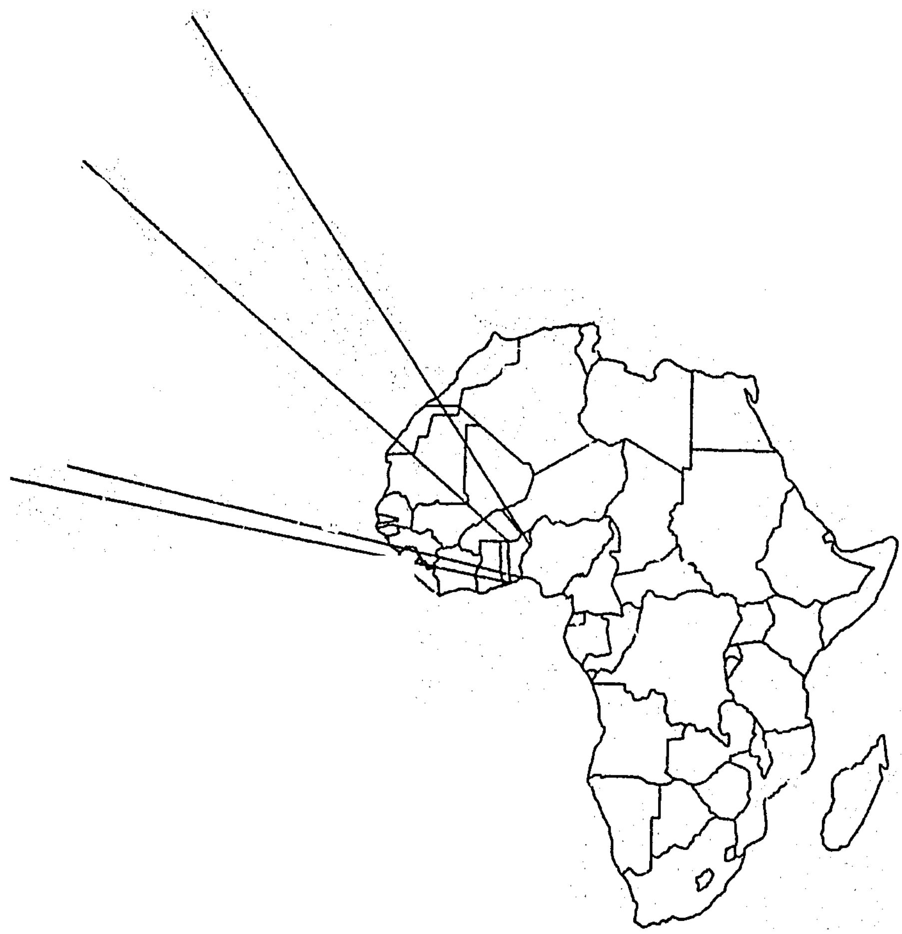
PN-ABK-635

THE AGENCY FOR INTERNATIONAL DEVELOPMENT PRESENTS

CRITICAL ISSUES FOR AMERICAN INVESTORS IN

BENIN



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October 1991

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Contents

BENIN

EXECUTIVE SUMMARY

Within the past two years the people of Benin have transformed their political system from one of Africa's most Marxist-Leninist regimes into a multi-party democracy whose constitution, electoral politics, and government administration are modeled on Western examples.

The economy of Benin has modest natural resources, undeveloped human skills, and limited infrastructure. It is also recovering from a close brush with collapse, the result of years of misguided Marxist-Leninist policies. Nevertheless, there is potential for development, building on enormous pent-up consumer demand within Benin itself and access to the huge Nigerian market next door.

Agriculture and transit trade remain at the heart of the economy and govern its future prospects, though there is growing potential in mining/petroleum, manufacturing, construction, tourism, and commercial services.

Benin is in the midst of a major reorientation of the economy away from state intervention and toward stimulation of private enterprise. Small private farms continue to produce most of the country's food, and private merchants handle much of the trade. Privatization is therefore likely to have its greatest effect in the modern sector, opening new opportunities for investors, particularly in agribusiness.

