



Assessment of the Investment Regulatory Framework in Benin for the Development of the Cashew Industry

June 2020

The New Markets Lab

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Acronyms and Abbreviations

ABC	Afokantan Benin Cashew
ACA	African Cashew Alliance
ACI	African Cashew Initiative
AfCFTA	African Continental Free Trade Agreement
ADF	African Development Fund
AIAB	Association Interprofessionnelle de l'Ananas du Bénin
APIEx	Agency for the Promotion of Investment and Exports/Agence de Promotion des Investissements et des Exportations
ATDA	Territorial Agricultural Development Agencies/Agences Territoriales de Développement Agricole
AU	African Union
BCEAO	Central Bank of West African Countries
BIC	Credit Information Offices
B2A	Bureau for the Study and Support of the Agricultural Sector /Bureau d'Étude et d'Appui au Secteur Agricole
BOA	Bank of Africa Benin
CAAPD	Comprehensive Africa Agriculture Development Programme
CCC Project	Cashew Value Chain Competitiveness Project
CDI	Côte d'Ivoire
CNTC	National Council of Cashew Processors/Conseil National des Transformateurs de Cajou
CoNEC	National Council of Benin Cashew Exporters/Conseil National des Exportateurs de Cajou
DCCD	Directorate of Cashew Nut and Cocoa Development
ENABEL	Belgian Development Agency
EU	European Union
ECOWAS	Economic Community of West African States
ECOWAP	ECOWAS Agricultural Policy
FCFA	CFA franc
FENAPAB	National Federation of Cashew Nut Producers/Federation Nationale Des Producteurs D'anacarde Du Benin
FENAPAT	National Federation of Buyers of Tropical Products/Fédération Nationale des Acheteurs de Produits Tropicaux
FNDA	Agricultural National Development Fund/Fonds National de Développement Agricole
GDP	Gross Domestic Product
IFA-Benin	Interprofession de la Filière Anacarde
INRAB	National Institute of Agricultural Research of Benin
KOR	Kernel Output Ratio
MAEP	Ministry of Agriculture, Livestock and Fishing/Ministère de l'Agriculture, de l'Élevage et de la Pêche
MT	Metric Tons
NAIP	National Agricultural Investment Programs

NEPAD	New Partnership for Africa's Development
NML	New Markets Lab
OHADA	Organization for the Harmonization of Corporate Law in Africa
PADME	Project for the Support of the Development of Micro-Enterprises
PAG	Action Program of the Government/Programme d'Action du Gouvernement
PAU	Agricultural Policy of WAEMU/Politique Agricole de l'UEMOA
PIA	Plan d'Investissement Agricole
PNDFA	National Program for the Development of the Cashew Industry/Programme National de Développement de la Filière Anacarde
PNSA	National Program for the Development of the Agricultural Sector/Programme National de Développement du Secteur Agricole
PNIASAN	National Plan for Agricultural Investment and Food and Nutrition Security National Program for the Development of the Agricultural Sector/Programme National de Développement du Secteur Agricole
RAAF	Regional Agency for Agricultural Food
RAIP	Regional Agricultural Investment Programme
RCN	Raw Cashew Nuts
RENAPPAT	National Network of Professional Buyers of Tropical Agricultural Products/Réseau National des Acheteurs Professionnels des Produits Agricoles Tropicaux
ROPPA	Network of Peasant Organizations and Producers in West Africa
SEZ	Special Economic Zone
SFD	Decentralized Financial System
USDA	United States Department of Agriculture
VINACAS	Vietnam Cashew Association
WAEMU	West African Economic and Monetary Union
WAMZ	West African Monetary Zone
WRS	Warehouse Receipt System

I. EXECUTIVE SUMMARY

Agricultural markets have been rapidly globalizing, and the agri-food sector is a main source of jobs, household income, and economic growth in many countries, including Benin. The cashew value chain has grown in importance worldwide and impacts livelihoods across the sector, including those of small farmers, small and large processors, buyers, and exporters. Cashew production and processing have substantial commercial value,¹ and raw cashew nut (RCN) is the second most significant export from Benin. Hence, it is seen as a priority product in the agricultural sector and has the potential to contribute significantly to growth and improved livelihoods.

Recently, the global COVID-19 pandemic has impacted the cashew sector through supply chain disruptions and decreased global demand. Because foreign buyers purchase around 80 percent of Benin's RCN, this changing global market dynamic is of particular significance for Benin. Travel restrictions imposed by the government of Benin in response to the pandemic made it impossible for foreign buyers to be present for the launch of the cashew-buying season in March, and since then RCN prices have plummeted, causing panic amongst farmers.² Changes in global demand are also contributing to a more stagnant market for RCNs; however, producers could potentially consider increasing sale of RCNs to processors or holding stock for sale during the next season.

This study focuses on the enabling environment for cashew in Benin, which will be an important aspect affecting longer-term growth opportunities in a changing global market. The enabling environment encompasses the rules, regulations, and government programs related to the cashew sector.³ While many of these measures have been tailored to promote growth and attract investment in the cashew sector, there are still some regulatory challenges that should be evaluated. These include rules and regulations related to the investment environment, organization of the various actors in the sector, access to credit, and market-focused policies and programs. Benin's enabling environment exhibits strengths and opportunities as well, including the ease of doing business and new initiatives to facilitate access to energy supply for companies, which should help strengthen the sector going forward.

This study (Regulatory Assessment) was developed by the New Markets Lab (NML), an international non-profit law and development center working in collaboration with TechnoServe's BeninCaju Project, to highlight opportunities for improving the regulatory

¹ Benin Market Overview, International Trade Administration, 2019, available at: https://www.export.gov/article?series=a0pt0000000PAtJAAW&type=Country_Commercial_kav

² COVID – 19 and the Cashew Industry in Benin, TechnoServe, May 6 2020, available at: <https://www.technoserve.org/blog/covid-19-and-the-cashew-industry-in-benin/>

³ Throughout this assessment, the term “enabling environment” will be used to refer to the system of laws (e.g. the new Investment Code), regulations, and policies (e.g. development programs like the BÉNIN RÉVÉLÉ) that govern the cashew value chain. The enabling environment directly affects a farmer's productivity; processing capacity; sales; and exports. (See Katrin Kuhlmann, *The Human Face of Trade and Food Security: Lessons on the Enabling Environment from Kenya and India*, Center for Strategic and International Studies, 2017).

framework in Benin in order to encourage growth in the cashew industry. It is based on desk research and consultations with cashew sector stakeholders and includes actionable steps that could be leveraged to attract potential investment, including interventions to address gaps in the investment framework, improve the organizational structure of the cashew sector, and enhance access to finance, among others.

The Regulatory Assessment assesses the structure of the cashew value chain, its strengths and weaknesses, regulatory challenges, and potential opportunities based on three interconnected components:

- ***Opportunities for Growth and Investment in the Cashew Sector*** including improvement in production and processing capacity (by encouraging growth in underperforming regions and operating processing factories at full capacity) and actions to address key challenges faced by stakeholders in the cashew value chain (e.g. lack of organization in the sector).
- ***Regulatory Factors Impacting Investment*** including investment legislation, tax incentives, rules on access to credit, financial services laws, and regional agricultural regulations, among others.
- ***Interventions to Improve the Enabling Environment to Leverage Investment*** focused on actionable steps to increase investment in the sector through policy and regulatory interventions designed to unlock the untapped potential along the cashew value chain (e.g., addressing gaps in regulations related to access to credit).

Benin has been one of the major producers of RCNs in West Africa (and is among the top ten exporting countries for cashews in the world) and produces some of the best quality RCNs in the world. Existing development programs, such as the National Program for the Development of the Cashew Industry (PNDFIA) and the National Plan for Agricultural Investment and Food and Nutrition Security (PNIASAN), estimate that Benin's production of processed cashews could increase up to 50 percent,⁴ which, depending upon how the market stabilizes in the wake of the pandemic, could lead to an increase in overall annual production of up to almost 80 percent by 2021.

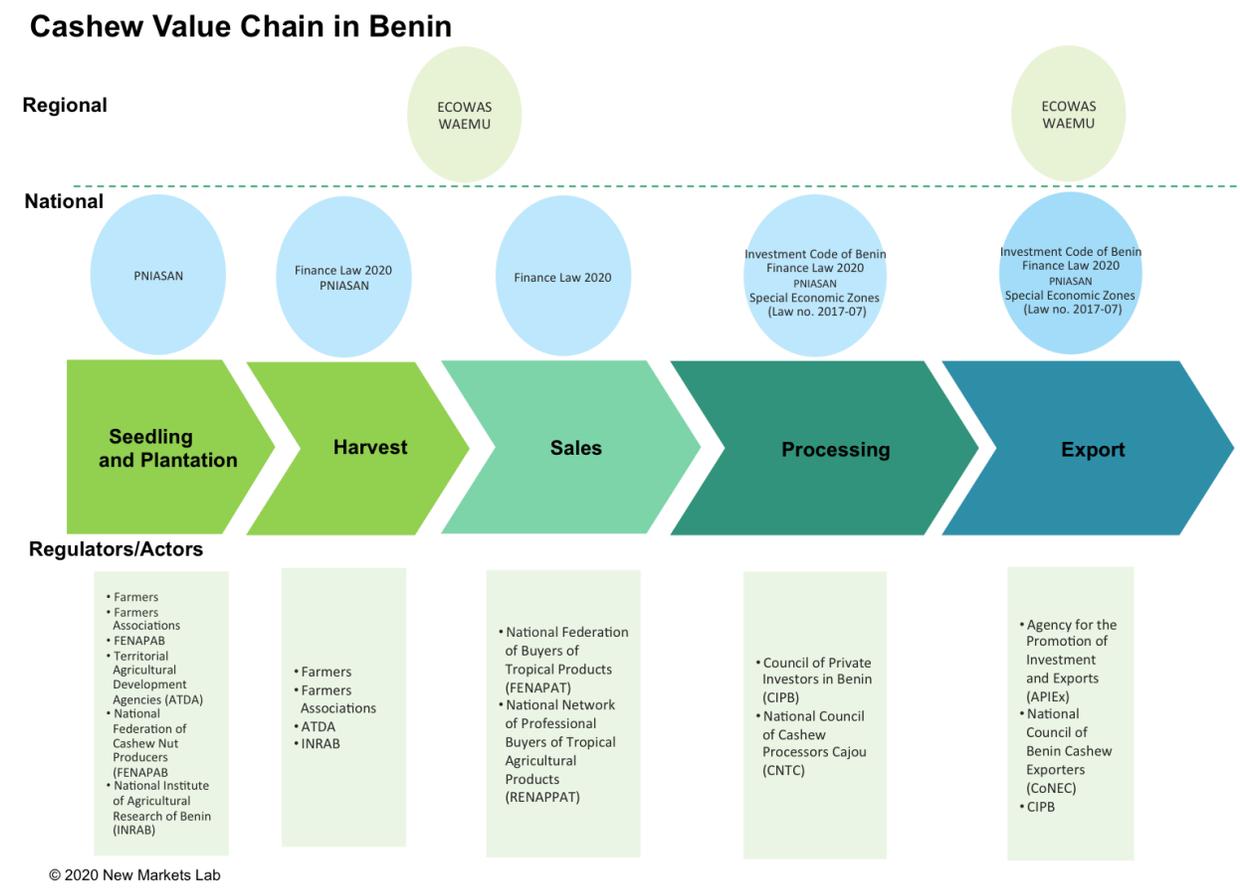
On the processing side, however, Benin is yet to meet its full potential. Challenges for expanded processing include insufficient capital to stock up during harvest season in response to the seasonality of cashew production, competition between processors and exporters (who are often in a better negotiating position), the need to secure sufficient RCNs for the season, lack of proper storage infrastructure for RCNs, and insufficient personnel to process cashews. Processors also need to account for food safety and product standards, with priority placed on meeting global standards and producing whole and undamaged kernel cashews (for higher quality), as well as securing efficient machinery for the production of competitive cashew kernels. Some actors in the cashew sector have started to diversify by engaging in the production of derivative products, including cashew oil and

⁴ Projets Phares, Présidence de la République du Bénin, Benin Révèle, Programme d'Actions du Gouvernement 2016-2021, Projets Phares, Présidence de la République du Bénin, 2016.

cashew apple juice, which could potentially help expand the local market without depending on the export of RCNs and cashew kernels to other countries.

The cashew industry in Benin is currently governed through a number of rules, regulations, policies, and institutions, and this framework plays a vital role in the sector’s growth (See Figure 1 below).

Figure 1: Regulatory Framework Along the Cashew Value Chain in Benin⁵



At the production stage, regulatory interventions could be focused on reducing fragmentation and enhancing opportunities for better representation of smallholder farmers and producers. The sector is organized under the National Association of Cashew Producers in Benin (Federation Nationale Des Producteurs D'anacarde Du Benin (FENAPAB), with stakeholders represented through the Interprofession de la Filière Anacarde (IFA-Benin); however, the sector consists mainly of smaller farmers and producers who are not organized. The lack of organization can give rise to issues with securing financing; lack of transparency in transactions, which can lead to distrust between various stakeholders; and exposure to market players who take advantage of weak regulation. Collectivization of smallholder farmers and producers could be achieved under a legal structure such as a cooperative at the village or district levels. FENAPAB, which is set up as a cooperative, could

⁵ NML, 2020, based on laws, regulations, and policies from Benin and adapted from New Markets Lab, “[Legal Guide to Strengthen Tanzania's Seed and Input Markets](#)”, April 2016.

integrate formal (i.e., those who are already registered) and informal actors (i.e., smallholder farmers who are not organized or registered or unregistered farmer organizations). IFA-Benin could also expand initiatives to facilitate coordination within the sector. Stakeholders have also reported that there are discussions to create an overarching regulatory entity to manage the different actors and stakeholders within the cashew industry; however, these talks are at a nascent stage. Examples of other countries, such as Mozambique and Tanzania, could also be insightful as these discussions proceed.

Benin's recently adopted Investment Code will have an impact on the sector all along the value chain. The Investment Code, which was promulgated with the objective of encouraging investment in various projects across the country, is considered to be an improvement from the previous regime and includes tax benefits to investors based on the amount invested. In addition, Benin has adopted the Special Economic Zone (SEZ) Law, which seeks to promote establishment of factories in concentrated areas by offering tax incentives, streamlined regulatory procedures, and free installation of energy supply.

The cashew value chain is also impacted by regulations affecting access to credit. Banks dominate Benin's financial sector; however, the main banks do not directly finance agricultural production. Micro Finance Institutions (MFIs) are mainly engaged in lending to the agricultural sector, but there have not yet been any cashew-specific financing initiatives. Benin has adopted several legal measures to improve access to credit, including Law No. 2016-36 of 23 January 2017 On The Regulation Of Credit Information Offices (BIC Law) to promote transparency and increase commercial loans; the Organization for the Harmonization of Corporate Law in Africa (OHADA) Uniform Act on Guarantees; and a decree facilitating the conversion of occupation titles into real estate titles to address collateral issues, among others.

The harmonization of laws at the regional level, especially in West Africa, has also impacted Benin's regulatory environment and presents an opportunity to scale the cashew industry. The Economic Community of West African States (ECOWAS) and West African Economic and Monetary Union (WAEMU) have developed a number of regional agricultural and trade policy instruments, including a common external tariff and regional free trade zones, which could facilitate access to expanded regional and international markets for the sector.

WAEMU members⁶ also share a common currency, which fosters trade between member countries. This is currently the West African CFA franc (FCFA); however, countries are now starting to move towards an ECOWAS-wide currency, the 'ECO', launched by the West African Monetary Zone (WAMZ). WAEMU has also developed the Agricultural Policy of WAEMU (Politique Agricole de l'UEMOA, PAU), although it has reportedly had difficulties with implementation and monitoring and evaluation systems.⁷ Cashew has not yet been identified as a priority sector by the WAEMU, although the cashew sector could benefit from targeted initiatives at the regional level. Benin, along with its West African partners like Cote d'Ivoire (CDI), could push for cashew to be considered a priority sector at a WAEMU level so that the PAU could target funding and policy initiatives to the sector. Benin could also engage

⁶ Members include Benin, Burkina Faso, Cote D'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo.

⁷ Agricultural Growth in West Africa Market and Policy Drivers, Food and Agriculture Organization of United Nations (FAO), 2015.

through the Network of Peasant Organizations and Producers in West Africa (ROPPA) at the regional level to raise the status of cashew as a priority crop.

Benin, along with other African Union (AU) members, has also made commitments for supporting the agricultural sector under the Comprehensive Africa Agriculture Development Programme (CAAPD) developed under the umbrella of the AU's New Partnership for Africa's Development (NEPAD). Under CAAPD, Benin and other AU member states committed to allocate at least 10 percent of their national budgets to agriculture.⁸ Benin has also signed onto the African Continental Free Trade Area (AFCFTA), which, as it progresses, could have an impact on market development more broadly.

Overall, the cashew sector could benefit from improved design of new policies and regulations; amendments to existing rules; improved implementation of rules and regulations; and increased education of stakeholders. As case studies from other major cashew producers have shown, improving the enabling environment; facilitating investment; and simplifying business regulations will be critical to unlocking the potential of the cashew sector. Establishing a regulatory environment conducive to investment involves focusing on how the needs of the market and legal and regulatory structure interact over time, which is dependent upon ongoing collaboration between the public and private sectors.⁹ This process for implementing laws and regulations can include using laws to create an investment-friendly environment (e.g., using tax incentives to encourage investment); determining which services are needed and which the government will provide (e.g., designing financial products to promote access to credit); and putting in place a system to deliver these services at scale (e.g., facilitating organization of the sector).

In order to achieve its development goals, the cashew industry could overcome regulatory and policy challenges, take advantage of market opportunities, and introduce tailored regulatory and non-regulatory and policy interventions that take into consideration comparative good practices and regional rules. These are summarized in Table 1 below.

⁸ This commitment was made under the Malabo Declaration on Accelerated Growth and Transformation for Shared Prosperity and Improved Livelihoods (hereinafter the Malabo Convention), June 2014. AU Development Agency and NEPAD released a scorecard on each country's progress under the various commitments under the declaration. The scorecard covered various indicators such as: re-committing to the CAADP process, enhancing investment finance in agriculture, ending hunger by 2025, and halving poverty through agriculture, among others. As of 2017, Benin scored 4.3/10 under the scorecard and was said to be "on track" to meet the commitments made under the Malabo Convention. Benin's detailed scorecard can be found [here](#).

⁹ Katrin Kuhlmann, Enabling Environment for Scaling Seeds, Ag Partner XChange, Planning for Scale Brief 6 2013.

Table 1: Summary of Key Regulatory and Non-Regulatory Interventions

Key Issues	Current Status	Regulatory & Non-Regulatory Options
I. Regulatory Aspects of Organization Within the Cashew Value Chain		
<ul style="list-style-type: none"> Fragmented organization of smallholder farmers has been highlighted as one of the main challenges of the cashew sector. This has led to the lack of representation of their interests at the district, state, and national levels. Absence of a regulatory authority (or an effective non regulatory coordinating mechanism) to coordinate between all of the actors of the value chain. 	<ul style="list-style-type: none"> Cooperatives in Benin are regulated under the OHADA Uniform Act on Cooperatives that sets out provisions on areas such as democratic membership; ability to acquire shares in exchange for labor; easy formalization processes, and others. There is only one federation of cashew organizations in Benin, FENAPAB, which operates through various organizations at the village, community, and district levels. IFA Benin has been working on initiatives to coordinate all actors in the cashew value chain. Stakeholders have advocated for an overarching policy or regulation to coordinate the cashew sector. 	<ul style="list-style-type: none"> Register smallholder farmers as cooperative members the OHADA Uniform Act on Cooperatives. Encourage FENAPAB to coordinate with unregistered farmer associations and smallholder farmers, and bring them under its cooperative structure Coordinate between FENAPAB and ROPPA at the regional level in order to raise the status of smallholder farmers in the cashew sector. Consider the hybrid model proposed by the Agency for the Promotion of Investment and Exports (APIEx), which includes a warehouse receipt system (WRS) and could address two important issues: lack of access to RCNs by processors and financing issues faced by farmers. Improve overall coordination within the cashew value chain, taking into consideration other countries' practices such as the Cashewnut Board of Tanzania, which is a

		<p>regulatory model, the Mozambique Cashew Promotion Association (INCAJU), which is a non-regulatory body, and the Vietnam Cashew Association.</p> <ul style="list-style-type: none"> • Consider applying the cluster model adopted in India as an option for IFA Benin to attract small processors to the cashew sector. The model would enhance cost sharing benefits in relation to transport and equipment and acquisition of RCNs, among other things.
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II. Regulatory Environment for Investment

<ul style="list-style-type: none"> • Absence of small and medium-sized enterprises (SMEs) as processors in the cashew value chain. • Weak collaboration with regional partners to attract foreign investment. 	<ul style="list-style-type: none"> • The new Investment Code of Benin is the main instrument regulating investment in Benin. • The SEZ Law promotes the establishment of factories by promoting tax incentives and free installation of energy supply, among other things. • The process for starting a business has been streamlined and can now be done through an online platform. • At the regional level, Regional Agricultural Investment Policies and National Agricultural Investment Policies have played a significant role. 	<ul style="list-style-type: none"> • Take steps to integrate SMEs into the cashew sector, including adapting tax brackets in the Investment Code to target SMEs. • Consider a strategic partnership with CDI to increase investment opportunities, taking into consideration the Vietnam and Cambodia partnership that has improved productivity levels of RCNs.
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III. Regulatory Environment for Access to Credit and Finance		
<ul style="list-style-type: none"> • Absence of financial instruments that are tailored to address the challenges of the agricultural sector, especially the cashew value chain. • Reluctance of financial institutions to invest in the sector due to inherent risks associated with the agricultural sector. • Stringent loan terms and high interest rates have prevented smallholder farmers from modernizing cashew farms. 	<ul style="list-style-type: none"> • Financial Cooperative are leading lenders of agricultural loans • Benin has adopted a general regulation on guarantees (OHADA Guarantees Law), and financial institutions in Benin often require two forms of guarantees when granting agricultural loans, namely, (i) a guarantee fund or (ii) guarantee deposit • Leasing Law (Law No. 2017-02) enables banks and MFIs to offer leasing products. • Occupancy titles could be used as a form of collateral. 	<ul style="list-style-type: none"> • Consider development of an agri-finance policy that follows one of two models: (i) a specific agri-finance policy that encourages reform of financial institutions and products; or (ii) a broader policy that includes cooperation with international organizations and government institutions for development of financial products. • Improve ability of MFIs to deliver financing to small farmers. • Consider adopting long term loans to correspond to the seasonality of the cashew sector. • Adopt alternate forms of collateral, such as occupancy titles and leases. • Take steps to adopt a WRS, which could include: (i) conducting a readiness assessment of introducing the WRS in Benin’s financial and agricultural environment; (ii) determining the type of WRS that is best suited to the industry; and (iii) integrating smallholder farmers through a cooperative model in the cashew value chain.

