were not created by the 1994 OHADA Treaty, but were perceived as practical necessities during preparation of the first Uniform Acts, designed to address the procedure's absence of intervention by national parliaments.

OHADA National Commissions subsequently maintained their organization and function, and an Orientation Text[†] specified, inter alia, that representatives from the banking sector and chambers of commerce are statutory members.

* The OHADA Treaty provides five principal institutions: the Conference of Heads of State, the Council of Ministers, the Permanent Secretariat, the CCJA, and the Higher Regional School of Magistracy (ERSUMA).

[†] OHADA (2003).

Issues in National-Regional Coordination

International experience has shown that for regional programs to succeed, coordinated efforts between the national level – such as World Bank Group support for individual countries – and the regional level – such as World Bank Group support for regional programs – is critical (see Box 5).

Box 5: Relationship Between Regional and National Support

IFC experience with the East African Community (EAC)* is particularly pertinent to the OHADA initiative. A key lesson from the EAC is that triangular engagement with regional institutions, as well as with member states and the private sector, yields better results than client-only relationships, which are primarily focused on regional institutions.

This finding is further corroborated by regional integration initiatives in Africa. Donor support for the Common Market for Eastern and Southern Africa, the Intergovernmental Authority on Development, and the Economic Community of West African States also shows that effective implementation of regional programs occurs when they are “aligned with key national interests” as defined by the ruling [national] elites.”†

*Dadul Islam, Mugo, and Nadareishvili (2015).

†Vanheukelom, Byiers, and Woolfrey (2016).

In that respect, OHADA reforms have faced two difficulties:

- A national-regional coordination issue limited the UA on Secured Transactions’ impact on access to finance. In West Africa, the new collateral mechanisms are not reflected in the banking sector’s prudential rules. This has created a disincentive for banks to use the new collateral mechanisms, likely affecting the UA’s impact in the medium to long term. Importantly, this problem is being tackled through CNOs in Niger and Côte d’Ivoire – that is, at the national level – through consultations with central bank national representation in these countries. Mechanisms are not in place to directly handle such supranational issues between the two concerned regional organizations, namely OHADA and the two central banks.
- Regarding RCCM computerization, the World Bank Group faced coordination issues by supporting each of the 17 OHADA member states individually, while also supporting the OHADA regionally. Coordination was not entirely successful, as evidenced by Côte d’Ivoire. Importantly, Côte d’Ivoire’s E-TribCom program, supported at the national level by the World Bank Group (developed and installed in 2015 with support from the Bank Group-funded PARE/PME) overlaps with OHADA’s GeoImage program, simultaneously promoted by the Permanent Secretariat and the World Bank (through assistance under PACI).

LESSON 3: SYSTEMATICALLY MONITORING OUTCOMES AND IMPACT

Monitoring Matters

Given regional integration program complexities, it is important to systematically monitor program implementation. Monitoring helps streamline the process, provides credible feedback to stakeholders (and boosts their support), and can address bottlenecks and unforeseen difficulties. Referring again to successful World Bank Group regional experience, the EAC initiative used a scorecard to monitor the progress of eliminating restrictions to the movement

of capital, services, and goods. DB indicators and rankings were also used to demonstrate progress to regional leaders and private sector stakeholders (Dadul Islam, Mugo, and Nadareseishvili 2016).

OHADA Lacks Built-In Monitoring of Implementation, Outcomes, and Impact

OHADA mechanisms for monitoring implementation, outcomes, or impact for the four UAs under analysis – at both the Permanent Secretariat and CNO levels – do not conform to international best practices.

- **Monitoring the Implementation of the UAs in Member States:** Although the Council of Ministers decided in December 2011 to systematically follow up on implementation steps, the status of UA implementation in each member nation is not readily available. No systematic scorecards or other documentation can easily illustrate implementation, at a glance. The information is available at the Permanent Secretariat, but not in a readily available, structured format.
- **Systematic Database Monitoring of Outcomes and Impact:** The Permanent Secretariat collects data on an ad hoc basis. For example, data on business registration were requested by the Secretariat at the June 2017 Conakry Council of Ministers, but as a once-off, limited data collection exercise. In more than 20 years of existence, that was the first data-based evaluation of the OHADA process.

The absence of systematic monitoring and data collection could present a long-term problem for the OHADA process. It makes evaluations and comparisons of UA impact and performance difficult, while limiting the information available to decision makers, who are responsible for steering the OHADA process toward greater impact on the business environment. However, the region's data environment is a particularly difficult one (see Box 6), and OHADA institutions are unlikely to overcome these difficulties without significant national-level efforts from each member state.

Box 6: Regional Data Issues

The three case studies addressed in this evaluation, as well as surveys from six additional countries, show varying availability of data on outcomes and impact for each of the four UAs under study. The data differ widely and are, in some cases, very problematic:

Data on Business Registration: For the UA on General Commercial Law, the generation of data on business registration is well structured. It is typically handled by the one-stop shop or a similar agency in charge of business registration. Where it is operational, like in Côte d'Ivoire, the RCCM is a good source of centralized data on business registration.

Data on Collaterals: For the UA on Secured Transactions, neither central banks nor banking associations centralize statistics on collaterals. In addition, individual banks typically do not share statistics on collaterals.

Data on Insolvency Resolution: The UA on Insolvency has poor data sources. The primary source(s) are commercial courts, and – with the exception of Côte d'Ivoire's Abidjan Commercial Court – the surveyed courts hold the bulk of their information in paper form and thus cannot produce aggregate statistics.

Data on Minority Interest Protection: The UA on Company Law – which provides innovations on minority interest protection – presents a similar situation, relying on the commercial courts as its primary information source.

LESSON 4: LEGAL SECURITY VERSUS JUDICIAL SECURITY

Experts in OHADA law in Cameroon ⁵⁰ and Côte d'Ivoire draw a useful distinction between legal and judicial security. According to these sources, OHADA generally has – and the four reforms under review, specifically have – consolidated

50. Without implicating her in our findings, the authors are especially grateful to Maître Marie-Andrée Ngwe.

legal security in the region's business environment. On the topics covered by this evaluation – including collaterals, enterprise governance, and insolvency resolution – the OHADA legal framework is now at par with international best practices, drawing largely on up-to-date French law. For example, as mentioned, under reforms in the UA on Secured Transactions, the legal perfection of a movable collateral is performed by a simple filing with the local RCCM. There is no need to register with the tax administration. Another example from the same UA is the introduction of autonomous collaterals, granting legal force of execution to mortgages without a judicial decision as to the substance. Similarly, the UA on Insolvency provides additional legal security to viable businesses going through an insolvency period, again following international best practices.

However, the full benefits from this reinforced legal security depend on corresponding measures for judicial security. Using the autonomous collaterals example, their usefulness ultimately depends on a judge's decision to refuse the case if and when it is brought by the borrower – thus allowing the property transfer to proceed as per the forfeiting clause. As reported in the Côte d'Ivoire case study, some cases have, in fact, unfolded in this way. Still though, informants point out the need to inform and train all OHADA member state judiciaries on the new mechanisms so that OHADA legal security is effectively matched by judicial security.

In fact, OHADA's institutions and activities have rightly reflected this need:

- The CCJA, both an arbitration center and a supreme court, has a central role in reinforcing judicial security on OHADA law (see Box 7).
- Training judges on OHADA law is the primary role of the ERSUMA, another OHADA core institution.⁵¹ In addition to the ERSUMA, the Permanent Secretariat has been very active in offering training seminars on the latest UAs.⁵² Other encouraging initiatives have come from commercial courts themselves. Championed by Abidjan's Commercial Court, with World Bank Group support, a Network of Commercial Courts was established in 2016. In June 2017, the network organized a seminar in Abidjan on the new UA on Insolvency, with participation from the region's commercial courts.

As illustrated above, the key point is that continued efforts to support the judiciary – and more generally the legal profession – are critical to ensuring the sustained impact of the UAs under review. This is particularly true for the UA on Secured Transactions and the UA on Insolvency, where commercial courts directly affect implementation.

Box 7: The Common Court of Justice and Arbitration

The CCJA is a core OHADA institution. It was established in 1998 and made its first decision in 2001.

Both a Supreme Court and an Arbitration Center: The CCJA is a uniquely dual institution, comprising both a supreme court and an arbitration center. These two components relate as follows. The judges: (i) verify the conformity of the selection procedure for arbitrators; (ii) set the arbitrators' remuneration structure; and (iii) deliver the exequatur on the arbitration sentence, or award, validating the procedure for the sentence. They do not express a position as to the substance of the case.

No Pleas: An important feature of the supreme court – as opposed to the arbitration center – is that all procedures are in writing, with no in-person pleas. This appears to have contributed to decision delays, which can last up to two years according to practitioners in Cameroon and Côte d'Ivoire. Recently, however, the number of decisions made per year has accelerated, and in 2017, decision time fell to about six months, according to the CCJA. Decisions reached in 2014 numbered 156; in 2015, 199; in 2016, 205; and in the first five months of 2017, 147. The supreme court receives about 230 to 250 new cases per year.

Statistics on the workflow and backlog of arbitration center cases were not available.

51. See <http://www.ohada.org/index.php/fr/ecole-regionale-superieure-de-magistrature-ersuma/ersuma-en-bref>.

52. See <http://www.ohada.com/actualite/>.

F. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

Impact on Business Cost Savings, Access to Finance, and Business Registration

According to this evaluation, OHADA has generated significant impact on access to finance, business registration, and business cost savings.

Regarding access to finance, the SCM analysis showed that of the 10 countries for which valid control countries could be built, seven exhibited robust and significant additional domestic credit attributable to the 2010 UA on Secured Transactions. These countries include Burkina Faso, Cameroon, Central African Republic, Comoros, Mali, Senegal, and Togo. Dollar impacts range from around \$30 million in Comoros and Central African Republic, to more than \$1 billion in Senegal. Expressed relative to economy size, the largest impact can be found in Burkina Faso and Togo.

This finding is consistent with narratives and qualitative evidence collected from the financial sector through case studies in Cameroon, Côte d'Ivoire, and Niger. The case studies show systematic use of the collateral mechanisms introduced by this UA, particularly autonomous collaterals and collateral syndication.

Further, the 2014 UA on Company Law has supported the emergence of PE funds in two countries – Cameroon and Côte d'Ivoire – by providing modern financial instruments for equity funding. Specifically, a major contribution from this UA introduced convertible bonds, largely adopted by equity funds in these two countries.

Business registration also saw impact, even though full implementation of the SCM was not possible due to a lack of post-intervention data. The UA on Company Law has been accompanied by a surge in the number of SARLs – with a sharp increase after 2014 (the year capital requirements for SARLs were lowered and the use of notaries was made optional) in countries with available data (Cameroon, Côte d'Ivoire, Mali, and Senegal). Some initial reaction in SAS registration was also observed in these countries. In Senegal, where quality data and a longtime data series are available, an increase of 700 additional SARL registrations per year over the trend was observed – an increase of about 30 percent. Similarly, in Niger, the OHADA reforms can be credited for some 400 additional SARL registrations per year. Overall, business registration has increased markedly in the 15 countries with data available, except in Chad. It is important to note that some registrations may not have led to the launch of new business activity, and some newly established firms are likely to have gone out of business soon after incorporation. This possibility is regarded as even more concrete given the assumption that minimum capital constitutes adequate protection for creditors and is “the price to be paid” for limited liability.

Overall though, these findings show impact. They are consistent with evidence that key business registration simplifications have been effectively implemented and are being used across the region, including: (i) lower capital requirements for SARLs; (ii) elimination of notarial deeds for articles of association and payment of share capital for SARLs; and (iii) the temporary replacement of criminal records with simple sworn statements.

The UA on Company Law generated business cost savings in the six countries where the reforms were implemented (2014). These BCS ranged from 0.01 percent of gross capital formation in Guinea, to 0.05 percent in Burkina Faso, cumulatively worth \$ 7.8 million. In addition, although the reform's full impact would typically be assessed over a

four-year period, estimated BCS grew between 2015 and 2016, starting to materialize over a period of only two and a half years.

Considering distribution of impact by business size, impacts on access to finance – transmitted through sophisticated collateral mechanisms and equity funding – have concentrated on large businesses and infrastructure projects. On the other hand, impact on business registration and cost savings have largely affected SARLs with low capital – that is, small to very small businesses.

Limited Impact in Areas Outside OHADA Core Competencies

The entrepreneur status has produced little or no impact in terms of implementation and use in nine of the countries visited by evaluators. In Benin, where some significant entrepreneur implementation is reported, a recent evaluation indicates poor cost-benefit balance from the reform (Benhassine et al. 2016). In all three case studies, entrepreneur legal prerequisites were only recently adopted, in 2016 or 2017. Further, the private sector sees the regime as duplicating existing mechanisms for microenterprises and as generally lacking in appeal and clarity. For example, Côte d'Ivoire and Niger already possessed simplified tax regimes for small enterprises with the same turnover threshold as entrepreneur status.

Similar difficulties have affected the RCCM computerization envisaged by the UA on General Commercial Law. Nationally developed software platforms – rather than the OHADA-sponsored platform – are deployed in Côte d'Ivoire and Senegal. A competing collateral registry is emerging in Cameroon under its central bank, with World Bank support. In addition, RCCM computerization has experienced significant delays in most OHADA member states.

Finally, case study information regarding the most recent of the four UAs under review – the UA on Insolvency – showed no evidence of significant impact on access to finance, which was the key expected impact. Although private sector stakeholders see this reform as less critical than reforms on collaterals and company law, informants in the financial sector stress the importance of expediting and rationalizing insolvency resolution. Simplified insolvency resolution for SMEs in Côte d'Ivoire was reported, but informants generally consider it too soon to reliably assess the UA's impact.

Lessons on What Caused or Hindered Impact

Need for Focus: Where OHADA has focused on its core mandate, it has generated demonstrated impact. As discussed above, OHADA's history, resources, and organization make it, first and foremost, a lawyers' organization specializing in business law; the region's best business lawyers have participated in the design and drafting of each UA.