The government of Benin is struggling, with genuine effort and good will, to create an investment climate that will be attractive to foreigners and Beninese alike. Investment opportunities in manufacturing will tend to cluster around commodity-processing, while those in the services sector will tend to support commerce. Niche opportunities may appear in mining, fishing, tourism, and construction.

Benin's new investment code seeks to provide standardized national treatment for all types of enterprises, whether local or foreign. The government offers various packages of investor incentives and in general offers an attractive regulatory environment for investment.

Benin's economic infrastructure is skewed toward transit trade and the ill-fated state enterprises, but efforts will be made to improve conditions in rural areas where the bulk of agricultural activity is located.

Benin consistently runs a current and trade account deficit, but published balance of payments information fails to provide a complete picture of Benin's international commerce because substantial shares of both imports and exports move through informal sector channels. Much of this trade involves goods that transit Benin on their way to neighboring countries, particularly Nigeria. Formal sector trade with countries outside the franc zone is subject to foreign exchange regulation imposed by the BCEAO.

Benin is heavily burdened by both domestic and foreign debt. With technical and financial help from the donors, it is making considerable progress on the former, while benefiting from rescheduling and forgiveness of foreign debt, or at least that portion owed to official creditors.

Lack of trained labor is a major problem in Benin. Most Beninese lack formal schooling and are largely illiterate. Few have technical or business training. Investors will have to count on providing comprehensive training, and most workers are eager to learn.

The financial sector, especially banking, was among the most severely damaged under the previous economic regime. As a result, the government is receiving intense structural adjustment assistance from donors to rebuild the sector. New institutions are being created and new sources of financing provided, though the sector will remain very basic over the medium term.

Because of the strength of the franc zone economic institutions, inflation is not a problem in Benin. Under the structural adjustment programs, the government is progressively phasing out price controls.

One of the most difficult restructuring efforts underway in Benin is the reconstitution of its government. The country cannot support its administrative sector on present revenues, and donors are guiding a process that will reduce the public payroll and streamline the government's functions.

Tax policy in Benin is extremely complex and uneven in implementation. Investors will have to seek assistance from local experts in planning the tax implications of particular business activities.

Investors have not had any significant experience in Benin with intellectual property protection issues. Benin is a member of the World Intellectual Property Organization, a specialized agency of the United Nations.

MAKING THE INVESTMENT DECISION

COUNTRY OVERVIEW

The people of Benin have two goals in mind today: making their new democracy work and overcoming the economic damage of the past three decades. The two are linked--the Beninese see political freedom as their first step toward economic growth. Having put behind them the Marxist-Leninist policies that deprived them of their freedom and straitjacketed their economy, they now put their faith in private enterprise and free markets. Instead of rejecting austerity measures and policy reforms that have brought painful adjustments over the past few years, the people of Benin rejected instead the leader and the ideology that had long denied them political as well as economic freedom.

One key result of this change is that Beninese now esteem American ideals, institutions, and practices, and look to American investors as partners in building a new economy that will give them a better life.

By any economic standards, Benin has been through a disaster. At present, foreign investment possibilities are quite limited because structural damage to the economy is so severe. Yet the very depth of the economic decline implies future opportunities as the government gets its policies right and business confidence returns.

As an example of the ground-floor opportunities now available, consider the banking sector. Since the complete collapse of the state-owned banks in 1987 and 1988, four private banks have opened their doors in Cotonou. By pursuing conservative lending policies and providing efficient service, they have helped restore faith in the financial system, in return attracting growing deposits and commercial business. Today, foreign managers of the new banks see considerable investment potential emerging in Benin.

How Investment Policy and Regulation Work

The new government of Benin believes firmly in the importance of attracting foreign private investment, and specifically seeks to explore possibilities with Americans as a means of diversifying its foreign economic connections beyond the existing ones with France. It has recently adopted thoroughly revised investment, commercial, and employment codes. The government is responding with interest to suggestions that it create an export-processing zone, a *guichet unique* (a one-stop center for establishing new firms), and other investment incentives in order to become competitive with other African countries.

