

Type II partnership proposal submitted by the French Government

TITLE:

Working towards improvements in African business law: information and training on the new OHADA law applying to companies exporting to Africa or looking to invest there, and to businesses based in Africa.

PARTNERS:

Sponsor(s) of this initiative (full contact details):

Centre Français du Commerce Extérieur (CFCE)

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Associated bodies: (NGOs, local authorities, businesses, international organizations, governments, etc.):

Association for the Unification of Law in Africa (UNIDA)

Association for the Renewal and Promotion of International Judicial Exchange (ARPEJE)

International Development Law Institute (IDLI)

African lawyers and French lawyers specializing in Africa and members of the Africa Circle of the CFCE (The French Foreign Trade Centre).

DESCRIPTION:

Summary and relevance to Agenda 21 and the Millennium Declaration:

All the analyses conducted by the CFCE and its clients confirm the importance of modern, stable, predictable and transparent business law in strengthening the inflow of foreign and domestic investment (required to support jobs, management and technology), promoting business growth and ensuring fair regulation of the local impact of the resulting benefits. We also know that sound legal governance exerts an influence on all the structures of national power.

The 1999 and 2001 CFCE conferences on the African Business environment were highly successful and provided the CFCE with a comprehensive and practical overview of the concerns felt by companies operating on this continent. They also demonstrated the necessity for consulting with all those lawyers actively involved in this region to consider the most effective ways in which to respond to the many difficulties companies face. These include: difficulties related to the application of the OHADA law, difficulties resulting from the severe lack of information and training amongst local practitioners; difficulties arising from the failure of courts to respect recovery procedures; difficulties involved in understanding certain key clauses of the OHADA law; difficulties related to the failure of clerks of the court to check documents; lack of knowledge about the OHADA law amongst lawyers, etc.

The Africa Circle was set up in January this year with 20 or so members, including specialist lawyers and representatives of UNIDA (Association for the Unification of Law in Africa), ARPEJE (Association for the Renewal and Promotion of International Judicial Exchange) and IDLI (International Development Law Institute).

This Circle meets every two months at the CFCE. Its aim is to examine questions and new problems raised by businesses and suggest remedies that are simultaneously practical in operational terms and capable of facilitating business development. With this in mind, organizing highly specific legal conferences will provide a much needed forum in which to exchange experience and expertise. In recent meetings, we have joined forces to identify all those difficulties involved in the application of the OHADA law, which must be addressed during the conferences planned for this December in Paris, elsewhere in France and in Dakar.

At the same time, a questionnaire developed in consultation with all Circle members and issued to some 1,500 businesses working in French-speaking Africa has enabled us to make a more precise evaluation of the knowledge businesses have of African business law.

What the results reveal is that local businesses, foreign companies and the principle local professionals (lawyers, clerks

of the court, liquidators, customs officials, etc.) are still largely unaware of, or uncertain about, the new African business law introduced in 1998. That is why it would be particularly opportune to organize mini-symposia or workshops for legal professionals and others to raise awareness of the new uniform OHADA law and to inform and train participants as part of ensuring better application of the law and greater legal and judicial security for private local and overseas investors.

Expected results:

The questionnaire referred to above will be used by the economic missions of French Embassies in Africa to evaluate other, larger, target groups of French businesses operating in the 16 countries of French-speaking Africa.

The results gained should give us a more accurate view of the understanding, gaps in understanding, hesitations, questions and expectations of companies who export to and/or operate in French-speaking Africa.

The difficulties and criticisms reported by companies concerning the relationships they have locally will also enable us to evaluate the knowledge levels of these local professionals (which are very sketchy or even non-existent at present) in order to develop information and training programmes tailored to their professions.

PROJECTED IMPLEMENTATION SCHEDULE:

June-September 2002: distributing the “New Business Law in Africa” questionnaire through the CFCE and Economic Missions to evaluate the knowledge French SMEs have of the OHADA law.

October-December 2002: preparation for workshops or mini-symposia: developing the programmes, identifying suitable experts and preparing company case histories.

December 2002: holding the 3 mini-symposia in Paris, elsewhere in France and in Dakar for a range of audiences: companies in the first instance, as well as workshops for legal professionals, non-legal professionals and local professionals (clerks of the court, lawyers, liquidators, customs officials, etc.).

2003: other mini-symposia in France and Africa.

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Further information is available at: www.diplomatie.fr