Need for National-Regional Coordination: CNOs have proven to be effective conduits for national stakeholder consultations. Nonetheless, issues in regional-national coordination affected the reforms' impact, primarily emerging in two areas:

- The new collateral mechanisms – introduced by the 2010 UA on Secured Transactions – are not reflected in the prudential rules of West Africa's banking sector, creating a disincentive⁵³ for banks to use them. Supranational coordination, linking OHADA and the regional central banks, could enhance impact on access to finance by aligning prudential rules with OHADA's collateral innovations.
- World Bank Group support of OHADA and national-level World Bank Group support of each of the 17 OHADA member states could be better coordinated. For example, national World Bank Group programs support national-level IT solutions for the RCCM, while the OHADA Permanent Secretariat, with World Bank assistance, promoted a pan-OHADA solution.

Need for Monitoring: The OHADA process does not systematically monitor implementation, outcomes, and impact,

53. This is because new OHADA rules for pledges are not acknowledged by obsolete prudential rules. As a result, such pledges are not taken into account when computing ratios of capital over risky assets net of collaterals.

which is a potential long-term problem. Monitoring is essential to compare impact performance across UAs; it can provide key information to decision makers attempting to steer the OHADA process toward greater impact on the business environment. For an effective OHADA monitoring system, the data challenge is acute and cannot be resolved singlehandedly by the Permanent Secretariat. Upgrading primary data sources at the national level is a necessary first step.

RECOMMENDATIONS

Recommendations are aligned with the above conclusions and cover both OHADA's strategy and World Bank assistance. Table 11 provides a summary.

Support a Focused OHADA

The primary recommendation is for continued support for OHADA's work on issues where there has been proven impact.

- **Support Existing Focused UAs:** Information and training – to the financial sector, business associations, and the legal profession, particularly the judiciary – is critical for the long-term impact of the UA on Insolvency and the UA on Secured Transactions. Reinforced support for disseminating this information and training, at both the national and regional levels, is recommended.
- **Support Future Focused UAs:** Although this evaluation examined four specific UAs, the need for focus also applies to other UA revisions and new UAs. The ongoing revision of the UA on Arbitration would clearly benefit from a focus on business law. For this and other new or revised UAs, maintaining a business law focus would require support for consultations, as well as technical and drafting assistance.

Resources for programs that have not produced the intended impacts should be reviewed. Suggestions include:

- **Limit OHADA-Level Entrepreneur Efforts:** Support for entrepreneur and similar regimes at the regional OHADA level could be limited to the sharing of national formalization experiences and small business taxation among member states.
- **Review OHADA-Level RCCM Computerization Efforts:** A regional, OHADA-level review of the RCCM computerization efforts is recommended to: (i) assess coordination between the regional OHADA level and national levels, including coordination issues related to World Bank Group assistance; (ii) audit the adequacy of the OHADA-level software with respect to national-level needs; and (iii) assess the OHADA Permanent Secretariat's capacity and needs to deploy the OHADA-level software.

Strengthen National-Regional Coordination

Coordination can be enhanced in the following ways:

- The World Bank Group should strengthen coordination between its national programs and its support for OHADA.
- OHADA should develop ways to systematically coordinate with the region's central banks, specifically regarding one important item: ensuring consistency of the banks' prudential rules with the UA on Secured Transactions. Including equity funding industry representatives in CNOs will also enhance coordination.

Improve Monitoring

OHADA requires systems to monitor implementation, outcomes, and impact. Steps to this end include the following:

- Qualitative scorecards that use standardized templates can systematically track and provide at-a-glance status of UA implementation. These scorecards would cover the implementation parameters discussed above, would help pinpoint areas of prerequisite risks, and would make simplified assessments – that can be regularly updated – more readily available.
- Standardized outcome and impact indicators should be compiled on a regular basis. A key consideration should be simplicity and ease of use. Liaison with national authorities will be indispensable to this process, and include: business registration agencies (such as one-stop shops and RCCMs); fiscal authorities, banking associations, central banks, and other authorities concerned with collaterals and access to finance; and commercial courts charged with resolving insolvency and protecting minority interests.

Table 11: Recommendations Matrix

Conclusions	Recommendations
1. Need to Focus on Business Law	<ul style="list-style-type: none"> • Reinforce support for information and training – on the UA on Secured Transactions, the UA on Company Law, and the UA on Insolvency – for the judiciary and legal professions at large. • Limit entrepreneur information sharing effort among member states. • Review the OHADA-level RCCM computerization effort. • Support other UAs focused on business law.
2. Need for Stronger National-Regional Coordination	<ul style="list-style-type: none"> • Review the consistency of support for OHADA and for national member state programs. • Support institutional mechanisms for supranational coordination between OHADA and the region's central banks (BCEAO and BEAC). • Include equity fund representatives in CNOs.
3. Need to Improve Monitoring Processes	<ul style="list-style-type: none"> • Provide scorecards to monitor UA implementation. • Use data-led indicators to monitor outcomes and impact.

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APPENDICES

APPENDIX 1. ADDITIONAL OUTPUT FROM SCM ANALYSIS

Definition of Key Statistics

Define Y_{it} as the value of the impact variable in the treated country in year t ; Y_{jt} the value of the impact variable in country j from the donor pool in year t ; and w_j the weight of country j in the synthetic control unit. Then:

$$RMSPE - Pre = \left(\frac{1}{16} \sum_{t=1995}^{2010} (Y_{1t} - \sum_{j=2}^{J+1} w_j^* Y_{jt})^2 \right)^{\frac{1}{2}} \quad (1)$$

$$RMSPE - Post = \left(\frac{1}{5} \sum_{t=2011}^{2015} (Y_{1t} - \sum_{j=2}^{J+1} w_j^* Y_{jt})^2 \right)^{\frac{1}{2}} \quad (2)$$

$$Mean - Pre = \frac{1}{16} \sum_{t=1995}^{2010} Y_{1t} \quad (3)$$

$$MPE - Post = \left(\frac{1}{5} \sum_{t=2011}^{2015} (Y_{1t} - \sum_{j=2}^{J+1} w_j^* Y_{jt}) \right) \quad (4)$$

UA on Secured Transactions

Determination of Control Countries

The 122 countries in the basic pool of potential control countries are:

Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Azerbaijan, Bangladesh, Belarus, Belize, Bhutan, Bosnia and Herzegovina, Botswana, Bolivia, Brazil, Bulgaria, Burundi, Cabo Verde, Cambodia, China, Colombia, Costa Rica, Cuba, Djibouti, Dominica, Dominican Republic, Ecuador, Arab Republic of Egypt, El Salvador, Eritrea, Ethiopia, Fiji, the Gambia, Georgia, Ghana, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Democratic People's Republic of Korea, Kosovo, Kyrgyz Republic, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Macedonia, Madagascar, Malawi, Malaysia, Maldives, Marshall Islands, Mauritania, Mauritius, Mexico, Federated States of Micronesia, Moldova, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Palau, Panama, Papua New Guinea, Pakistan, Paraguay, Peru, Philippines, Romania, Russian Federation, Rwanda, Samoa, São Tomé and Príncipe, Serbia, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, South Sudan, St. Lucia, St. Vincent and the Grenadines, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, Timor-Leste, Tonga, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, Uzbekistan, Vanuatu, Venezuela, Vietnam, West Bank and Gaza, Yemen, Zambia, and Zimbabwe.

The potential control countries filtered out because they established similar policies during the intervention period were:

Afghanistan, Albania, Armenia, Azerbaijan, Belarus, Bhutan, Bolivia, Bulgaria, Cabo Verde, Cambodia, China, Costa Rica, Egypt, Georgia, Ghana, Guatemala, Honduras, India, Indonesia, Iran, Kazakhstan, Kyrgyz Republic, Lebanon, Liberia, Macedonia, Maldives, Marshall Islands, Mauritius, Federated States of Micronesia, Mongolia,

Montenegro, Morocco, Palau, Peru, Philippines, Russian Federation, Rwanda, Serbia, Solomon Islands, Sri Lanka, Syrian Arab Republic, Timor-Leste, Tonga, Tunisia, Ukraine, Uzbekistan, Vanuatu, Venezuela, Vietnam, West Bank and Gaza, and Zambia.

Pre-Reform Impact and Control Variables

Best practice in SCM analysis includes developing reporting tables that show the extent to which synthetic controls match treated units with respect to the variables used to build the SCM (Abadie, Diamond, and Hainmueller 2010). These tables are presented below. The SCM algorithm weighs these variables on the basis of their predictive power on the impact.

As the variables used in this study include both the control variables presented above and the past values of the impact variable over all pre-reform years, control variables play a limited role in the construction of the synthetic controls and thus receive a low weight. Therefore, it is not surprising that some treated countries have control variables with an imperfect fit, as can be observed below.

Table A1.1: Values of Pre-Reform Variables in Treated and Synthetic Countries: West Africa

	Benin	Synth. Benin	Burkina Faso	Synth. Burkina Faso	Côte d'Ivoire	Synth. Côte d'Ivoire	Mali	Synth. Mali	Senegal	Synth. Senegal	Togo	Synth. Togo
Liquid Liabilities	24.6	21.2	20.9	24.2	24.3	33.1	24.2	22.6	27.5	33.4	27.0	31.5
GDP Growth	4.3	5.3	6.3	4.5	2.1	3.5	5.2	3.7	4.1	3.9	3.2	3.1
Agriculture, Value-Added	28.8	24.6	36.5	39.1	N/A	N/A	36.3	42.6	17.5	24.4	36.9	18.0
Industry, Value-Added	25.5	28.8	20.0	21.1	N/A	N/A	23.6	20.0	23.8	23.8	18.1	28.3
Services, Value-Added	45.5	46.4	43.4	40.0	N/A	N/A	39.9	37.3	58.5	53.0	44.8	53.5
Domestic Credit 2010	20.8	19.8	15.9	16.1	16.3	16.4	16.0	15.1	25.2	25.3	22.2	21.2
Domestic Credit 2009	19.9	19.9	16.6	16.6	15.7	15.8	14.4	14.7	24.5	24.4	19.5	20.9
Domestic Credit 2008	17.5	17.6	15.6	15.2	14.7	14.8	9.9	12.7	23.7	23.5	18.1	19.4
Domestic Credit 2007	16.6	16.8	12.9	14.6	14.5	13.9	13.7	12.7	20.1	21.1	23.7	18.3
Domestic Credit 2006	14.0	14.8	15.1	13.9	11.6	11.9	13.3	12.6	19.7	19.8	14.2	16.0
Domestic Credit 2005	12.6	12.2	14.1	14.0	9.7	11.1	11.8	12.5	19.8	19.2	12.6	14.5
Domestic Credit 2004	11.4	10.6	13.8	12.7	10.9	10.4	14.7	13.1	18.0	17.6	12.5	13.5
Domestic Credit 2003	10.9	9.7	12.0	12.0	10.1	10.0	13.4	13.7	16.6	16.7	13.2	12.6
Domestic Credit 2002	6.8	8.4	9.5	11.0	11.8	12.0	13.3	14.0	15.5	15.9	8.6	11.5
Domestic Credit 2001	7.0	8.0	10.2	10.3	12.0	12.0	12.0	12.8	14.9	15.2	10.7	11.6
Domestic Credit 2000	10.6	9.4	11.6	10.8	15.0	14.7	13.5	13.2	18.6	17.5	16.0	15.8
Domestic Credit 1999	9.7	8.5	10.1	10.5	14.4	14.4	13.7	13.2	15.3	15.7	15.1	15.3
Domestic Credit 1998	6.9	8.7	11.0	10.7	15.9	16.6	14.7	13.6	14.8	15.6	17.3	18.1
Domestic Credit 1997	5.4	7.0	11.5	9.7	17.0	17.6	12.7	12.8	15.8	15.9	17.7	17.4
Domestic Credit 1996	8.4	7.2	6.9	8.6	16.7	16.0	12.1	12.3	15.9	15.2	18.7	17.5
Domestic Credit 1995	7.4	7.8	6.7	7.3	18.5	17.8	9.7	10.5	14.6	15.0	20.0	18.3

Note: Liquid liabilities, GDP growth, agriculture, industry, and services are averaged for the 1995 to 2010 period. Missing values indicate that the variable was not available for the considered country over the entire period.

Table A1.2: Values of Pre-Reform Variables in Treated and Synthetic Countries: Central Africa and Comoros

	Cameroon	Synth. Cameroon	Central African Republic	Synth. Central African Republic	Gabon	Synth. Gabon	Comoros	Synth. Comoros
Liquid Liabilities	16.0	23.8	17.1	19.4	16.4	23.2	22.6	25.0
GDP Growth	3.7	4.2	2.5	6.2	1.3	7.5	N/A	N/A
Agriculture, Value-Added	22.8	33.6	53.8	44.8	5.5	40.9	N/A	N/A
Industry, Value-Added	31.1	22.4	14.7	18.8	57.2	19.3	N/A	N/A
Services, Value-Added	46.0	44.0	31.4	36.7	35.1	39.7	2.4	5.0
Domestic Credit 2010	12.5	12.5	8.9	8.8	8.2	10.2	17.9	16.9
Domestic Credit 2009	11.4	11.7	7.2	8.5	10.0	9.7	15.1	15.8
Domestic Credit 2008	10.9	10.8	7.0	7.6	8.6	9.6	11.6	12.3
Domestic Credit 2007	9.6	10.1	6.7	7.1	9.9	9.4	9.7	10.4
Domestic Credit 2006	9.4	9.7	6.7	6.7	9.7	8.8	9.2	9.5
Domestic Credit 2005	9.8	9.2	6.8	6.3	8.5	9.4	9.6	9.0
Domestic Credit 2004	9.2	9.3	7.1	6.1	9.2	9.8	7.9	8.2
Domestic Credit 2003	9.6	9.3	6.1	5.3	11.5	9.4	9.7	8.5
Domestic Credit 2002	9.1	9.4	5.8	5.9	12.3	11.9	9.0	9.7
Domestic Credit 2001	8.9	8.5	6.1	5.4	12.5	11.4	9.0	9.6
Domestic Credit 2000	8.2	8.4	4.7	4.9	8.6	9.9	11.8	11.6
Domestic Credit 1999	7.8	7.7	4.5	4.4	9.9	9.2	11.6	11.0
Domestic Credit 1998	7.3	7.5	4.8	5.0	10.7	9.7	11.5	12.4
Domestic Credit 1997	6.5	7.2	4.4	5.4	8.6	9.3	13.4	13.1
Domestic Credit 1996	7.9	7.5	4.5	4.8	6.5	8.6	11.1	11.3
Domestic Credit 1995	8.1	7.9	4.1	4.7	7.9	8.4	13.5	12.6

Note: Liquid liabilities, GDP growth, agriculture, industry, and services are averaged for the 1995 to 2010 period. Missing values indicate that the variable was not available for the considered country over the entire period.