At present, the laws and regulations for establishing an enterprise, making the capital investment, and operating a business in Benin are diverse and largely untried. The exercise of administrative authority by various ministries depends upon the nature of the specific undertaking.

As a result, no general set of regulations or guide to doing business in Benin exists, nor are there broadly applicable experiences of other investors to serve as a guide. It is therefore essential to discuss investment plans at an early stage with a local attorney and local accounting firm. Several *notaires* and *avocats* in Cotonou now specialize in business law.

Trends in the Economy and Business

Having reached the bottom of an economic abyss, the Beninese are now intent on climbing out. They are proud of their new democratic system that guarantees them the freedom to do so, and they are looking for ways and means to make the climb. They welcome foreign private investors as helping hands, while realizing that investments must offer attractive returns.

The country's economic performance since independence has been through four difficult cycles:

1960-1975	Slow growth of the agricultural economy, hindered by political instability and drought, but some stimulus to transit trade caused by the Biafran war (1966-1970).
1975-1985	Artificial stimulus to the economy through the creation of state-owned enterprises, supported by foreign aid, heavy borrowing, and good world prices for petroleum that inflate the transit trade with Nigeria and lift income from Benin's own oil exports.
1985-1988	Falling petroleum prices drag down prices for many other commodities (cotton included) and wreck the lucrative market for transit shipments to Nigeria. The government's inability to control trade and budget deficits brings about the collapse of the financial sector (and eventually of the political system) even as structural adjustment gets under way.
1989-present	Aided by substantial foreign aid, the new government undertakes to reorient the economy from state ownership to private enterprise and free markets, unleashing fresh business optimism and causing an increase in growth.

The economic recovery program, based upon structural adjustment policies advocated by the World Bank, the IMF, and bilateral donors, focuses on reducing the size and cost of government and removing it from the center of economic activity, while encouraging private operators to fill the resulting vacuum.

Results are already noticeable:

the banking sector has been reconstructed in private hands;

state-owned enterprises no longer dominate the industrial sector;

realistic prices and free markets are stimulating agricultural production, the foundation of the economy.

Significant progress has thus been achieved in a relatively short time, but from a very low level of economic development.

The most serious constraint on carrying out reforms is a lack of managerial capacity. Controlling deficits and implementing public-investment projects at a rate high enough to meet donor conditionalities was beyond the government's reach during the first structural adjustment program, and a lack of management skills may yet delay aid disbursements during the second, just under way.

Nevertheless, the basic changes already made, and the government's very real intent to achieve its restructuring goals, should help turn the economy around relatively quickly and support stronger economic growth over the coming years.

Key Issues for American Investors

General points for anyone wanting to do business in Benin:

Understand that just because Benin has abandoned Marxism-Leninism, the government has not abandoned responsibility for protecting the country's people or its interests. The Soglo administration wants economic growth, but leaders worry about the social consequences of foreign investment. They remember the scandalous reports that the Kerekou government had made a deal to import toxic wastes from Western countries.

Be frank with Beninese officials about business problems. Some are still learning how the private sector works, and they ask for comments from investors because they really don't know what government can do that will attract private business, much less how to help business become more efficient, competitive, and profitable.

They don't understand how long-established regulations and practices interfere with business, but they are eager to accommodate.

There is no escaping the fact that Benin's official language is French, and senior executives of any enterprise in the country must speak it fluently or be willing to learn it. English is, however, a second European language for educated Beninese and for those who take part in transit trade with Nigeria.

Stick to businesses you already know well and look for niche opportunities rather than broader sectoral markets.

Start small and count on relatively slow expansion until the system's kinks are worked out and the economy begins to show solid growth.

Take time to learn about Benin's relationships with its African neighbors, because they are very important to business in the country and are a pillar of the economy.

Major Constraints and Opportunities

Since Benin is just starting to emerge from an economic debacle that was decades in the making, recovery will take time. Investors will have to look for ingenious solutions and often make do in a business environment that lacks the modern services and technology taken for granted in other parts of the world.