IV. Market- Oriented Policies		
<p><u>Government Fixed Price for RCN</u></p> <ul style="list-style-type: none"> The policy environment for RCN pricing is challenging in Benin due to a number of reasons: (i) exporters are able to adjust prices at the sales stage despite the fact that the government fixes RCN prices, (ii) there is no flexible scheme to adjust RCN prices as per international market fluctuations, and (iii) exporters have more capital and negotiating power than processors resulting in the inaccessibility of RCNs for the processors. 	<ul style="list-style-type: none"> The government fixes RCN prices at the beginning of the season RCN prices have fluctuated sporadically over the last couple of years. 	<ul style="list-style-type: none"> Adopt regulatory and policy reforms to address RCN price fluctuations, including a WRS, which could address problems of RCN accessibility. Discussion should take into consideration: (i) RCNs needed for processors throughout the season, (ii) identification of farmers for supply, (iii) identification of registered buyers, (iv) streamlined procedure for acquiring RCN from producers with enforcement of a public agency, and (v) establishment of a range of prices of RCN (considering international variations).
<p><u>Food Safety Standards</u></p> <ul style="list-style-type: none"> This is not a challenge in the enabling environment; however, Benin could use a heightened compliance with global standards to expand its cashew markets, 	<ul style="list-style-type: none"> For the cashew sector, relevant bodies and standards include Hazard Analysis Critical Control Point (HACCP); International Organization for Standardization (ISO 22000), British Retail Consortium, African Cashew Alliance Quality and Sustainability Seal, and Association of Food Industries. 	<ul style="list-style-type: none"> Implement uniform food safety standards and encourage compliance with international standards, which would boost investor confidence in the sector overall and enhance opportunities for processing in particular, as well as ensure access to sophisticated markets leading to diversification of RCN exporting markets.
<p><u>Export Taxes</u></p> <ul style="list-style-type: none"> Challenges exist with respect to implementing export taxes for RCNs due 	<ul style="list-style-type: none"> Benin’s Finance Law of 2020 sets up export taxes for RCNs. 	<ul style="list-style-type: none"> Improve organization of the sector to help address

<p>to interventions by exporters through National Council of Benin Cashew Exporters.</p>		<p>issues related to export taxes.</p> <p><u>General Options</u></p> <ul style="list-style-type: none">• Actors like the National Council of Cashew Processors and Council of Private Investors in Benin could work together with development partners to raise awareness in the markets.• Undertake research to diversify domestic and export markets. This could include exploring potential for sale of cashew by-products such as cashew apple juice.
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II. SNAPSHOT OF BENIN'S CASHEW INDUSTRY

Before analyzing the role of the enabling environment in fostering the market potential of the sector, each relevant component of the cashew sector needs to be considered. This section offers an analysis of all the relevant actors involved in the cashew value chain, market potential of Benin's cashew industry in relation to production and processing and the various steps involved in the cashew value chain from production to export of cashews. This section serves as a basis for actionable policy and regulatory steps that can be tailored to the specific needs of the cashew value chain.

A. Actors in the Cashew Value Chain: Farmers, Processors, Exporters, and Associations in Benin

Benin's cashew value chain is comprised of number of different stakeholders, including farmers, producers, buyers, processors, investors, and the different associations and organizations that work with them. Producers are organized under FENAPAB, which as of 2018 represented only an estimate of 10 percent of cashew producers in the country.¹⁰

The buyers are organized under the National Federation of Buyers of Tropical Products (Fédération Nationale des Acheteurs de Produits Tropicaux (FENAPAT)) and the National Network of Professional Buyers of Tropical Agricultural Products (Réseau National des Acheteurs Professionnels des Produits Agricoles Tropicaux (RENAPPAT)), the processors under the National Council of Cashew Processors (Conseil National des Transformateurs de Cajou (CNTC)) and the exporters under the National Council of Benin Cashew Exporters (Conseil National des Exportateurs de Cajou (CoNEC)). IFA-Benin currently represents most actors in Benin's cashew industry.

Farmers and producers participate in the process of planting seedlings and maintaining the cashew farms, and are then involved in the harvesting process. Mainly female workers perform these stages in the cashew value chain.

There are around 200,000 cashew producers in Benin. Most of them are small farmers, associated in about 800 cooperatives, farmers associations, and other local groups, which are all formally registered in accordance with the OHADA Uniform Act on Cooperatives¹¹ by FENAPAB. FENAPAB has three main activities, (i) organizing producer cooperatives, (ii) providing assistance to strengthen agricultural practices among producers, and (iii) promoting sales of RCNs (most of the time through group sales).

Before the harvest season ends, and when sales start, buyers enter the cashew value chain. In Benin, cashew buyers are associated and registered through FENAPAT and RENAPPAT.

¹⁰ Peter Ton, Leonard Cossi Hinnou, Daouda Yao, Allan Adingra, Cashew Nut Processing in West Africa, Value Chain Analysis, Benin and Cote d'Ivoire, 2018, available at: https://www.cbi.eu/sites/default/files/vca-cashew-west-africa_0.pdf.

¹¹ OHADA Cooperatives Companies Law, available at: <https://www.ohada.org/index.php/en/ohada-reference-texts/uniform-acts>.

All processors and exporters of cashews are required to buy their RCNs through these associations.

Processing of RCNs in Benin is limited at the moment, and there are only a few big processing companies, including Fludor, Tolaro Global, and ABC, among others. Processors of cashew nuts in Benin are grouped under CNTC. These companies have worked in partnership with the government and international organizations in order to develop their programs and improve their productivity. Fludor, for instance, has received assistance from TechnoServe to train its workers in order to improve efficiency, safety and good practices for production¹² and has also benefited from a project led by the Belgian Development Agency (ENABEL).

Currently, Fludor's processing capacity is 18,000MT, but it is operating at less than 50 percent of its maximum capacity, processing only 8,000MT of RCNs, due to the market challenges related to pricing, access to RCNs, disorganization of the sector, and difficulties in obtaining sufficient RCNs.¹³ Additionally, Tolaro started processing RCN in Benin in 2011 and has estimated that it would process 20,000MT of cashew nuts in 2020.¹⁴

Exporters of RCNs intervene in the value chain once cashews have been harvested, with the objective of selling them abroad, mainly to Vietnam and India. Exporters in Benin are associated through CoNEC. CoNEC was created in 2012 under the Constitution of Benin,¹⁵ and its role includes representing its members before the government, along with assisting its members in relation to the functioning of the international market. In 2019, CoNEC issued its Strategic Development Plan 2019-2021 with the purpose of organizing its activities to better represent its members. According to CoNEC, proper organization and assistance of cashew actors is the key to increasing competitiveness of the cashew value chain in Benin.¹⁶ Additionally, CoNEC is in charge of submitting the list of registered exporters (along with the list of buyers under FENAPAT) to the government before the beginning of the cashew season. It should be noted that exporters can only buy their RCNs from affiliated buyers that are registered on this list.

Currently, there are approximately one hundred exporters registered. Registration under CoNEC only requires that exporters submit their registration to the Trade Registry along with personal identification documents. Some of the main exporters include Société Nomax, Société Sakson, Babson, AGRO-Béni, Asia-Trading, and BPS Bénin, among others. Exporting companies are either foreign companies or Beninese companies operating in partnership with foreign companies. In both cases, their objective is to stock up early in the season, transport the RCNs to their country or partner country for processing, and add value to the

¹² A New Model for Benin's Cashew Industry, TechnoServe, October 2016, available at <https://www.technoserve.org/blog/a-new-model-for-benins-cashew-industry/>.

¹³ FLUDOR, <http://www.fludorbenin.com/en/welcome.html>; L'usine de décorticage de noix de cajou de Fludor au Bénin est opérationnelle, COMMODAFRICA, August 2016, available at <http://www.commodafrica.com/04-08-2016-lusine-de-corticage-de-noix-de-cajou-de-fludor-au-benin-est-operationnelle>; Benin At The Forefront Of Innovation In The Cashew Sector, TechnoServe, 2018, available at <https://www.tnsbenin.org/english/benin-at-the-forefront-of-innovation-in-the-cashew-sector>; NML Consultations with Stakeholders, March-April 2020.

¹⁴ TOLARO, <http://tolaroglobal.com/>.

¹⁵ Article 25, Constitution de la République du Bénin.

¹⁶ Plan de Développement Stratégique 2019-2021 du CoNEC-Bénin, CoNEC, 2019.

product before selling the processed cashew to the consumption markets (either locally or abroad).

In addition to these actors, IFA-Benin represents most actors in the cashew industry (including FENAPAB, FENAPAT, CoNEC, and CNTC). In 2019, IFA-Benin issued a Strategic Development Plan to define its activities in support of actors across the value chain,¹⁷ IFA-Benin has been involved in activities to raise awareness among actors in different regions of the country, holding meetings with buyers, processors and farmers to highlight the objectives, activities, and benefits of the association.¹⁸ IFA-Benin has also participated in events such as Benin Cashew Day 2020, where some of the main challenges of the industry were discussed.¹⁹ As an outcome of this event, IFA-Benin conducted a study to identify actors and transactions in the cashew value chain, with the objective of sanctioning and reducing informal transactions. IFA-Benin is also expected to be part of the ADF Project that was recently approved and is pending implementation.²⁰

IFA-Benin has been engaged in initiatives to organize the various actors, but organization of the sector still remains a significant challenge, mainly due to the numerous value chain actors who are not associated with or formally represented by these organizations, including farmers and other smallholder producers that operate in the informal sector, and the lack of specific regulations for actors in the cashew value chain.

Other stakeholders in the cashew industry include the Council of Private Investors in Benin (CIPB), which coordinates around 46 associations. In 2017, CIPB launched the Cajou Demain program, with the support of TechnoServe through its BeninCaju program.²¹ The main objective of the Cajou Demain program is for the CIPB to support the government initiatives to promote investment in the cashew industry, by highlighting the growth potential of the cashew sector among CIPB members and maintaining an ongoing public-private dialogue.

The Ministry of Agriculture, Livestock and Fishing (MAEP) is the main institutional body that issues regulations to ensure quality of products, and it supervises the work of the Territorial Agricultural Development Agencies (ATDAs), fixes prices of RCNs, provides access to credit to farmers, and develops and implements various projects in the agricultural sector, including for the cashew value chain. The Agency for the Promotion of Investment and Exports (APIEx) is another relevant agency that is dedicated to the promotion of investment and exports, and it often works as a liaison between exporters and the government. ATDAs also provide farmers with advisory and market research support and assist them by providing financial and technical support, among other services.

¹⁷ Plan de Développement Stratégique 2019-2021 du CoNEC-Bénin, CoNEC, 2019.

¹⁸ L'IFA-Bénin sensibilise les acteurs de la filière anacarde Atacora-Donga à Djougou, Agence Benin Presse, 2019, available at: <http://www.agencebeninpresse.info/web/depeche/6/l-ifa-benin-sensibilise-les-acteurs-de-la-filiere-anacarde-atacora-donga-a-djougou>.

¹⁹ Dossier de Presse, Benin Cashew Day, BeninCaju, TechnoServe, Janvier 2020.

²⁰ Projet D'appui Au Développement De La Filiere Anacarde Et De L'entreprenariat Agricole Au Benin (PADEFA - ENA) Départements RDGW/AHAID/COBJ/PGCL, Avril 2019, Fond Africain de Développement.

²¹ Cajou Demain Communiqué de Presse, May 2017.

B. Market Potential

Cashew nut production worldwide has risen consistently, with an increase of 32 percent from the 2008-2009 season to the 2018-2019 season, and African countries are the world's main producers of cashews, accounting for 53 percent of worldwide production.²² West Africa is a primary producer of RCNs, which are then sold in countries like Vietnam (one of the main processing countries) and India (a primary producing, processing and consuming country). Within West Africa, Benin is one of the major producers, with an annual production of 110,000MT to 130,000MT in 2019. Table 2 sets out estimated world production of RCNs.

Table 2: Estimated World Production of RCNs (MT)²³

	2017-2018			2018-2019		
Country	Crop	Total Supply	Ending Stock	Beg. Stock	Crop	Total Supply
West African Countries						
<i>CDI</i>	673,236	673,236	20,000	20,000	725,000	745,000
<i>Benin</i>	110,000	110,000			110,000	110,000
<i>Burkina Faso</i>	80,000	80,000			85,000	85,000
<i>Nigeria</i>	180,000	180,000			200,000	200,000
<i>Guinea Bissau</i>	225,000	225,000			250,000	250,000
<i>Ghana</i>	75,000	75,000			80,000	80,000
<i>Senegal</i>	55,000	55,000			60,000	60,000
<i>Gambia</i>	15,000	15,000			15,000	15,000
Subtotal Western Africa	1,413,236	1,413,236	20,000	20,000	1,525,000	1,545,000
<i>India</i>	817,045	817,045			800,000	800,000
<i>Vietnam</i>	300,105	300,105	40,000	40,000	300,000	340,000
<i>Cambodia</i>	90,034	90,034			120,000	120,000
Subtotal	1,207,184	1,207,184	40,000	40,000	1,220,000	1,260,000
<i>Others</i>	705,000	705,000	40,000	40,000	740,000	780,000
World Total	3,325,420	3,325,420	100,000	100,000	3,485,000	3,585,000

²² International Nut & Dried Fruit (INC), African Cashew Alliance (ACA), Nuts & Dried Fruits Statistical Yearbook 2018/2019, 2019.

²³ Calculation based on International Nut and Dried Fruit Council, Cashew Round Table, 2018, available at: https://nutfruitcongress.org/sevilla2018/files/pagina/1526997077_Cashew_Round_Table_Amit_Khirbat.pdf.

Studies estimate that the national production of RCNs in Benin could grow around 55 percent between 2015 and 2025.²⁴ However, in 2018-2019, the production of cashews in Benin accounted for only about 8 percent of the total cashew production in West Africa, while the production in CDI, a country that is similarly placed (in terms of geography, strategy (e.g. quality of RCN), and regional membership) to Benin, was about 725,000MT, accounting for nearly 48 percent of total production in West Africa.²⁵

The main consumers of cashews worldwide are the United States, the European Union, and India, with an average consumption of over 15 percent of the world's share.²⁶ The rise in the demand for cashew kernels worldwide has led to an increase in demand for RCNs. In most cases, producer countries export RCNs for processing and consumption overseas. Benin is currently among the top ten exporting countries for cashews in the world. Benin's cashew industry is the second largest industry in the country, and, after cotton, it is considered to be a top strategic sector. Cashew exports represent over 25 percent of Benin's agricultural exports, and they contribute to 7 percent of gross domestic product (GDP) in agriculture.²⁷

While annual production of RCNs has increased in the past few years, these trends are likely to be impacted by the recent COVID-19 pandemic, which has disrupted agricultural value chains around the world.²⁸ Stakeholders consulted reported that in Benin the effects of the pandemic were already being experienced, with a decrease in international demand (mostly due to the closure of processing factories in importing countries), a drop in the international price of RCNs, and lower expected production of cashews (both RCNs and processed nuts).²⁹ However, it should also be noted that some stakeholders flagged this situation as a potential opportunity for increasing the production of processed nuts, given the stock of RCNs available from this and the previous season.

In Benin, only 20 percent of RCN is processed locally, with foreign buyers purchasing about 80 percent of the RCN. Restrictions on international travel have led to further decrease in demand for RCNs, as foreign buyers are unable to participate in cashew sales in Benin with many buyers unable to travel to Benin for the launch of the cashew-buying season in March. At the beginning of the season in Benin, the floor price for one kilogram (kg) of RCN was set at US 0.55 dollars, but as the demand decreased and farmers were desperate to find buyers, the prices dropped to US 0.17 dollars. However as of early May 2020, RCN prices have rebounded back to US 0.67 dollars.³⁰ Additionally, women and girls working the sector are

²⁴ Cashew Nuts of Benin, The West African Pearl, International Trade Center and Enhanced Integrated Framework, available at http://www.cir-benin.com/images/Pdf/cashew_nuts_of_benin_brochure.pdf.

²⁵ Cashew Round Table, Calculation based on International Nut and Dried Fruit Council, 2018.

²⁶ International Nut & Dried Fruit (INC), African Cashew Alliance (ACA), Nuts & Dried Fruits Statistical Yearbook 2018/2019, 2019.

²⁷ BeninCaju Factsheet, July 2018.

²⁸ Libby George, COVID-19 is Exacerbating Food Shortages in Africa, World Economic Forum, 27 April 2020.

²⁹ It should be noted that stakeholders reported that this season in particular has been greatly affected by the worldwide pandemic, which explains certain phenomena including drop in international demand, international price of RCNs, and expected production.

³⁰ COVID – 19 and the Cashew industry in Benin, TechnoServe, May 6 2020, available at: <https://www.technoserve.org/blog/covid-19-and-the-cashew-industry-in-benin/>.

experiencing varied challenges such as gender-based violence and economic inequality which are exacerbated during this crisis.

In relation to the pandemic, the government recently launched an economic assistance program, but this is primarily focused on the services industry. It should also take measures to assist the local cashew market, perhaps in the form of tax relief, affordable agro-processing credit facilities, and support to cashew processors in acquiring equipment.

Figure 2: Benin Cashew Growing Zones



NML 2020, based on data from ComCashew Benin Country Report, April 2019

In Benin, cashew farms occupy around 285,000 hectares (ha) throughout six of the twelve districts (Alibori, Atacora, Borgou, Donga, Ouémé, and Mono) (see Figure 2).³¹ Stakeholders have noted that Benin has the potential to expand its cashew farms, as there are over 9,800,000 ha of soil in the regions of Collines, Zou, Borgou, Donga, Atacora, Alibori, and Ouémé that are suitable and available for cashew farming.³²

There are approximately 200,000 producers of RCNs in Benin, and small individual producers own the majority of the cashew farms.³³ Stakeholders have stated that one of the major challenges in achieving market potential is the fragmented nature of the sector, with small cashew producers throughout the country who are often bound together only through informal organizations or groups of farmers.³⁴

On the processing side, there are eight transformation units in Benin with a processing capacity of 35,000MT.³⁵ It should be noted that, in practice, only around 18,750MT of processing capacity is utilized by transformation units,³⁶ meaning that the overall processing capacity of the industry in the country is currently operating at about 50 percent under potential. The underutilization of processing capacity is mainly due to the significant challenges the industry faces with regard to accessing sufficient RCNs at the beginning of the season along with low margin of return for processors. Nevertheless, with tailored regulatory interventions, these challenges could be addressed, allowing the cashew sector to operate at its maximum potential to achieve growth and development.

³¹ ComCashew Benin Country Report, April 2019.

³² NML Consultations with Stakeholders, March-April 2020.

³³ Cashew Nuts of Benin, The West African Pearl, International Trade Center and Enhanced Integrated Framework, available at: http://www.cir-benin.com/images/Pdf/cashew_nuts_of_benin_brochure.pdf.

³⁴ NML Consultations with Stakeholders, March-April 2020.

³⁵ ComCashew Benin Country Report, April 2019.

³⁶ ComCashew Benin Country Report, April 2019.

Benin can also take advantage of its position as one of the best quality cashew nut producers in the world. The quality of cashews is generally reflected in the Kernel Output Ratio (KOR), which is a method that combines measurements in both pounds and kilograms (kg) in order to determine quality of cashews. In this sense, KOR measures the weight of usable kernels in pounds at the de-shelling stage per bag of cashew nuts of 80 kg, with the global average at around 51lbs KOR.³⁷ In Benin, the average is around 48lbs KOR, with the best cashew quality varieties harvested early in the season (ranging from 48 to 51lbs KOR) and normal cashew quality varieties harvested later in the season (quality ranging from 45 to 48lbs KOR). There are also other varieties ranging from 43 to 45lb KOR.³⁸ This means that, overall, Benin's cashews are graded very high based on international quality standards, which gives Benin a significant comparative advantage.

In Benin, the government sets out the price of RCN per kg at the beginning of the season,³⁹ and for 2019-2020, the price was set at 325 FCFA per kg (equivalent to US 0.54 dollars).⁴⁰ However, RCNs are not always sold at the established price fixed by the government. RCN price can be very sensitive to the variations of the international market; therefore RCNs are sometimes sold at higher or lower prices than the established fixed price throughout the season.⁴¹ This can be a challenge for processors, as exporters offer higher prices when the market rises, resulting in more competition. However, in some exceptional cases, such as the 2019-2020 season and the difficulties around the global pandemic, RCNs have been reportedly sold at a lower price.

The government fixes the price for RCN at the beginning of the season; however, RCN prices can fluctuate due to variations in the international markets. This can present an obstacle for processors, because when international prices are higher than the fixed price, exporters often offer more competitive prices to farmers. Flexible pricing mechanisms for RCN could help in addressing this challenge; however, this analysis is outside the scope of this Regulatory Assessment.

C. Production and Processing Stages

Cashew trees take around three to four years from planting before they start generating revenues, which is why most producers adopt an integrated system of cropping through which they are able to generate revenues from annually rotated crops such as cotton, yam, and maize, among others.⁴² Once the cashew trees start to generate revenue, producers will simultaneously maintain both annual crops and cashew trees for around eight years on

³⁷ USDA/FAS Food for Progress LIFFT-Cashew, SeGaBi Cashew Value Chain Study, 2 March 2018, USDA, Shelter for Life, and TechnoServe, 2018.