Synthetic Control Country Weights

Table A1.3 shows the weights – characterizing the synthetic control country – of all the treated countries for which a synthetic control was built.

Table A1.3: Synthetic Control Country Weights

Country	Benin	Burkina Faso	Central African Republic	Côte d'Ivoire	Cameroon	Comoros	Gabon	Mali	Senegal	Togo
Algeria					.13					
Angola	.15									.04
Argentina				.03				.04		
Botswana	.04									
Burundi					.14		.07	.29		
Djibouti				.11		.07				.16
Ecuador		.02							.18	
El Salvador		.01								
Fiji									.06	
Guyana		.08					.05	.02	.03	
Jamaica	.14			.14					.14	.20
Kenya						.03				
Lesotho				.35		.15				.02
Madagascar				.08	.27	.11				
Malawi	.20			.04	.10			.04		.14
Malaysia								.03		
Mexico						.04				.03
Moldova	.12									
Mozambique	.06					.30			.16	
Myanmar			.26	.13	.06		.45	.07		
Nepal	.01	.03								
Nicaragua		.08								
Nigeria							.02			
Pakistan										
Sierra Leone		.42	.42	.01	.13	.31		.37	.23	.13
Sudan	.30	.29	.14					.09	.04	
Suriname		.03						.06		
Swaziland										.26
Syria		.04	.04		.02				.13	
Tanzania			.14	.25	.04		.42			
Turkey									.04	.03
Uganda					.11					

Placebo in Time

To create a placebo in time, the SCM analysis is applied to a date on which the reform did not apply. If a significant impact is observed in a particular country, it would undermine confidence that the obtained results capture real impact. The aim is to measure real impact from the reform, ensuring results are not merely driven by lack of predictive power.

The graphical outputs of this placebo analysis are shown in Figure A1.1 and Figure A1.2.

Figure A1.1: Placebo in Time (2007): West Africa

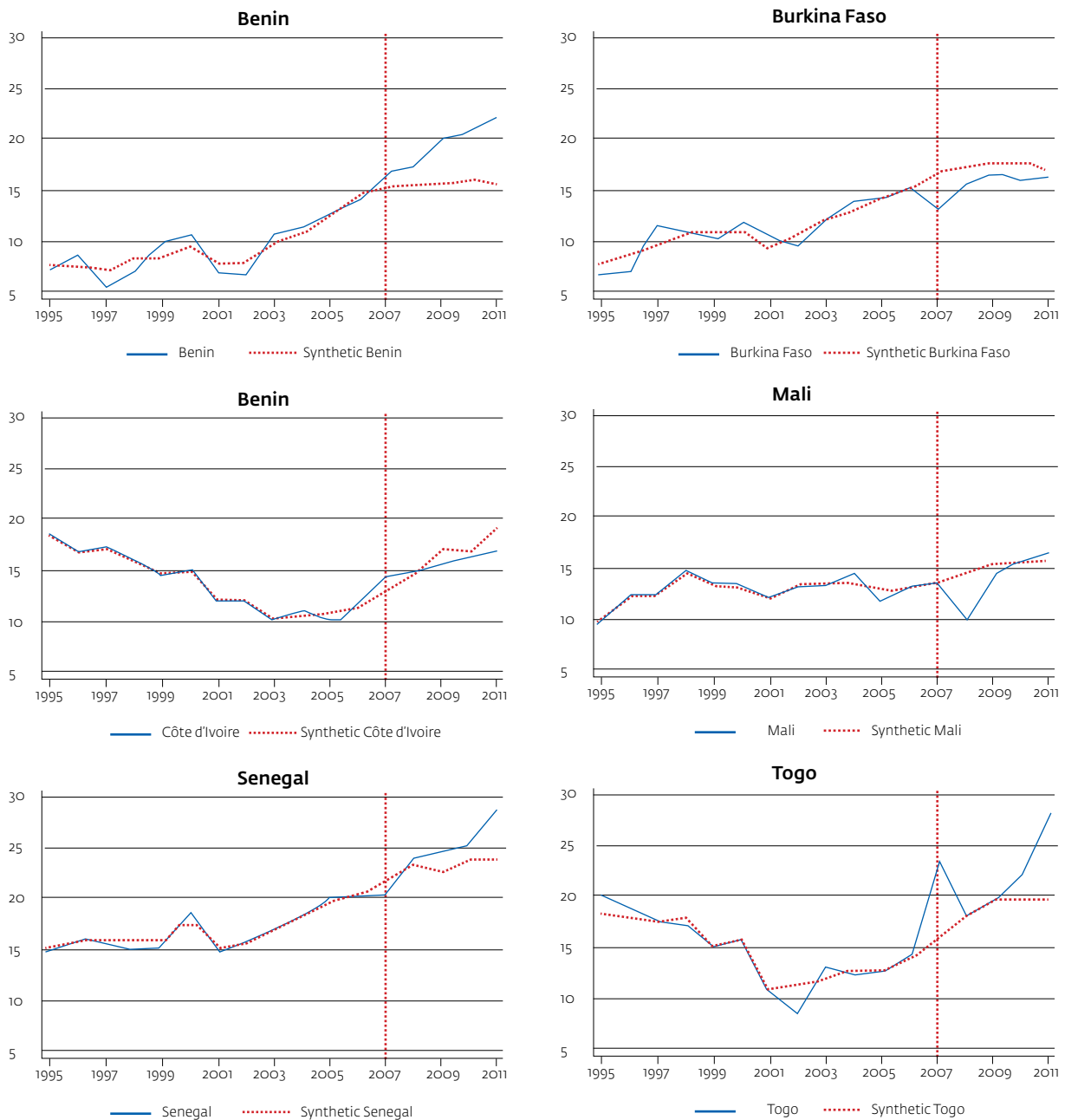
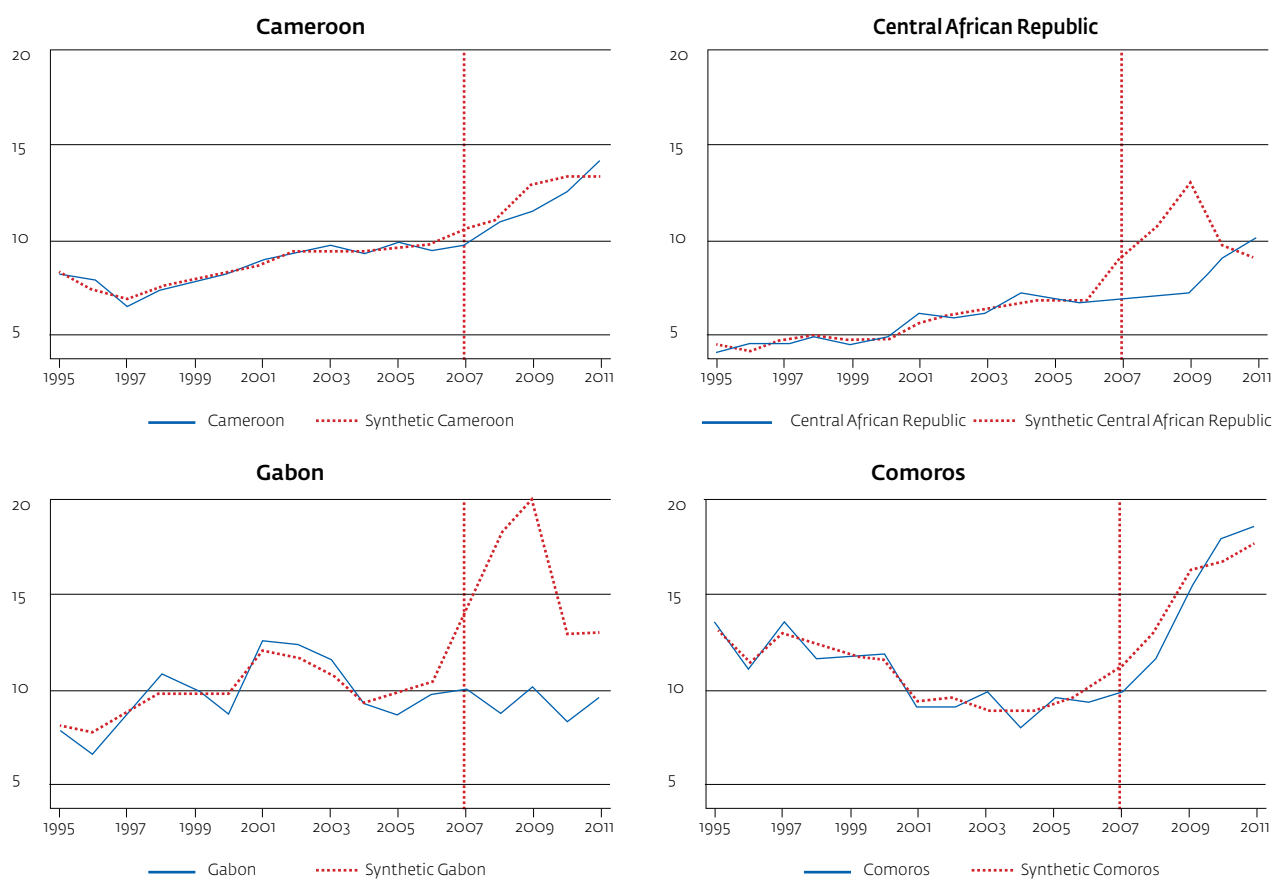


Figure A1.2: Placebo in Time: Central Africa and Comoros



With the exception of Benin, all countries show that a fictitious reform simulated in 2007 had no discernable impact on domestic credit. The plots reinforce confidence in the reliability of the results, which were obtained using the true reform year.

In addition, as previously noted, no impact was found from the 2011 reform in Benin. This suggests that Benin may have implemented reforms earlier, around 2007, creating positive impact on domestic credit to the private sector. Indications support the conclusion that Benin's policy mix and infrastructure investments improved during the 2007 to 2009 period (World Bank 2011a).

Robustness of Results

Table A1.4: Leave-One-Out RMSPE-Post/RMSPE-Pre Ratios

Removed Country	Burkina Faso	Central African Republic	Cameroon	Comoros	Mali	Senegal	Togo
None	7.93	5.79	6.16	6.76	5.41	9.32	6.26
Algeria			7.24				
Angola							6.13
Argentina					5.00		
Botswana							
Burundi			3.99		4.84		
Djibouti				5.29			5.12
Ecuador	8.04					5.72	
El Salvador	7.88						
Fiji						4.31	
Guyana	8.01				4.79	9.17	
Jamaica						8.29	6.16
Kenya				6.57			
Lesotho				6.41			6.27
Madagascar			5.47	6.89			
Malawi			5.31		5.76		6.09
Malaysia					5.84		
Mexico				6.68			6.30
Moldova							
Mozambique				6.92		9.16	
Myanmar		6.64	7.80		6.10		
Nepal	7.35						
Nicaragua	8.31						
Nigeria							
Pakistan							
Sierra Leone	6.14	1.86	3.44	4.81	3.02	6.93	6.30
Sudan	6.73	5.09			5.01	9.53	
Suriname	8.08				6.06		
Swaziland							5.62
Syria	7.95	5.58	6.15			7.94	
Tanzania		6.51	6.32				
Turkey						10.96	6.51
Uganda			6.22				

APPENDIX 2. BUSINESS COST SAVINGS

Detailed Methodology for Business Cost Savings

The OHADA Reforms Relevant to Cost Savings: Under the OHADA Uniform Act on Company Law – the only reform relevant to BCS computation – simplified procedures for creating SARLs, including making the use of notaries optional, allowed businesses to save on legal fees. Though legal fees were reduced, time savings deriving from this reform were assessed as marginal, as the amount of time entrepreneurs previously spent with notaries was now spent at the one-stop shop for enterprise registration.

Estimating BCS: In analytical terms, BCS is estimated by multiplying a price element – the savings achieved in one business unit or on one procedure – and a quantity element – the number of relevant observations, termed “transactions.” For this exercise, the price element is the eliminated notary fee, and transactions are the number of new businesses created without a notary. Because BCS occurred at different points in time, proper aggregation of annual values required compounding, taking 2017 as a reference point and using the relevant real interest rate. Finally, because notary fees paid by private operators are deductible for profit tax purposes – thus reducing the burden of complying with regulations – calculating reform net impact required adjusting the savings with reference to the relevant profit tax rate.

Basic Assumptions and Key Parameters

Relevant Countries and Reference Period: Seven OHADA countries – Benin, Burkina Faso, Côte d'Ivoire, Democratic Republic of Congo, Guinea, Niger, and Togo – adopted the relevant national legislation in 2014 (see Table A2.1). BCS was calculated using 2015 to mid-2017 as a reference period, which allowed time for the legislation to come into force and for national administrations and the business community to adapt to regulatory changes.

Table A2.1: National Legislation Supporting the UA on Company Law

Country	Date of Relevant Legislation
Benin	March 26, 2014
Burkina Faso	May 26, 2014
Côte d'Ivoire	April 2, 2014
Democratic Republic of Congo	December 30, 2014
Guinea	May 30, 2014
Niger	July 31, 2014
Togo	May 19, 2014

The remaining OHADA countries were excluded from BCS computations because they had not yet implemented the relevant UA reform or seen significant savings from it. Experience with the reform varied widely in these countries:

- In Chad, according to information provided by the RCCM of the Commercial Court of Ndjamen, the annual number of company registrations has steadily declined over recent years. Company registrations decreased from 862 in 2013, to 627 in 2016, indicating OHADA's limited impact in this area. Further, although relevant national legislation was introduced in mid-2015, the latest DB report (*Doing Business 2017*) indicates that the business community still relies on notaries for company registration.⁵⁴ As a result, the number of relevant transactions was estimated as negligible.

54. "According to the decree N 1792/PR/MJDH/ 2015, the services of notaries are not mandatory. However, entrepreneurs still use their services in practice" (World Bank 2016a).

- In Cameroon, Gabon, and Republic of Congo, relevant national enabling legislation was only recently introduced in September 2016, February 2017, and March 2017, respectively. Thus, the number of relevant transactions as of mid-2017 was deemed negligible.
- In Mali and Senegal, the national legislation enacted in connection with the revised OHADA Uniform Act on Company Law endorses the change in the minimum registered capital requirement, but does not modify the role of notaries in SARL registration.
- Finally, no national enabling legislation has been reported for Central African Republic, Comoros, Equatorial Guinea, or Guinea-Bissau.