Major **constraints** include:

The infrastructure for facilitating business needs rehabilitation: streets and roads need repair and resurfacing, the country needs much more electricity-generating capacity, and communications are still expensive and sometimes difficult, although most international telephone calls now go by satellite.

The costs of production are high, primarily because of the overvaluation of Benin's currency, the CFA franc (discussed in Chapter 8). Nigeria already exploits its relatively undervalued currency by marketing a great many products in Benin, from plastic sandals and housewares, laundry soap, and cotton fabrics to gasoline. Capturing market share from Nigerian products on a cost basis will be difficult, although upscale products might prove attractive to the small Beninese elite.

The market in Benin itself is very small, the country's population being just under 5 million. Producers intending to sell to consumers in Benin should investigate the possibility of exporting to other West African countries, especially to other members of the franc zone. Nigeria is too large a market to ignore (population over 100 million), but its sharply devalued currency makes selling into Nigeria difficult.

A significant share of the transit trade toward Nigeria involves products whose import is banned in that country. Selling such products into Nigeria violates Nigerian laws and regulations, something that Nigerians and Beninese undertake routinely but that can entail business relationships fraught with difficulty. Many Beninese who engage in transit trade are members of the Yoruba tribe, whose traditional territory lies partly in Benin although largely in Nigeria; they are thus related and share a common language and culture, including business practices, with a great many Nigerians in the western states just across the national frontier.

A general discussion of investment **opportunities** takes place in section 5.4. Some of the most important include:

Agriculture

Although palm products may be in permanent decline, cotton production is increasing. There has been little investigation of prospects to produce tropical or off-season fruits and vegetables for

European markets. Livestock, poultry, fishing, and forest products (there is a teak plantation) may offer possibilities.

Agroprocessing

Canning, bottling, packaging, etc.: a number of the government companies being privatized under the structural adjustment program were involved in such activities.

Mining and geoservices

Mineral resources have not been thoroughly investigated; deposits of gold, iron, phosphates, marble, and construction materials have been identified but not exploited. Exploration for further petroleum deposits is promising but so far inconclusive.

Tourism

Small hotels, travel agencies, guided tours of game parks, perhaps restaurants; all of these remain largely unexplored.

Construction and construction materials

One of Benin's major new investments of recent years is an American entrepreneur's facility to produce reinforcing rods and corrugated panels from imported steel bars and sheets.

Business services

Informatics and possibly general aviation are much needed.

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Conversations with a number of Beninese government officials, foreign diplomats, economic aid specialists, and private business executives reveal an upbeat mentality and confidence about Benin's future. Still, the country's economic situation in recent years has been so dismal that many years may pass before it can achieve a level of development comparable to that of its more prosperous neighbors. This situation does, however, open potentially lucrative long-term opportunities for less risk-averse investors willing to think in the long term.

1. POLITICAL BACKGROUND

Within the past two years the people of Benin have transformed their political system from one of Africa's most Marxist-Leninist regimes into a multi-party democracy whose constitution, electoral politics, and government administration are modeled on Western examples.

1.1 Government and Politics

Political History

Until the nineteenth century, a sophisticated political system flourished under the kings of Dahomey, whose capital was at Abomey, north of Cotonou. The French colony of Dahomey (1893-1960) encompassed the old kingdom and a large area beyond; the colonial borders, drawn without regard for the interests of African populations, cut across ethnic and political communities. During the 1950s, as France's African colonies received greater self-government and prepared for independence, these interests (complicated by the introduction of foreign ideologies and institutions) coalesced in competing political parties, setting the stage for political turmoil in the following decades.

The political events of the 1960s and early 1970s were tumultuous and confusing to outsiders: in seemingly endless cycles, civilian governments were overthrown by military coups, whose leaders then stepped down temporarily following new elections. The repeated violence to the constitution rarely extended to participants, who could endure defeat, retire to the sidelines, and plot new political combinations.

