4

Bilateral and Regional Investment Arrangements and Treaties

Bilateral and regional investment agreements are important instruments for driving free and appreciable flows of foreign investment among countries and regions. Investment treaties contain a plethora of regulatory structures that are meant to define the terms of relationships between host countries and the investors concerned in conformity with specific international standard norms. An investment agreement states the obligations of each side involved in the agreement.

The minimum standard often expressed and expected in international investment laws states that a host country should ensure 'fair and equitable treatment', together with other relevant standards, as part of the protection due to foreign investment by host countries. This is supposed to be an 'absolute', 'non-contingent' standard of treatment in respect of cross-border flows of capital. However, unequal developments between developed and developing countries necessitate 'relative' standards, expressed in a number of existing bilateral and regional investment arrangements. The minimum standard is a norm of customary international law which governs the treatment of aliens by providing for a minimum set of principles which must be respected by the host when dealing with foreign nationals and their properties, regardless of domestic legislation and practices.

Substantive norms for the treatment of foreign investment contained in the World Bank guidelines on the treatment of foreign direct investment suggest that an overall legal framework which embodies the essential legal principles for promoting foreign direct investment is intended to be used as a complement to applicable treaties and other international instruments and as a possible source on which national legislation governing private foreign investment may draw. It thus recognises the right of each state to make regulations governing the admission of investments, and only encourages states to facilitate the admission of investments by nationals of other states. The guidelines also expect states to adopt an approach of open admission, possibly subject to a restricted list of investments which are either prohibited or require screening and licensing. By way of exceptions to the preferred open policy, a state may refuse to admit foreign investment on grounds of national security or in respect of sectors reserved by the law of a state to its nationals on account of the state's economic development objectives or strict exigencies of its national interest.

Matters relating to the entry and treatment of foreign investment and relationships with the host country are approached via treaties and agreements, the framework of which may be bilateral, regional or multilateral. Each of these options is addressed below.

4.1 Bilateral investment treaties involving West Africa and the EU countries

Bilateral investment treaties, the historical product of treaties of friendship, commerce and navigation (FCN), which form part of the wide range of provisions on bilateral economic, cultural and political co-operation, constitute to date the most important instrument for protecting foreign investment (UNCTAD, 2000). ECOWAS countries plus Mauritania entered into around 59 BITs with 14 EU countries between 1962 and 2000, 23 of which were agreed before 1980 (Table 4.1). Germany, the UK and Switzerland are the main EU partners with which ECOWAS countries have agreed BITs over the last three decades. All except four ECOWAS countries have a BIT with Switzerland or Germany.

Generally, BITs are characterised by a basic similarity in structure and substantive coverage. Core elements of various articles contained in existing BITs address basic provisions for stimulating trade and investment. Such provisions focus on the treatment of investment, including issues relating to entry, establishment, national and MFN treatment, investment facilitation, access to core sectors and markets, protection, promotion, taxation, free movement of investment-related payments and capital, including specific exceptions, and dispute settlement. The numerous bilateral treaties signed by the EU countries with members of ECOWAS contain various provisions and prescriptions that are related to the above core elements (Table 4.2).

The bilateral investment treaties that West African and EU countries have entered into cover the main areas of definition of investment, scope of application, investment promotion and investment protection, as well as dispute settlement procedures. The treaties between West African countries and the UK and Netherlands are broadly similar in many respects. They define investment (which covers investments made before and after the agreement) widely, to include movable and immovable property, mortgage rights, liens or pledges, shares and debentures, claims to money or to any performance under contract having financial value, intellectual property rights, technical processes, know-how and goodwill, and business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

Investment promotion and protection are also covered in the treaties. All the treaties oblige the contracting parties to encourage and create a favourable environment for their nationals or companies to invest capital in each other's territories depending on existing laws in their countries. The articles on promotion and protection further require parties at all times to provide fair and equitable treatment, including non-discriminatory full protection and security, for each other's investments. These agreements also make provisions for two of the important principles, MFN and national treatment. In effect, parties are to ensure that investment or returns of nationals or companies are not treated in a 'less favourable' manner than investment of a third country. Where special incentives to stimulate the creation of local industries are to be granted, these should not affect the investments of the other party to the agreement. In other words, exemption to national