³⁸ Cashew Nuts of Benin, The West African Pearl, International Trade Center and Enhanced Integrated Framework, available at http://www.cir-benin.com/images/Pdf/cashew_nuts_of_benin_brochure.pdf.

³⁹ Décret de 1988 Instituant Le Prix Plancher De La Commercialisation Des Noix D'anacarde, 1988.

⁴⁰ Comptes Rendus 20 Mars 2020, Gouvernement de la Republique du Benin, available at <https://www.gouv.bj/actualite/562/commercialisation-noix-cajou-benin-campagne-2019-2020-demarre/>.

⁴¹ Commercialisation des noix de cajou au Bénin : La campagne 2019-2020 a démarré, 20 Mars 2020, <https://www.gouv.bj/actualite/562/commercialisation-noix-cajou-benin-campagne-2019-2020-demarre/>.

⁴² Analysis of the Benin Cashew Sector Value Chain, African Cashew Initiative, 2010.

average, although this depends on how fast the trees grow, which varies across regions. Only after almost ten years can cashew trees become the main revenue for producers.⁴³

Due to the seasonality of the cashew production cycle (See Table 3), processors seeking to obtain RCNs need to stock up during harvest in order to then process cashews throughout the year.⁴⁴ Stocking up during a specific time of the year entails numerous challenges for processors, including securing enough capital available to compete with exporters, obtaining sufficient RCNs for the season, having enough personnel to process the RCNs, and putting in place the proper infrastructure to store the RCN for the whole year.

Table 3: Seasonal Timeline for Cashew Production⁴⁵

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Seedlings			■	■	■	■						
Planting						■	■	■				
Maintenance									■	■	■	■
Harvest	■	■	■	■								
Sales			■									
Exports				■	■	■	■					

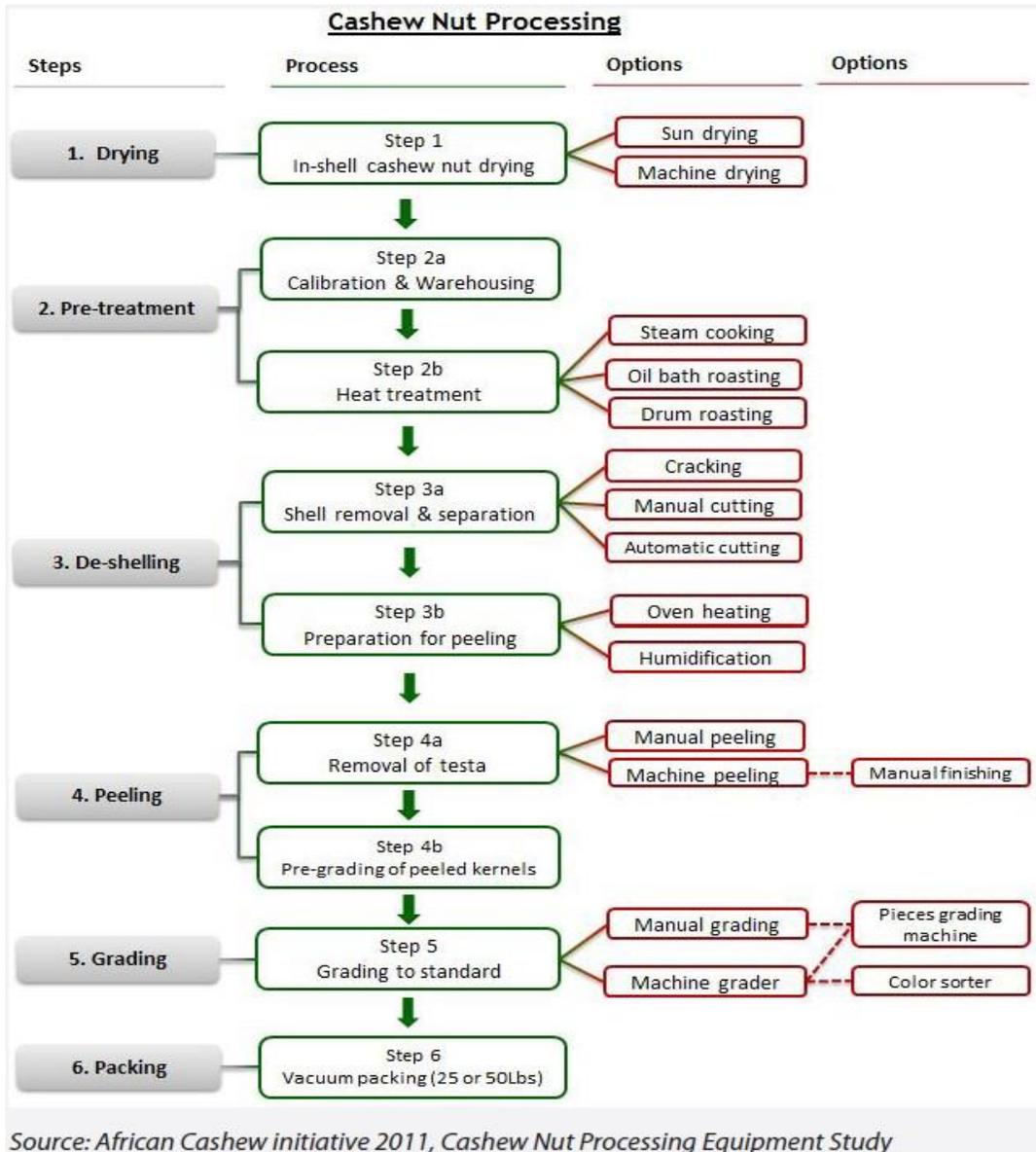
Once processors acquire RCNs from producers, cashew nuts are processed into cashew kernels. This process consists of three key stages that allow for extracting the kernels from the shell. The process of extraction is key to ensuring the highest quality and added value of the cashew kernel, since whole and undamaged cashew kernels are more valuable than broken cashew kernels. The cashews must first be properly dried and stored in warehouses, where they will be processed throughout the year. The processing stages include: (i) heat treatment (to facilitate shelling), (ii) shelling and peeling, and (iii) grading (classification of kernels and packaging for distribution and sale) (see Figure 3).

⁴³ Analysis of the Benin Cashew Sector Value Chain, African Cashew Initiative, 2010.

⁴⁴ Analysis of the Benin Cashew Sector Value Chain, African Cashew Initiative, 201; Cashew Nuts of Benin, The West African Pearl, International Trade Center and Enhanced Integrated Framework, available at http://www.cir-benin.com/images/Pdf/cashew_nuts_of_benin_brochure.pdf.

⁴⁵ NML 2020 based on Analysis of the Benin Cashew Sector Value Chain, African Cashew Initiative, 2015; Cashew Nuts of Benin, The West African Pearl, International Trade Center and Enhanced Integrated Framework, available at http://www.cir-benin.com/images/Pdf/cashew_nuts_of_benin_brochure.pdf.

Figure 3: Cashew Processing Steps⁴⁶



These steps are carried out differently across processors, depending upon their mechanical and technical capabilities. It should be noted, however, that while mechanized processing of RCNs tend to be less labor intensive and yield higher production, the percentage yield of whole and undamaged cashew kernels is lower under mechanized production than manual processing.⁴⁷ Nevertheless, high yield of whole and undamaged cashew kernels is not the

⁴⁶ Number 1: Guidebook on the Cashew Processing Process, Cashew Processing Guides, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), 2019.

⁴⁷ Number 1: Guidebook on the Cashew Processing Process, Cashew Processing Guides, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), 2019.

sole concern for processors, as they also need to account for food safety standards, efficiency of the machinery, and traceability of the high quality kernel when choosing mechanized systems.

D. Challenges with Processing Stage of Value Chain

Although the government of Benin has put in place several development programs to promote the agricultural sector in general and the cashew industry in particular, as discussed below, stakeholders still report challenges related to processing nuts instead of exporting RCNs.⁴⁸ Policy measures such as export levies for RCN exports to promote domestic processing of cashews have reportedly not had sufficient impact, and there has not been a great shift into processing nuts.⁴⁹

Overall, challenges related to processing cut across the value chain, and packaging and processing equipment are needed to render the value chain more competitive. Moreover, the processing stage of the value chain can present challenges related to the need for new techniques and technical capacity necessary to increase productivity. Stakeholders report the need for investment incentives for processing, such as tax benefits and guaranteed access to raw materials. At the sales stage, obtaining sufficient RCNs to process throughout the season can be difficult, with the additional challenge of variation of RCN prices, despite the government's interventions. Finally, at the export stage, more information on regional and international markets, along with other measures to strengthen the sector, will be needed to broaden access.⁵⁰

In addition to the specific challenges at each stage of the value chain, margin of benefit is another factor that discourages processing of cashews. According to a study conducted by TechnoServe and BeninCaju related to the competitiveness of processing RCNs in Benin, while processing nuts has an added value of 30 to 35 percent of the final product, processors only obtain a margin of revenue of 10 percent. In contrast, farmers obtain between a 50 to 65 percent margin of revenue (depending upon whether they are sold for export or processing) for harvesting RCNs, while exporters obtain a margin of revenue of 2 to 4 percent for selling RCNs in the international market (it should be noted that while exporting RCNs only has an added value of 10 to 15 percent, it only requires exporters to buy and resell RCNs).⁵¹ Consequently, the gap that exists between the added value and the margin of revenue, in addition to the effort that processing RCNs entails, does not seem to be an encouraging factor for actors to engage in processing of cashew nuts.

More competitive cashew value chains could generate more employment for rural populations, while diversifying production from RCNs to processing nuts and derivative products and extending access to international markets. To increase competitiveness, meet international standards, and satisfy international demand, the Benin cashew industry would

⁴⁸ NML Consultations with Stakeholders, March-April 2020.

⁴⁹ GroCaju, Introduction and Strategic Analysis, TechnoServe, USDA.

⁵⁰ Analysis of the Benin Cashew Sector Value Chain, African Cashew Initiative, 2010.

⁵¹ Examen de la compétitivité de la transformation du Cajou au Bénin et revue des politiques sectorielles, BeninCaju, TechnoServe, 2016.

need to increase its production of processed nuts. This could be achieved through introduction of regulatory and policy interventions at different stages of the value chain, as is discussed in this Regulatory Assessment; however, processing companies could also take initiatives on their own. Firstly, processing companies already established in the country should work towards meeting their maximum capacity. An example of this would be the PepsiCo Initiative for Cashew in Africa (PEPSICA) where Tolaro Global worked with the African Cashew Alliance (ACA) to increase production of cashew farms run by 1,200 farmers;⁵² this ensured more access to RCNs so that the company could meet its processing potential. Secondly, processing companies would need to update their facilities and incorporate the necessary machinery for processing RCNs. Fludor has been collaborating with development partners to increase its processing capacity; it is leveraging its strong manufacturing background to establish safety standards, linear process flows, and good infrastructure. BeninCaju has also been engaged in providing technical expertise and training.⁵³ In India, the government has enhanced domestic production and processing through investment in research, development, and agricultural extension. Through the All India Coordinated Research Project on Cashew, the government sought to increase cashew production and productivity by developing higher yield trees, creating efficient disease and pest management practices, and promoting more efficient planting techniques. High-yielding cultivars suitable for different climates have also been identified, and regional nurseries have been established by both the public and private sectors, which are closely monitored by the Directorate of Cashew Nut and Cocoa Development (DCCD), which has established the infrastructure for production of high-quality RCN and better processing.⁵⁴

E. Diversification

While RCNs and processed cashews are the main products commercialized in the cashew industry, there are some derivative products that can be obtained from cashew nuts, shells, and other debris, including renewable energy, cashew oil, and cashew apple juice, among others. In Benin, there is some production of cashew apple juice, which is obtained from cashew shells and often sold for local consumption. This is derived from the part of the cashew apple that is typically thrown away or left to rot after extracting the edible cashew kernel; the kernel only constitutes 22 percent of the cashew apple.⁵⁵ At the moment, however, there are only about 20 small producers of cashew apple juice, most of them women farmers, organized under the Union Nationale des Cooperatives Transformatrices de Pomme Cajou du Benin, which was created very recently in March 2019. While cashew apple juice is currently made through an artisanal process and is only produced for local

⁵² Andrew Shepherd, Including Small Scale Farmers in Profitable Value Chains, November 5, 2016.

⁵³ A New Model for Benin's Cashew Industry, TechnoServe, 2016, available at: <https://www.technoserve.org/blog/a-new-model-for-benins-cashew-industry/>.

⁵⁴ Melissa Hall, Pareen Patel, German Sarmiento, Nikola Smith, Aimee Sostowski and Stephanie Waxman, Micro and Small Enterprise Trade-Led Growth Program in Brazil, May 2007

⁵⁵ Agence France-Presses, Cashew Waste Strikes Gold: Benin looks to Cashew for Growth, April 10, 2019, available at: <https://www.france24.com/en/20190410-cashew-waste-strikes-gold-benin-looks-cashews-growth>

consumption, its production has been increasing (there has been an increase in production of over 200 percent in the past three years),⁵⁶ and stakeholders flagged that there could be potential for growth in the local market for this product.

Like Benin, the Indian cashew industry differentiates itself from other cashew markets by the quality of the RCN. They have high skilled laborers, and most of the cashew processing is still manual, which helps in the development of better-quality whole cashew kernels as opposed to mechanically processed cashew kernels. Additionally, the Indian cashew industry also has a diverse range of cashew by-products, such as Cashew Nut Shell Liquid (CNSL), that are used to make specialty chemicals and polymers like insulating varnish and resins. Cashew apple is also a by-product, but its marketing is not extensive in India, as it does not have a demand in local and international markets.⁵⁷ In Benin, Fludor has been using its cashew shells to produce CNSL; therefore, this can be seen as a potential area for development in the sector.⁵⁸

Additionally, women in Benin's cashew industry can also be involved in the diversification of the sector. Currently, they are involved in the processing of cashews mainly through the production of cashew apple juice. As these are emerging parts of the cashew sector, women could find a space in the production of these derivative products. However, while shifting from low value-added production like RCNs and more value-added commodities like cashew apple and other derivative products, women should be given more access to production techniques, training, and extension services. Women can also use their traditional knowledge to complement these modern techniques.⁵⁹

III. POLICY AND REGULATORY OVERVIEW

The cashew industry in Benin is governed under a number of policies, rules, and institutions, and the institutional and regulatory structure of Benin plays a central role in the development of the cashew industry. This Regulatory Assessment distinguishes between different measures related to the cashew sector, in particular policy, regulation, and law, and the relevant institutions involved. Policy, which sets principles or strategies that guide government actions,⁶⁰ includes development programs implemented by the government of Benin as discussed below. The laws and regulations related directly or indirectly to the

⁵⁶ CajuNews, Le Bulletin Mensuel d'informations du projet BeninCaju, BeninCaju, Fevrier2020.

⁵⁷ Melisa Hall, Pareen Patel, German Sarmiento, Nikola Smith, Aimee Sostowski and Stephanie Waxman, Benchmarking the Global Cashew Industry, Micro and Small Enterprise Trade-Led Growth Program in Brazil, May 2007.

⁵⁸ A New Model for Benin's Cashew Industry, TechnoServe, 2016, available at: <https://www.technoserve.org/blog/a-new-model-for-benins-cashew-industry/>.

⁵⁹ Simonetta Zarrilli, The Case for Mainstreaming Gender in Trade Policy, Bridges Africa, International Centre for Trade and Sustainable Development, Volume 6 No 4, June 13, 2017, available at: <https://www.ictsd.org/bridges-news/bridges-africa/news/the-case-for-mainstreaming-gender-in-trade-policy>

⁶⁰ See, e.g.: Katrin Kuhlmann, The Human Face of Trade and Food Security: Lessons on the Enabling Environment from Kenya and India, Center for Strategic and International Studies, December 2017, available at: https://docs.wixstatic.com/ugd/095963_d0db766f66984c13a883db2f66cff84a.pdf.

investment regulatory framework are discussed in greater detail in Section IV. The regulatory structure is also composed of a set of regional rules under ECOWAS, WAEMU, and, on an evolving basis, the AfCFTA. The overarching institutional and policy structures for the cashew value chain, at both the national and regional levels, are summarized below.

Benin currently has a number of development programs that impact the cashew sector, such as BÉNIN RÉVÉLÉ, the Action Program of the Government (Programme d'Action du Gouvernement (PAG)), the National Program for the Development of the Agricultural Sector (Programme National de Développement du Secteur Agricole (PNDSA)), the National Program for the Development of the Cashew Industry (Programme National de Développement de la Filière Anacarde (PNDFI)), and the National Plan for Agricultural Investment and Food and Nutrition Security (PNIASAN), which serve a number of general goals, including development of implementing measures to improve the business enabling environment of the cashew industry as well as supporting production and processing in specific geographic areas. Additionally, the African Development Fund (ADF) approved a 5 year project in 2019 called the Cashew Nuts Sector and Agricultural Entrepreneurship Development Support Project to support the development of the cashew industry through a variety of activities, such as upgrading old cashew farms, installing new farms, supporting job creation in the sector and providing better access to credit.⁶¹ These are discussed in greater detail below.

A. Relevant National Level Institutions and Regulatory Authorities

1. Ministry of Agriculture, Livestock and Fishing (Ministère de l'Agriculture, de l'Élevage et de la Pêche, MAEP)

The MAEP is the main national authority in charge of developing agricultural policies. In relation to the cashew industry, the MAEP issues regulations to ensure the quality of products, organizes the different actors in the cashew value chain (although, as discussed below, there are still gaps in this area), and also supervises the work of ATDAs.

MAEP is also involved in the execution of strategic focus 4 of the BÉNIN RÉVÉLÉ development program, which, as explained in greater detail below, focuses on the development of the main agricultural industries in Benin, and MAEP promotes agricultural research in specific areas of the Beninese territory with the purpose of expanding cashew planting throughout the country. MAEP is tasked with the development and execution of the ADF Project, along with ATDA No.4, and is part of the negotiations of the fixed price per kg of RCNs for each season, working with the different actors of the chain, including producers, processors and exporters.

⁶¹ The ADF Project was approved in 2019 but has not started yet.

2. Agency for the Promotion of Investment and Exports (APIEx)

APIEx is the public agency in Benin, under the purview of the Ministry of Industry and Trade (Ministère de l'Industrie et du Commerce), dedicated to the promotion of investment and export.⁶² APIEx seeks to promote development among Beninese industries; increase national and international investment; and improve competitiveness. APIEx also seeks to improve the doing business environment to boost employment, revenue, and growth.⁶³ In this sense, APIEx often works as a liaison between exporters and the government. It assists exporters in the process of registering their business and often offers technical capacity, maintaining a permanent dialogue with the government in order to address regulatory and implementation gaps that might be affecting the development of strategic industries, including the cashew industry. One of its most recent initiatives is the development of the digital platform to register businesses.

3. Territorial Agricultural Development Agencies (ATDA)

ATDAs were created in 2017 with the objective of serving as the liaison between actors in the agricultural industry and the government, and they work under the sphere of the MAEP. ATDA No. 4 is the public agency specifically in charge of the development of the cashew industry. In its role, it provides cashew farmers with advisory support and market research, assists them in setting up cashew farms according to market standards, helps in production of quality plant material and accessing financial assistance, and any other technical assistance needed. In addition, ATDA No. 4 works closely with the National Institute of Agricultural Research of Benin (INRAB) to ensure that farmers have access to crops, and it assists in setting up cashew farms based on seasonality of RCNs. ATDA No. 4 will also be involved in the execution of the ADF Project.

B. Policy Programs Focused on the Cashew Sector in Benin

The Government of Benin has developed several policy programs related to the agricultural sector in general and the cashew industry in particular. BÉNIN RÉVÉLÉ is the flagship national program, and other programs have derived from it, including (i) PAG, which establishes the general goals of the agricultural sector and the cashew industry; (ii) the PNDSA, which establishes specific measures to achieve the objectives of the PAG; and (iii) the PNDFA; which sets out the specific needs of the sector and the necessary interventions.

⁶² Objectif de l'APIEx, available at: <http://www.gufebenin.org/index.php/presentation>.

⁶³ Objectif de l'APIEx, <http://www.gufebenin.org/index.php/presentation>.

1. BÉNIN RÉVÉLÉ

BÉNIN RÉVÉLÉ has three main pillars: (i) consolidate the democracy, the state, and good governance (optimize power balance between public institutions and ensure effective implementation of public policies); (ii) engage in the structural transformation of the economy; and (iii) improve living conditions of the population. These pillars encompass seven strategic focus areas, two of which are specifically related to investment and development of the cashew industry; strategic focus area 3, which relates to reorganizing the macroeconomic framework and maintaining stability,⁶⁴ and strategic focus area 4, which is focused on improving economic growth.⁶⁵

The government's goal under strategic focus area 3 is to implement complementary measures to improve the business-enabling environment, based on the World Bank Doing Business program. Measures include improvement of the regulations related to starting a business, improvement of logistics in Cotonou to render the sector more competitive, and access to land. The implementation of APIEx's online platform to register businesses (explained below) is a clear example of the type of measure the government is committed to adopting under this strategic focus.

Strategic focus area 4 is intent on achieving productivity and competitiveness of the main six agricultural value chains: cotton, maize, cashew, rice, pineapple, and cassava. Strategic focus area 4 is subdivided into seven related sectors (including digital economy, agriculture, tourism, culture, transportation, energy and mining, and arts and crafts) and focuses on the regulatory framework for attracting private investment in the agricultural and rural sectors (including measures to promote exports of agricultural products and development of the cashew industry). Cashew-specific initiatives under this strategic focus include the goals of adding new cashew farms, improving existing farms, and implementing a program to transform 50 percent of raw cashews by 2021.⁶⁶ This initiative is expected to be conducted under the ADF Project (discussed below).

In addition to this, another initiative specifically designed for strategic development of agricultural industry is the expansion of the SEZ situated 30 kilometers from the Capital, with the purpose of promoting the installment of new processing factories in a specific geographical area,⁶⁷ along with guaranteeing proper and reliable energy supply through the installation of more generators.⁶⁸ Existing companies can also benefit from these exemptions by locating their processing plants in the SEZ.

⁶⁴ Benin Révèle, Programme d'Actions du Gouvernement 2016-2021, Synthèse, Présidence de la République du Benin, 2016.