The cycles ended with the 1972 coup led by Major (later Brigadier General) Mathieu Kerekou, who arrived in power lacking a program but who in 1974 adopted Marxism-Leninism as the country's official ideology, reportedly because a coterie of leftist intellectuals offered to make life miserable for him if he did not. The leftists were given free rein to transform the People's Republic of Benin (renamed in 1975) into a model Marxist-Leninist political and economic system. Harsh repression of dissent by the security agents of the new one-party state failed to eliminate the underlying factionalism that had riven the earlier system, and attempts to unseat Kerekou from within were frequent but unsuccessful. A bizarre attempt by a ragtag foreign mercenary force to storm the beaches of Cotonou and liberate the country (1977) also failed; relations with France, already bad, worsened after the raid (but improved during the following decade).

The Marxist-Leninist economic transformation, carried along at first by good export commodity prices and extensive foreign aid, left the government ill-prepared to deal with global recession during the early 1980s. Kerekou's decision to stop guaranteeing civil-service jobs to new graduates (1985) proved decisive in undermining his popularity at home, and a spreading inability among other socialist countries to provide more aid left few means to continue existing policies; government arrears, including the nonpayment of civil-service salaries, grew steadily. Kerekou moved to restore relations with Western governments and to negotiate aid programs with multilateral institutions, while at home there were more attempted coups and anti-government demonstrations (1987-1988). During 1989 some government employees received payment of their salary arrears, and legislative elections were held, but these steps came too late to save the regime.

Political events moved very rapidly thereafter, setting in train important economic consequences. Student strikes and other unrest continued. In December 1989 Kerekou announced that Marxism-Leninism would no longer be the official ideology of the state, and that a National Reform Conference would be held in 1990 to discuss the country's political future. Political parties immediately sprang up, and the conference met in an atmosphere of determination to establish a multi-party democracy. The legal basis of Kerekou's government was repealed and his institutions were systematically dismantled, to be replaced by temporary bodies until national elections could be held. The country's name was changed to the Republic of Benin.

Thus, after long experience under one of Africa's most stridently Marxist political regimes, the people of Benin placed themselves at the forefront of a sudden wave bringing greater democracy to Africa.

Present System

Benin now has a constitution, approved by national referendum in December 1990, that provides new institutions and guarantees of multi-party democracy. In February-March 1991, presidential and legislative elections were held; Nicéphore Soglo, who had been acting as interim prime minister under the powerless President Kerekou, was elected president. On April 4, 1991, the new administration was inaugurated.

The new constitution separates the executive, legislative, and judicial powers, providing checks and balances among the branches (thus far, such balances are rare in Africa). The president, elected for a five-year term (which can only be renewed once), appoints all cabinet ministers, nominates supreme-court justices, originates most legislation, and can ask the supreme court's opinion on the constitutionality of any law passed by the national assembly. He can also send any law back to the national assembly for a second reading (in effect, a veto); such a bill becomes law only if passed by a strengthened majority. The national assembly, whose 140 deputies are elected for five-year terms, has the authority to originate legislation and to impeach the president and any of his appointees. A high constitutional court will be created to hear impeachment cases, if any.

Although President Soglo's administration got off to a slow start because he was hospitalized in France for several weeks soon after his inauguration, it has since gained momentum. The President has tried to select able people for his cabinet, making a special effort to ensure that each appointee has previous experience in the activity over which the relevant ministry exercises responsibility. Several of his ministers were prominent dissidents, some imprisoned or exiled for long periods during the Kerekou years.

The bulk of the employees of every ministry, however, are career civil servants, many of whom received their education (often inadequate) and gained all their experience of government under the Kerekou regime. Many civil servants have little conception of what private economic activity is all about and have had to learn to mouth the new, free-market line even though it contradicts everything they were taught in earlier times. They have a sharp sense of where their career interests now lie and they are trying to cooperate, but the scope of change is nevertheless somewhat overwhelming for some.

There is very little evidence that anyone in government is deliberately obstructing or sabotaging economic reform for ideological reasons--the failure of the old system was obvious to anyone whose government salary went unpaid for months on end.