Table 4.1 BITs involving West African and EU countries, 1962–2000

	West African countries pre-1980		West African countries 1980–2000	
EU partner	West African partner	Effective date	West African partner	Effective date
Austria			Cape Verde	1993
Belgium/Luxembourg			Mauritania	1983
			Liberia	1985
			Côte d'Ivoire	1999
Bulgaria			Ghana	1989
Denmark			Ghana	1995
France	Senegal	1974	Liberia	1982
			Nigeria	1991
			Ghana	1999
Germany	Senegal	1966	Ghana	1998
	Liberia	1967	Benin	1985
	Côte d'Ivoire	1968	Burkina Faso	1996
	Guinea	1965	Cape Verde	1993
	Niger	1966	Mauritania	1986
	Togo	1964	Mali	1980
	Sierra Leone	1966		
Italy	Côte d'Ivoire	1969	Ghana	1998
	Guinea	1964	Cape Verde	1997
Netherlands	Côte d'Ivoire	1966	Senegal	1981
			Ghana	1991
			Cape Verde	1992
			Nigeria	1994
Portugal			Cape Verde	1991
			Guinea-Bissau	1996
Romania			Ghana	1989
			Mauritania	1989
			Senegal	1984
Sweden	Senegal	1966		
	Côte d'Ivoire	1968		
Switzerland	Senegal	1964	Ghana	1993
	Liberia	1967	Cape Verde	1992
	Côte d'Ivoire	1962	The Gambia	1994
	Guinea	1963		
	Niger	1962		
	Togo	1966		
	Mauritania	1978		

Table 4.1 (continued)

	West African countries pre-1980		West African countries 1980–2000	
EU partner	**West African partner**	**Effective date**	**West African partner**	**Effective date**
Switzerland (continued)	Benin	1973		
	Burkina Faso	1969		
	Mali	1978		
Turkey			Nigeria	1996
UK			Senegal	1984
			Ghana	1991
			Côte d'Ivoire	1997
			Nigeria	1990
			Benin	1987
			Sierra Leone	1981

Source: Extracted from *Bilateral Investment Treaties*, UNCTAD

Table 4.2 Relevant provisions for investment in BITs involving EU and ECOWAS countries

Provisions	UK-ECOWAS countries	Netherlands-ECOWAS countries	Germany-ECOWAS countries	Turkey-Nigeria countries	Denmark-Ghana
Definitions	Article 1	Article 1	Article 8	Article 1	Article 1
Entry and access to sectors and markets	Articles 2, 12	Article 2		Article 2	
Standard treatment	Article 3	Article 1, 4	Article 2, 7	Article 2	Article 4
Protection	Articles 2, 4, 5	Articles 3, 6, 7, 8	Article 3, 5	Article 2, 3, 5	Article 3, 6, 7, 9
Promotion	Articles 2,3	Article 2	Article 1	Article 2,	Article 2
Facilitation	Articles 2, 3		Article 1, 5	Article 2	
Free movement and transfer of capital	Articles 6, 10	Article 5	Article 6	Article 4	Article 8
Pre-and post-admission treatments	Article 13	Article 15	Article 11, 13	Article 8	Article 14, 15
Taxation	Article 7	Article 4		Article 2	
Dispute settlement	Articles 8, 9	Articles 9, 12	Article 10	Article 6, 7	Article 10, 11
Exceptions to repatriation of capital and other relevant exceptions	Articles 6, 7			Article 4	Article 5

Sources: Various bilateral investment treaties

treatment should not cause harm to the investment of the investors of the parties to the agreement. Another exception to national and MFN treatment is that the meaning of both types of treatment does not extend to preferences or privileges resulting from any existing or future customs union or similar international agreement or arrangement. The agreements with the Netherlands are more specific, enumerating areas of exceptions, including avoidance of double taxation, customs union, economic union or similar institutions.