Profit Tax Rates: Because the reform under consideration concerns the SARL, the standard profit tax rate was used to adjust cost savings. Simplified tax regimes, such as those based on turnover or rebates on amounts payable by CGA members – for example, providing a 20 percent rebate in Niger – almost exclusively benefit other legal forms, such as sole proprietorships and partnerships. Based on information from international tax advisers, such as Deloitte and Crowe Horwath International,⁵⁵ the corporate income tax (CIT) rates for the relevant OHADA countries are presented in Table A2.2.

Table A2.2: Corporate Income Tax Rates for Countries Adopting UA on Company Law

Country	2015 to 2017
Benin	30.0%
Burkina Faso	27.5%
Côte d'Ivoire	25.0%
Democratic Republic of Congo	35.0%
Guinea	35.0%
Niger	30.0%
Togo	29.0%

Exchange Rates: Annual average exchange rates to convert values from local currencies to United States dollars were retrieved from relevant national and regional authorities and are summarized in Table A2.3.

Table A2.3: Annual Average Exchange Rates

Currency (Country)	2015	2016	2017*
West African CFA franc (Benin, Burkina Faso, Côte d'Ivoire, Niger, and Togo)	591.61	592.91	606.28
Congolese franc (Democratic Republic of Congo)	925.45	982.99	1,349.12
Guinean franc (Guinea)	7,470.06	8,967.98	9,175.80

* Average of monthly exchange rates for the first six months.

Compounding: The real interest rates used for compounding purposes were calculated as the difference between the average lending rate and the annual inflation rate. Inflation is measured by the annual percentage change of the average consumer price index as reported by the International Monetary Fund (IMF, 2017). Data on lending rates were obtained from a variety sources, including:

55. See, for instance, Crowe Horwath International 2016.

- **BCEAO:** For Benin, Burkina Faso, Côte d'Ivoire, Niger, and Togo, the average of the prime rate and maximum lending rate, with respective weights of 30 percent and 70 percent, as of December 31 of each year.
- **IMF, International Financial Statistics:** For Democratic Republic of Congo, the annual value of the lending interest rate.
- **Central Bank of the Republic of Guinea:** For Guinea, the average of the prime rate and maximum lending rate, with respective weights of 30 percent and 70 percent, on December 31 of each year.

Relevant real interest rates are shown in the Table A2.4 below.

Table A2.4: Relevant Real Interest Rates

Country	2015	2016
Benin	11.7%	12.8%
Burkina Faso	12.4%	12.3%
Côte d'Ivoire	12.4%	10.0%
Democratic Republic of Congo	18.4%	7.5%
Guinea	12.2%	12.0%
Niger	10.7%	10.4%
Togo	10.6%	11.3%

Country Parameters

Number of Relevant Transactions: The number of transactions generally refers to the number of businesses that actually registered as SARLs during the reference period; however, even where the obligation to use notaries has been abolished, the new process may not immediately take root. Often, time is required for entrepreneurs to become fully informed about and comfortable with the new procedure. Some may continue with the familiar notary system, which they regard as more established and lawful. Therefore, to accurately assess the share of SARLs created without notary services, information from different sources was triangulated, including: (i) factual information in the legal notices published on business registry websites (when available); (ii) estimates by knowledgeable interviewees, such as representatives from the business community and legal system, during fieldwork; and (iii) secondary sources, such as DB reports. The following summaries detail the sources used in estimating non-negligible results achieved by the reform.

- **Benin:** Data on the total number of SARLs registered in 2015 and 2016 were provided by the one-stop shop for enterprise formalization (GUFÉ), the national one-stop shop for enterprise registration, one of three structures comprising the investment promotion agency, the Investment and Export Promotion Agency, and the Agency for Investment and Export Promotion. Data for the first six months of 2017 were retrieved through detailed reviews of the legal notices published daily by GUFÉ on its website.⁵⁶ These reviews revealed that 76 percent of total SARL registrations were created without using notaries. Assuming that the business community progressively adopted the reform – which was confirmed by a review of legal notices from previous years – the share was set at 65 percent in 2015 and 70 percent in 2016.
- **Burkina Faso:** The annual number of SARL registrations for 2015 and 2016 was established using data provided by the Center for the Formalities of Enterprises (CEFORE), the Integrated System of One-Stop Shops (SIGU), and the RCCM of Ouagadougou. For the first half of 2017, the number of established SARLs

was extrapolated based on the list of legal notices for the period of June 21 to August 2, available on the SIGU website.⁵⁷ Analysis of these legal notices showed that the vast majority of SARLs (80 percent) were created without notaries. The share for previous years was estimated to have been only slightly smaller: 70 percent in 2015 and 75 percent in 2016. The business community's widespread adoption of the OHADA reform was supported by the information dissemination and training efforts of Burkina Faso's House of the Enterprise, which included publishing a guide on how to create a SARL without a notary.

- **Côte d'Ivoire:** Data on the number of SARLs created in 2015 and 2016 were provided by CEPICI. Detailed review of the legal notices published by CEPICI⁵⁸ expanded the dataset to the first six months of 2017. The review also established the share of SARLs created without notaries at 85 percent. Assuming the business community's progressive adoption of the reform, and based on information gathered from businesses and legal practitioners during fieldwork, the share was set at 75 percent in 2015 and 80 percent in 2016.
- **Democratic Republic of Congo:** Data on the annual number of SARL registrations and the proportion created without notaries were provided by the national one-stop shop for the creation of enterprises. According to these figures, adoption of this OHADA reform has remained rather limited – below 20 percent. This is most likely due to the marginal cost of notary fees in the country, as indicated in Table A2.6.
- **Guinea:** Detailed statistics on the number of SARL registrations were provided by the Agency for the Promotion of Private Investment (APIP). With thorough analysis of all legal notices available on the APIP website⁵⁹ (from April to June 2017), the proportion of SARLs created without notaries was set at 33 percent. This rather limited proportion was retained for the full period of analysis.
- **Niger:** Detailed data on the number of SARLs created during the reference period were provided by the MDE during fieldwork in Niamey. These data were complemented by a review of the legal notices available on the MDE website.⁶⁰ The MDE also provided precise information on the number of SARLs created without a notary in the second semester of 2016: 60 percent of total SARL registrations. This same percentage was applied over the entire period.
- **Togo:** Data on annual SARL registrations – as well as information on the number of SARLs registered annually without using notaries – are based on legal notices published on the website of Togo's one-stop shop, the Centre for the Formalization of Enterprises (CFE).⁶¹ Based on this information, the reform's impact has been assessed as constant over time, with the number of SARLs created without notaries accounting for about 65 percent of all SARLs established during the reference period.

57. <http://www.sigu.gov.bf/Entreprise/AnnoncesLegales#>.

58. https://www.cepici.ci/?tmp=annonces_legales&p=annonces-legales.

59. <http://www.apip.gov.gn/?q=content/annonces-l%C3%A9gales>.

60. <http://mde.ne/spip.php?rubrique10>.

61. <http://www.cfetogo.org/node/3840?q=node/3800>.

Table A2.5: Summary Presentation of Estimated Relevant Transactions

Country	2015		2016		2017 (first half)	
	Total Annual SARL Registrations	Percent of Relevant SARL Registrations	Total Annual SARL Registrations	Percent of Relevant SARL Registrations	Total Annual SARL Registrations	Percent of Relevant SARL Registrations
Benin	3,381	65%	3,597	70%	1,947	76%
Burkina Faso	2,388	70%	3,267	75%	1,724	80%
Côte d'Ivoire	7,069	75%	9,190	80%	3,836	85%
DRC	1,741	18%	1,565	18%	1,013	18%*
Guinea	1,455	33%	1,853	33%	952	33%
Niger	608	60%	773	60%	359	60%
Togo	789	65%	915	65%	438	65%

Business Cost Savings: The reform optionally replaces notarial deeds for two SARL registration requirements – establishing articles of association and acknowledging subscription and payment of funds – with a private deed. BCS relates exclusively to cost savings, that is, savings on legal fees. Methods for estimating the average notary fee for SARL creation in the relevant OHADA countries are presented below.

- **Benin:** According to a protocol signed between the GUFÉ and the National Chamber of Notaries of Benin in late 2013, notary fees for SARLs with the minimum capital of 1 million West African CFA francs are fixed at 125,000 West African CFA francs. This amount is consistently reported in the World Bank's *Doing Business* 2014 report.⁶² For companies with a share capital above 1 million West African CFA francs, approximate notary fees vary between 250,000 West African CFA francs and 300,000 West African CFA francs. Assuming that 75 percent of SARLs have capital of 1 million West African CFA francs, average notary fees were set at 175,000 West African CFA francs. Finally, costs charged by the GUFÉ and already included in the notary fees – such as registration costs and fees for publication in the paper of notices of incorporation – were deducted. Since March 2015, these costs were reduced from 57,000 West African CFA francs to 17,000 West African CFA francs, providing an average value of net cost savings of about 160,000 West African CFA francs per SARL registration.
- **Burkina Faso:** Based on information gathered from the Commercial Court and the Notary Association, the cost of notary services varies depending on declared capital. Costs range from 299,300 West African CFA francs for SARLs with capital up to 5 million West African CFA francs, to 440,000 West African CFA francs for SARLs with capital over 10 million West African CFA francs, including both emoluments and fees. The former is fixed at 3 percent of the capital, while the latter typically ranges between 100,000 West African CFA francs and 150,000 West African CFA francs for a SARL with 1 million West African CFA francs in capital, as indicated by CEFORÉ. Assuming that the vast majority of newly registered SARLs – 90 percent – have capital below 5 million West African CFA francs, savings have been set at 325,000 West African CFA francs per SARL registration.

62. Notary fees were set at 150,000 West African CFA francs (including registration cost and publication), or 125,000 West African CFA francs for online publication for companies with capital of 1 million West African CFA francs (see World Bank 2013).

- **Côte d'Ivoire:** As confirmed by various DB reports, a memorandum of understanding was signed in February 2013 between the chamber of notaries and CEPICI. This agreement reduced notary fees from 300,000 West African CFA francs to 120,000 West African CFA francs for SARLs with a minimum capital of 1 million West African CFA francs. The percentage for SARLs registering with more capital depends on the amount of capital declared. During fieldwork, representatives of the business and legal communities reported slightly higher amounts charged by notaries, about 250,000 West African CFA francs, on average. Since most SARLs register with declared capital up to 1 million West African CFA francs and notary fees include some costs charged by CEPICI (about 15,000 West African CFA francs), cost savings per SARL registration were set at 150,000 West African CFA francs.
- **Democratic Republic of Congo:** As indicated by the one-stop shop, during the reference period, notary fees for SARL registration were extremely modest, at about \$10.⁶³ This was because notarial activity has only recently been liberalized, following the promulgation of Act No. 16/012 of July 15, 2016 on the institution, organization, and functionality of the notary profession.
- **Guinea:** As clearly indicated by the APIP⁶⁴ and as reported in DB reports, notary fees for preparing SARL company deeds and articles of association have been set at 1.8 million Guinean francs since 2014.
- **Niger:** Based on information gathered from business community representatives, notary fees to create SARLs – including preparing and notarizing company bylaws, notarizing declarations of capital subscription and payment, and other registration costs – range from 300,000 West African CFA francs up to 1 million West African CFA francs, depending on the capital subscribed. A small amount of subscribed capital was assumed – in the second semester of 2016, shareholders deposited share capital of 100,000 West African CFA francs for half of all SARLs created without notaries. Once registration costs charged by the MDE (17,500 West African CFA francs) were deducted, average legal fee savings in Niger were set at 400,000 West African CFA francs per SARL registration.
- **Togo:** In April 2013, the CFE and the National Chamber of Notaries of Togo signed a partnership agreement fixing the comprehensive cost for notaries to create SARLs with 1 million West African CFA francs capital at 120,000 West African CFA francs. This fee comprises 50,000 West African CFA francs of emoluments and 70,000 West African CFA francs of fees. Information in the most recent DB report (*Doing Business 2017*) set the cost to have a notary legalize documents at 175,000 West African CFA francs, including fees of 2 percent of capital (payable to CFE), 1,500 West African CFA francs in stamps, and 2 percent of capital or fees of 125,000 West African CFA francs (whichever is higher). Since the large majority – about 80 percent – of SARLs registered have capital of 1 million West African CFA francs or less, business cost savings for SARL registration were set at 135,000 West African CFA francs.

63. The one-stop shop website (<http://fr.guichetunique.cd/>) has a list of documents necessary to create a company and also states: "Frais à payer: 120 \$ US. A noter que pour la SARL, les associés peuvent, s'ils décident ainsi, se contenter des statuts sous-seing privé. Dans ce cas, le coût global de toutes les formalités est réduit à l'équivalent de 110 USD." ["Fees to be paid: US \$120. Note that for the SARL, the partners can, if they decide so, be content with the private sub-seing statutes. In this case, the overall cost of all formalities is reduced to the equivalent of US \$110."]

64. <http://www.apip.gov.gn/?q=content/fichesarl>.

Table A2.6: Summary of Estimated Savings on Legal Fees per SARL Registration

Country	Cost Savings (2017)	Source
Benin	\$260	Protocol signed by GUFFE and national chamber of notaries, supported by DB reports
Burkina Faso	\$535	Information directly gathered from the commercial court, the notary chamber, and CEFORE
Côte d'Ivoire	\$250	Information directly gathered from business and legal practitioners, complemented by CEPICI and DB reports
DRC	\$10	Information from the national one-stop shop for enterprise registration
Guinea	\$195	Information from APIP and DB reports
Niger	\$660	Information directly gathered from businesses and legal practitioners
Togo	\$220	Information from CFE and DB reports

Annex to Appendix 2: Detailed Results**Table A2.7: BCS Annual Compounded Values (United States dollars)**

Country	2015 (\$)	2016 (\$)	2017 (first semester) (\$)	Total (\$)
Benin	517,655	529,802	269,936	1,317,394
Burkina Faso	840,358	1,093,510	536,013	2,469,881
Côte d'Ivoire	1,080,307	1,329,885	524,359	2,934,551
DRC	2,593	1,968	1,185	5,746
Guinea	94,504	89,351	40,058	223,913
Niger	211,006	241,807	99,479	552,292
Togo	102,282	107,012	45,010	254,303
Total	2,848,705	3,393,335	1,516,040	7,758,080

APPENDIX 3. CASE STUDIES



NIGER: Key facts

Niger is a land-locked country covering an area of about 1.27 million square kilometers, making it the largest country in West Africa. Niger has an estimated population of about 21 million. From 2006 to 2013, real GDP grew at an average of 5.6 percent, but this resulted in much lower annual GDP growth per capita (1.6 percent), since the country has one of Africa's highest rates of population growth. After the 2015 slowdown, economic growth increased to 5.2 percent in 2016, driven by a strong harvest. The Nigerien economy is dominated by agriculture, which contributed about 40 percent of GDP in 2016. Niger's rate of industrialization remains weak, leaving the economy vulnerable to climate shocks and commodity – including agricultural products, uranium, and oil – price fluctuations. Niger is one of the poorest countries in the world, with a per capita gross national income (Atlas method) of only \$370; in 2015 it ranked 187 out of 188 countries on the Human Development Index.