1.2 Human Rights

For Benin, the turning point in human rights came in 1990. The transition government freed all remaining political prisoners, encouraged freedom of expression, facilitated the return of exiles, and included human rights safeguards in the new constitution (which specifies, for example, that a soldier may disobey any order entailing a violation of human rights). Former political prisoners formed an association that sponsored a human rights forum. Since taking office, the Soglo administration has maintained the human rights standards championed by the pro-democracy movement and embodied in the new constitution.

1.4 Corruption

As is true elsewhere in Africa, in Benin the line of demarcation between government and business is somewhat blurred because ethnic and family relationships play such an important role in both spheres. The extended family imposes responsibility upon its members in proportion to their success in life, such that every advancement in status and income enlarges the circle of relatives, clan kinsmen, and tribal members who have claims upon resources. The burden of generosity is best borne by trading favors among peers: an official in the Ministry of Transport might find his niece a secretarial job in the Ministry of Health, while an official in the Ministry of Health might help his brother become director of a firm distributing veterinary products, and so on.

Particularly under the Kerekou regime, the salaries of soldiers, police, and customs officials were abysmally low and often went unpaid, leaving hapless agents to fend for themselves; they took advantage of the system in order to survive. This habit may die hard.

The problem of corruption is aggravated in Benin by the size and importance of transit trade, much of which is conducted outside the formal economy. That portion conducted within the formal economy has in the past been so constrained by taxes, laws, and regulations that participants were willing to pay considerable amounts for the ease and savings of avoiding compliance. In addition, many trade transactions with Nigeria, although considered legal in Benin, are prohibited by Nigeria, and therefore constitute flagrant violations of the spirit and letter of Nigerian law by officials and economic operators on both sides of the border. Illegal transactions usually involve either smuggling (evading customs controls entirely) or fraud (submitting false documentation).

The new government of Benin, aided by the donors, is making concerted efforts to reform the foreign-trade sector and to improve agent performance through retraining, better pay, incentives, and sanctions against malfeasance.

Foreigners now doing business in Benin acknowledge continuing problems with corruption, but at decreasing levels. Like people in most other societies, Beninese prefer honest dealings and welcome a return to economic conditions under which their livelihoods are not constantly at risk. As elsewhere in Africa, the traditional system of family-based relationships and responsibilities mentioned above is readily transposed to dealings with foreigners; a pattern of personal friendships and small favors helps to cement merely economic relationships and facilitate the solution of business problems. Thus, it is useful to cultivate Beninese contacts through social events and tokens of appreciation. It is only occasionally that one finds this process overstepping the bounds of good business manners into extortion, bribery, or fraud. Under these circumstances, the best defense is an absolute refusal to cooperate, explaining that while one values friendship and would like to accommodate, the laws of the United States provide severe punishments for activities that might be considered entirely appropriate in other countries. This strategy is usually successful.

1.5 FREEDOM OF EXPRESSION

The free expression of political and other ideas is guaranteed by the constitution, as is freedom of the press. During 1991 more than thirty political parties continued to operate, although many were small groups supporting a single candidate or a single issue. In the newly free society, non-political associations are also proliferating.

In addition to the *Journal Officiel*, which publishes legislation, proclamations, and notices promulgated by the government, there is a daily press bulletin from the government news agency, Bénin Presse. The ubiquitous official daily newspaper, *La Nation*, publishes reports collected by Bénin Presse and by wire services around the world. Since the change in government, its editorial opinions and commentary have become more balanced, on occasion even critical, although it is careful to give the government's position prominent attention.

The government press is counterbalanced by a rapidly expanding free press, which now includes two daily and four weekly newspapers, plus more than a dozen others publishing fortnightly or monthly. These young papers represent journalism at its most vigorous and adventuresome as they struggle to build readership. There are two monthly magazines, one printed in France.