The provisions on expropriation (though prohibited) and losses arising from unforeseen events such as wars require parties to pay 'compensations, restitution, indemnification or other settlements', employing national treatment and MFN principles. The treaties contain provisions for the settlement of disputes arising from the interpretation of the treaties which must first be settled by recourse to diplomacy, after which, if resolution at this level fails, the dispute should be referred to an arbitral or conciliation tribunal of the ICSID. The treaties also discourage the use of diplomatic channels to resolve disputes once they have been referred to the ICSID, apart from in exceptional cases.

The bilateral treaties between several West African countries (Mali, Mauritania, Benin, Cape Verde, Burkina Faso and Ghana) and Germany contain basic provisions relating to pre-admission and post-admission of investment. The treaties require the parties to promote and permit capital investment in each other's territories in accordance with domestic legislation and to accord 'just and equitable' treatment to such investments. These provisions are similar to the market access, MFN and national treatment principles. Also contained in the agreements are full protection and security clauses, as well as expropriation and subrogation clauses. An additional entry in the agreements, which concerns payments under guarantee pertaining to an investment to nationals or companies of the parties to the agreements, obliges the parties to recognise such payment.

Also addressed in some of the BITs are the possibility of territorial extension, which suggests that the provisions of the agreements may at the time of signature or any time thereafter be extended to territories for whose international relations a particular government, e.g. the UK, is responsible or as may be agreed between contracting parties in an exchange of notes. The amendment clause specifies that any amendment or revision to the agreements will be in writing and become effective at the confirmation by both parties in an exchange of notes. The duration and termination clauses also specify that the agreement shall remain in force for an initial period (e.g. ten years), after which it shall continue in force for another very short period, say 12 months, from when either party gives a written notice of termination to the other. Such a termination does not affect investments made before the termination of the agreement for 15 years following the date of termination.

4.2 Bilateral investment treaties and investment performance in West Africa

This section analyses the effect of BITs on the flow of investment into the ECOWAS countries. Country-level analyses show that the impact of BITs on the flow of FDI was ambiguous between 1980 and 2001 (Tables 4.3a, b). Mali signed a bilateral agreement on investment with Germany in 1980. However, in the following year FDI inflows were disappointing, exhibiting a negative trend. The value of FDI in Mali witnessed an explosive but unstable growth from 1983, three years after the signing of the BIT, to 2001, suggesting a considerable lag in FDI response to the BIT. In 1984, Senegal agreed a treaty with the Netherlands, and Sierra Leone signed a treaty with the UK, while Senegal signed two BITs with the UK and Romania. In terms of impact, FDI trends changed from being positive in the years when agreements came into force to being disappointing thereafter.

In the case of Liberia, two set of BITs were signed in 1982 and 1985 with France and Belgium respectively. The political crises and eventual prolonged war which broke out in the country prevent meaningful analysis of relationships between BITs and FDI performance. The agreements between Mauritania and Belgium, and Germany and Romania in 1983, 1986 and 1989 did not yield the kind of returns such sequential efforts may have targeted. The BITs agreed by Benin with Germany in 1985 and the UK in 1987 yielded a substantial positive impact observable from a few years after the agreements became operational. Ghana is perhaps the most prolific BIT partner among the ECOWAS states, with eight BITs between 1989 and 1999. The impact on the Ghanaian economy has been positive, but is not commensurate with the frequency of the initiation and signing of BITs.

The amount and pattern of FDI inflow did not change significantly following the four BITs signed by Nigeria with the UK in 1990, France in 1991, the Netherlands in 1994 and Turkey in 1996. Cape Verde, Côte d'Ivoire and The Gambia also witnessed mixed results, combining both positive and negative trends.