⁶⁵ Benin Révèle, Programme d'Actions du Gouvernement 2016-2021, Présidence de la République du Benin, 2016.

⁶⁶ Benin Révèle, Programme d'Actions du Gouvernement 2016-2021, Projets Phares, Présidence de la République du Benin, 2016.

⁶⁷ Benin Révèle, Programme d'Actions du Gouvernement 2016-2021, Présidence de la République du Benin, 2016.

⁶⁸ Trade Policy Review Body, Report by the Secreteriat, Benin, WTO, 2017; NML Consultations with Stakeholders, March-April 2020.

2. National Program for the Development of the Cashew Industry (PNDFFA)

The PNDFFA was created to be executed by ATDA No. 4 with the purpose of increasing the productivity of RCNs (by increasing yields), achieving the national goal of processing up to 51 percent of the total production of RCNs, and increasing commercialization and exports.⁶⁹ The PNDFFA works closely with actors along the value chain, including FENAPAB, in order to identify and address the specific needs of cashew producers. To increase productivity, the PNDFFA will modernize existing cashew farms and install new farms, in partnership with the ADF Project, and with support from the government.

To increase the processing rate of RCN, the PNDFFA has promoted the exemption of taxes and tariffs for the importation of machinery and also offers technical assistance related to installation and good practices. Finally, to increase commercialization and export of Beninese cashews, the PNDFFA proposes measures such as raising awareness among producers and processors related to commercialization and trade, along with adoption of good practices and international standards related to storage and packaging.

3. National Plan for Agricultural Investment and Food and Nutrition Security (PNIASAN 2017-2021)

The objective of PNIASAN is to identify gaps where investment is needed in the agricultural sector over a period of five years. The PNIASAN takes into account ongoing projects and programs from the public sector and investments from the private sector (both ongoing and to be expected during the five-year period of the program).⁷⁰ The promotion and structuring of agricultural value chains in the main industries is one of the strategic pillars of the program, and cashew has been identified as a main industry. In line with the other development programs, PNIASAN also has the objective of raising the productivity of the cashew industry by augmenting the processing of RCN by 50 percent by 2021. In addition, PNIASAN has set out yield and production objectives, aiming at increasing the yield per hectare of cashew farms by 85 percent and an overall growth of 78 percent of the annual production by 2021.

PNIASAN has developed an analysis of the strengths and weaknesses of the sector. Some of the main weaknesses identified include the weak productivity by hectare, lack of support programs by the government to facilitate access to land, difficulties in obtaining permits in SEZs, volatility of cashew prices, lack of a proper regulatory framework, and difficulty in accessing finance, among others. On the other hand, PNIASAN has highlighted some strengths of the system, including the increased interest of private companies to export

⁶⁹ Fiche Synthèse PNDF-Anacarde, Programme National De Développement De La Filière Anacarde, 2019.

⁷⁰ Plan National d'Investissements Agricoles et de Sécurité Alimentaire et Nutritionnelle PNIASAN 2017 – 2021.

cashews, and the existence of development programs focused on improving the sector. PNIASAN has also flagged some opportunities and investments needed in the sector.

As for opportunities identified, these include creation of jobs, increased productivity and revenue, and improved agricultural capacity within the country. In this sense, some of the necessary investments include strengthening the technical capacities of the main actors of the cashew industry (through training and proper machinery) and the prioritization of accessible financing for the commercialization of products (with a focus on women, the youth, and new entrepreneurs).

4. African Development Fund Project⁷¹

In 2019, the ADF approved a project (ADF Project) to support the development of the cashew industry and the agricultural sector in Benin from 2019 to 2024.⁷² There have however, been some delays, and the project is not being executed yet.

Overall, the objective of the project is to support the development of the cashew industry through a variety of activities, including upgrading old cashew farms (around 15,000ha), installing new farms (around 3,000ha), and improving access to credit for various actors within the cashew value chain. The ADF Project has a total budget of 13 billion FCFA provided by the ADF, of which 7 billion FCFA constitutes loans, while the remaining 6 billion constitutes a contribution from the ADF.

In relation to access to credit, the objective of the project is to assist with two of the main obstacles that farmers and processors encounter when applying for credit, namely, lack of guarantees and a proper business plan. In order to solve the guarantee issue, the ADF has created a facilitation fund under the Agricultural National Development Fund (Fonds National de Développement Agricole (FNDA)). The FNDA would operate as a guarantor for farmers and processors when obtaining loans through commercial banks. FNDA will help facilitate reduced interest rates for loans, which has also been reported as a significant obstacle for stakeholders. The FNDA Project can also assist farmers and processors in their design of business plans and provide better technical knowledge of the industry.

While the ADF Project could help overcome some of the challenges related to access to credit that industry stakeholders encounter, a few things should be noted. First of all, as mentioned above, the ADF Project is not yet operational, although it has been approved and was expected to start in June 2019. Given the seasonality of cashew production, this means that stakeholders will not be able to benefit from it this season, since sales and exports have already occurred. Additionally, it is yet to be determined, depending on when the project actually becomes operational, whether farmers and processors will be able to benefit for the

⁷¹ Memorandum Projet D'appui Au Développement De La Filière Anacarde Et De L'entreprenariat Agricole Au Benin (PADEFA - ENA), Departements RDGW/AHAID/COBJ/PGCL, Fonds Africain De Développement, Avril 2019.

⁷² Memorandum Projet D'appui Au Développement De La Filière Anacarde Et De L'entreprenariat Agricole Au Benin (PADEFA - ENA), Departements RDGW/AHAID/COBJ/PGCL, Fonds Africain De Développement, Avril 2019.

2021 season or whether they would still have to wait another season in order to see benefits under the program. In addition, since the project has a limited timeline, it is not clear whether it would be extended due to the delays of its execution.⁷³ Stakeholders have also highlighted that, while the funds and guarantees from the FNDA will be available, commercial banks may not accept the guarantee, given that the FNDA is a very recent structure.

It should also be noted that the ATDA No. 4 is expected to execute this project. While the ATDA is specialized in the industry, it was recently created, and stakeholders have reported that the agency has neither the structure nor the capacity needed to handle the funds. While the ADF Project might be a good alternative to address some of the challenges related to access to credit, the government of Benin should keep these issues in mind in order to prevent a gap in the implementation of this program.

The ADF Project has also prioritized the development of the role of women in the cashew sector. Women dominate the cashew sector workforce, representing 90 percent of workers.⁷⁴ They are also one of the most vulnerable groups in Benin, and interventions at the different stages of the cashew value chain to expand their access to markets, credit, and other industry-related services could be a good strategy to fight inequalities and improve food security. In the cashew sector, most women's activities are limited to harvest, transport, post-harvest, and processing, while men are mostly involved in planting, maintenance, and trade of RCNS.⁷⁵ There are a number of challenges in the cashew sector that limit the role of women, including challenges with land tenure, as men own the vast majority of the cashew farms.⁷⁶ As a result, women are often limited in their activities without being able to establish their own production,⁷⁷ and women also often lack sufficient training and knowledge of best practices to engage in more productive activities within the cashew regulatory value chain.

The ADF Project includes goals to support women in the cashew value chain and has listed the creation of employment for women, along with the registration of SMEs run by women, as priorities. The ADF Project seeks to facilitate women's access to markets, increase their productivity in the value chain, and assist them in accessing credit. It also aims to increase their access to finance and give women the possibility to formalize their small companies by registering them as SMEs and obtaining credit to increase productivity and broaden their market access. It is estimated that proper training of women in the cashew industry could contribute to a 25 percent productivity increase in the sector.⁷⁸ Some specific measures under the ADF Project include educating and training women and raising awareness of their rights related to acquiring property and land. Additionally, the project will seek to grant access to 30 percent of the new cashew farms to groups of women where they will also receive assistance to obtain the necessary equipment and machinery to exploit the

⁷³ It should also be noted that the current worldwide situation related to the COVID-19 pandemic has caused additional delays to procedures.

⁷⁴ Projet D'appui Au Developpement De La Filiere Anacarde Et De L'entreprenariat Agricole Au Benin (PADEFA - ENA) DEPARTEMENTS RDGW/AHAID/COBJ/PGCL, Avril 2019, Fond Africain de Developpement.

⁷⁵ Analysis of the Benin Cashew Sector Value Chain, African Cashew Initiative, 2010.

⁷⁶ Projet D'appui Au Developpement De La Filiere Anacarde Et De L'entreprenariat Agricole Au Benin (PADEFA - ENA) DEPARTEMENTS RDGW/AHAID/COBJ/PGCL, Avril 2019, Fond Africain de Developpement.

⁷⁷ Analysis of the Benin Cashew Sector Value Chain, African Cashew Initiative, 2010.

⁷⁸ Cashewomen Social Initiative, <http://www.cashewomen.com/>.

plantations. Finally, the project seeks to promote leadership and representation of women across the cashew value chain.⁷⁹

While the ADF Project would potentially improve the situation of some women in the cashew value chain, it should be noted that (i) it is limited to a specific regions of the country (departments of Donga and Collines, and partially the departments of Borgou (Sud) and Zou (Commune de Djidja)); and (ii) women would still lack representation in organizations and industry groups established in the sector.

IV. POLICY AND REGULATORY PRIORITIES ALONG THE CASHEW VALUE CHAIN

A number of legal and regulatory issues relate to different aspects of the cashew value chain. While some of these are specific to certain stages of the value chain, others are more general and affect the whole cashew industry.

This section contains a regulatory assessment of these challenges, based on NML's systemic approach to the enabling environment,⁸⁰ which serves to identify the degree of regulatory flexibility, efficiency, and effectiveness in the design and implementation of rules and regulations.⁸¹ For the purposes of this assessment, the systems approach is focused on the main indicators that relate to strengths and weaknesses in the enabling environment in Benin. The regulatory framework involves a wide range of rules and regulations that impact the cashew value chain. These are not limited to investment or business regulations but also include regulations related to the organization of the sector and access to finance. While the development of the cashew industry has been a priority of the government and its strategic development policies and programs,⁸² regulatory challenges that might hinder market opportunities can still be identified along the cashew value chain.

A. Regulatory Aspects of Organization Within the Cashew Value Chain

The ability of stakeholders to organize collectively within the cashew sector impacts the interactions between actors across every stage of the value chain. As mentioned earlier, FENAPAB, FENAPAT, CoNEC, CNTC and IFA-Benin are the main coordinating actors, but currently coordination focuses mainly on sales, exports, and processing, with little coordination at the production stage. During the course of this Regulatory Assessment we

⁷⁹ Projet D'appui Au Developpement De La Filiere Anacarde Et De L'entreprenariat Agricole Au Benin (PADEFA - ENA) DEPARTEMENTS RDGW/AHAID/COBJ/PGCL, Avril 2019, Fond Africain de Developpement.

⁸⁰ NML's Approach to Legal and Regulatory Reform, 2019, available at <https://www.newmarketslab.org/about>; New Markets Lab, A Center for Law and Development, March 2019. Available at: <https://www.newmarketslab.org/>; see also About New Markets Lab, 2019, <https://www.newmarketslab.org/about>.

⁸¹ NML Approach to Legal and Regulatory Reform, 2019, available at <https://www.newmarketslab.org/about>.

⁸² Benin Révèle, Programme d'Actions du Gouvernement 2016-2021, Projets Phares, Présidence de la République du Benin, 2016.

have identified specific gaps in different stages of the cashew value chain as highlighted in Box 1.

Box 1: Challenges in the Organization of the Cashew Value Chain

Production Stage

- Fragmented organization of cashew growers/smallholder farmers
- Lack of representation of smallholder farmer interests at the district, state, and national levels
- Weak coordination with other stakeholders in the cashew value chain
- Decision making based on short-term considerations (and not long-term planning) due to lack of expertise and technical knowledge

Processing Stage

- Processors unable to access RCNs due to influence of exporters in the market, putting them at a disadvantage in relation to RCN prices

All Stages in the Value Chain

- Absence of an effective regulatory authority (or even an effective non-regulatory coordinating mechanism) to address challenges faced by market stakeholders

1. Lack of Organization at the Production Stage

Smallholder farmers often find themselves in the situation of deciding whether they will sell to exporters or processors, and decisions are often made without technical expertise or long-term consideration of market benefits. Stakeholders have expressed that organizing smallholder farmers in cooperatives could help address these issues. A cooperative structure can help in promoting the interests of smallholder farmers while keeping in consideration the overall objectives of cashew sector. This could be done in a number of ways: promoting a democratic process where each member would have an equal voice in the decisions made by the cooperative; coordinating to meet the needs of the members in a cost effective manner; overseeing activities such as marketing of RCNs, packaging, and distribution; coordinating with other stakeholders in the cashew value chain to meet the goals of the sector;⁸³ ensuring sufficient membership so that the cooperative is operational enough to profit and negotiate in the market; establishing rules for members to make sure there is a clear understanding of commitments of the cooperative and its members, which could be

⁸³ Paul Thangata, Smallholder Cashew Business Model in Tanzania: Lessons from the Tandahimba Newala Cooperative Union (TANECU) Ltd, July 2016,

done through partnership deeds; developing a way to deal with the transaction costs associated with membership, monitoring, enforcement, and representations; and ensuring effective management of the cooperative.⁸⁴

There is only one federation of cashew organizations in Benin, FENAPAB, which is structured in various organizations starting from the base (village level) and going up to the national level (with headquarters in Parakou).⁸⁵ According to a survey conducted in 2012,⁸⁶ under FENAPAB there are about 593 cashew nut cooperatives at the village level, 43 unions at the communal level, and 4 unions at the district level, all of which come together at the national level. Most management decisions remain at the centralized district level. At the village level, the members head the cooperative, and at the district level, there is one manager and an elected board of member representatives. As of the time of the abovementioned report, the major district cooperatives were located in Zou-Collines and Atacora-Donga, representing 55 percent and 30 percent of national production of RCNs.

While some producers are associated under cooperatives, many smallholder farmers are neither registered nor part of any association or cooperative, which makes it difficult to participate in transactions and sales contracts (e.g., these farmers have no negotiating power while transacting to sell RCNs). FENAPAB does group associations of farmers who are formally registered, but only 15 to 20 percent of all producers are registered under FENAPAB,⁸⁷ and most smallholder farmers often operate in the informal sector, without organization and representation, which can create an obstacle in the value chain.

The OHADA Uniform Act on Cooperatives applies to cooperatives in Benin. As mentioned earlier, OHADA has played a vital role in harmonization of business laws in its member states, including Benin.⁸⁸ OHADA has so far promulgated nine standard pieces of legislation (called Uniform Acts) on specific areas of law, including commercial law, commercial companies, secured transactions, bankruptcy, and cooperatives. OHADA legislation applies directly in all member states and supersedes all national legislation on the same topic in each country.⁸⁹ OHADA was established to promote legal certainty through a unified system of laws and legal institutions but could play a further role in supporting existing informal networks and associations within the cashew sector. Producers in Benin are currently comprised of cooperatives and farmers associations, with a number of individual farmers operating outside of these structures. These smallholder individual farmers could be organized through cooperatives at the village level and then as a union at the communal and district level; ultimately these groups could coordinate with other stakeholders in the value

⁸⁴ E.R. Mensah, K. Karantininis, A. Adegbigi, and J.J. Okello, *Determinant of Commitment to Agricultural Cooperatives: Cashew Nuts Farmers in Benin*, 2012.

⁸⁵ At the regional level they are called Regional Unions of Cashew Growers (URPA); at the district level they are called Communal Unions of Cashew Growers (UCPA); and the village level they are called Village Unions of Cashew Growers (CVPA).

⁸⁶ E.R. Mensah, K. Karantininis, A. Adegbigi, and J.J. Okello, *Determinant of Commitment to Agricultural Cooperatives: Cashew Nuts Farmers in Benin*, 2012.

⁸⁷ *Ameliorer Le Systeme De Commercialisation Des Noix De Cajou Au Benin: Etat Des Lieux, Defis Et Perspectives*, Benin Cashew Day, Ministere de l'Industrie et du Commerce, Janvier 2020.

⁸⁸ OHADA Member States include Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, the Democratic Republic of Congo, Equatorial Guinea, Gabon, Guinea, Bissau, Cote d'Ivoire, Mali, Niger, Senegal, and Togo.

⁸⁹ Article 10 of the Treaty on Harmonization in Africa Business Laws, 17 October 1993.

chain under FENAPAB. The OHADA Uniform Act on Cooperatives allows for such an arrangement. A strong cooperative structure that can bring smallholder producers of the cashew value chain together could be a catalyst to recognition of their legal rights in the cashew value chain. This could be explored as an option to facilitate a more organized cashew sector.

International good practices exist in the form of the Cooperative Law and Regulation Initiative (CLARITY) Principles for Legal Reform, which were developed as a tool to assess and reform cooperative laws and can provide useful guidance.⁹⁰ Table 4 illustrates how the OHADA Uniform Act on Cooperatives compares with the CLARITY Principles, which could further enable smallholder producers to pursue membership under a cooperative structure.

Table 4: Regulatory Interventions Related to Organization Within the Cashew Industry

CLARITY Core Principles	Implementing Core Principles	OHADA Uniform Act on Cooperatives provisions	Recommendations and Comments
Require Member Economic Participation	Distribution of surplus of the cooperative should be required to be allocated according to patronage of the cooperative, rather capital invested.	Any natural person or a legal entity may be a shareholder or member in a cooperative. ⁹¹ A shareholder can hold a share proportional to their contribution to the cooperative. Shares confer the right to all advantages and benefits of the cooperative, the right to participate and vote in collective decision of shareholders. ⁹² A shareholder contribution can be in cash, in kind, movable or immovable property, or through services like labor or	This provision allows smallholder farmers to hold shares in exchange for the services they have undertaken (like planting and harvesting) without requiring them to make actual cash contributions.

⁹⁰ Enabling Cooperative Development: Principles for Legal Reform, The Cooperative and Regulation Initiative (CLARITY) and U.S. AID (2006) available at: <http://www.nrecainternational.coop/wp-content/uploads/2016/11/CLARITYFullReport.pdf>.

⁹¹ Article 8, Uniform Act on Cooperatives.

⁹² Article 46, Uniform Act on Cooperatives.

		know how. ⁹³ The services contribution shall apply to constitution of the initial share capital of the cooperative ⁹⁴ and shall be set out in the Articles of Association or partnership agreement. ⁹⁵	
Protect Democratic Member Control	A cooperative law should permit the by-laws of the cooperative to implement a range of voting rules that are consistent with democratic governance requirements.	Each member has one vote regardless of the significance of his/her interests in the capital of the cooperative. ⁹⁶	This allows smallholder farmers to have equal representation in the cooperative regardless of their capital contribution.
Provide Coherent and Efficient Framework	Registration should be accessible, timely, and efficient.	Each member state has a local authority which administers registrations, ⁹⁷ and a cooperative needs to be registered within a month of its formation with the Register of Cooperatives, otherwise it is presumed to be registered ⁹⁸ The application will have these supporting documents: (i) copies of Articles of Association; (ii)	This allows cooperative formed by smallholder farmers and producers to register in a timely manner without undergoing a cumbersome process.

⁹³ Article 33, Uniform Act on Cooperatives.

⁹⁴ Article 54, Uniform Act on Cooperatives.

⁹⁵ Article 43, Uniform Act on Cooperatives .

⁹⁶ Article 102, Uniform Act on Cooperatives.

⁹⁷ Article 70, Uniform Act on Cooperatives.

⁹⁸ Article 75, Uniform Act on Cooperatives.

		copies of list of members; and (iii) required authorizations under a particular sector.	
<i>Protect Autonomy and Independence</i>	<p>The cooperative should be able to determine any requirements for size and eligibility criteria for membership through internal governance procedures, subject to non-discrimination laws.</p> <p>Members should be able to determine the attributes of membership that will best ensure success of the organization.</p> <p>A cooperative should have legal personhood similar to that held by any other corporation. For example, they should have full rights to hold property, enter contracts, and sue and be sued.</p>	<p>OHADA Uniform Act on Cooperatives does not require mandatory by-laws and allows the form of rules of procedures to be set out by a private deed.⁹⁹</p> <p>Further, it provides that any natural person or legal entity could be a member of a cooperative.</p> <p>Under OHADA Uniform Act on Cooperatives, a cooperative enjoys legal status from the day of its registration.</p>	<p>This allows the smallholder farmer cooperatives to formulate their own by laws and policies that can be tailored to the needs of the smallholder farmers and producers. The legal status also allows the cooperative to own property, which makes it easier for the cooperative to take on loans or obtain other types of financing.</p>
<i>Avoid Conflict of Interest</i>	Anybody entrusted to adjudicate disputes that involve the	Disputes between members shall be referred to a competent court or	This will allow smallholder farmers and other parties to access

⁹⁹ Article 67, Uniform Act on Cooperatives.

<p>Provide Coherent and Efficient Regulatory Framework</p> <p>Protect Due Process</p>	<p>cooperative should be independent from promotion, supervision and other cooperative oversight function,</p>	<p>subject to mediation, conciliation, or arbitration.</p>	<p>dispute resolution before an independent authority.</p>
<p>Protect Autonomy and Independence</p>	<p>Law should permit the formation of apex organizations like unions, federations, and confederations, without dictating the structure or requiring cooperatives to form or support such organizations</p>	<p>Cooperative can be integrated into umbrella cooperatives at three different levels: unions (two or more cooperatives), federations (two or more unions), and confederations (two or more unions).¹⁰⁰ These operate as primary cooperatives and, in the absence of specific provisions, are governed by the same rules as a cooperative with a board of directors.</p> <p>The OHADA Uniform Act on Cooperatives will govern any confederation that opts for a cooperative form.¹⁰¹</p>	<p>At the production stage, this provision could be used to integrate the various smallholder farmer cooperatives, unregistered farmers associations, and other informal actors under the FENAPAB, which can be associated as a confederation. FENAPAB is also registered as a cooperative under the OHADA Uniform Act on Cooperatives.</p> <p>Consolidating the formal part of the sector with the currently unregistered smallholder farmers, cooperatives, and informal producers under FENAPAB would result in better negotiating power for producers, especially vis-à-vis exporters, which is an ongoing challenge.</p>

Additionally, at the regional level ROPPA, which is the largest federation of farmer organizations in West Africa, plays a notable role in influencing agricultural policy through consultations with national and regional institutions. ROPPA has been a defender of family farming in West Africa, with a special emphasis on smaller family farming operations.¹⁰²

¹⁰⁰ Article 133, 141 and 155, Uniform Act on Cooperatives.
¹⁰¹ Article 1, Uniform Act on Cooperatives.
¹⁰² Agricultural Growth in West Africa Market and Policy Drivers, Food and Agriculture Organization of United Nations, 2015.