1.6 INTERNATIONAL RELATIONS

Benin maintains diplomatic relations with about thirty countries, nearly twenty of which have embassies in Cotonou. A handful of these represent Eastern Bloc or radical nations (such as Libya) that once provided Benin with considerable foreign economic aid; in recent years these embassies have become mere vestiges of an earlier solidarity. More than a dozen multilateral aid organizations now maintain offices in Benin, of which the World Bank, the European Economic Commission, the IMF, and the United Nations economic development programs are the most significant. Two of Benin's next-door neighbors, Nigeria and Niger, have embassies in Cotonou, an indication of how important those countries consider the transit trade.

The most important overseas connection for Benin is that with France, which plays an important role in the economy (France is Benin's most important trade partner and most important bilateral donor) and in supporting Benin's security interests.

Relations with the United States are cordial, and Benin government officials stress their interest in diversifying their foreign economic ties in the direction of North America (a delegation of investors from Quebec recently visited Cotonou). The United States has had Peace Corps volunteers in Benin for many years, and resumed direct bilateral foreign aid as soon as political changes permitted. In September 1991, Benin and the United States signed an agreement establishing a USAID mission at Cotonou and creating a program in support of primary education that will commit some $57 million over the next three to five years.

1.7 Implications for American Investors

For the first time since independence in 1960, the people of Benin are enjoying political freedoms and democratic institutions. The new government's political record is very encouraging, and its economic policies make a good start on repairing the damage caused by decades of mistaken economic policies and mismanagement.

Relations between Benin and the United States are excellent. Benin government officials express keen interest in welcoming potential investors from the United States to discuss business possibilities. They acknowledge the small size of Benin's largely agricultural economy, but they hope to help American investors find niches of opportunity.

They emphasize that if investors find fault with or are frustrated by any aspects of the investment process in Benin, they will be more than willing to seek ways to solve problems and facilitate operations.

2. ECONOMIC PERFORMANCE AND OUTLOOK

The economy of Benin has modest natural resources, undeveloped human skills, and limited infrastructure. It is also recovering from a close brush with collapse, the result of years of misguided Marxist-Leninist policies. Nevertheless, there is potential for development, building on enormous pent-up consumer demand within Benin itself and access to the huge Nigerian market next door.

2.1 SUMMARY TABLE OF MAJOR INDICATORS

SUMMARY TABLE OF MAJOR INDICATORS
(% change)

	1988	1989	1990	1991p	1992-4p
GDP (current)	2.7	1.1	6.0	5.9	6.4
GDP (constant)	3.0	-0.7	2.6	3.0	3.8
Implicit deflator	-0.3	1.8	3.4	2.9	2.5
Inflation (CPI)	4.3	1.9	3.0	2.9	2.5

Figures for 1992-1994 are projected average annual rates.

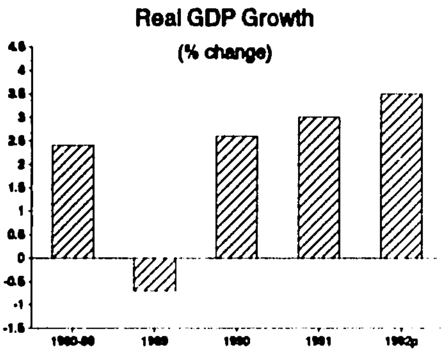
2.2 Structure of the Economy

Benin's economy is largely determined by its geographic configuration and location--a thumb of land pointing 400 miles north from a narrow base (sixty miles wide) at the Atlantic coast, broadening slightly at its northern extremity, bounded on the east by Nigeria (a country with more than twenty times the population of Benin) and on the north by Burkina Faso and Niger (both enclave countries dependent upon their coastal neighbors for supplies of overseas imports and for the access of their own products to world markets).

Its neighbors thus afford Benin multiple incentives to engage in transit trade, one major pillar of the economy. Transit trade includes commerce in a wide variety of goods, supplying the livelihoods of a significant portion of the population. This trade is so important, in fact, that customs officials, in that they control this trade, are among the most powerful officials in the country. (In a move that would be highly unusual almost anywhere else in the world, Benin's customs officials recently issued a public statement condemning structural adjustment because it was hurting the transit trade.)