Table 4.3a Foreign direct investment, net inflows (current US$ million), 1980–1990

Country	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Benin	4.3	2.1	0	0	0	–0.1[a]	1.1	0.1[a]	0 6	2.1	62.4
Burkina Faso	0	2.4	1.9	2	1.7	–1.4	3.1	1.3	3.7	5.7	0
Cape Verde	–	0	0	0	0	0	0	2.8	0.6	0.2	0.3
Côte d'Ivoire	94.7	32.8	47.5	37.5	21.7	29.2	70.7	87.5	51.7	18.5	48.1
Gambia, The	0	2.3	0	0	0	0	0	1.5	1.2	14.8	0
Ghana	15.6	16.3	16.3	2.4	2	5.6	4.3	4.7	5	15[b]	14.8
Guinea	0.6	–1.3	–0.4	0.4	0.7	1.1	8.4	12.9	15.7	12.3	17.9
Guinea-Bissau	0	0	0	0	2.3	1.4	0.8	0.1	0.7	0.5	2
Liberia	0	0	34.8[a]	49.1	36.2	–16.2[a]	–16.5	38.5	0	0	0
Mali	2.4[a]	3.7	1.5	3.1	10.1	2.9	–8.4	–6	7.1	6.4	5.7
Mauritania	27.1	12.4	15	1.4[a]	8.5	7	4.5[a]	1.7	1.9	3.5[a]	6.7
Niger	49.1	–6.1	28.2	1.2	1.4	–9.4	17.6	14.8	6.9	0.8	40.8
Nigeria	–738.9	542.3	430.6	364.4	189.2	485.6	193.2	610.6	378.7	1,884.30	587.9[a]
Senegal	14.5	34.4[a]	28.1	–34.7	29.1[b]	–15.8	–8.4	–4	14.9	26.8	56.9
Sierra Leone	–18.7	7.5[a]	4.7	1.7	5.9	–31	–140.3	39.4	–23.1	22.4	32.4
Togo	42.7	10.2	16.1	1.4	–9.9	16.3	6.1	7.2	13	9.2	18.2

[a] 1 BIT signed
[b] 2 BITs signed
Source: *World Development Indicators*, World Bank, Washington, DC, 2004

Table 4.3b Foreign direct investment, net inflows (current US$ million), 1991–2001

Country	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Benin	120.8	77.6	1.4	13.6	7.4	28.6	26	34.7	39.3	64.3	131.2
Burkina Faso	0.6	3.1	3.2	18.4	9.8	16.9[a]	12.5	9.7	13.1	23.2	25.5
Cape Verde	1.7[a]	0.5[a]	3.6[b]	2.1	26.2	28.5	11.6[a]	8.8	53.3	21.1	0.7
Côte d'Ivoire	16.3	–230.8	87.9	78	211.5	269.2	415.3[a]	379.9	323.7[a]	234.7	245.7
Gambia, The	10.2	6.2	11.1	9.8[a]	7.8	10.8	12	23.7	49.5	43.5	35.5
Ghana	20[b]	22.5	125[a]	233	106.5[a]	120	82.6	55.7[a]	62.6[a]	110.3	89.3
Guinea	38.8	19.7	2.7	0.2	0.8	23.8	17.3	17.8	63.4	9.9	1.6
Guinea-Bissau	2.1	5.8	3.3	0.4	0	1[a]	11.5	4.4	8.6	22.9	30.1
Liberia	0	0	0	0	0	–132	15	16	10	11.5	12.5
Mali	1.2	–21.9	4.1	17.4	111.4	84.1	39.4	35.8	51.3	106.4	102.8
Mauritania	2.3	7.5	16.1	2.1	7	4.2	0.9	0.1	0.9	9.2	30
Niger	15.2	56.4	–34.4	–11.3	7.2	20	24.6	9	0.3	19.3	13.3
Nigeria	712.4[a]	896.6	1,345.40	1,959.2[a]	1,079.30	1,593.0[a]	1,539.40	1,051.30	1,004.80	930.4	1,104.40
Senegal	–7.6	21.4	–0.8	66.9	31.7	8.4	176.4	70.8	156.6	88	125.5
Sierra Leone	7.5	–5.6	–7.5	–2.9	–1.7	19	9.6	–9.8	6.2	4.9	4
Togo	6.5	0	–11.9	15.4	26.2	17.3	21	30.2	42.6	41.9	66.9