With 100 members from various African countries, ROPPA has been very active in launching regional policy initiatives such as the WAEMU Agricultural Policy and the Regional Agricultural Policy of West Africa. Through ROPPA, National Producer Organizations were involved to varying degrees in the design of the CAADP national programs. At a regional level, ROPPA advocated for treatment for “sensitive” agricultural products within the ECOWAS Common External Tariff. In its 2016 Annual Report,¹⁰³ ROPPA noted the importance of three cash crops: cocoa, cotton, and cashews and stressed that it would indirectly use its platforms to address contributions through orientation of family strategies, public policies, and land use to balance food and cash crops. ROPPA has not yet promoted any cashew-specific initiatives, but smallholder farmers can work through FENAPAB towards engaging countries like CDI to raise the profile of the cashew sector under ROPPA’s mandate and push for organizational reforms, such as representation of the cashew industry through ROPPA.

2. Overall Organization of the Sector

The lack of organization within Benin’s cashew sector has led to domination of RCN exporters, which puts them in a better negotiating position in the market resulting in a lack of access to sufficient RCNs for processors. Exporters have been able to exercise negotiating power over processors to buy RCN from small farmers, which is disadvantageous to both farmers and processors. Even though the government does establish a fixed price per kg of RCN each season, exporters often adjust this price depending upon how the international market is operating. Lack of organization of smallholder farmers maximizes negotiating opportunities for exporters. For example, for the season 2018-2019, the price was set at 325 FCFA per kg of RCN, but in practice the RCNs were sold at 180-200 FCFA per kg.

Further, the lack of rules relating to specific requirements to participate in the value chain, either as a producer, processor, or exporter, creates a situation wherein the same person can be both the producer and the exporter. Moreover, exporters often own storage facilities in Beninese territories, meaning they can acquire RCNs and stock up before exporting. Overall, all of this has rendered the system very inaccessible and anti-competitive for processors to secure sufficient RCNs for the season.

APIEx is currently evaluating initiatives to formalize and organize the sector overall, with a focus on farmers and their relationship with both exporters and processors and has been looking at similar initiatives in countries such as Mozambique and Tanzania.¹⁰⁴ In Mozambique, the government imposed some restrictions on the sales of RCNs, including the prohibition to sell to exporters in the first months of harvest, in order to guarantee sufficient supply to processors, along with a requirement for farmers to sell at least 20 percent of their total production to local processors.¹⁰⁵ While this measure was intended to promote processing of cashews in the country, it has been reportedly not been efficient enough, since

¹⁰³ Summary and Findings of the First OFF/ROPPA Report, Regional Observatory on Family Farms, January 2017.

¹⁰⁴ NML Consultations with stakeholders, March-April 2020.

¹⁰⁵ Le rôle des gouvernements dans le développement des chaînes de valeur dans le secteur de l’agriculture, CABRI, African Development Bank Group, 2019.

the government neither established a sale price nor required processors to acquire all of their stock at the beginning of the season.¹⁰⁶ Therefore, there was no guarantee that local demand would be met, and, in any case, the negotiations between exporters and farmers resumed after the first month lapsed. Further Mozambique's Cashew Promotion Institution (INCAJU) has been successful in supporting cashew farmers and engaging the private sector (see Box 2).

Box 2: Mozambique INCAJU Case Study

INCAJU is a public sector initiative designed to support and work with cashew farmers by providing technical assistance on good agricultural practices; engaging in research, production, and distribution of seedlings; and promoting access to markets and international trade.¹⁰⁷ An example of INCAJU's role linking the public and the private sectors in the cashew industry is the ConnectCaju Project, developed by INCAJU in partnership with TechnoServe. ConnectCaju is a digital platform through which farmers' information (along with data related to their plantations, pests, seedling distribution, and performance of crops) is registered and then analyzed by public institutions, which can then make better decisions when allocating resources and implementing policies in the sector for a more efficient and competitive cashew value chain. Moreover, the platform renders trade of RCNs more transparent, since farmers can log their stock information (quantity, quality and prices), and the data is then shared with interested buyers.¹⁰⁸

In Tanzania, the cashew sector is organized under a different model, which includes the Cashewnut Board, a public institution under the Scope of the Ministry of Agriculture, that governs the industry through policy, regulations, and technical advice.¹⁰⁹ In Tanzania, producers are required to sell their RCNs only to cooperatives, which then issue tenders for both exporters and processors. In addition, the government publishes an indicative price for the RCN, although it is not mandatory.¹¹⁰ Stakeholders in Benin have noted that this model is too coercive from the producers' point of view.¹¹¹

APIEx has proposed a hybrid model for the organization of the sector, including a warehouse receipt system (WRS) as discussed below, whereby producers could store their harvest through the season in storage units and receive a certificate allowing them to obtain credit or a loan to continue with their production. In the meantime, processors would be allowed to buy from the stored RCNs at a price established based on the international market price.

¹⁰⁶ Le rôle des gouvernements dans le développement des chaînes de valeur dans le secteur de l'agriculture, CABRI, African Development Bank Group, 2019.

¹⁰⁷ INCAJU, available at <http://incaju.co.mz/>.

¹⁰⁸ A Data-Driven Cashew Sector, TechnoServe, October 2018, available at <https://www.technoserve.org/blog/data-driven-cashew-cultivation/>.

¹⁰⁹ Cashew Board of Tanzania, available at https://cashew.go.tz/cbt_home/.

¹¹⁰ Le rôle des gouvernements dans le développement des chaînes de valeur dans le secteur de l'agriculture, CABRI, African Development Bank Group, 2019.

¹¹¹ NML Consultations with Stakeholders, March-April 2020.

This system would allow farmers to obtain credit for their products and would also enable processors to buy at the international market price (while not having to compete with exporters or enter into negotiations) and have access to sufficient RCNs for the season. In other countries, WRS have been established through regulation, which could be an option for Benin to consider.

An additional challenge related to lack of organization that is worth noting is related to stocking and storage of RCNs. As explained above, processors need to stock for the whole year during harvest season (January to April), which raises two main issues. First, processors need to have enough capital to acquire sufficient RCNs to satisfy demand of processed nuts, and second, they need to have the proper infrastructure to store those nuts throughout the year.

In this context, processors often find themselves, through their affiliated buyers, competing against exporters to acquire RCNs. Stakeholders have reported that most farmers have more incentive to sell to exporters rather than dealing with processors, with trade generally destined for the Vietnamese and Indian markets, since they often have more competitive price offers. Therefore, by the time processors attempt to acquire RCNs, they only have access to the remaining stock, which is sometimes not sufficient to satisfy their demand. This, in addition to the overall lack of incentives for processing, is one of the main challenges facing the industry, which is currently stuck in the sale of RCNs instead of being able to develop and grow by selling processed nuts with added value.

IFA-Benin has also played a major role in addressing the challenge of lack of organization in the sector. It is working to enhance opportunities for farmers, buyers, and other actors operating in the informal sector to organize collectively in order to reduce informalities and improve the functioning of the cashew value chain.¹¹² Additionally, IFA-Benin is seeking to reach an agreement with its member associations to better organize the sector and obtain formal recognition from the government for all stakeholders in the sector, with the purpose of obtaining proper representation and eventually enabling all stakeholders to receive and administer their own funds.¹¹³ Stakeholders have also suggested that IFA-Benin could have the potential to contribute, along with other actors including MAEP, to develop a concrete initiative to achieve formal recognition and organization of the sector, which would have a regulatory component.¹¹⁴

The Vietnam Cashew Association (VINACAS) is an example of a socio-professional group that has been successful in coordinating between all stakeholders in the cashew sector. VINACAS was established in 1990 and has been successful in transforming Vietnam's cashew sector and enhancing opportunities for all stakeholders in the cashew value chain (see Box 3).

Box 3: Vietnam VINACAS Case Study

¹¹² Ameliorer Le Systeme De Commercialisation Des Noix De Cajou Au Benin: Etat Des Lieux, Defis Et Perspectives, Benin Cashew Day, Ministere de l'Industrie et du Commerce, Janvier 2020.

¹¹³ Ameliorer Le Systeme De Commercialisation Des Noix De Cajou Au Benin: Etat Des Lieux, Defis Et Perspectives, Benin Cashew Day, Ministere de l'Industrie et du Commerce, Janvier 2020.

¹¹⁴ NML Consultations with Stakeholders, March-April 2020.

The cashew industry in Vietnam has grown at an exponential rate over the last two decades. Vietnam became a major cashew exporting country by mechanizing its processing facilities with shelling and peeling machinery. In 2017, it was the largest exporter of cashew kernels in the world, with a total export value of USD 3.5 billion. The industry itself employs one million people working in 200,000 farmer households and over 500 processing companies all over the world.¹¹⁵ The Vietnam cashew industry aimed to maintain its exports at a certain quantity (350,000 MT in 2019), while maximizing export value through promotion of processing and export of cashew nuts with high added value, under the policy of “reducing quantity, increasing quality.”¹¹⁶

Vietnam’s cashew sector has been particularly well organized through VINACAS, the social professional organization of all stakeholders involved in the production, processing, importing, and trading of RCNs and its by-products. VINACAS led an initiative to implement a food brand named “Cashew of Vietnam” and encouraged its members to apply the Vietnam National Standards (TVCN12380: 2018) for RCNs when negotiating contracts.¹¹⁷ Another initiative implemented by VINACAS between 2016-2020 to maintain productivity of Vietnam’s biggest cashew-farming region, Binh Phuoc, included a plan to (i) achieve cooperation between the companies and cashew farmers in “re-cultivating and intensively cultivating” cashew trees, (ii) launch a “Cleaner and Greener” cashew program to supply safe and high quality production, (iii) carry out programs to raise value of cashew products and focus production and diversification, and (iv) build a Vietnam Food Brand for cashew products for increasing and expanding trade and export promotion activities. Initiatives like these have helped the Vietnamese cashew industry grow over the last decade, making it one of the leaders in the cashew industry.

The lack of formal recognition of value chain actors by the government has also been reported as an issue and can undermine the ability for bringing claims (related to taxes, the fixed price of RCNs, and reinvestment in the industry), and it also does not enable the sector to manage its own resources. Through organization, such as broader use of cooperatives, actors in the value chain could manage their funds, and, for instance, set up guarantee funds to assist farmers and processors in accessing credit. As mentioned above, both APIEx and IFA-Benin are working on initiatives to improve the organization of the sector through a regulation for the workers in the cashew sector.

In Benin, other organizations of actors within agricultural activities do exist, such as the case of the Pineapple Inter-professional Association of Benin (Association Interprofessionnelle

¹¹⁵ Norwegian Agency for Development Cooperation, Strengthening Practises in the Vietnamese cashew industry, 2018, available at <https://unil.no/globalassets/vedlegg/kartleggingsstudie-cashew-vietnam-2018.pdf>.

¹¹⁶ Industry calls for national regulation for raw cashew, Vietnam News, 2020, available at <https://vietnamnews.vn/economy/570747/industry-calls-for-national-technical-regulation-for-raw-cashew.html>.

¹¹⁷ Industry calls for national regulation for raw cashew, Vietnam News, 2020, available at <https://vietnamnews.vn/economy/570747/industry-calls-for-national-technical-regulation-for-raw-cashew.html>.

de l'Ananas du Bénin, AIAB).¹¹⁸ AIAB represents producers, processors, distributors, and buyers of the pineapple industry under one single organization. It is composed of a General Assembly, an Administrative Council and a Surveillance Council. AIAB has engaged in different activities in order to better integrate informal actors and small farmers into the association, and the value chain overall. In this sense, in partnership with GrowAfrica, the AU, NEPAD and the World Economic Forum, AIAB has developed a multi-stakeholder platform that seeks to match investment opportunities between investors and producers or processors of the value chain.¹¹⁹ This could prove to be a promising model for the cashew sector as well.

The ADF Project also recognizes the organizational weakness among stakeholders in the sector as one of the main constraints in development of the sector. Its strategies include organization of the cashew nut marketing chains and overall organization of the cashew nut sector. One of the targets of the project is to increase the percentage of stakeholders affiliated under cooperatives, including smallholder farmers, from less than 10 percent to 80 percent. The lack of organization within the sector particularly impacts farmers and growers (and women in particular) who lack representation before other organizations involved in the value chain such as FENAPAB and CoNEC. In order to be effective, the ADF Project would need to be accompanied by additional policies from the government oriented to the support and assistance of women. More representation and better organization could help women raise awareness of the particular challenges they encounter and would also facilitate the design of policies better tailored to their needs.

The Indian cashew industry has seen exponential growth over the last two decades, owing to targeted policies for the development of the cashew sector. DCCD was established in 1966 under the Union Ministry of Agriculture to foster development of the cashew industry. Further, the Cashew Export Promotion Council of India, which acts as a liaison between foreign importers and local exporters of cashew kernels, was established to promote export of cashew kernels from India.¹²⁰ India has also experimented with a cluster model that has helped producers with limited resources as well as landless people who can be engaged as wage laborers.¹²¹ In a small town called Panruti in Tamil Nadu, small processors formed clusters in order to increase their income. The processors in these clusters share expenses for transport, rent, and machinery and also share other infrastructure within the cluster. This has helped in generating employment for cluster members through the year. They have also devised risk-sharing schemes to protect themselves from price fluctuations.

3. Possible Regulatory Options for Organization Within the Cashew Value Chain

While Benin's cashew sector is organized to a degree, certain stakeholders are effectively left out of the system, especially smallholder producers. More inclusive organization could be achieved through a number of concrete measures, with the participation of all actors from

¹¹⁸ AIAB, Benin, available at <http://aiab-benin.com/>.

¹¹⁹ Benin, GrowAfrica, available at <https://www.growafrica.com/country/benin>.

¹²⁰ D. Kalaivanan, Cashew Industry in India – An Overview, *Chronica Horticulturae*, January 2012.

¹²¹ Melissa Hall, Pareen Patel, German Sarmiento, Nikola Smith, Aimee Sostowski and Stephanie Waxman, *Micro and Small Enterprise Trade-Led Growth Program in Brazil*, May 2007.

the cashew value chain. Better organization of the sector would have an impact on several interconnected challenges: (i) companies not operating at maximum capacity, (ii) lack of incentives for processing, (iii) access to credit, (iv) labor issues, and (v) the role of women in the cashew value chain. This set of regulatory interventions would require the involvement of IFA-Benin, MAEP, ATDA No. 4, FENAPAB, FENAPAT, CoNEC, CNTC, informal actors (e.g. smallholder farmers, informal associations or cooperatives of farmers), and ROPPA.

Possible Regulatory Interventions Include:

- **Regulatory Interventions Based on the Needs at the Production Stage**
 - **Register Smallholder Farmers as Members of Cooperatives Under the OHADA Uniform Act on Cooperatives:** Fragmentation of smallholder farmers at the village level is a key issue stifling the growth of the cashew sector. Steps have been taken towards formalization; however, most farmers function individually or under unregistered cooperatives. Formalization at the village level could ensure that farmer's needs are represented at the community, district, and national levels through unions and federations. A number of steps need to be taken and several factors need to be considered in order to organize smallholder farmers under cooperatives, which include: (i) spreading awareness among smallholder farmers about the benefits of being members of a cooperative (e.g. cost sharing benefits); (ii) improving understanding and recognition of their legal rights for better representation at different stages of the value chain; (iii) highlighting the benefits of registering under the OHADA Uniform Act on Cooperatives (including democratic membership, ability to acquire shares in exchange for labor, among others); (iv) adopting sector-specific rules that will allow the cooperative to address the specific challenges faced by smallholder farmers, such as adoption of a warehouse financing system (discussed below) for better access to credit, while taking into consideration the overall challenges of the cashew sector; and (v) addressing the need for a coordinated negotiating function representing the sector as a whole, which would allow market stakeholders to coordinate on technical matters and negotiate with better standing on professional matters.
 - **Encourage FENAPAB to Coordinate with Unregistered Farmer Associations and Smallholder Farmers and Bring Them Under its Cooperative Structure:** FENAPAB has the flexibility to do so, as it is already registered as a cooperative under the OHADA Uniform Act on Cooperatives and is considered a union or a federation. If FENAPAB were to play this role, actors in the cashew value chain who are currently operating in the informal sector could also be offered legal recognition and rights. Considering that FENAPAB has been representing producers in the cashew sector, it could take advantage of its standing to call for better recognition of producer needs. FENAPAB should also engage in active dialogue with cooperatives set up at the district, communal, and village levels to understand the needs and interests of smallholder farmers.

- **Explore Possibilities for Coordinating at the Regional Level Through ROPPA:** FENAPAB could also coordinate with ROPPA at the regional level to elevate the status of small producers in the Benin’s cashew sector (and the cashew sector overall), which could help increase the prominence of cashew industry concerns at the ECOWAS or WAEMU levels.
- **Consider the Proposed APIEx Hybrid Model:** The hybrid model proposed by APIEx would help address issues along the value chain, including in particular concerns among processors regarding unequal bargaining power vis-à-vis exporters. As part of the APIEx hybrid model, a WRS could be used by processors to respond to their issues with lack of access to RCNs, and producers could address financing issues by taking credit against warehouse receipts. This system would allow farmers to use produce as collateral and would also enable processors to buy in the international market price and have access to sufficient RCNs for the season.
- **Improve Overall Coordination Within the Cashew Value Chain:** A clear regulatory authority could help minimize implementation gaps and ensure that efforts are focused on the most pressing challenges. Additionally, the entity could help coordinate participation and interactions among the different actors in the sector and could help streamline programs related to different steps in the cashew value chain. As discussed above, IFA Benin has undertaken initiatives to coordinate all actors of the cashew value chain and, along with other institutions such as MAEP, could help develop concrete measure for formal recognition and organization of the sector.
 - Some stakeholders have proposed that the structure and functioning of this entity could be based on the experience of the Cashewnut Board of Tanzania or INCAJU in Mozambique. It should be noted, however, that these two entities function very differently. The INCAJU example (See Box 2) could be more appropriate and applicable to Benin, since IFA-Benin already exists as an institution whose goal it is to link the public and private sectors and work with all actors in the value chain, coordinating between the private sector and government. Although IFA-Benin is relatively new, and there are still gaps in its implementation, it could provide a good platform upon which to build.
 - IFA Benin could also take into consideration the initiatives taken by VINACAS in Vietnam like implementing a uniform food brand name for cashews, adopting uniform standards for RCN quality while negotiating contracts, and taking specific initiatives similar to the ones taken in the region of Binh Phuoc to maintain productivity levels (see Box 3). Additionally, they could explore the cluster model adopted in India to mitigate the risks that are undertaken by processors in relation to costs, transport, equipment and infrastructure. This could help attract small processors into the cashew industry.
 - A regulation is currently under discussion to formally recognize all actors in Benin’s cashew sector; however, this is at an early stage and remains an informal

discussion. Such a regulation could establish relevant requirements for different activities and clearly distinguish roles along the value chain (which would provide more transparency overall). The regulation could also take into consideration different needs and characteristics of stakeholders and establish differentiated requirements for smallholder farmers or women in the sector seeking to organize and be recognized. In addition, a regulation could grant actors representation and legitimacy to bring claims before the government and would provide sufficient formal structure to handle financing. However, in considering such a step, the experiences of other countries, including Tanzania and Mozambique, should be considered.

B. Regulatory Environment for Investment

Benin's investment environment for the cashew sector has seen recent improvements, such as the new Investment Code, but challenges do remain. These include challenges setting up RCN processing facilities, which requires initial investment in factory buildings; warehouses for storing RCN; and equipment for processing. In addition to the Investment Code of Benin (Investment Code), which is the main instrument regulating investment in Benin, other measures include regional investment policies relevant to the cashew sector, rules on SEZs, and procedures for starting a business in Benin. There are number of decrees, laws, and regulations related to business activity that also impact investment. Institutionally, several public institutions are involved, including the Bureau for the Study and Support of the Agricultural Sector (Bureau d'Étude et d'Appui au Secteur Agricole (B2A)), that have been created with the purpose of promoting development.

Regulatory interventions in the form of laws, regulations, and policies could help further improve the business climate in order to attract investment to the cashew sector. Investment in processing could be further encouraged by measures such as tax breaks; special provisions in SEZs to attract foreign investment; reduction of investment risks for SMEs; and enhanced awareness of the investment opportunities in the cashew industry to attract both domestic and foreign investment.

Box 4: Summary of Challenges in the Investment Environment for the Cashew Sector

- Limited level of investment-readiness of cashew processors due to weak incentives to process RCNs
- Absence of SMEs as processors in the cashew value chain
- Tax benefits or considerations under SEZs are not tailored to meet the needs of the cashew value chain
- Weak collaboration with regional partners to attract foreign investment
- Lack of awareness of the potential for growth of the Benin cashew market among investors

1. Investment Code of Benin

The Investment Code was promulgated by Law no. 90-002, amended by Law no. 90-033, and advanced through Decree Regulation no. 2008-06. The Investment Code has also undergone some modifications to its special and privileged regimes through Order N° 2008-04 of 28 July 2008 and Order N° 2008-06 of 05 November 2008. In January 2020, Benin's Parliament approved the proposal for a new Investment Code, although it has not been enacted yet. The new Investment Code includes two special regimes that are based on the specific purpose of the investment project, including one category for investments in key sectors and another category for large infrastructure projects. Both regimes benefit from the same exemptions as the basic regimes. Table 5 sets out the key features of the new Investment Code.