Size
**1.27 MILLION SQUARE
KILOMETERS**



population
ABOUT 21 MILLION



GDP
5.6% GROWTH



Economic driver
AGRICULTURE

Implementation of OHADA reforms

Most of the reforms envisaged under the four UAs were effectively implemented in Niger. This is reflected in the country's improved DB ranking, specifically the 'starting a business' indicator. In the *Doing Business* 2017 report, Niger ranked 150 – still a low position, but a noticeable improvement over 2010, when it ranked 173. Five DB-acknowledged reforms under four different indicators were introduced through the OHADA UAs. These yielded high impact on simplifying business registration procedures in the country; two OHADA reforms largely contributed to improving the ranking for this topic from 159 to 88.

Business Registration and Formalization: Two UAs introduced several reforms to help business registration and formalization. These reforms achieved mixed results. The creation of SARLs saw two major achievements: (i) two reductions in the minimum paid-in capital (in 2015 and 2017); and (ii) elimination of the requirement for a notary deed to authenticate articles of association. The possibility of replacing founder criminal records with a sworn declaration during company registration is another improvement. Founders must still submit copies of their criminal records within 75 days of incorporating their companies, but the registration process has improved. In contrast, as of June 2017, Niger had no registered entrepreneurs due to the lack of relevant national legislation and suitable incentives. Past efforts to foster adoption of this regime were reportedly frustrated by the lack of political will and lack of reform champions in the different involved ministries, compounded by difficulties in inter-ministerial coordination. On a more positive note, concrete steps toward the full adoption of this reform – following the approach recently adopted in Benin – are currently being taken with World Bank Group support.

Access to Finance: Among several innovations introduced by the UA on Secured Transactions, new methods of realization and enforcement of collateral assets – specifically, judicial attribution and the forfeiting clause – record the highest rate of adoption. Reportedly, the latter mechanism in particular is being extensively used, with some commercial banks systematically including this clause in loan agreements – above a certain amount – guaranteed by real estate. Some bank representatives also reported that the possibility of creating a security interest over a future asset has been used in home financing.

On the other hand, the new regime for pledges has not produced significant results. This is due to the banks' conservative approach as well as the prudential regulations of the central bank (BCEAO) – for example, its method of computing the minimum capital requirement. Further, although the UA on Secured Transactions removed this obligation, registration of pledges with tax authorities remains effective, and all 10 of Niger's RCCMs are manually run. A plan to deploy OHADA-produced RCCM software at the Commercial Court of Niamey should be implemented soon.

Corporate Governance and Structuring: The new SAS business form, providing greater flexibility for contractual arrangements among shareholders, has been effectively introduced. However, due to both its recency and its specific features, it has not yet been widely used: only eight SASs registered in Niger in 2016, and only three registered in the first six months of 2017. Corporate governance rules have been modernized, facilitating corporations' creation and operation, and improving minority shareholder rights. Again, the application of these provisions remains very limited. According to the Commercial Court in Niamey, in the first half of 2017, only a few judicial activities cases arose regarding conflict of interest.

Insolvency and Debt Resolution: Reforms aimed at simplifying and safeguarding liquidation procedures have very recently been introduced, and the sensitization efforts required to overcome (small) businesses' reluctance to use formal insolvency proceedings have not yet been carried out. As a result, implementation of innovations introduced by the UA on Insolvency is very limited: (i) no small business entity has filed under the simplified proceedings for preventive settlement, judicial recovery, and liquidation of assets; (ii) no request has been received or sent under the new cross-border insolvency regime based on the UNCITRAL Model Law; (iii) only a handful of collective proceedings for wiping out debts are currently ongoing; and (iv) national legislation to enact the judicial representatives is still being drafted.

PRIVATE SECTOR'S VIEWS ON OHADA REFORMS

Entrepreneurs are consistently positive about business registration reforms, while other national stakeholders – primarily legal professionals – are more critical in their perceptions of these innovations.

The business community largely praised the OHADA reforms for simplifying SARL creation. This translated into significantly reduced registration times and costs. Conversely, lawyers and notaries blamed these reforms for weakening juridical security and reported an (unquantified) increase in the number of SARLs that: (i) have a (standard) status inadequately reflecting their actual activities; (ii) were established without the preliminary authorizations needed to operate in their sector of activity; and/or (iii) are unable to timely fulfill legal obligations, such as delivering summary financial statements. Other private sector respondents raised similar, albeit much less severe, concerns. These respondents stressed the comparatively greater complexity of managing a SARL, including accounting and taxation obligations. Finally, others pointed to the business viability risks deriving from excessively small initial minimum capital.

With a prevailing skeptical attitude toward entrepreneur status, most Nigerien stakeholders reportedly knowledgeable about entrepreneur status held rather adverse and inaccurate conceptions of this reform, which they saw as a poor fit for local conditions or inadequate (“l'entrepreneur, c'est de l'informel déguisé” – or – “the

entrepreneur is the informal sector in disguise"). First, they noted that current, negligible business registration costs do not represent a formalization barrier. Second, they highlighted that the revised national investment code already provides fiscal incentives to different business categories, though only under certain conditions and excluding small traders. Third, respondents noted that since 2015, measures have been in place to assist young entrepreneurs (up to 40 years old) establish businesses. These in-place measures include fiscal exoneration for the first year in business and a 50 percent reduction of the tax in the second year.

Bank representatives laud the simplified enforcement procedures, while regarding pledge regime innovations as largely inapplicable. Evidence on the actual effectiveness of the forfeiting clause remains limited, and some legal issues have arisen from inconsistencies between the UA and national legislation. Nonetheless, bankers regard the tool as an effective enforcement procedure, especially since people had been reluctant to purchase the seized properties. The reforms of the pledge regime attract very limited enthusiasm. Local micro and small enterprises confirmed that only marginal changes in the bank's movable collateral lending have occurred, and they invariably indicated access to finance as a critical operating obstacle. This assessment is fully in line with the results of the 2017 World Bank Enterprises Survey, ranking "access to finance" as Niger's second biggest business environment obstacle (in 2009).

Other reforms attracted fewer typically positive comments. Some stakeholders positively assessed the modernization of corporate governance rules, although, in some cases, the power given to minority shareholders was deemed excessive.

IMPACT OF OHADA REFORMS: REDUCTION OF BUSINESS COSTS

Between 2015 and mid-2017, the OHADA reforms generated business cost savings worth about \$550,000.

Removal of the former requirement that SARLs give a notarial deed to establish articles of association is the only one-off source of cost savings. It enabled businesses willing to start a SARL or convert their business into a SARL to save on legal fees. Local businesses also regarded permitting a sworn declaration at registration – rather than a copy of the founders' criminal records – as a source of cost and time savings. Specifically for entrepreneurs born outside Niamey but wishing to open a business there, this can result in considerable savings. These savings can range from 25,000 West African CFA francs (about \$40) to reach the nearest Maradi, to about 80,000 West African CFA francs (about \$130) to reach Diffa. However, considering that the founders' criminal records must be provided within 75 days, this reform offers no absolute reduction in the administrative burden faced by the private sector.

ENTREPRENEUR SAVINGS AND CREATING A SARL

In 2014, a young entrepreneur wishing to set up a media and communications firm found creating a SARL too costly, estimated at 2 million West African CFA francs (about \$3,400). This fee included a minimum capital of 1 million West African CFA francs, notary fees, and other out-of-pocket expenses. Consequently, this entrepreneur chose to register as a sole proprietorship. Over the following two years, the company quickly grew from 1 to 15 employees, and the founder decided to convert to a SARL with a capital of 100,000 West African CFA francs. By using the standard status provided by the one-stop shop, the conversion was accomplished rapidly – in 24 hours – and only cost 17,500 West African CFA francs (about \$30).

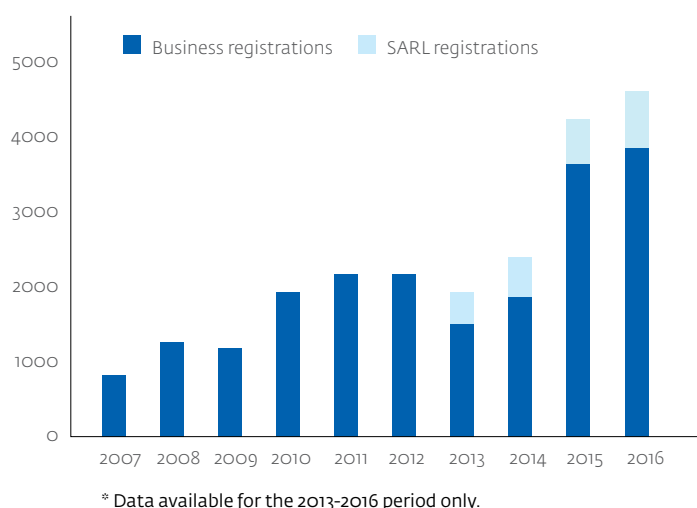
IMPACT OF OHADA REFORMS: ENTERPRISE FORMATION AND FORMALIZATION

Enterprise Formation: In Niger, business registrations recorded an almost six-fold increase over the last decade, triggered by several governmental reforms, including simplified business registration procedures and shortened registration delays.⁶⁵ After OHADA reforms facilitating SARL creation were introduced, the number of annual

65. See Décret n° 2012-248/PRN/MC/PSP du 30 mai 2012.

registrations significantly accelerated, with SARLs accounting for a growing share of the total: 14 percent in 2015 and 17 percent in 2016. Based on the number of SARL registrations completed without a notary and those depositing the minimum share capital (about 30 percent of all SARLs), the OHADA reforms can be credited with some 400 additional registrations during the 2015 to 2016 period. However, as some stakeholders feared, not all of these registrations led to the launch of new business activity. Some newly established firms may have gone out of business soon after incorporating. Unfortunately, no available evidence allows even a tentative assessment of the change in the share of non-operational SARLs after the OHADA reforms were introduced.

Figure A3.1: Business Registration in Niger



Formalization: The impact of the OHADA UAs on formalization is assessed as marginal, given that improved SARL registration procedures are not seen as a principal motivator for abandoning informality, and, more importantly, the entrepreneur reform has not yet been implemented. This is unfortunate considering the huge size of the Nigerien informal sector, which contributed to an estimated 65 percent of the country's GDP in 2016. According to the 2017 World Bank Enterprise Survey, 85 percent of Nigerien firms reported facing competition from unregistered or informal firms, versus 68 percent in Sub-Saharan Africa.

IMPACT OF OHADA REFORMS: ACCESS TO FINANCE

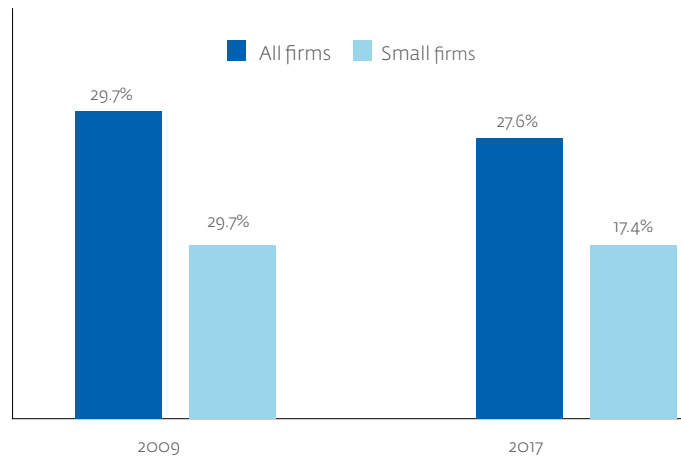
Mortgage Lending: The widespread adoption of the forfeiting clause produced only minimal effects on bank lending. So far, the principal impact of this innovation has consisted of increased solidity in the banking system, which is better shielded against nonperforming loans. However, neither an expansion of bank loan portfolios nor improvements in loan terms and conditions were reported. A review of monthly statistics on lending rates applied by credit institutions between 2011 and 2016 showed only marginal variations, further confirming the lack of impact.

Movable Financing: The amount of bank loans guaranteed by pledges remains low, as reported by bankers and as observed in data provided by relevant administrations. In the first semester of 2017, the total number of pledges perfected by a filing at the RCCM in Niamey was less than 30. The number of annual registrations recorded by the fiscal authority, where registration of the security is still required, is even smaller: up to five per year. Even if only a minority of bank loans guaranteed by non-possessory pledges were registered at the RCCM and/or with the tax authorities, the OHADA reforms clearly had limited impact on expanding the use of movable collaterals to secure credits.

Domestic Credit: Consistent with the above analysis indicating the OHADA reforms' lack of impact on the expansion of domestic credit, a comparison with the results of the World Bank Enterprises Surveys conducted in Niger in 2009 and 2017 similarly shows no progress in terms of firm access to bank loans or lines of credit, with small businesses remaining largely credit constrained.

Unfortunately, in contrast with the other case studies that follow, these results could not be verified using the SCM, a more sophisticated econometric technique. No SCM findings are available for Niger, as a valid control could not be built.

Figure A3.2: Percent of Firms with a Bank Loan or Line of Credit





CAMEROON: Key facts

Cameroon is a central African lower-middle-income country with a population of 23.3 million and GDP per capita of \$1,330 in 2016. Cameroon is endowed with significant natural resources, including oil and gas, high-value timber species, minerals, and agricultural products, such as coffee, cotton, cocoa, maize, and cassava. With its 600-kilometer coastline and borders with six central African countries, Cameroon is naturally well-placed to function as a regional hub. Cameroon reached middle-income status in the mid-1980s and enjoyed a steady growth rate in the 2000s. With significant public investment in energy and transport, growth accelerated in 2006 after reaching the heavily indebted poor countries completion point. Cameroon has historically enjoyed political stability, but in recent years, it has been destabilized by recurrent Boko Haram attacks in its northern and eastern regions. With this destabilization, Cameroon's 2017 overall DB ranking is 166 out of 190 countries.