1 BIT signed
2 BITs signed
Source: *World Development Indicators*, World Bank, Washington, DC, 2004

BITs and bilateral flows of FDI

Analysis of FDI flow following the signing of BITs between Nigeria and specific EU countries can be a credible representation of the whole community, given that Nigeria is the largest recipient of FDI among the ECOWAS states. In terms of FDI performance, analysis of net FDI inflow from the UK following the BIT agreed between Nigeria and the UK displayed a disappointing trend, declining from US$63.7 million in 1990 to US$23.7 million in 2001. The only two years of significant respite were 1993 and 1998 (Table 4.4). The impact of the BITs agreed between Nigeria and France in 1991 and the Netherlands in 1994 can be analysed through proxy inflow from Western Europe as permitted by available data, showing a mix of successes and disappointments. In both cases, the trends observed may be related to the domestic political upheavals in the country in the early 1990s.

Table 4.4 Net capital flow from Europe to Nigeria, 1990–2001 (US$ million)

Years	UK	Growth rate	Western Europe	Growth rate
1990	63.7[a]		–103.4	
1991	42.8	–32.8	135.7[a]	231.2
1992	28.4	–33.5	37.9	–72.0
1993	160.8	465.1	998.2	2,530.9
1994	51.9	–67.7	–12.2[a]	–101.2
1995	38.0	–26.8	452.5	3,806.3
1996	15.0	–60.5	15.7	–96.5
1997	3.1	–79.2	19.3	22.8
1998	167.6	5,275.7	25.4	32.0
1999	14.4	–91.4	14.7	–42.1
2000	1.6	–88.9	8.3	–43.8
2001	23.7	1,375.1	6.5	–21.0

[a]One BIT signed

Source: Calculated from Central Bank of Nigeria, 2001

4.3 ACP-EU regional investment arrangements

The Lomé Conventions were one of the most comprehensive regional approaches to development co-operation between developed and developing countries. In principle, the agreements, especially the later versions, gave considerable priority to industrial co-operation. The last two agreements emphasised the financing and promotion of investment and private sector development in general. Before the process initiated by the ACP-EU in the Lomé Conventions, investment agreements were negotiated to meet specific needs, some of them simply political with no sense of purpose. Provisions for issues associated with investment in the Conventions ranged from industrial co-opera-

tion and the creation of the Centre for Industrial Development in Lomé I to support for investment in Lomé IV. Table 4.5 summarises the relevant provisions on investment and associated issues under Lomé.

Table 4.5 Provisions on investment and industrial development in the Lomé Conventions

Subject	Lomé I, 1975	Lomé II, 1979	Lomé III, 1984	Lomé IV, 1990 and 1995
Industrial co-operation	Articles 26–39			
Creation of the CDI	Articles 36			
Industrial development		Articles 65–82		
Investment promotion			Articles 60–74	
Investment protection			Articles 240–247	Articles 260–262
Financing of investment				Articles 263–266
Support for investment				Articles 267–272

Sources: Bheenick, 1997; Solignac-Lecomte, 2003

The Conventions contained various articles which set out specific guidelines and rules relevant to directing industrial co-operation and development, with the later versions targeting investment flows between the two groups involved in the agreements. Each of the Conventions were specific in term of focus, with Lomé I addressing industrial co-operation and having a very important component in the creation of the CDI for that purpose. Lomé II directed more attention to industrial development among the constituent countries of the groups involved. Lomé III covered industrial development in Articles 60–74, together with investment promotion, which was a special focus. Issues of investment protection also received special consideration in Articles 240–247 of Lomé III. Investment protection was further addressed in Articles 260–262 of Lomé IV. Greater concern for investment was expressed in Lomé IV, with Articles 258–272 dealing with various aspects of investment, including investment protection, financing of investment (Articles 263–266) and investment support (Articles 267–272).