Table 5: Special Regimes Under the New Investment Code¹²²

Regimes	Basic Regime A	Basic Regime B	Basic Regime C	Special Regime for Key Sectors	Special Regime for Infrastructure Projects
Details	50 million FCFA – 1 billion FCFA	1 billion FCFA – 50 billion FCFA	More than 50 billion FCFA	Any sector or activity deemed strategic ¹²³	Infrastructure and equipment for tourism, cultural activities, sports, sanitary projects, education, or construction of infrastructure for the storage of products such as gas, hydrocarbons, and chemicals
Benefits	Tax and fee exemptions during installation period, Corporate Tax exemption, licensing fee exemption, and reduction of up to 50% of employer’s contribution of taxes on wages	Tax and fee exemptions during installation period, Corporate Tax exemption, licensing fee exemption, and reduction of up to 80% of employer’s contribution of taxes on wages	Tax and fee exemptions during installation period, Corporate Tax exemption, licensing fee exemption, employer’s contribution of taxes on wages exemption, and exemptions related to fees for	Same benefits as Basic Regimes A, B, or C, accordingly	Same benefits as Basic Regimes A, B, or C, accordingly

¹²² NML based on the New Investment Code of Benin, Law 2020-02 adopted in January 29, 2020, not enacted as of May 2020.

¹²³ Strategic sectors and activities are to be determined by Ministries.

			increasing capital		
Duration	5 years from beginning of activities after installation period	8 years for Zone 1, 10 years for Zone 2, 12 years for Zone 3, from beginning of activities after installation period (zones to be defined by relevant ministries) ¹²⁴	15 years for Zone 1, 16 years for Zone 2, 17 years for Zone 3, from beginning of activities after installation period (zones to be defined by relevant ministries)		

a. Tax Incentives Under the Investment Code

The Investment Code is intended to improve the previous regime, address inefficiencies, and render the business environment more attractive in comparison to neighboring countries. To this end, the Investment Code includes three different categories of investment, based on the amount of the investment, under which investors are exempt from paying any taxes or fees related to the installation of factories or processing plants. The duration of these exemptions vary among the categories and range from 5 to 15 years.

Since the objective of these different categories is to promote growth of key sectors (cashew being one of them) and infrastructure investment, an analysis of the implications for actors of the value chain will be important. The regimes under the new Investment Code mean that processors (new and existent) are exempted from paying any tax or tariff on the import of processing machinery and replacement parts. In addition, beneficiaries are also exempt from taxes related to revenues obtained through the processing of RCNs for the first 5 to 17 years. Moreover, there are several incentives provided during the time of installation and exploitation of processing equipment in factories. These include tax exemptions and expedited procedures for the approval of accreditation schemes (régimes d'agrément), along with some customs exemptions during the implementation period for privileged regimes, among others.

¹²⁴ Benin’s territory will be divided into 3 Zones, to be determined by Ministries.

b. Benefits for Companies in SEZs

In addition to the special and privileged regimes, the new Investment Code has also included additional benefits for companies installed in SEZs, which are being expanded through the BÉNIN RÉVÉLÉ Program. SEZs were addressed through legislation in Benin in 2017,¹²⁵ and benefits for companies installed in the SEZ area include exemptions from taxes and tariffs on activities and revenues for an unlimited time. More specifically, exports from SEZ are exempt from customs duties, and there is a simplified procedure for goods imported into the SEZ. Companies are also exempt from corporate tax, value added tax (VAT), property and land taxes, transfer and registration taxes, and employer's contribution to taxes on wages. Companies in the SEZ are also not subject to requirements to obtain import certificates or import quotas, and they can freely move capital through financial institutions. Finally, with respect to labor regulations, companies in the SEZ can freely negotiate employees' contracts and benefits, and enjoy an expedited process to obtain work visas for their workers. Some representatives from the private sector have reported other labor law issues and have suggested that wages should be based on productivity to encourage harvest and processing. According to the World Bank, fixed-term contracts are not prohibited in Benin, nor is there is a maximum length for this type of contract.¹²⁶

While these reforms could greatly benefit new companies, and hence attract new investment, stakeholders have reported that the new Investment Code does not entirely address the main issues facing the cashew value chain, since existing companies continue to struggle with significant challenges related to lack of access to proper credit and lack of organization of the sector. Specifically, the tax incentives are only available at high threshold amounts, making them inaccessible for SMEs.

2. Regional Policies Relevant to the Investment Environment

At the regional level, the Regional Agricultural Investment Policy (RAIP) has shaped regional agricultural policy. The framework consists of the Regional Agency for Agricultural Food and Regional Food and Agriculture Development Fund. RAIP was developed to complement the National Agricultural Investment Programs (NAIPs) by incorporating regional dimensions, managing relationships between countries, and enhancing cooperation on common issues.

Regionally, the ECOWAS Commission also coordinates implementation of ECOWAP/CAADP at the national level in the 15 ECOWAS Member States, including Benin, through NAIP. Benin's NAIP plan was called the Plan d'Investissement Agricole (PIA). The PIA¹²⁷ focused on the development of crop-based agriculture to support four priority value chains (cashew was not highlighted as a priority value chain) through promotion, access to improved inputs, availability of improved technologies, access to finance, access to professional knowledge

¹²⁵ Loi n°2017-07 du 17 juin 2017.

¹²⁶ World Bank's Doing Business Report Benin, 2020

¹²⁷ The PIA was implemented between 2011-2015, and was based on the priorities of a former development plan in Benin, the "Strategic Plan to Revitalize the Agriculture Sector" (Plan Stratégique de Relance du Secteur Agricole (PSRSA)).

and innovation, and access to markets. Benin allocated its budget across different areas including agri-food system orientation, environmental concerns, capacity strengthening, and research.¹²⁸ However, the PIA had a funding gap of 71.9 percent.¹²⁹

Table 6: Overview of Regional Agricultural Policies

Geo-political level	Policy/ Framework	Investment Plans	Institution Responsible	Criticism/Challenges of the Program
Continental Level	CAADP 15 years	African Union Agricultural Department Plans	AU (NEPAD)	Inadequate financial support Translating political commitment into concrete actions Capacity building issues Lack of policy coordination amongst member states
Regional Level (ECOWAS)	ECOWAP 15 years	RAIP 4-6 years	ECOWAS	Financial constraints Lack of policy coordination
Regional Level (WAEMU)	WAEMU Agricultural Policy	PAU	WAEMU	Actual implementation took 11 years Cashew sector is not seen as a priority
National Level (Benin)	Agricultural Promotional Policy	NAIP 4-6 years	Benin	The cashew sector was not considered to be a priority sector Funding gaps in the programs

Almost all NAIPs and the RAIP identified access to funding as a serious constraint to farmers. The Food and Agriculture Organization of the United Nations (FAO) observed that many policy areas that were important to agriculture did not receive attention from the NAIPs or the RAIP.¹³⁰ Sometimes, these areas were addressed in other policies, but there was a lack of integration. Reliable electric power is considered important to agro processing but it was not included in many NAIPs. FAO also found that producer organizations were more powerful

¹²⁸ Agricultural Growth in West Africa Market and policy drivers, Food and Agriculture Organization of United Nations, 2015.

¹²⁹ Agricultural Growth in West Africa Market and policy drivers, Food and Agriculture Organization of United Nations, 2015.

¹³⁰ Oxfam, ECOWAP: A Fragmented Policy, 2015, available at: <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/582075/bp-ecowap-fragmented-policy-171115-en.pdf?sequence=8&isAllowed=y>.

than national policymakers in terms of actual implementation, but they were largely left out of the process.¹³¹

Most stakeholders in Benin identified Vietnam as a main competitor, and Benin could consider adopting initiatives similar to those undertaken in Vietnam to advance its cashew processing. One approach could be to work with CDI as a partner. For example, Vietnam and Cambodia have partnered with each other and VINACAS has provided its Cambodian partners with monetary support of US 66,000 dollars to grow one million cashew trees through 2022.¹³² In 2017, VINACAS signed an agreement with Cambodia to expand the Cambodian cashew farming area to 500,000 ha in order to produce more RCNs in the near future.¹³³ VINACAS has also agreed to provide both investment and technology in support of the Cambodian cashew sector. Even though CDI is one of the largest exporters of RCN in West Africa, it is not operating its processing factories at full capacity. Benin could consider a strategic partnership with CDI to explore investment opportunities, taking into account the Vietnam-Cambodia arrangement.

3. Other Relevant Factors: Rules on Starting a Business

The cashew sector has some advantages due to recent improvements in Benin's overall investment environment, including improvements in regulations for starting a business in Benin, although these changes are still relatively new. Sustained improvements to the investment enabling environment are one reason that CDI has successfully attracted investment to the cashew sector (see Box 5).

In Benin, the government has undertaken a very recent reform to facilitate registration of companies. As of March 2020, the whole procedure to start a business can be done through APIEx using an online platform (<https://monentreprise.bj/dashboards/public>). APIEx assists companies throughout the process, and no additional prerequisites are imposed, meaning that anyone, foreign or national, can register their business through the platform. Moreover, any registered company carrying out agricultural activities can benefit from the tax exemptions included in the Investment Code, in addition to SEZ benefits if installed in the established area.

¹³¹ Agricultural Growth in West Africa Market and policy drivers, Food and Agriculture Organization of United Nations, 2015.

¹³² Vietnam's Cashew Industry turns to Cambodia, Customs News, 2018, available at <https://customsnews.vn/vietnams-cashew-industry-turns-to-cambodia-5765.html>.

¹³³ Strengthening Practises in the Vietnamese cashew industry, Norwegian Agency for Development Cooperation, 2018, available at <https://unil.no/globalassets/vedlegg/kartleggingsstudie-cashew-vietnam-2018.pdf>.

Box 5: Cote d'Ivoire Case Study

Investment in CDI has been notable over the last decade. The total stock of FDI represents 23.8 percent of the country's GDP, and the main investors are the European Union and Canada.

Table 7: FDI Inflows in Benin and CDI (2011-2018) ¹³⁴

Country Name	2011	2012	2013	2014	2015	2016	2017	2018
Benin	161 ¹³⁵	281	360	405	149	131.7	200	207.5
CDI	301.5	330	407	438	494	577.5	972.6	912.8

In the 2020 World Bank Doing Business Report, CDI ranked 110 for Ease of Doing Business, while Benin ranked 149.¹³⁶ Comparatively, in 2010, CDI ranked 169, while Benin ranked 170.¹³⁷ This highlights that, over the past decade, CDI has significantly progressed in improving the business enabling environment. This progress could be explained by the reforms CDI has engaged in over the past few years. While Benin has also undergone many reforms, it has done so very recently, and their impact is yet to be fully realized. Regarding the access to credit indicator, for instance, CDI established a new credit bureau in 2017,¹³⁸ whereas Benin did the same only in 2019.¹³⁹ With respect to the paying taxes indicator, CDI implemented multiple tax reforms, including electronic filing and payment systems for corporate income tax and VAT returns as well as the introduction of an online platform to process VAT refunds. Additionally, in 2011, CDI reduced the corporate income tax rate.¹⁴⁰

In 2018, the World Bank approved the Cashew Value Chain Competitiveness Project (CCC Project), with the goal of improving cashew productivity and quality in CDI, to the benefit of small farmers and the cashew processing industry. The project has four components: (i) improving the organization of the cashew sector to reduce market costs, enhance competitiveness, and improve inclusiveness of small scale farmers; (ii) increasing farm cashew productivity and improving access to market for RCNs; (iii) increasing the volume and added value of locally processed cashews through increased access to investment capital, support for cashew storage and processing infrastructure, and development of cashew markets and trade; and (iv) facilitating coordination between partners, contractual arrangements with key states, and monitoring and evaluation of the project's performance.¹⁴¹ As of late 2019, the project had shown significant progress, and the volume of processed cashew nuts had reached 66,892MT (compared to a first year of 65,000MT); the number of beneficiaries amounted to 29,320 producers (against a target of 25,000), of which 18 percent are women (compared to a 15 percent target).¹⁴²

In Benin, companies are required to submit documentation online and pay the established fee (17,000 FCFA for registering a corporation, 10,000 FCFA for other entities), and the whole process for registration only takes a couple of hours. New companies are only required to obtain two certificates before they can be registered, namely, an environmental certificate¹⁴³ and an industrial installation authorization issued by the Ministry of Industry.¹⁴⁴ Companies are automatically assigned a registration number from the Trade Registry, along with an export and import certificate. Overall, the process has been reported as being user-friendly and very quick.¹⁴⁵

Ease of registering businesses could become a distinct advantage for Benin in attracting investors to the cashew sector. Going forward, Benin could perhaps undertake additional measures tailored to the specific needs of the cashew sector, drawing upon the CDI example.

4. Possible Regulatory and Policy Options for Improving the Investment Environment

While several regulations have been adopted to improve the investment environment in Benin, including the New Investment Code and SEZ Law, these mainly address new companies and/or big investment projects, while gaps still remain in relation to promotion of investment from SMEs and/or existing companies.

Possible policy and regulatory interventions could be tailored to improve the investment environment, including:

- **Focus on Reforms to Better Integrate SMEs:** Processing of RCNs in Benin is limited at the moment to only a few major companies. This signals that there could be investment opportunities for SMEs, particularly if challenges with access to finance are addressed. Within the investment sphere, the tax brackets in the Investment Code are set at high thresholds, which may not be beneficial to SMEs.

¹³⁴ FDI, net inflows (% of GDP), available at:

<https://data.worldbank.org/indicator/BX.KLT.DINV.WD.GD.ZS?locations=BJ>.

¹³⁵ The denomination is in millions and the values have been rounded.

¹³⁶ World Bank's Doing Business Report CDI, 2020

¹³⁷ World Bank's Doing Business Annual Report, 2020

¹³⁸ World Bank's Doing Business Report CDI, 2020.

¹³⁹ World Bank's Doing Business Report Benin, 2020.

¹⁴⁰ World Bank's Doing Business Report CDI, 2020.

¹⁴¹ World Bank, Cashew Value Chain Competitiveness Project, 2018 available at:

<https://projects.worldbank.org/en/projects-operations/project-detail/P158810>.

¹⁴² World Bank, Cashew Value Chain Competitiveness Project, 2018 available at:

<http://documents.albankaldawli.org/curated/ar/773831560123396442/pdf/Disclosable-Version-of-the-ISR-Cashew-Value-Chain-Competitiveness-Project-P158810-Sequence-No-02.pdf>.

¹⁴³ Decree No. 2001-235 On The Organization Of The Environmental Impact Assessment Procedure.

¹⁴⁴ Memorandum Projet D'appui Au Développement De La Filière Anacarde Et De L'entrepreneuriat Agricole Au Benin (PADEFA - ENA), DEPARTEMENTS RDGW/AHAID/COBJ/PGCL, Fonds Africain De Développement, Avril 2019.

¹⁴⁵ NML Consultations with Stakeholders, March/April 2020.

- **Explore a Strategic Partnership with CDI:** Benin might also consider a strategic partnership with CDI to bolster processing. Such a partnership could include exchange of technology or intellectual property on advanced processing units and/or coordination for strengthening each other's market potential through partnership. Benin and CDI could look to the partnership between Vietnam and Cambodia that led to increased production of RCNs.

C. Regulatory Environment for Access to Credit and Finance

Access to finance is also a significant issue, and rules and regulations will affect both the supply and demand of financing for the agricultural sector. While access to finance could entail a broad range of regulations (agriculture, trade, finance, financial services, etc.),¹⁴⁶ some specific regulatory considerations are particularly relevant due to their impact on the cashew value chain. In addition, Benin's financial sector will play a key role in delivering the development programs and implementing the reforms proposed in this Regulatory Assessment.

At the end of 2018, the financial sector in Benin was made up of 15 banks; over 500 microfinance institutions (MFI's),¹⁴⁷ of which 87 were authorized; nonbank financial institutions (consisting of 2 licensed e-money issuers; 14 insurance companies; and 2 pension funds). Commercial banks dominate the financial sector, with over 90 percent of the total assets.¹⁴⁸ Despite Benin's small size, it has the largest number of MFIs in WAEMU, which consist of licensed credit unions; registered credit-only MFIs; financial cooperatives; and unregistered MFIs. Agricultural activities are not well financed by the banking sector, and Beninese Banks granted only FCAF 13 billion (2.2 percent) to the agricultural sector out of a total portfolio of FCAF 615 billion short term credit as of December 2017.¹⁴⁹

In this context, access to finance for the cashew sector constitutes a significant challenge across the entire value chain and often impacts other non-regulatory issues. Credit is essential for both producers and processors throughout the value chain, and, generally, stakeholders in agricultural finance face constraints related to collateral and guarantees.¹⁵⁰ Further, working capital is required to purchase RCNs from producers within three to four months of cashew-harvesting season to stock up RCNs throughout the year for processing.¹⁵¹

Further, while policy and regulatory mechanisms could grant broader access to finance for actors in the cashew value chain, issues still remain. As noted above, farmers can often access additional financial services products if they are part of a cooperative, which can be a

¹⁴⁶ Edward Katende and Katrin Kuhlmann, Building a Regulatory Environment for Agricultural Finance, June 2019.

¹⁴⁷ This is inclusive of both deposit-taking MFIs and financial cooperatives (See Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018).

¹⁴⁸ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁴⁹ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁵⁰ Prudential Regulation and Supervision for Agricultural Finance Agricultural Finance Revisited, Michael Fiebig, 34, 2001.

¹⁵¹ Number 2: Opportunities and Challenges in Cashew Processing in Africa, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), 2019.

significant challenge for smallholder farmers. This challenge is directly related to regulatory issues related to organization within the sector. Informal actors have very limited or no access to financial services products designed for SMEs or small cooperative groups.

Lack of technical capacity is another issue that is directly derived from access to finance. In this sense, processors in Benin need the latest machinery in order to be competitive against processing factories abroad (for example, those in Vietnam and India). In order to engage in processing of RCNs, companies need to have sufficient capital (either through investment or credit) to acquire the mechanical equipment necessary at each stage of processing. In addition, in terms of infrastructure, companies need to have guaranteed access to reliable energy supply and buildings with proper space and ventilation to install the machinery.¹⁵² As studies highlight, and as confirmed by stakeholder consultations, all of this involves additional challenges for companies to be able to switch from exporting to processing nuts.¹⁵³ Moreover, processing nuts requires technical knowledge, which means that companies need to invest in technical training for their personnel.

Stakeholders from both the private and public sectors have reported that the majority of financial products available are not tailored to the specific needs of the sector, including, in particular, the seasonality of the cashew value chain. Additionally, the informal sectors represent up to 70 percent of the GDP in Benin, which has led to a cautious financing model in the country.¹⁵⁴ Box 6 sets out the key challenges related to access to finance within the cashew value chain.

Box 6: Summary of Key Challenges in Accessing Finance

Overall

- Absence of financial instruments that are tailored to address the challenges of the agricultural sector, especially the cashew value chain.
- Financial institutions that have already engaged in providing funding to stakeholders in the cashew sector have suffered losses and, therefore, are reluctant to invest further in the sector.¹⁵⁵
- Underutilization of existing financial instruments that could be used to the benefit of the cashew sector.
- Lack of organization within the cashew value chain.

Production Stage

¹⁵² “Number 3: Guidebook to Cashew Nut Processing Equipment”, Cashew Processing Guides, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), 2019.

¹⁵³ “Number 3: Guidebook to Cashew Nut Processing Equipment”, Cashew Processing Guides, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), 2019; NML Consultations with stakeholders, March-April 2020.

¹⁵⁴ Stephen Golub, Ahmadour Aly Mbaye, Christina Golubski, The effects of Nigeria’s closed borders on Informal Trade with Benin, 2019.

¹⁵⁵ How Cashew Became an Economic Growth Engine in Benin, TechnoServe, December 2019.

- At the production stage, land titling remains inaccessible to the majority of the population of Benin due to complexity of registration;¹⁵⁶ this is especially true for smallholder farmers.
- Bank credit is often inaccessible due to high collateralization requirements, including land titles.
- Agricultural produce cannot be used as collateral, because of lack of proper management of agricultural warehouses and absence of relevant regulations.
- MFIs have faced governance and financing challenges,¹⁵⁷ which have diminished their credibility as financial institutions.
- Smallholder farmers have had issues accessing credit due to lack of organization and high informality at the production stage.
- Stringent loan terms and high interest rates have prevented smallholder farmers from modernizing cashew farms.¹⁵⁸

Processing

- Cashew processors who have applied for credit face issues such as a poor response rate for loan applications and delayed loan disbursements.¹⁵⁹
- Lack of a well-structured credit facility and limited level of readiness to invest have caused challenges, especially with respect to processing¹⁶⁰
- Inflexible loan terms and high interest rates have limited acquisition of machinery and difficulty in stocking up on RCNs.¹⁶¹

Storage

- Limited legal backing for warehousing, warehouse operators, and collateral management activities, which are main constraints for the development of a Warehouse Receipt System (WRS).

As noted above, Benin's financial sector is comprised of banks, MFIs, and nonbank financial institutions. It should be noted that Benin's banked rate is very low, hovering at around 22 percent,¹⁶² which makes access to credit and finance through financial institutions also limited. Apart from cotton, the banking sector does not have a huge presence in the financing of other crops, including cashews. The main banks (Bank of Africa Benin (BOA), Orabank, Diamond) do not directly finance production, and agricultural lending operations mainly exist for formal producer groups and under high collateralization requirements involving credit guarantee funds, land, or cash deposits. However, in some cases, the agricultural sector

¹⁵⁶ Gilbert Onionkiton Adjimoti, Analysis of cropland allocation in rural areas Benin: A fractional multinomial approach, June 2018.

¹⁵⁷ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018

¹⁵⁸ NML Consultations with Stakeholders, March-April 2020.

¹⁵⁹ How Cashew Became an Economic Growth Engine in Benin, TechnoServe, December 2019

¹⁶⁰ How Cashew Became an Economic Growth Engine in Benin, TechnoServe, December 2019

¹⁶¹ NML Consultations with Stakeholders, March-April 2020

¹⁶² Note d'Information 4eme trimestre 2018 No. 56, Banque Centrale des Etats de l'Afrique de l'Ouest, 2018.

is not using the financial instruments available to them, for example, BOA through its affiliate Equipbail is offering leasing instruments on the Beninese market, but the agricultural sector has not taken advantage of these products.¹⁶³

Financial cooperatives remain the leaders in providing agricultural loans (like the *Faitère des caisses d'épargne et de crédit agricole Mutuel*, FECECAM); followed by limited companies (like Financial Development, FINADEV); credit associations (such as *Projet d'Appui au Développement des Micro-Entreprises*, PADME); and non-government organizations. FECECAM is the largest MFI in Benin and grants high value credit for the rural economy (farming and non-farming), including short, medium, and long-term loans for inventory credit, credit to SMEs, credit for commercialization of agricultural output, and credit to rural women. In 2016, FECECAM had a growing agricultural portfolio of 30 percent.¹⁶⁴ FINADEV offers micro loans, business loans, and consumer loans.