Size
**475,442 SQUARE
KILOMETERS**



population
**ABOUT 23.3
MILLION**



GDP
**PER CAPITA OF
\$1,330 IN 2016**



Economic driver
**ENERGY AND
TRANSPORT**

IMPLEMENTATION OF OHADA REFORMS

Most of the reforms envisaged under the four UAs have been successfully implemented in Cameroon.

This is reflected by the country's improved DB rankings, especially with reference to ease of starting a business. In the *Doing Business* 2017 report, Cameroon ranked 166 – still a low position – but its 'starting a business' DTF indicator progressed from 49.73 in 2010 to 76.99 in 2017. Four DB-acknowledged reforms under four different indicators were introduced as a result of the OHADA UAs.

Business Registration and Formalization: Two UAs introduced several reforms to help business registration and formalization: the UA on General Commercial Law and the UA on Company Law. SARL reforms included: (i) reducing the minimum paid-in capital (in 2015 and 2017) from 1 million West African CFA francs to 100,000 West African CFA francs; and (ii) eliminating the requirement for SARLs with capital below 1 million Central CFA francs to have a notary deed to authenticate articles of association. Another improvement involves replacing the founders' criminal records with a sworn declaration at the time of registration. Founders are still required to submit copies of their criminal records within 75 days of incorporation, but this shift lessens initial registration process requirements. Cameroon's lawyers and business associations point out that the usefulness of the extract of criminal records is perceived as very limited. This is because criminal records are not centralized at the national level; an extract of criminal records is specific to the single geographic jurisdiction of the issuing court. This well-known fact appears to have strengthened the reform's rationale and acceptance in Cameroon.

On the other hand, as of June 2017, Cameroon had no registered entrepreneurs. Some factors that help to explain this low impact are:

1. The entrepreneur regime was only recently brought into national law. The entrepreneur turnover threshold was specified in 2015 through the Law on Commercial Activity. The threshold was set at 10 million West African CFA francs, the same threshold as the existing simplified tax regime for small enterprises.
2. Banks and microfinance associations have no special entrepreneur offerings.
3. The entrepreneur regime is seen as redundant with existing legal forms for microenterprises. The *établissement* – which with turnover below 10 million West African CFA francs already benefits from the simplified withholding tax – is well understood by the business community and financial sector. *Etablissement* registrations have grown since the UA on General Commercial Law was adopted in 2011 – with 12,373 registrations in 2016 – yet not a single entrepreneur has been created.

Access to Finance: Among several innovations introduced by the UA on Secured Transactions, new methods of realization of collateral assets – specifically, the judicial attribution and the forfeiting clause – record the highest rate of adoption. Below is an overview of the mechanisms banks and lawyers report are used regularly.

The autonomous collateral (Art. 30 and following) makes a collateral an autonomous instrument. In this case “autonomous” means actionable without a court decision, or a “first-demand” collateral. Commercial banks report that they use this feature regularly – for example, when a warranty is needed from the parent company of a subsidiary in Cameroon.

Commercial banks use the security agent (collateral syndication, Art. 5 and following) for syndicated loans where the lead bank acts as the security agent for the rest of the syndicate. Banks consider the instrument extremely useful to their operations.

The forfeiting clause (Art. 199) is commonly used by commercial banks for mortgages and is another example of autonomous collateral. It is quoted as a very positive UA innovation.

The pledge on receivables (Art. 127 and following), another important UA innovation according to banks and their lawyers, is also an autonomous collateral mechanism. In the case of a problem with a loan, this enables lenders to access – without a judge’s decision – the borrowers’ revenue flows, such as rents, to cover the debt service. The mechanism typically works as follows:

- As collateral to a loan, the borrower offers a pledge on rents they collect, not necessarily from the property or good funded by the loan.
- With the revised UA on Secured Transactions, the collateral convention can be written so that rents are paid by default to the lenders. In effect, the lender, not the borrower, owns the rights to the rents.
- Only by derogation does the lender then allow the borrower to collect the rents.
- In case of an incident on the loan – such as a specified number of days in arrears or another such conventionally defined incident – the lender cancels the derogation and receives the rents it owns the rights to, all without a court decision.
- According to the financial sector and lawyers specializing in the field, the pledge of accounts receivable works well and is commonly used by large foreign and national businesses.

According to the banking sector, the collaterals on public domain land (Art 203, Al. 3) also constitutes an important innovation. Interestingly, this necessitated a national-level prerequisite, namely setting up the Register of Assets in the Public Domain, for which the Cameroon Business Forum reportedly played a leading role. That prerequisite was only satisfied in 2016.

USING COLLATERALS ON PUBLIC DOMAIN LAND FOR INFRASTRUCTURE PROJECTS

Article 201, Alinea 3 of the Uniform Act introduced the collateral on public domain land.

In Cameroon, an electricity company wishing to build a network on public land can serve as an example of the new mechanism's implementation. The company obtained a government concession on the land and used the concession as collateral to a syndicated loan funding the project, as per the new mechanism. If the loan goes into arrears under specified conditions, the lending syndicate receives the concession rights, which are then transferable to another operator.

Specialized lawyers report that this arrangement is commonly used in structuring funding for Cameroon's infrastructure projects.

Corporate Governance and Structuring: The new SAS legal form, providing greater flexibility for contractual arrangements among shareholders, has been effectively introduced in Cameroon. However, given both its newness and specific features, it has not yet been widely used. Although statistics are not available, only a handful of SAS registrations were reported in 2016 and 2017. On the other hand, new types of securities – particularly the convertible bond – are routinely used by PE funds.

Insolvency and Debt Resolution: Recently, reforms aimed at simplifying and safeguarding liquidation procedures have been introduced. As a result, implementation of innovations introduced by the UA on Insolvency have been very limited: (i) no small business entity has filed under the simplified proceedings for preventive settlement, judicial recovery, and liquidation of assets; (ii) no request was received or sent under the new cross-border insolvency regime based on the UNCITRAL Model Law; and (iii) national legislation to enact the judicial representatives is still being drafted.

PRIVATE SECTOR'S VIEWS ON OHADA REFORMS

Entrepreneurs and the business community largely praised the OHADA reforms' simplified SARL creation procedures, which, in turn, translated into significantly reduced registration times and costs.

The entrepreneur has been skeptically received, with low levels of interest among small businesses, business associations, banks, and microfinance associations. Most of these stakeholders, when familiar with the entrepreneur, reportedly view it as redundant with existing tax mechanisms for micro businesses, notably the *établissement*.

Bank representatives and the legal profession praise the new collateral mechanisms introduced by the UA on Secured Transactions. Bankers regard these as significant improvements and report using them systematically, particularly the forfeiting clause and pledge of accounts receivable.

PE funds praise the new mechanisms introduced by the UA on Company Law, especially the new convertible bonds, which bring the OHADA legal framework for equity funding to par with international best practices. These stakeholders also praise the region-wide legal uniformity offered by OHADA, seeing it as an important factor for clarity and economies of scale, which are both valued by international investors.

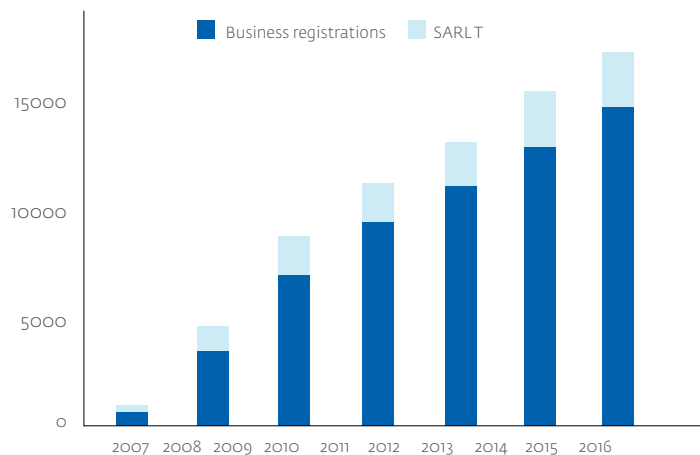
IMPACT OF OHADA REFORMS: REDUCTION OF BUSINESS COSTS

Between 2015 and mid-2017, the OHADA reforms generated negligible measurable impact in terms of business cost savings in Cameroon. The necessary national legislation for simplifying SARL registration – including eliminating the notarial deed, which is the principal source of cost savings – was only enacted in 2016 and 2017, late in the period under review.

IMPACT OF OHADA REFORMS: ENTERPRISE FORMATION AND FORMALIZATION

Enterprise Formation: Business registration in Cameroon has seen a twenty-fold increase since 2010, spurred by sustained growth during the 2000s. After the OHADA reforms supported SARL creation in 2014, the number of recorded annual registrations significantly accelerated, from 2,016 in 2014 to 2,526 in 2015.

Figure A3.3: Business Registration in Cameroon



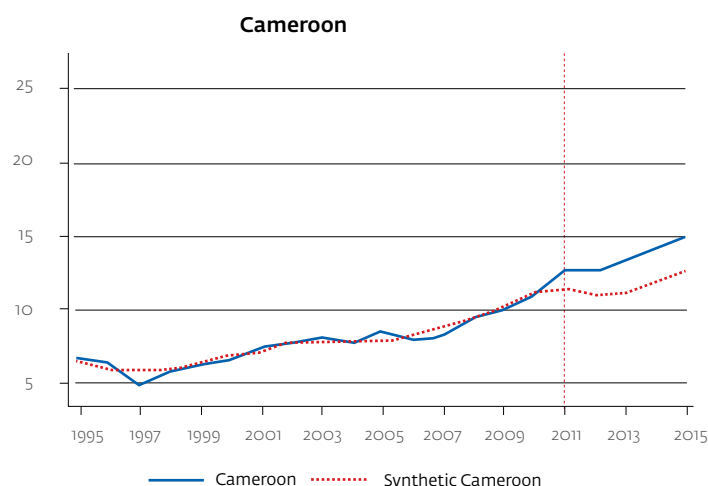
Even without effective RCCM computerization, lawyers and businesses report company registration progress as a direct result of the UA on General Commercial Law. Article 50 of the UA on General Commercial Law has reportedly translated into a marked reduction in business registration time in Cameroon – from two months to two weeks – according to estimates provided by lawyers, businesses, and business associations. Article 50 states that the RCCM official must not verify registration documentation on an ex ante basis, but instead should employ an ex-post basis, within three months. The ministry of justice and the CNO confirmed that Article 50 is being effectively enforced by Cameroon's 120 RCCMs.

Formalization: The impact of the OHADA UAs on formalization is assessed as marginal, given that the entrepreneur reform has not been implemented.

IMPACT OF OHADA REFORMS: ACCESS TO FINANCE

The SCM was used to estimate potential outcomes in the absence of the treatment, in this case, the UA on Secured Transactions. Figure A3.4 illustrates that the trajectory of the real Cameroon in terms of credit to the private sector is significantly above that of the control. The dollar impact on credit accumulated between 2011 and 2015 is estimated at \$417 million.

Figure A3.4: Domestic Credit to Private Sector (Percent of GDP): Cameroon Versus Synthetic Control





CÔTE D'IVOIRE: Key facts

Côte d'Ivoire is a west African lower-middle-income country with a population of 22.7 million and GDP per capita of \$1,410 in 2016. Côte d'Ivoire is the world's largest exporter of cocoa beans and the fourth-largest exporter of goods in Sub-Saharan Africa. It plays a major role in the transit trade for neighboring landlocked countries.

Côte d'Ivoire's 2010 presidential election led to the 2010 to 2011 Ivorian crisis. This prompted UN and French forces to take military action against Laurent Gbagbo, fraudulently elected in November 2010. Internationally monitored elections were subsequently organized in 2011, signaling the end of the crisis. Côte d'Ivoire's 2017 DB overall ranking is 142 out of 190 countries.



Size
**322,463 SQUARE
KILOMETERS**



population
**ABOUT 22.7
MILLION**



GDP
**PER CAPITA OF
\$1,410 IN 2016**



Economic driver
**LARGEST
EXPORTER OF
COCOA BEANS**

IMPLEMENTATION OF OHADA REFORMS

Most of the reforms envisaged under the four UAs have been implemented in Côte d'Ivoire. This is reflected in the country's improved DB rankings, especially with reference to ease of starting a business. In the *Doing Business* 2017 report, Côte d'Ivoire ranked 142 – still a low position – but its 'starting a business' DTF indicator progressed from 47.37 in 2010 to 91.38 in 2017. Five DB-acknowledged reforms under four different indicators were introduced as a result of the OHADA UAs.

Business Registration and Formalization: Two UAs introduced several reforms to support business registration and formalization: the UA on General Commercial Law and the UA on Company Law. Major achievements involve SARL creation, notably: (i) reducing minimum paid-in capital (in 2015 and 2017) from 1 million West African CFA francs to 100,000 West African CFA francs; and (ii) eliminating the requirement for SARLs with capital below 1 million West African CFA francs to obtain notary deeds authenticating articles of association. Another improvement concerns the possibility of replacing founder criminal records with a sworn declaration at registration. Although founders still must submit copies of their criminal records within 75 days of incorporation, this shift improves the initial registration process.

On the other hand, as of June 2017, Côte d'Ivoire had no registered entrepreneurs. Factors helping to explain this low impact include:

1. The entrepreneur regime was only recently brought into national law. A June 2017 decree specifies the entrepreneur threshold at 30 million West African CFA francs for trade, 20 million West African CFA francs for crafts, and 10 million West African CFA francs for services – all below the 50 million West African CFA franc tax threshold for the synthetic tax.

2. The entrepreneur regime is redundant with existing Ivorian microenterprise legal forms. The enterprise individuelle – which already benefits from the simplified lump-sum tax with turnover below 5 million West African CFA francs and the synthetic tax below 50 million West African CFA francs – is well-understood by both the business community and the financial sector.

Access to Finance: Among several innovations introduced by the UA on Secured Transactions, new methods of realization and enforcing collateral assets – specifically, the judicial attribution and the forfeiting clause – record the highest rate of adoption. Banks and lawyers report that the UA on Secured Transactions significantly improves the use of collaterals.