Provisions of Lomé I–IV

The main aim of the Lomé Conventions was to promote and diversify ACP countries' exports with a view to speeding up their growth and development. The Conventions were regarded as one of the most far-reaching initiatives of regional development co-operation between the North and South. However, investment issues, though embedded in industrial co-operation components of the earlier versions, were not explicitly included until the last two Conventions, where financing and promotion of investment and private sector development were part of the specific provisions. In other words, Lomé I did not deal explicitly with investment flows. In Lomé II, the framework for investment development was set through the use of aid in the form of loans, grants and

risk capital, with the EIB as the main channel through which capital funds would flow to ACP states. Lomé III was the first of the Conventions to include explicit provisions for the encouragement and promotion of private investment, the post-admission treatment of such investments in terms of fairness and equitability, and their protection and security.

Specifically, Lomé III contained investment promotion and protection clauses, set out in Articles 60–74, which commit the parties to implement measures to encourage participation of private sector investors in accordance with appropriate domestic laws and regulations which guarantee fair and equitable treatment to the investors. The Convention also required members to create and maintain a predictable and secure investment climate and to improve this while at the same time promoting effective co-operation to increase the flow of capital, management skills, technology and other forms of know-how. Both parties were to embark on measures that would facilitate a greater and more stable flow of resources from the EU private sector to the ACP countries through contributing to the removal of obstacles which impede ACP states' access to international capital markets and through encouraging the development of financial institutions to mobilise resources. Other steps required to promote investment included improving the business environment by fostering a legal, administrative and incentive framework conducive to the emergence and development of dynamic private sector enterprises, as well as strengthening the capacity of national institutions in ACP countries to provide range of services that increase participation in business activity.

Also stipulated in Lomé III were measures to promote private investments flows. These included organising discussions between interested ACP countries and potential EU investors on the legal and financial framework, investment guarantees and insurance offered by the former; on encouragement of the flow of information on investment opportunities through meetings, periodic information provision and the establishment of focal points; on provision of assistance to small and medium-sized enterprises in ACP states in the form of equity and loans; and on taking steps to reduce host country risk.

Lomé IV extended the provisions of Lomé III by including protection and financing of, as well as support for, investment. Articles 260–262 were basically focused on investment protection; the contracting parties, having recognised the need for this, affirmed the significance of concluding investment promotion and protection agreements that could also provide the basis for insurance and guarantee schemes. These agreements, however, should not prevent parties from negotiating other investment promotion and protection agreements with other countries as long as there was no discrimination between parties to Lomé IV or against each other in relation to third countries. This non-discrimination could be modified or adapted in accordance with changing circumstances, especially if such changes did not infringe the sovereignty of any of the parties to the Convention.

The investment financing part of the Convention, contained in Articles 263–266, specified the provision of financial assistance, made conditional on the investment protection provisions and insurance and investment guarantee guidelines, and targets

directly productive projects, new investment and rehabilitation or utilisation of existing capacity. Some of the financing was expected to be undertaken through on-lending bodies which were responsible for selecting and appraising individual projects and administering the funds placed at the bodies' disposal under the terms of the Convention and by mutual agreement between the parties.

While investment promotion measures articulated financial assistance, including equity participation, technical assistance, advisory services, and information and co-ordination services, investment support in Lomé IV was provided through operational co-ordination, conducting studies of investment flows and the economic, legal or institutional obstacles that hampered investments, measures which facilitated private capital movements, joint financing, the access of ACP countries to international financial markets and the effectiveness of domestic financial markets. The studies also covered the activities of national and international systems of investment guarantees, and investment promotion and protection agreements between parties.