1. Development of a Policy on Agricultural Finance

Benin currently does not have a policy on agricultural finance, yet some countries have pursued either specific or broad policies on agricultural finance, which can lead to increased financing by banks and MFIs to value chain stakeholders. An agricultural finance policy could also pave the way for other policy and regulatory instruments as discussed below, including regulations providing for alternate forms of collateral (which would allow for the use of financial instruments tailored to the agricultural sector); introduction of a WRS; better organisation of stakeholders to improve access to credit; and optimisation of existing legal instruments; among other things.

In order to improve agricultural finance through regulatory interventions, there are two overall approaches that could be adopted: (i) the adoption of a specific policy for agricultural finance or (ii) the adoption of a broader agricultural development plan that integrates issues related to agricultural finance. An example of a specific policy approach is the Philippines' Agricultural Finance Policy, which has led to reforms requiring financial institutions to lend a specific percentage of their loanable funds to agriculture and fisheries, along with the implementation of financial programs from the government granting credit up to 90 percent of an agricultural project.¹⁶⁵

A broader agricultural development program could include cooperation with international organisations and government institutions for the development of loans adapted to the agricultural sector;¹⁶⁶ the creation of a better guarantee system to lend to stakeholders who

¹⁶³ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁶⁴ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁶⁵ Diagnostic Report Of The Legal And Regulatory Landscape For Agricultural Finance In Uganda, Uganda Agribusiness Alliance developed by New Markets Lab with input from FRIENDS' Consult Limited on behalf of Agriculture Finance Platform and Agriculture Finance Technical Working Committee, 2019.

¹⁶⁶ An example of the broader approach would include agricultural loans under the Morocco Green Plan where development policy loans (DPLs) awarded to the Kingdom of Morocco by the World Bank amounting to US 204 million dollars and US 203 million dollars in addition to financing the National Irrigation Water Saving Program. The loans were assessed under various indicators focused on results and performance of

do not have access to collateral; partnership between public and private stakeholders to provide education and technical assistance on production, commercial, and financial management to small farmers; and elimination of high collateralization requirements and interest rates, among other things. An example of a broad approach is Morocco's Agricultural Finance Policy, which includes the Morocco Green Plan and development policy loans (DPLs) awarded to the Kingdom of Morocco by the World Bank amounting to US 204 million dollars and US 203 million dollars in addition to financing for the National Irrigation Water Saving Program.¹⁶⁷

There are two initiatives in Benin related to access to finance that are worth noting. The first is the BCEAO SME Funding Support Mechanism that was adopted at the national level to render bank credit attractive for SMEs through a revision of the terms of loans and appropriate financing by the BCEAO.¹⁶⁸ This initiative was launched in Benin in 2018 but has not been implemented yet, nor are there guidelines on how it would be implemented and applied. Second, the government of Benin established the Microfinance National Fund (Fonds National de la Microfinance, FNM) to facilitate access to finance for micro financial institutions operating in the decentralized financial system (Système Financier Décentralisé, SFD), with the objective of supporting the creation of adapted financial products.¹⁶⁹

The second is PADME, which was established with financing from the World Bank, as an association to support micro-enterprises. In 2013, PADME was registered as an autonomous association and was authorized to operate in the Système Financier Décentralisé (SFD).¹⁷⁰ Among its financial products, PADME offers both individual and joint credit.¹⁷¹ Generally, agricultural producers are granted joint credit, which includes specific provisions related to the characteristics of their activities.¹⁷² In this sense, groups comprised of at least five members and belonging to a cooperative can obtain credit, or cooperatives can obtain credit pre-harvest to buy RCNs throughout the season.¹⁷³ It should be noted, however, that pre-harvest credit is only available for cooperatives and not for groups of farmers. Both financial products are short-term, between six to eight months, have an interest rate of less than two percent, and allow repayment in kind (bags of RCNs for a value equivalent to the loan and interests).¹⁷⁴ Both loans admit differed payments taking into consideration the seasonality

both the bank and the borrower. (See Implementation Completion and Results Report, IBRD 80180, to the Kingdom of Morocco for a First and Second DPL in support of Plan Maroc Vert, January 20, 2015).

¹⁶⁷ The loans were assessed under various indicators focused on results and performance of both the bank and the borrower. (See Implementation Completion and Results Report, IBRD 80180, to the Kingdom of Morocco for a First and Second DPL in support of Plan Maroc Vert, January 20, 2015).

¹⁶⁸ 2018 Annual Report, BCEAO, 2018.

¹⁶⁹ Fonds Nationale de la Microfinance, Ministère des Affaires Sociales et de la Microfinance, République du Bénin, available at <https://social.gouv.bj/microfinance/dgm/fnm/>.

¹⁷⁰ Arrêté année 2013 N° 3053/MEF/DC/CSSFD/CASRSSFD du 18 novembre 2013 portant Agrément de l'Association PADME.

¹⁷¹ PADME Bénin, available at <https://www.padmebenin.org/-Produits-de-prets->.

¹⁷² J. de D. F. AKOUNNOU et al, Mécanismes De Financement Des Fournisseurs Des Noix D'anacarde Aux Unites De Transformation Dans Le Nord Bénin, *Agronomie Africaine* 31 (2) : 159 - 172 (2019).

¹⁷³ J. de D. F. AKOUNNOU et al, Mécanismes De Financement Des Fournisseurs Des Noix D'anacarde Aux Unites De Transformation Dans Le Nord Bénin, *Agronomie Africaine* 31 (2) : 159 - 172 (2019).

¹⁷⁴ Le crédit groupement, PADME Bénin, available at

https://www.padmebenin.org/IMG/pdf/fche_micro_credit_cs_grpt_5_30membres.pdf; J. de D. F. AKOUNNOU

of the value chain, and debtors are required to have both a guarantee fund and a guarantee deposit.¹⁷⁵ A private agricultural loan agreement guarantee fund (FINAGRO) also exists to facilitate access to credit for agribusiness by providing guarantees for short, medium, and long-term loans to SMEs, cooperatives, and other professional organizations.

2. Regulatory Approaches to Provide for Alternative Forms of Collateral

Agricultural collateral can take three forms in Benin: land, equipment, and output of production. Collateralization through rural lands remains a major problem due to a number of factors. First, land is regulated under land tenure system as well as under customary law; therefore, banks are reluctant to provide loans unless the borrower has a land title.¹⁷⁶ As noted, agricultural mechanization is low in Benin; however, in the cashew sector, processors could acquire instruments through lease financing especially from MFIs. Benin has ratified several laws to enhance the environment for private sector financing. Benin ratified a leasing law (Law No. 2017-02) that enables banks and MFIs to offer leasing products that would allow entrepreneurs to access credit by removing two obstacles: the collateral requirement for borrowers and recovery of equipment acquired by banks due to defaults.¹⁷⁷ Therefore, collateral in the form of equipment may be a feasible option for processors.

The government of Benin promulgated a decree to facilitate the conversion of occupancy titles into real estate titles.¹⁷⁸ In Benin, real estate titles can be used as a form of collateral, so the purpose of this decree was to expand access to credit for SMEs. However, reports highlight that there have been gaps in the implementation of the decree's procedures, mainly related to delays and lack of sufficient notaries.¹⁷⁹

Smallholder farmers are generally viewed as undesirable credit candidates due to a number of factors, including their incapability to hold collateral, their inability to repay their loans, and the fragmented organisation of farmers (this is also true in the cashew sector).¹⁸⁰ Accessing collateral has been a major challenge for smallholder farmers in the Beninese cashew market, due to lack of availability of suitable collateral. For smallholder farmers and producers, agricultural output can be used as collateral like in WRS; however, MFIs are

et al, *Mecanismes De Financement Des Fournisseurs Des Noix D'anacarde Aux Unites De Transformation Dans Le Nord Benin*, *Agronomie Africaine* 31 (2) : 159 - 172 (2019).

¹⁷⁵ Le credit groupement, PADME Benin, available at

https://www.padmebenin.org/IMG/pdf/fche_micro_credit_cs_grpt_5_30membres.pdf; J. de D. F. AKOUNNOU

et al, *Mecanismes De Financement Des Fournisseurs Des Noix D'anacarde Aux Unites De Transformation Dans Le Nord Benin*, *Agronomie Africaine* 31 (2) : 159 - 172 (2019).

¹⁷⁶ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁷⁷ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁷⁸ Benin : Fifth Review under the Extended Credit Facility Arrangement, Request for Extension, and Request for Modification of Performance Criteria-Press Release; and Staff Report, IMF, December 2019.

¹⁷⁹ Benin : Fifth Review under the Extended Credit Facility Arrangement, Request for Extension, and Request for Modification of Performance Criteria-Press Release; and Staff Report, IMF, December 2019.

¹⁸⁰ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

mainly engaged in this kind of credit, and the country does not have any legal provisions with respect to proper management and standards for agricultural warehouses.¹⁸¹

India provides an interesting case study. India's National Bank for Agricultural and Rural Development (NABARD) and ICICI Bank are the leading lenders to the agricultural sector. ICICI works through intermediaries like MFIs, cooperatives, and NGOs to provide services. Products like low costs ATMs, biometric smart cards with pre-loaded loan limits, low interest rates, and insurance products designed to cover specific risks like rains have been introduced. ICICI is engaged in commodity-based lending and provides loans against warehouse receipts after inspections of the stocks (India has developed a regulatory structure for warehouse receipts at the federal level,¹⁸² which has been implemented at the state level to varying degrees). NABARD is engaged in providing funds to commercial and cooperative banks in rural areas. In its 2020 Budget, the government of India announced 16 points measures to revive the agricultural sector, with the target of doubling farmer income by 2020.

a. Use of Loan Guarantees

Benin has undertaken several initiatives to enhance the use of loan guarantees. A private agricultural loan agreement guarantee fund (FINAGRO) exists to facilitate access to credit for agribusiness by providing guarantees for short, medium, and long-term loans to SMEs, cooperatives, and other professional organizations. The guarantee varies from 50 to 80 percent of the risk.¹⁸³ Advantages of supporting and using a private fund like FINAGRO would include: use of uncomplicated financial products like guarantees and loans by the fund; simple structure of the fund to facilitate financing for agribusiness, as they serve as a direct interface between banks and other financial institutions; use of a sound system for technical and financial follow-up; and a proposed mechanism for alerting banks to repayment risks.¹⁸⁴ FINAGRO also offers development services to agribusinesses.

Benin has adopted OHADA's Uniform Act on Guarantees,¹⁸⁵ which includes provisions related to forms of guarantees and collateral in the context of financial obligations. While this regulation is general and includes numerous forms of guarantees and collateral, in Benin, financial institutions often require two specific forms of guarantees when granting agricultural loans, namely (i) a guarantee fund, or (ii) a guarantee deposit. Guarantee funds are often required throughout the duration of the loan in the form of installments, meaning that debtors are required to periodically pay a percentage of the credit along with a percentage of the guarantee (which is then returned to the debtor once the loan is fully repaid). Guarantee deposits are required before granting the loan and can be either

¹⁸¹ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁸² The Warehousing (Development and Regulation) Act, 2007 is the legal framework that provides for development of and regulation of warehouses, negotiability of warehouse receipt, establishment of Warehousing Development Authority (WDR).

¹⁸³ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁸⁴ Agribusiness Commercial Legal and Institutional Reform Assessment, AgCLIR Benin, Agenda for Action, United States Agency for International Development, February 2014.

¹⁸⁵ Nouvel Acte Uniforme Portant Organisation Des Suretes, OHADA, 15 Mai 2011.

constituted through a percentage of the loan or by showing proof of ownership of a real estate title (for a value matching a percentage of the credit).¹⁸⁶

In addition to the general regulatory framework, Benin has financial mechanisms and programs that are more specific to the cashew sector. These include aspects of the ADF Project, PADME, and Agri Finance, among others. Agri Finance is a specific financial mechanism developed by the NGO Dedras, in association with ABC, for producers of cashews directly selling to ABC.¹⁸⁷ Agri Finance grants short-term loans (eight months) to farmers for the maintenance of their farms, and ABC serves as a guarantor before Agri Finance for both the loan and the interest granted to farmers.¹⁸⁸ After harvest, farmers are required to repay the loan with interest.¹⁸⁹

b. Develop a Warehouse Receipt System

Warehouse Receipt Systems enable farmers to obtain post harvest credit without having to resort to immediate sales to address financial needs. WRS involve the storage and quality control of produce deposited by farmers as well as a financing instrument, a Warehouse Receipt (WR), that can be used by farmers as collateral for short-term borrowing to obtain working capital (See Figure 4).¹⁹⁰

A WRS facilitates access to credit for farmers in exchange of using their agricultural output as collateral, thus providing a certain level of liquidity to smallholder farmers. RCN is a product that can be stored for several months without decline in value; therefore, smallholder farmers can use this system to store RCNs when the demand is low and sell once the prices pick up in the international market. This would also increase the accessibility of RCNs to processors such as smallholder farmers who will not feel compelled to sell RCNs to exporters to meet immediate needs.

¹⁸⁶ Nouvel Acte Uniforme Portant Organisation Des Suretes, OHADA, 15 Mai 2011.

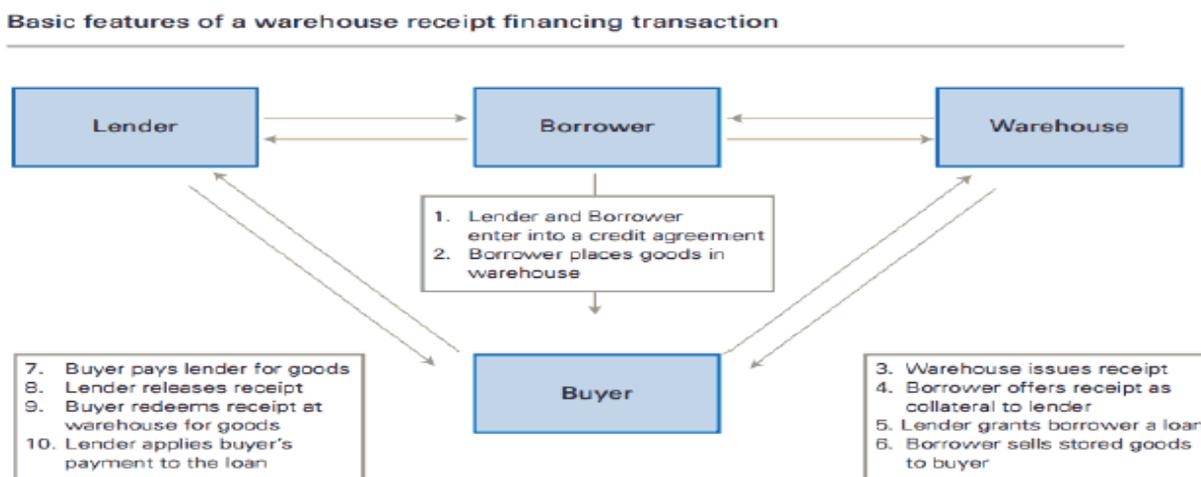
¹⁸⁷ Dedras Programmes 2018-2022, available at <http://dedras-benin.org/programmes/>; Value Chain Development, Afokatan Benin Cashew, available at <https://www.afokantan.com/value-chain-development/>.

¹⁸⁸ J. de D. F. AKOUNNOU et al, Mécánismes De Financement Des Fournisseurs Des Noix D'anacarde Aux Unites De Transformation Dans Le Nord Benin, *Agronomie Africaine* 31 (2) : 159 - 172 (2019).

¹⁸⁹ J. de D. F. AKOUNNOU et al, Mécánismes De Financement Des Fournisseurs Des Noix D'anacarde Aux Unites De Transformation Dans Le Nord Benin, *Agronomie Africaine* 31 (2) : 159 - 172 (2019).

¹⁹⁰ Regulatory Enablers for Spices and Horticulture Value Chain in Kota Division, Rajasthan, India, World Bank and New Markets Lab, 2016.

Figure 4: Warehouse Receipt Financing



Source: *International Journal for Scientific and Technological Research*, 2012

Relevant stakeholders in the WRS for the cashew sector would include smallholder farmers seeking credit and good prices; producers’ or farmers’ groups working on behalf of smallholder farmers; banks and MFIs seeking secure forms of collateral; processors requiring RCNs; exporters or traders seeking arbitrage; and potential investors interested in investing in storage facilities.

A 2014 study identified the different kinds of WRS system in Sub-Saharan Africa, namely: community-based systems, private collateral management systems, public warehouse systems, and pledge on current/future production systems (see Table 7).¹⁹¹

¹⁹¹ J Coulter Consulting Ltd and Sullivan Worcester UK LLP, Study on Appropriate Warehousing and Collateral Management System in Sub-Saharan Africa, Volume – Key Findings, Agence Française de Développement (AFD), Technical Centre for Agricultural and Rural Cooperation ACP-EU (CTA), International Fund for Agricultural Development (IFAD), September 2014. The study tracked different WRS initiatives in nine Sub Saharan countries: Burkina Faso, Niger, Senegal, Ghana, Cote d’Ivoire, Madagascar, Cameroon, Mozambique, and Uganda.

Table 7: Potential Advantage and Disadvantages of Different WRS Models¹⁹²

Type of WRS	Advantages	Disadvantages
Community-Based	<ul style="list-style-type: none"> • Direct farmer involvement • High accountability and repayment • Improves management of local economy 	<ul style="list-style-type: none"> • Operates with fixed calendar • Producers lack storage skills and market knowledge • Not regulated • Depends on donor support
Public Regulated	<ul style="list-style-type: none"> • Open system for public • Facilitates price discovery, trading & development of commodity exchange 	<ul style="list-style-type: none"> • Requires regulation • High cost of operation • Bureaucracy with quality management challenges • Requires economies of scale
Private Collateral Management	<ul style="list-style-type: none"> • Important component for value chain development • Private activity not dependent on donors or governments supports 	<ul style="list-style-type: none"> • High cost of operation • Inaccessible to many rural clients • Vulnerable to fraud • Requires adequate regulations, which might not exist
Pledge on Production	<ul style="list-style-type: none"> • Access to production finance before harvesting • Open for value chain finance • Facilitates contract farming 	<ul style="list-style-type: none"> • Requires sufficient monitoring and supervision

Commodity-backed financing is at an early stage in Benin. Although a regulated WRS is desirable, it can be difficult to implement. Multiple legal and regulatory considerations have to be assessed before a WRS can be introduced in Benin. First, a readiness assessment has to be conducted taking into consideration a numbers of factors: potential users of the system; warehousing industry; financial institutions; institutional capacity; and financial viability of a WRS.¹⁹³ Second, a number of legal issues need to be taken into consideration while developing a WRS, these include: ownership and management of the storage facility; legal status of the depositor (this can be an individual smallholder farmers, a producer organization, or a cooperative); protections against risk of loss of produce (the OHADA Securities Act required that stocks in in all warehouses be insured;¹⁹⁴ however, this is not strictly applied in the member countries); identity of the participants, especially when they are represented by a cooperative; and the dispute settlement mechanism.¹⁹⁵ The degree of

¹⁹² Warehouse Receipt System in sub-Saharan Africa, Policy Brief, Platform for Agricultural Risk Management, January 2017 (adapted from J Coulter Consulting Ltd and Sullivan Worcester UK LLP, Study on Appropriate Warehousing and Collateral Management System in Sub-Saharan Africa, Volume – Key Findings, AFD, CTA, IFAD, September 2014),

¹⁹³ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018.

¹⁹⁴ Article 94 of OHADA Securities Act.

¹⁹⁵ J Coulter Consulting Ltd and Sullivan Worcester UK LLP, Study on Appropriate Warehousing and Collateral Management System in Sub-Saharan Africa, Volume – Key Findings, AFD, CTA, IFAD, September 2014

relevance of these considerations will vary depending on the type of WRS implemented (see Box 6 for a comparison of different WRS models).

Box 7: Different WRS Models

- Inventory credit systems targeting farmer groups
 - Ghana: The approach involved deposit of storable commodities in small village warehouses where the participating groups engaged as warehouse operators, with oversight by the TechnoServe which served as a guarantor for financing.¹⁹⁶
- Centralized Activities
 - Niger: Community WRS in Niger is dominated by state-owned Bank of Niger (BAGRI) that has provided seasonal production credit and post-harvest marketing credit to Mooriben Federation (the leading producer organization in Niger), enabling members to access credit as soon as they deposited their produce with BAGRI.¹⁹⁷
 - Burkina Faso: Centralized community WRS in Burkina Faso has led to institutional viability of small producer groups and has reduced costs of services for MFIs and simplified access to financial services.¹⁹⁸
- Decentralized Activities
 - Cameroon: Under the *Projet d'appui au Développement de la Microfinance Rurale (PADMIR)*, a decentralized system was adopted where 62,000 smallholder farmers were connected to 260 microfinance networks in various regions of the country, which led the Government of Cameroon and World Bank to launch WRS on food crops like cassava, maize, and sorghum. However, the lack of legal framework to control the activities and perishability of some of the commodities was an overall threat to the project.¹⁹⁹

¹⁹⁶ Gideon Onumah, *Implementing Warehouse Receipt Systems in Africa: Potential and Challenges*, Africa Agricultural Markets Program (AAMP), September 2010, available at: <https://pdfs.semanticscholar.org/fa8f/c05ae5cafbea996280e357de06074782f46b.pdf>.

¹⁹⁷ J Coulter Consulting Ltd and Sullivan Worcester UK LLP, *Study on Appropriate Warehousing and Collateral Management System in Sub-Saharan Africa, Volume I – Key Findings*, AFD, CTA, IFAD, September 2014.