The forfeiting clause (Art. 199) is commonly used by commercial banks for mortgages. The Abidjan Commercial Court reports that it recognizes the forfeiting clause mechanism, and it quotes a case brought in 2017 for 100 million West African CFA francs. This case was processed in under 15 days by the emergency procedure, with a positive decision on the validity of the forfeiting clause.

However, the financial sector, lawyers, and the Abidjan Commercial Court all report finding the forfeiting clause procedure difficult to use. This is because the value of the mortgaged property is often significantly higher than the value of the secured loan, leaving the lender legally bound to pay a differential equal to the variance between the estimated property value and the value of the pending debt. In practice, this leads to situations where the bank must pay out the differential even before recovering any portion from the defaulted facility.

The pledge of accounts receivable (Art. 134) is also widely used by banks in Côte d'Ivoire. However, the removal of the obligation to register pledges with the tax authorities does not function as intended. Banks report that, in practice, all movable collaterals must still be registered with the tax administration, or they may not be accepted for filing (inscription) by the RCCM. The tax administration tax department confirms that it routinely registers movable collaterals – at a fixed cost of 18,000 West African CFA francs – but reports that the General Tax does not make this mandatory. However, the RCCM officer at the Abidjan Commercial Court confirms that movable collaterals are accepted for filing only if they are first registered with the tax administration.

Corporate Governance and Structuring: The new SAS legal form – providing greater flexibility for contractual arrangements among shareholders – has been effectively introduced in Côte d'Ivoire. However, in light of both its newness and its specific features, it is not yet commonly used. Although official statistics are not available, only a handful of SAS registrations were reported in 2016 and 2017.

New types of securities introduced by the UA on Company Law are being effectively used by the Ivorian financial sector. PE funds quote the new convertible bonds as central to their funding arrangements. Overall, they are very positive about the UA. Interestingly, PE funds are new players in Côte d'Ivoire's financial sector, and it appears that the UA on Company Law has supported their growth.

Insolvency and Debt Resolution: Recently, reforms to simplify and safeguard liquidation procedures have been introduced. As a result, implementation of the UA on Insolvency's innovations is limited. Since the UA became effective, the Abidjan Commercial Court reports 42 insolvency cases in 2015, only one conciliation case, and no simplified procedure for SMEs.

In 2016, the national legislation to enact judicial representatives passed.⁶⁶ In the wake of this legislation, a National Commission for Judicial Representatives was established in February 2016 to supervise the judicial representative profession.

66. Decree No. 2016-48 of February 10, 2016.

PRIVATE SECTOR'S VIEWS ON OHADA REFORMS

Entrepreneurs and Côte d'Ivoire's business community praised OHADA's simplified SARL creation reforms, which translated into significant reductions in registration times and costs.

A skeptical attitude prevails toward entrepreneur status among small businesses, business associations, banks, and microfinance associations. Most of these stakeholders, when familiar with the entrepreneur, reportedly view it as redundant with existing tax mechanisms for micro businesses, notably the *établissement*.

Bank and legal profession representatives praise the new collateral mechanisms under the UA on Secured Transactions. Bankers regard them as significant improvements and use them systematically, particularly the forfeiting clause and pledge of accounts receivable.

PE funds are similarly very positive about the UA on Company Law – especially the new convertible bonds – and view it as bringing the OHADA legal framework for equity funding to par with international best practices. These stakeholders also praise the region-wide legal uniformity offered by OHADA, seeing it as an important factor for clarity and economies of scale, which are both valued by international investors.

Informants in the banking sector expect the UA on Insolvency to help expedite insolvency resolution and contribute to better loan portfolio management. They confirm that the existence of the National Commission for Judicial Representatives is a positive improvement. Following the French model for insolvency resolution, judicial representatives can contribute to better management of insolvency resolution, including agreements among creditors on turnaround plans.

IMPACT OF OHADA REFORMS: REDUCTION OF BUSINESS COSTS

Between 2015 and mid-2017, OHADA reforms generated business cost savings of about \$2,935,000.

Removing the former requirement that SARLs need notarial deeds to establish articles of association provided one-off legal fee cost savings for businesses willing to start or convert to a SARL. Local businesses also find they save money and time at registration through the reform that allows for sworn declarations in place of founder criminal records.

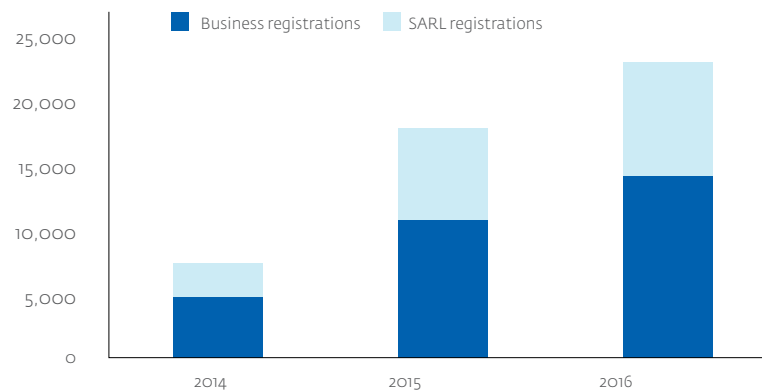
IMPACT OF OHADA REFORMS: ENTERPRISE FORMATION AND FORMALIZATION

Enterprise Formation: Beginning in 2014 – and since the OHADA reforms supported SARL creation – business registration in Côte d'Ivoire has followed an upward trend. The country has seen a three-fold increase in business registration between 2014 and 2016.

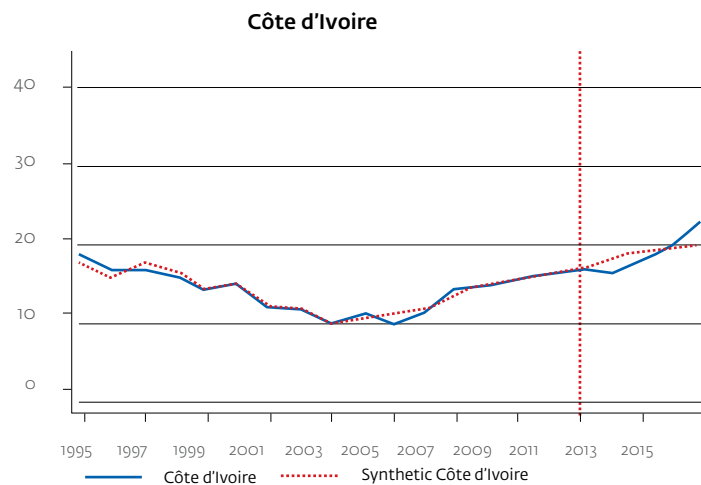
Formalization: The OHADA UAs' impact on formalization is assessed as low, given that the entrepreneur reform has not been implemented.

IMPACT OF OHADA REFORMS: ACCESS TO FINANCE

The SCM was used to estimate potential outcomes in the absence of the treatment, in this case, the UA on Secured Transactions. Figure A3.6 below illustrates that the real Côte d'Ivoire trajectory in terms of credit to the private sector is not significantly above that of the control.

Figure A3.5: Business Registration in Côte d'Ivoire

This result contradicts the findings reported above, which demonstrate that collateral innovations – introduced by the 2010 UA on Secured Transactions – are being routinely used by the banking sector. With that said, the 2010 to 2011 political crisis likely had a strong influence on this outcome, as suggested by the decline of credit observed in 2010 and 2012 (see Figure A3.6). As Côte d'Ivoire's synthetic control did not experience conflicts in the post-intervention period, the OHADA reforms true impact in the real Côte d'Ivoire is likely underestimated by the SCM.

Figure A3.6: Domestic Credit to Private Sector (Percent of GDP): Côte d'Ivoire Versus Synthetic Control

APPENDIX 4. CASE STUDY QUESTIONNAIRES

Guide d'entretien a

[Administrations et Organisations Parapubliques]

Notes préparatoires à l'entretien

- Ce guide d'entretien peut être utilisé pour des entretiens individuels ou pour un focus group avec plusieurs administrations
- Interlocuteurs suggérés :
 - ◊ Commission nationale OHADA
 - ◊ Ministère de la justice
 - ◊ Ministère des finances
 - ◊ Guichets uniques et autres administrations d'enregistrement des sociétés
 - ◊ Association des notaires
 - ◊ Bailleurs de fonds : World Bank, AFD, EU.
- Rappel des 4 réformes évaluées :
 - ◊ Acte Uniforme portant sur le Droit Commercial Général (AUDCG, 2011) : introduit le statut d'entrepreneur pour les microentreprises et l'informatisation du RCCM
 - ◊ Acte Uniforme Révisé portant organisation des sûretés (AUS, 2011) : étend et facilite l'utilisation des sûretés.
 - ◊ Acte Uniforme Révisé relatif au Droit des Sociétés Commerciales et du Groupement d'Intérêt économique (AUSGIE, 2014) : introduit la Société par Action Simplifiée et simplifie la création des entreprises pour les autres formes juridique (par exemple, minima de capital pour la SARL).
 - ◊ Acte Uniforme portant Organisation des Procédures Collectives d'Apurement du Passif (AUPCAP, 2015) : facilite procédures de conciliation pour sauvegarde des entreprises viables, et améliore la sécurisation des situations de cession de paiement.

Questionnaire [qualitatif]

1. Questions générales

- 1.1. Coordination des réformes et de l'assistance du Groupe Banque Mondiale entre niveaux régional et national.
- 1.2. Consultation, engagement et influence des parties prenantes.
- 1.3. Assistance du Groupe Banque Mondiale aux institutions OHADA :
 - 1.3.1. Appropriation des programmes par OHADA ?
 - 1.3.2. Qualités et limites des appuis ?
- 1.4. Appréciation des effets distributifs des réformes ? Données/documents disponibles ?
- 1.5. Quels systèmes et indicateurs de suivi ?

2. AU sur Droit Commercial Général (AUDCG)

2.1. Entreprenant

- 2.1.1. Quelle est votre appréciation de l'importance du Statut entreprenant pour le développement du secteur privé : Très faible, faible, forte, très forte ?
- 2.1.2. Le statut d'entreprenant est-il aujourd'hui utilisable par le secteur privé ?
- 2.1.3. Ces prérequis réglementaires, administratifs ou organisationnels nécessaires au plan national pour rendre le statut d'entreprenant effectivement utilisable par le secteur privé ont-ils été satisfaits :
 - 2.1.3.1. Statut fiscal de l'entreprenant : Oui/Non – Commentaires ?
 - 2.1.3.2. Statut social de l'entreprenant : Oui/Non – Commentaires ?
 - 2.1.3.3. Formation des microentreprises à la comptabilité : Oui/Non – Commentaires ?
 - 2.1.3.4. Formation des centres agréés de gestion : Oui/Non – Commentaires ?
 - 2.1.3.5. Création de produits bancaires spéciaux pour entreprenant : Oui/Non – Commentaires ?
 - 2.1.3.6. Autres prérequis ? Précisez.
- 2.1.4. Si les prérequis n'ont pas été satisfaits, pourquoi ?
- 2.2. Quelle est votre appréciation de l'impact du statut de l'entreprenant : Très faible, faible, forte, très forte ?
- 2.3. Quelle est votre appréciation de la soutenabilité du statut de l'entreprenant : Très faible, faible, forte, très forte ?
- 2.4. Qualification de la soutenabilité du statut de l'entreprenant :
 - 2.4.1. Institutionnelle : quelle appropriation par les institutions nationales ?
 - 2.4.2. Renforcement des capacités : quelle intégration dans les plans de formation des fonctionnaires ?
 - 2.4.3. Autre dimension de la soutenabilité ?
- 2.5. RCCM
 - 2.5.1. Coordination des réformes et de l'assistance de la BM entre niveaux régional et national, concernant RCCM.
 - 2.5.2. Le RCCM informatisé est-il aujourd'hui opérationnel ?
 - 2.5.3. Quelle est votre appréciation de l'importance du RCCM informatisé pour le développement du secteur privé : Très faible, faible, forte, très forte ?
 - 2.5.4. Ces prérequis réglementaires, administratifs ou organisationnels nécessaires au plan national pour rendre le RCCM informatisé effectivement utilisable par le secteur privé ont-ils été satisfaits :
 - 2.5.4.1. Législation nationale :
 - 2.5.4.1.1. Loi sur les transactions électroniques : Oui/Non – Commentaires ?
 - 2.5.4.1.2. Loi sur les paiements électroniques : Oui/Non – Commentaires ?
 - 2.5.4.1.3. Loi sur signature électronique : Oui/Non – Commentaires ?
 - 2.5.4.2. Systèmes informatiques : : Oui/Non – Commentaires ?
 - 2.5.4.3. Taux suffisant de pénétration Internet : Oui/Non – Commentaires ?
 - 2.5.4.4. Autres prérequis ? Précisez.

- 2.5.5. Si les prérequis n'ont pas été satisfaits, pourquoi ?
- 2.6. Quelle est votre appréciation de l'impact du RCCM informatisé : Très faible, faible, forte, très forte ?
- 2.7. Quelle est votre appréciation de la soutenabilité du RCCM informatisé : Très faible, faible, forte, très forte ?
- 2.8. Qualification de la soutenabilité du RCCM informatisé :
 - 2.8.1. Institutionnelle : quelle appropriation par les institutions nationales ?
 - 2.8.2. Renforcement des capacités : quelle intégration dans les plans de formation des fonctionnaires ?
 - 2.8.3. Autre dimension de la soutenabilité ?
- 2.9. Simplification de la création de sociétés
 - 2.9.1. Cet AU a remplacé exigence d'un extrait du casier judiciaire des fondateurs par une déclaration sur l'honneur. Questions :
 - 2.9.1.1. Pourriez-vous confirmer cela ?
 - 2.9.1.2. Si oui, pouvez-vous indiquer les économies de temps et de coûts associées : Très faible, faible, forte, très forte ?
 - 2.9.2. Êtes-vous au courant de toute autre mesure visant à faciliter la création de sociétés introduite par cette réforme de l'OHADA ?