The Cotonou Partnership Agreement

The CPA contains four articles on investment. Articles 75 and 76 cover investment promotion; Article 77 concerns investment guarantees; and Article 78 relates to investment protection. The language of the agreement is sensitive and carefully crafted in facilitating language, using terms such as 'encourage', 'help', 'facilitate', 'support', 'disseminate' and 'promote'. The language of the agreement confirms that the non-reciprocal commitment on the part of the EU included in Lomé IV has been dropped.

Since the CPA was a transitional agreement between the end of the Lomé Conventions and the coming into force of the envisaged EPAs in January 2008, its provisions are not radically different from those contained in Lomé III and IV with regards to investment promotion, protection, financing and support. Its promotion measures were also similar, covering dialogue, co-operation and partnership and provision of information, as well as analysis of the progress of investment, in terms of the pre- and post-admission environment in host countries for private sector investment. Its investment finance and support provisions concern the granting of financial and technical assistance to support policy reforms, human resource development, institutional and other forms of capacity-building and measures to increase the competitiveness of the private real and financial sectors, apart from those which relate to advisory services, risk capital guarantees and loans from EIB resources. Equity participation, which is one of the conditions of investment financing, is limited to non-controlling minority holdings.

The need for investment protection is recognised in the CPA, which also affirms the significance of concluding investment protection agreements that may be a basis for insurance and guarantee schemes, as in Lomé IV. Article 15 of Annex II of the CPA requires the parties to take account of such principles as non-discrimination between investors of the parties and third countries; the right to request modification or adaptation of non-discriminatory treatment; agreement to study issues relating to legal guaran-

tees; a most favoured investor clause; protection in cases of expropriation and nationalisation; transfer of capital and profits; and international dispute arbitration.

An interesting observation pertaining to the implementation of the CPA is the regional-bilateral mix of the approach adopted. The implementation of Article 78, containing agreements on investment protection, given in Article 15 of Annex II, will take the form of bilateral agreements. The text of the article is exactly similar in terms of content and provision to the standard bilateral treaty dealing with the same issue.

4.4 Regional investment agreements and FDI flows to West Africa

Investment inflow to the member states of the ECOWAS plus Mauritania has recorded significant but inconsistent growth since the initiation of the Lomé Conventions, especially Lomé III and IV, which were specific in terms of their provisions on investment. FDI inflow, which totalled US$298.9 million in 1984, grew by more than 300 per cent by 1990 (Table 4.6). Investment also grew very significantly from $894.1 million in 1990, when Lomé IV was signed, to $1,631.1 million when Lomé IV was revised in 1995. A clearer picture is given by average annual flows by periods of agreement. Average annual flows of FDI grew massively from $301 million in 1980–83 to $1,978 million in 1996–2000. Specifically, with the initiation and signing of Lomé III, the investment atmosphere witnessed an increase of more than 100 per cent to $739.7 million annually, and increased again to about $1,978.7 at the end of Lomé IVb. The total FDI flow to West Africa since 1980 amounted to a huge $24.5 billion, with an average West African country receiving as much as $1.5 billion over two decades, or about $76 million annually, representing about 30 per cent of the annual GDP of an average West African country.

Table 4.6 Foreign direct investment inflows to West Africa (current US$ million)

Year	FDI inflow
1980	–506.6
1981	659.0
1982	624.3
1983	429.9
Average 1980–83	301.7
Lomé III	
1984	298.9
1985	475.2
1986	136.2
1987	813.1
1988	478.0
1989	2,082.5
1990	894.1
Average 1984–90	739.7
Lomé IVa	
1991	948.0
1992	859.0
1993	1,549.2
1994	2,402.3
1995	1,631.1
Average 1991–95	1,477.92
Lomé IVb	
1996	2,112.8
1997	2,415.1
1998	1,738.1
1999	1,886.2
2000	1,741.5
Average 1996–2000	1,978.74
Cotonou Agreement	
2001	2,019.0

Source: calculated from *World Development Indicators*, World Bank, Washington, DC, 2004