¹⁹⁸ *Warehouse Receipt System in sub-Saharan Africa, Policy Brief, Platform for Agricultural Risk Management*, January 2017 (based on J Coulter Consulting Ltd and Sullivan Worcester UK LLP, *Study on Appropriate Warehousing and Collateral Management System in Sub-Saharan Africa, Volume I – Key Findings*, AFD, CTA, IFAD, September 2014).

¹⁹⁹ *Warehouse Receipt System in sub-Saharan Africa, Policy Brief, Platform for Agricultural Risk Management*, January 2017 (based on J Coulter Consulting Ltd and Sullivan Worcester UK LLP, *Study on Appropriate Warehousing and Collateral Management System in Sub-Saharan Africa, Volume I – Key Findings*, AFD, CTA, IFAD, September 2014).

3. Regulation of Credit Information Offices (BIC)

Benin has taken positive steps to improve the financial services sector in general and has undertaken specific measures to broaden access to credit for the cashew industry in particular. In relation to more general regulatory measures, in 2017 Benin adopted Law No. 2016-36 of 23 January 2017 On The Regulation Of Credit Information Offices (BIC Law). The BIC Law was adopted in the context of Benin's membership to WAEMU, with the purpose of sharing credit information among WAEMU's membership. The BIC Law resulted from recommendations by the Ad Hoc High Committee on the financing of economies of WAEMU Member States, based on the lack of reciprocity of information between borrowers and financial institutions, along with low scores on the World Bank's Doing Business Getting Credit Indicator for WAEMU members.²⁰⁰ The Getting Credit Indicator measures how rules and practices affect actors' ability to obtain credit through indicators that include the strength of legal rights, credit information index, credit registry coverage, and credit bureau coverage, among other things.²⁰¹ Benin, for instance, ranked 152 out of 190, with a score of 30/100. It should be noted, however, that the Getting Credit Indicator measures access to credit broadly, while, as noted above, agricultural finance entails a number of additional considerations due to the particular characteristics of the sector and the high systemic risks, which often render access to finance even more difficult.²⁰² Additional considerations that can affect access to finance for the cashew value chain in Benin include regulations related to the organization of actors of the sector, the investment environment, and regulations specific to the sector, among others, all of which are discussed below.

The BIC Law designates the Central Bank of West African Countries (Banque Centrale des Etats de l'Afrique de l'Ouest, or BCEAO) as the public authority in charge of overseeing BIC activities and establishes the requirements for the creation of a BIC along with the rules under which BICs can collect borrower information and share it with financial institutions before the granting of a loan.²⁰³ In addition, the law admits BICs from other WAEMU members to operate in Benin's territory, and authorizes Beninese BICs to share creditors' information with financial institutions from other WAEMU members. Overall, the purpose of these measures, at both the national and regional levels, is to provide sufficient information to financial institutions related to creditors (e.g. risks, guarantees, credit score), in order to increase their trust and hence encourage higher loan rates, reduce the costs of background checks, and anticipate borrowers' over indebtedness risks to prevent default.²⁰⁴ From the

²⁰⁰ Expérience de la BCEAO en Matière de Mise en Place D'un Bureau D'information Sur Le Crédit De Dimension Régionale, Banque Centrale des Etats de l'Afrique de l'Ouest, Juin 2017

²⁰¹ World Bank's Doing Business Report Benin, 2020

²⁰² Edward Katende and Katrin Kuhlmann, Building a Regulatory Environment for Agricultural Finance, June 2019

²⁰³ Law No. 2016-36 of 23 January 2017 On The Regulation Of Credit Information Offices.

²⁰⁴ Bureaux d'Information sur le Crédit (BIC), Banque Centrale des Etats de l'Afrique de l'Ouest, available at <https://www.bceao.int/fr/taxonomy/term/152>.

borrower's perspective, the BIC Law is intended to improve access to credit, streamline background check procedures, and render procedures user-friendly.²⁰⁵

While the BIC Law could broaden access to finance, there seem to be some challenges related to its implementation. In particular, stakeholders are often not aware of the existence of BICs, nor are they aware of its benefits, which can cause obstacles with consent in order for information to be collected and shared with financial institutions. However, taking steps to ensure the proper application of the BIC Law, and expanding involvement of stakeholders, could increase access to credit.

4. Possible Policy and Regulatory Options for Improving Access to Finance:

Access to agricultural finance and collateral remain issues in Benin's cashew industry and agricultural sector overall. Possible policy and regulatory interventions could be tailored to address challenges in this area, including:

- **Consider Development of an Agri-Finance Policy:** The government could consider developing an agri-finance policy, building upon existing initiatives and development plans, to increase availability of financing for the cashew industry and other parts of the agricultural sector. Two options are possible: a specific agri-finance policy that encourages reform of financial institutions and products or a broader policy that requires cooperation with international organisations and government institutions for the development of loans and other financial products.
 - Morocco is an example of a country that has taken a broad approach, and Morocco's Agricultural Finance Policy and the Morocco Green Plan involved several international organisations and government institutions in the development of loans adapted to the agricultural sector,²⁰⁶ the creation of guarantee funds to lend to families with no collateral, and a partnership between the public and private sectors to provide education and technical assistance on production, commercial, and financial management to small farmers.
- **Improve Ability of MFIs to Deliver Financing:** Financing through commercial banks seems limited in the agricultural sector; as an immediate measure, stakeholders could explore increased financing through MFIs, particularly for small farmers. Stakeholders must be prudent when borrowing from MFIs, however, considering that there has

²⁰⁵ Bureaux d'Information sur le Crédit (BIC), Banque Centrale des Etats de l'Afrique de l'Ouest, available at <https://www.bceao.int/fr/taxonomy/term/152>.

²⁰⁶ Example of agricultural loans under the Morocco Green Plan is the development policy loans (DPLs) awarded to the Kingdom of Morocco by the World Bank amounting to US 204 million dollars and US 203 million dollars in addition to financing the National Irrigation Water Saving Program. The loans were assessed under various indicators focused on results and performance of both the bank and the borrower. (See *Implementation Completion and Results Report, IBRD 80180, to the Kingdom of Morocco for a First and Second DPL in support of Plan Maroc Vert*, January 20, 2015).

been a proliferation of unauthorized MFIs which collect deposits without being subject to prudential rules, preliminary market supervision, and any kind of deposit insurance mechanisms.²⁰⁷ Cashew processors and smallholder farmers must educate and represent themselves better when approaching financiers, which must include identification of the right financing partner, and they should have available statistics (including on RCN price trends), gather technical opinions, and prepare comprehensive business plans.²⁰⁸

- **Consider Adopting Long Term Loans:** Long-term loans could be encouraged that are adapted to the seasonality of the sector, since it often takes months for cashew producers to receive payment from their sales to exporters (sales are often tied to exports, which happen months after harvest); currently the only available financial services products defer payments for a maximum of one year.
- **Establish Guarantees and Alternate Forms of Collateral and Optimize Underutilized Financial Instruments**
 - Benin could expand use of guarantees and introduce other forms of collateral. While Benin has adopted a general regulation on guarantees and collateral (OHADA's Uniform Act on Guarantees), there are no specific regulations related to agricultural finance. Financial institutions may be reluctant to lend to the agricultural sector due to its systemic risks and might impose strict requirements for guarantees, which could hinder farmers' access to finance.
 - Benin's Leasing Law (Law No. 2017-02) enables banks and MFIs to offer leasing products that would allow entrepreneurs to access credit by removing two obstacles: the collateral requirement for borrowers and recovery of equipment acquired by banks due to defaults.
 - Leasing instruments offered by BOA affiliate Equibail, which is not used by the agricultural sector, could help expand access to credit.
 - Occupancy titles could be used as a form of collateral and would be especially beneficial to smallholder farmers, among others.²⁰⁹
- **Develop Regulations Establishing a Warehouse Receipt System:** The implementation of a WRS, such as the one proposed by APIEx, could address a number of the issues related to warranty and commodity financing in Benin.
 - **Conduct a Readiness Assessment for WRS:** The first step would be to conduct a readiness assessment, taking into considerations such as potential users of the system, warehousing industry, financial institutions, institutional capacity, and financial viability of a WRS.

²⁰⁷ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018

²⁰⁸ How Cashew Became an Economic Growth Engine in Benin, TechnoServe, December 2019

²⁰⁹ Financial Sector Review - Stability for a Better Inclusion, World Bank Group, November 2018

- **Determine Type of WRS Best Suited to Industry:** Several WRS models exist, and the government and private sector should determine which model would best suit the cashew industry and agricultural sector overall. Stakeholders would need to take into consideration all of the legal and regulatory considerations highlighted above, including risk of loss, management of storage facilities, legal status of the depositor, secured transactions, and participation of all stakeholders in the cashew sector. If readiness assessment reveals that Benin can introduce a regulation for WRS then it should work on introducing the same as a framework for quality control, accreditation, inspection, and implementation of standards, as it can help in the effective regulation and implementation of the WRS market. Private banks can also help in expanding the WR market and strengthen use of it as a financial instrument.²¹⁰
- **Focus on Participation of Smallholder Farmers in WRS Through a Cooperative Model in the Cashew Value Chain:** this could be achieved if smallholder farmers in the cashew value chain are aggregated, as illustrated by the model adopted included in Box 6.

D. Market-Related Policies

In addition to the regulatory considerations above, stakeholders highlighted other policy aspects that affect the development of Benin’s cashew market. These include government policies to fix RCN prices, food safety standards, and export levies.

1. Government Fixed Price for RCNs

As discussed, the government of Benin fixes RCN prices at the beginning of the season, reportedly after consulting with main actors of the value chain, but there is no scheme to adjust the price to market fluctuations. However, the existence of a fixed price raises challenges at the stage of sale of the RCNs, as it involves farmers, processors and exporters. In particular, the price of RCNs is sensitive to international market fluctuations, and exporters often adjust their offers to the international price of RCNs rather than following the price fixed by the government. After years of increasing demand, prices worldwide increased over the last decade.²¹¹ However, in 2018, the significant increase of production of RCNs in response to worldwide demand led to a price drop, with prices falling from USD 30/pound to USD 5 dollars/pound.²¹² Stakeholders reported that the price drop in 2018,

²¹⁰ Regulatory Enablers for Spices and Horticulture Value Chain in Kota Division, Rajasthan, India, World Bank and New Markets Lab, 2016.

²¹¹ GroCaju, Introduction and Strategic Analysis, TechnoServe, USDA.

²¹² NML Consultations with Stakeholders, March-April 2020.

along with the lack of structure and organization within the sector in Benin, have been major challenges for the cashew industry in the country.²¹³

The uncertainty around the RCN prices has reportedly had a significant impact at the sale stage. Farmers are often more susceptible to accept the first offers from buyers, who are affiliated with exporters and have more capital and negotiating power than processors. This often makes it harder for processors to acquire sufficient RCNs and has led processing companies in Benin to operate at limited capacity.²¹⁴

This is a policy challenge that was raised by representatives from both the public and the private sectors. It could be addressed through a formula or criteria to establish the range of prices of RCNs and the possibility of adjusting the price according to market fluctuations. Benin might also consider the adoption of a minimum price guarantee (to render access to RCNs more equitable for both exporters and processors) and/or a maximum price, as well as granting access to processors prior to exporters, as other countries have done.

2. Food Safety Standards

Food safety plays a vital role in every stage of the cashew value chain, and stakeholders must meet the standards at each step in the process. Farmers and growers need to ensure that farming practices comply with best practices and that contamination has not occurred. International food safety standards, for example, protect against foreign objects like glass, nails, and metals, which can be found in packaged cashews. Labels on the package must also be specific. A well-designed Food Safety Management System (FSMS) can show compliance with food hygiene regulations and signal that the products are safe for consumption. For the cashew sector, relevant bodies and standards include Hazard Analysis Critical Control Point (HACCP), International Organization for Standardization ISO 22000 (ISO-22000), the British Retail Consortium (BRC), the ACA Quality and Sustainability Seal (ACA Seal), and the Association of Food Industries (AFI) standards.

HACCP applies to all sections of the food industry and sets out minimum requirements for cashew processing factories. It is a mandatory requirement for processed foods entering both the United States and European Union markets; therefore, every cashew processor should consider following HACCP. Processors have to make sure that verification is performed by a third-party verification system accredited or recognized by the Global Food Safety Initiative (GFSI). The HACCP certification in Benin helps processors implement the highly standardized and effective FSMS in their premises to ensure quality.

The current internationally accepted ISO standard for cashews is ISO-22000. This standard helps entities identify and control food safety hazards along the food chain.²¹⁵ The ISO-22000 certifying agency in Benin is Agence Béninoise de Normalisation et de Gestion de la

²¹³ NML Consultations with Stakeholders, March-April 2020.

²¹⁴ NML Consultations with Stakeholders, March-April 2020.

²¹⁵ Number 1: Guidebook on the Cashew Processing Process, Cashew Processing Guides, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), 2019.

Qualité. Compliance with this standard leads to higher consumer confidence.

The BRC standards include requirements related to responsible supply chain management, with the purpose of ensuring the safety of processed products entering the market in the United Kingdom. It sets out a verification process both for the product (to verify quality of management systems, environmental responsibility, among others) and food manufacturer's quality. BRC certified cashew kernels can be advertised with the brand logo. From 18 to 23 November 2018, BeninCaju trained 12 cashew experts in Cotonou to serve as third party BRC auditors. With this training, Fludor and Tolaro Global, the two biggest cashew factories in Benin were better equipped to understand international standards and auditing requirements. It also benefited the CNTC to monitor quality levels of cashew in Benin.²¹⁶

The ACA Seal Program was a regional initiative introduced to assure compliance with the international food safety, quality, and labor standards for cashew processing. The program was based on 14 food safety procedures and has a social responsibility aspect. Cashew processors who participated in the program were provided services including a visit to their cashew processing facility to perform a gap analysis study. There are 9 ACA Seal approved factories and 14 processors receiving assistance under the Seal program, and steps are being taken to recognize it as a GFSI recognized standard such as BRC and ISO. In Benin, Afokantan Benin Cashew (ABC) is in the process of implementing the ACA Seal standard.²¹⁷

Overall, companies in Benin could use heightened compliance with global standards as an advantage to expand their market. Fludor, for example, has been working to develop a FSMS that encompasses HACCP, ISO-22000, and other rigorous standards.²¹⁸

3. Export Taxes

Export taxes have also been a subject of contention for the stakeholders of the cashew value chain, especially processors. Benin's Finance Law of 2020²¹⁹ plays a significant role in the cashew industry, since it sets up export taxes for RCNs. For the year 2020, the tax was established at 50 FCFA per kg of RCN. According to this law, the objective of the tax is to contribute to the research and promotion of agricultural activities.²²⁰ Several stakeholders (mostly processors) have claimed that this tax should be higher in order to discourage export of RCNs and promote processing of cashews. It should be noted, however, that the tax has been lowered in the past few seasons, following several requests from CoNEC. Additionally, some stakeholders have reported that, while the export tax could be used as a tool for the

²¹⁶ International Standards for Food Safety: BRC Certified Factories Soon to Open in Benin, TechnoServe, 2019, available at: <https://www.tnsbenin.org/english/archives/12-2018>.

²¹⁷ Number 1: Guidebook on the Cashew Processing Process, Cashew Processing Guides, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), 2019.

²¹⁸ A New Model for Benin's Cashew Industry, TechnoServe, 2016, available at: technoserve.org/blog/a-new-model-for-benins-cashew-industry/

²¹⁹ Loi de Finance du Benin, 2020.

²²⁰ Art. 15, Loi des Finances du Benin, 2020.

promotion of the industry, as stated in the law, there is a gap between tax collection, application, and distribution. Stakeholders flagged that the tax is not being used to promote activities and interventions in the sector that would lead to higher productivity and more processing capacity.

This issue is further exacerbated by the lack of organization within the sector, which, in turn, affects the representation of actors of the cashew value chain. From the public sector point of view, this raises two issues. First, many actors lack the necessary legitimacy to bring claims, for instance, those related to the allocation of funds from the government to the cashew sector. Second, even those who might be organized are not always able to handle and manage the resources that could be distributed from export taxes. This challenge could likely be solved through better organization within the sector as discussed below.

4. Possible Market-Related Policy Options

Implementing a mechanism to ensure access to RCNs for all actors in the cashew value chain would grant sufficient RCNs for processors throughout the season, more transparent RCN prices, better conditions to purchase (minimizing price negotiation opportunities), and increased organization of the sector. Additionally, food safety standards are a key factor in expanding markets and attracting investment. This set of possible policy and regulatory interventions would require the involvement of IFA-Benin, MAEP, ATDA No. 4, FENAPAB, FENAPAT, CoNEC, CNTC, and informal actors.

- **Adopt Policy or Regulatory Reforms to Address RCN Price Fluctuations:** This could include adoption of a flexible pricing scheme; however, a full assessment of this is outside the scope of this Regulatory Assessment. Adoption of a WRS, as discussed above, could also help address the challenges related to producers selling RCN at low prices to meet immediate needs, and better organization of the sector so that processors have better negotiating power while purchasing RCN. Policy or regulatory actions should take into consideration: (i) RCNs needed for processors throughout the season, (ii) identification of farmers for supply, (iii) identification of registered buyers, (iv) a streamlined procedures for acquiring RCNs from producers with enforcement from a public agency, and (v) the range of prices for RCN (considering international price variations).
- **Implement Uniform Food Safety Standards and Encourage Compliance with International Standards:** This would ensure: (i) investor confidence in quality products resulting in more investment and (ii) access to sophisticated markets, which could lead to diversification RCN exporting markets. Compliance with standards would also boost investor confidence in the sector overall and processing in particular.
- **Take Steps to Improve Organization of the Sector:** Among other challenges, this would help address issues related to export taxes.

- **Increase Awareness Among Actors in the Value Chain:** Actors such as CNTC and CIPB could work together to educate actors across the value chain, including SMEs, on: (i) the added value of processed cashews, (ii) expansion of market opportunities, (iii) the high quality of cashews in Benin, (iv) partnership opportunities for exporting, (v) processing capacity, and (vi) available development programs. These actions could improve farmers' technical knowledge, render the sector more inclusive for women, and increase productivity. TechnoServe has engaged in training programs with Fludor to enhance technical expertise, productivity, work safety, and good manufacturing practices, which could be a good model upon which to build.
- **Undertake Research to Diversify Domestic and Export Markets**
 - The current pandemic has highlighted the possibility for extreme fluctuations in demand within the cashew sector. Limited export markets for RCNs can be an issue, particularly when demand is low in the international market, and diversification of export markets could be beneficial. The local cashew industry likely also has untapped potential, including in products such as cashew apple juice. It would be useful to conduct an assessment of the market to explore whether this would be a potential area for investment for stakeholders.

Appendix A: List of Laws and Regulations Consulted for the Assessment

The following is a list of laws, regulations, policies, and other measures consulted throughout this project.

National Laws and Regulations

- Investment Code of Benin (existent Code), the law no. 90-002 promulgating the Investment Code of Benin as amended by Law no.90-033 and Decree Regulation no. 2008-06;
- Investment Code of Benin, proposed reform January 2020, promulgation pending;
- Decree creating the Bureau d'Étude et d'Appui au Secteur Agricole (B2A);
- Decree No. 2016-681 of 7 November 2016 Establishing The Institutional Framework For Agricultural Development In Benin;
- Law 2017-07 of 19 June 2017 On The Regime Of Special Economic Zones in Benin;
- Law 2019-46 implementing Benin's 2020 Finance Act;
- Law No. 2020-003 of 29 January 2020 For The Promotion And Development Of Micro, Small And Medium-Sized Enterprises In Benin;
- Order No. 077 / MICPME / MJLDH / MEF / MTFP / DC / SGM / DGCI / SEB / SA of 14 May 2013 Regulating Formalities Relating To The Establishment Of An Enterprise And The Exercise Of All Entrepreneurial Activities In The Republic Of Benin;
- Law No. 2016-36 of 23 January 2017 On The Regulation Of Credit Information Offices (BIC);
- Law No. 2016-36 of 23 January 2017 On The Regulation Of Credit Information Offices;
- OHADA Uniform Act on Cooperative Societies; and
- OHADA New Uniform Act On Guarantees 2011.

National Policies, Plans and Programs

- National Plan for Agricultural Investments and Food and Nutritional Security 2017-2021 (PNIASAN);
- National Fund for Agricultural Development (NFAD);
- Strategic Plan for the Development of the Agricultural Sector (PSDA);
- Programme de Développement Agricole 2016-2021 (B2A);
- Programs under Bénin Révélé;
- Reports issued by Cajou Demain 2017; and
- Strategic Plan for the Revival of the Agricultural Sector (PSRSA) 2011-2015.

Regional Regulations and Policies

- ECOWAS Supplementary Act A/SA.3/12/08 Adopting Community Rules On Investment And The Modalities For Their Implementation With ECOWAS;
- ECOWAS Comprehensive Africa Agriculture Development Programme in West Africa (ECOWAP/CAADP);
- ECOWAS Regional Agricultural Investment Programme (RAIP);

- ECOWAS Directive C/Dir.1/06/13 On the Organization of the Regional Electricity Market;
- Politique Agricole de l'UEMOA (PAU)
- ECOWAS Common Industrial Policy for West Africa (WACIP); and
- West African Economic and Monetary Union (UEMOA).

Appendix B: List of Stakeholders Consulted for this Assessment

- Ministry of Agriculture, Livestock and Fisheries
- Ministry of Economy and Finances
- Ministry of Industry and Trade
- Agency for the Promotion of Investment and Exports (Agence de Promotion des Investissements et des Exportations, APIEx)
- ENABEL (Belgian Development Agency)
- European Union (EEAS-Cotonou)
- African Development Bank
- National Council of Benin Cashew Exporters (Conseil National des Exportateurs de Cajou, CoNEC)
- National Federation of Cashew Nut Producers (Fédération Nationale des Producteurs d'Anacarde du Bénin, FENAPAB)
- Council of Private Investors in Benin (Conseil des Investisseurs Privés au Bénin, CIPB)
- Fludor
- Territorial Agricultural Development Agency No. 4 (Agences Territoriales de Developpement Agricole, ATDA)
- National Institute of Agricultural Research of Benin (Institut National des Recherches Agricoles du Bénin, INRAB)