3. AU sur Sûretés (AUS)

- 3.1. Quels sont les prérequis réglementaires, administratifs ou organisationnels nécessaires au plan national pour rendre les nouveaux mécanismes de sûreté effectivement utilisables par le secteur privé ?
- 3.2. Ces prérequis ont-ils été satisfaits, et si non pourquoi (détailler par disposition/prérequis) ?
- 3.3. Ces dispositions sont-elles aujourd'hui utilisables par le secteur privé ?
- 3.4. [Si pertinent], des exemples représentatifs ?
- 3.5. Appréciation de la soutenabilité des réformes :
 - 3.5.1. Institutionnelle : quelle appropriation par les institutions nationales ?
 - 3.5.2. Renforcement des capacités : quelle intégration dans les plans de formation des fonctionnaires ?
 - 3.5.3. Autre dimension de la soutenabilité ?
- 3.6. Cet AU a introduit plusieurs changements sur les exigences de constitutions des gages et des nantissements. Questions :
 - 3.6.1. Pour le gage, (i) la dépossession matérielle du gageant pour ce qui concerne les biens tangibles n'est plus exigée ; (ii) l'obligation d'enregistrer les gages auprès des autorités fiscales est abolie et la constitution de cette sûreté peut être accomplie au moyen d'un simple enregistrement au RCCM. Pourriez-vous confirmer ces changements ?
 - 3.6.2. Si oui, pouvez-vous indiquer les économies associées ?
 - 3.6.3. Quelle était la taxe précédemment payée par les autorités fiscales ? Quels sont les frais actuellement facturés par la RCCM (le cas échéant) ?
 - 3.6.4. Combien d'heures étaient-elles nécessaires à la dépossession matérielle du bien gagé, au profit du créancier ou d'un tiers ?

- 3.6.5. Pour le nantissement : (i) l'obligation de délivrer le titre d'actif aux créanciers et de notifier le nantissement du débiteur par l'huissier a été supprimée ; (ii) l'obligation d'enregistrer les nantissements auprès des autorités fiscales est abolie et la constitution de cette sûreté peut être accomplie au moyen d'un simple enregistrement au RCCM. Pourriez-vous confirmer ces changements ?
- 3.6.6. Si oui, pouvez-vous indiquer les économies associées ?
- 3.6.7. Quelle était la taxe précédemment acquittée auprès des autorités fiscales ? Quels sont les frais actuellement facturés par la RCCM (le cas échéant) ?
- 3.6.8. Combien d'heures étaient-elles consacrées à trouver et à délivrer le titre d'actif nanti aux créanciers garantis et à notifier le nantissement par l'huissier ?
- 3.6.9. Ya-t-il d'autres économies de coûts / temps associées ?
- 3.6.10. Êtes-vous au courant de toute autre mesure pertinente introduite par cette réforme de l'OHADA ?

4. AU sur Droit des Sociétés Commerciales (AUSGIE)

4.1. SAS

- 4.1.1. Quels sont les prérequis réglementaires, administratifs ou organisationnels nécessaires au plan national pour rendre la SAS et les améliorations sur les autres formes juridique effectivement utilisables par le secteur privé ?
- 4.1.2. Ces prérequis ont-ils été satisfaits, et si non pourquoi (détailler par disposition/prérequis) ?
- 4.1.3. Ces dispositions sont-elles aujourd'hui utilisables par le secteur privé ?
- 4.1.4. Appréciation de la soutenabilité des réformes :
- 4.1.4.1. Institutionnelle : quelle appropriation par les institutions nationales ?
- 4.1.4.2. Renforcement des capacités : quelle intégration dans les plans de formation des fonctionnaires ?
- 4.1.4.3. Autre dimension de la soutenabilité ?

4.2. Simplification de la création de sociétés

- 4.2.1. Concernant la création des sociétés : cet AU a simplifié la procédure de création de certaines formes de sociétés (SARL et SA). Questions :
- 4.2.1.1. Quelle est votre appréciation de l'importance de ces simplifications pour le développement du secteur privé : Très faible, faible, forte, très forte ?
- 4.2.1.2. Quel est le texte législatif national correspondant et sa date d'adoption ?
- 4.2.1.3. L'établissement des statuts par acte notarié n'est plus exigé. Confirmez-vous cela ?
- 4.2.1.4. Si oui, le recours aux notaires a-t-il diminué pour cette formalité ?
- 4.2.1.5. La souscription et le versement des fonds par déclaration notariée n'est plus exigée. Confirmez-vous cela ?
- 4.2.1.6. Si oui, le recours aux notaires a-t-il diminué pour cette formalité ?
- 4.2.1.7. Quelle est votre appréciation de la soutenabilité de cette réforme de simplification de la création des sociétés : Très faible, faible, forte, très forte ?

4.2.1.8. Êtes-vous au courant de toute autre mesure visant à simplifier la création de société introduites par cette réforme de l'OHADA ?

4.3. Gouvernance d'entreprise et sûretés

4.3.1. Protection des participations minoritaires : effectif, important, commentaire ?

4.3.2. Nouveaux types de titre (obligations convertibles, actions à droit de vote double) effectif, important, commentaire ?

5. AU sur Procédures Collectives d'Apurement du Passif (AUPCAP)

5.1. Quels sont les prérequis réglementaires, administratifs ou organisationnels nécessaires au plan national pour rendre les nouvelles procédures d'apurement du passif effectivement utilisables par le secteur privé ?

5.2. Ces prérequis ont-ils été satisfaits, et si non pourquoi (détailler par disposition/prérequis) ?

5.3. Ces dispositions sont-elles aujourd'hui utilisables par le secteur privé ?

5.4. [Si pertinent], des exemples représentatifs ?

5.5. Appréciation de la soutenabilité des réformes :

5.5.1. Institutionnelle : quelle appropriation par les institutions nationales ?

5.5.2. Renforcement des capacités : quelle intégration dans les plans de formation des fonctionnaires ?

5.5.3. Autre dimension de la soutenabilité ?

Guide d'entretien b

[Banques et sociétés de micro crédit]

Notes préparatoires à l'entretien

- Ce guide d'entretien peut être utilisé pour des entretiens individuels ou pour un focus group avec plusieurs banques/sociétés de micro-crédit
 - Interlocuteurs suggérés :
 - Directeurs juridiques et directeurs du crédit (banques)
 - Directeurs (sociétés de micro crédit)
- Rappel des 4 réformes évaluées :
 - Acte Uniforme portant sur le Droit Commercial Général (AUDCG, 2011) : introduit le statut d'entrepreneur pour les microentreprises et l'informatisation du RCCM
 - Acte Uniforme Révisé portant organisation des sûretés (AUS, 2011) : étend et facilite l'utilisation des sûretés.
 - Acte Uniforme Révisé relatif au Droit des Sociétés Commerciales et du Groupement d'Intérêt économique (AUSGIE, 2014) : introduit la Société par Action Simplifiée et simplifie la création des entreprises pour les autres formes juridique (par exemple, minima de capital pour la SARL).
 - Acte Uniforme portant Organisation des Procédures Collectives d'Apurement du Passif (AUPCAP, 2015) : facilite procédures de conciliation pour sauvegarde des entreprises viables, et améliore la sécurisation des situations de cession de paiement.

1. Caractéristiques des ou de la banque(s) / société(s) de micro crédit

- 1.1. Année d'établissement
- 1.2. Nombre de clients (~)
- 1.3. Nombre d'employés (~)

2. AU sur Droit Commercial Général

- 2.1. Quel impact sur votre activité ?
- 2.2. Quels obstacles à la mise en œuvre de l'entrepreneur, chez vos clients ?
- 2.3. Des exemples représentatifs d'entrepreneurs ?
- 2.4. Suggestions d'amélioration ?

3. AU sur Sûretés

- 3.1. Quel impact sur votre activité ?
- 3.2. Quels obstacles à la mise en œuvre, chez vos clients ?
- 3.3. Des exemples représentatifs d'opérations ?
- 3.4. Suggestions d'amélioration ?

4. AU sur Droit des Sociétés Commerciales

- 4.1. Quel impact sur votre activité ?
- 4.2. Quels obstacles à la mise en œuvre, chez vos clients ?
- 4.3. Des exemples représentatifs d'opérations ?
- 4.4. Suggestions d'amélioration ?

5. AU sur Procédures Collectives d'Apurement du Passif

- 5.1. Quel impact sur votre activité ?
- 5.2. Quels obstacles à la mise en œuvre, chez vos clients ?
- 5.3. Des exemples représentatifs d'opérations ?
- 5.4. Suggestions d'amélioration ?

Guide d'entretien c

[Entreprises et associations d'entreprises]

Notes préparatoires à l'entretien

- Ce guide d'entretien peut être utilisé pour des entretiens individuels ou pour un focus group avec plusieurs entreprise et/ou associations d'entreprises
- Rappel des 4 réformes évaluées :
 - Acte Uniforme portant sur le Droit Commercial Général (AUDCG, 2011) : introduit le statut d'entrepreneur pour les microentreprises et l'informatisation du RCCM
 - Acte Uniforme Révisé portant organisation des sûretés (AUS, 2011) : étend et facilite l'utilisation des sûretés.
 - Acte Uniforme Révisé relatif au Droit des Sociétés Commerciales et du Groupement d'Intérêt économique (AUSGIE, 2014) : introduit la Société par Action Simplifiée et simplifie la création des entreprises pour les autres formes juridique (par exemple, minima de capital pour la SARL).
 - Acte Uniforme portant Organisation des Procédures Collectives d'Apurement du Passif (AUPCAP, 2015) : facilite procédures de conciliation pour sauvegarde des entreprises viables, et améliore la sécurisation des situations de cession de paiement.

1. Caractéristiques des ou de l'entreprise (s)

- 1.1. Forme juridique
- 1.2. Année d'établissement
- 1.3. Chiffre d'affaires (~)
- 1.4. Nombre d'employés (~)
- 1.5. Secteur d'activité

2. AU sur Droit Commercial Général (AUDCG)

- 2.1. Connaissez-vous ces dispositions ?
- 2.2. Entrepreneur : quel intérêt pour vous ?
- 2.3. Quels obstacles à la mise en œuvre, si pertinent ?
- 2.4. Suggestions d'amélioration ?

3. AU sur Sûretés (AUS)

- 3.1. Connaissez-vous ces dispositions ?
- 3.2. Quel intérêt pour vous ?
- 3.3. Quels obstacles à la mise en œuvre, si pertinent ?
- 3.4. Suggestions d'amélioration ?

4. AU sur Droit des Sociétés Commerciales (AUSGIE)

- 4.1. Connaissez-vous ces dispositions ?
- 4.2. Quel intérêt pour vous ?
- 4.3. Quels obstacles à la mise en œuvre, si pertinent ?
- 4.4. Suggestions d'amélioration ?

5. AU sur Procédures Collectives d'Apurement du Passif (AUPCAP)

- 5.1. Connaissez-vous ces dispositions ?
- 5.2. Quel intérêt pour vous ?
- 5.3. Quels obstacles à la mise en œuvre, si pertinent ?
- 5.4. Suggestions d'amélioration ?

APPENDIX 5. SUMMARY OF PEOPLE MET

Burkina Faso

- Seven key informant interviews:
 - Two in the public sector (ministry of justice, CEFORE)
 - One in the financial sector (banking association)
 - Three in the legal sector (notaries, high courts)
 - One donor / donor-funded project (CNO)

Cameroon

- Twenty-one key informant interviews:
 - Five in the public sector (ministry of justice, SME promotion agency, ministry of finance)
 - Four in the financial sector (banks, central bank, equity fund)
 - Four in the legal sector (lawyers, notaries, accountants)
 - Three in the private sector (chamber of commerce and business associations)
 - Five in the donor community (Bank Group, AFD, EU, CNUCED)
- Three focus groups:
 - Microfinance in Douala, with 19 participants
 - Businesses in Yaoundé, including 8 participants from small businesses
 - Three businesses in Douala
- Data on business registration were collected from APME.
- No hard data were available on collaterals, whether from the financial sector, the central bank, or the RCCM.
- No data were available on minority interests and insolvency resolution from the ministry of justice.

Côte d'Ivoire

- Fifty key informant interviews:
 - ◊ Thirty-seven key informant interviews conducted:
 - Nineteen in the public sector (ministry of justice, SME promotion agency, ministry of finance, commercial court)

- Six in the financial sector (banks, banking associations, equity funds)
- Four in the legal sector (lawyers)
- Seven in the private sector (chamber of commerce and business associations)
- One in the donor community (Bank Group)
- ◊ One focus group:
 - Thirteen participants from small businesses
- Data have been collected on:
 - Business registration (CEPICI), including a breakdown by legal types and data on the average SARL capital.
- No data were available at the Commercial Court or DGI on collaterals.

Democratic Republic of Congo

- Twenty-one key informant interviews:
 - Two in the public sector (ministry of justice, ministry of economics)
 - Fifteen in the legal sector (lawyers, notaries, high and commercial courts)
 - Four in the private sector (business associations)

Gabon

- Thirty-three key informant interviews:
 - Six in the public sector (ministry of justice, ministry of commerce, tax officials)
 - Three in the financial sector (banks)
 - Nineteen in the legal sector (lawyers, notaries, tribunals, high and commercial courts)
 - Five in the private sector (lawyers, club OHADA)

Mali

- Eleven key informant interviews:
 - Three in the public sector (ministries)
 - One in the financial / banking sector
 - Seven in the legal sector (judges, notaries, high and commercial courts)

Niger

- Fifty key informant interviews:
 - Twenty-eight key informant interviews were conducted:
 - Fourteen in the public sector (ministry of justice, ministry of commerce and private sector promotion, ministry of finance)
 - Nine in the financial sector (banks, central bank)
 - Eight in the legal sector (lawyers, notaries, high and commercial courts)

- Seven in the private sector (chamber of commerce and business associations)
- Three in the donor community (World Bank Group and EU)
- Two focus groups conducted:
 - At CGA, with seven businesses operating in different sectors (information and communications technology, agribusiness, medical services, media, and communications)
 - At the chamber of commerce, with heads of various divisions from three businesses (agribusinesses and services)
- Data on business registration were collected from the MDE.
- The commercial court provided recent (last 12 months), partial evidence on the: (i) number of loans guaranteed by a pledge; and (ii) insolvency-related indicators.

Republic of Congo

- Twelve key informant interviews:
 - One in the public sector (ministry of justice)
 - Two in the financial sector (banks)
 - Seven in the legal sector (lawyers, high and commercial courts)
 - Two in the private sector (chamber of commerce and business associations)

Senegal

- Eleven key informant interviews:
 - Six in the public sector (ministry of justice, other ministries)
 - Two in the legal sector (lawyers and legal associations)
 - Three in the private sector (business associations)

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