The other pillar is, of course, agriculture. Benin's north-south axis crosses several climatic zones, from rainy southern coastal plain to arid northern savannah. This variation necessitates several kinds of agriculture to feed the people, but also provides opportunities for several kinds of export commodities. This gives Benin some potential to escape the one-crop export economy that has subjected other African countries to wide swings in income according to price fluctuations on world markets.

2.3 STRUCTURAL PERFORMANCE



After shrinking during 1989, GDP increased by 2.6 percent in 1990 and is forecast to grow by 3.0 percent in 1991 and 3.5 percent in 1992 (assuming normal rainfall). This evidences a marked turnaround in the economy and shows that structural adjustment is working.

At independence, Benin's agricultural economy was based upon subsistence-food production and exports of vegetable oils, chiefly palm products. A railway constructed between Cotonou and Parakou during the colonial period carried goods trucked to or from both Upper Volta (later renamed Burkina Faso) and Niger. During the years after independence there was creditable growth in agriculture (especially in cotton production), while the transit trade received a strong boost from the Biafran war, which for several years cut off parts of northern Nigeria from ports in the south and east.

The industrial sector of the economy also received some initial stimulus in the aftermath of the Kerekou government's adoption of its Marxist-Leninist economic program in the mid-1970s, which involved taking over direct ownership of most productive activity in the modern, formal sector, as well as centralizing control over subsistence farming and the commercialization of farm products. The creation of some sixty state-owned enterprises entailed steady increases in government spending, much of it funded by grants and concessionary loans from foreign donors, as well as heavy borrowing from the domestic banking sector. The state's expenditure for personnel grew accordingly, accompanied by a quintupling of the size of the civil service. The discovery of a small petroleum deposit in Benin's coastal waters persuaded the government to borrow from foreign commercial lenders to finance its development, creating large new debt obligations with higher interest rates and shorter repayment periods.

Even with petroleum revenues, by the early 1980s there were signs of economic deterioration and serious mismanagement by government entities. The fall of world prices for a variety of basic commodities, including petroleum, vegetable oils, and cotton, sharply reduced the country's export revenues at a time when similar conditions in neighboring countries produced a precipitous decline in transit trade; Nigeria's closing of its border with Benin (1984-86) was only an official symptom of this malaise.

From 1985 onward, the economy was in crisis, and the government faced retrenchments and austerity measures that it was ideologically loath to adopt and managerially ill-equipped to carry out. Its failure to act promptly aggravated the economic damage, leading to the exhaustion of its borrowing power abroad, arrears on government obligations in many sectors of the economy, and, in 1989, the subsequent collapse of the domestic banking system.

Structural adjustment, with the aid of the World Bank, the IMF, and other donors, came at a time when the Kerekou administration had already lost the public's confidence; it merely intensified the regime's domestic political problems. Kerekou's mishandling of the economy, as much as human rights violations and the lack of free political choice, led to the unrest and the resulting National Convention that transformed the nation.

Structural adjustment, under the overall direction of the World Bank and the IMF but involving the participation of other multilateral and bilateral donors, is now the basic economic policy of the Beninese government. Under President Soglo--himself a former executive director of the World Bank--economic policy reforms advocated by the donor community affect many aspects of economic life.

The new IMF structural adjustment program focuses on the following steps, the scope of which indicates the huge task facing Benin:

Reduce the country's balance-of-payments deficit through the management of foreign debt obligations (reschedulings, debt cancellations, and tight controls on future borrowing), the reduction of imports, and the stimulation of exports.

Eliminate the government's budget deficits by revamping the budget process, streamlining government organization to improve efficiency, reducing the number of employees, severing the government's ties with state firms and other economic entities (closing some, selling some to private investors, and reorganizing the few being retained), and improving revenue collections through tax reforms, the taxation of economic activities hitherto beyond reach, the introduction of more efficient procedures, and the retraining of tax collectors, including customs agents.

Gradually eliminate the government's arrears to creditors throughout the economy.

Complete the reconstruction of the financial system by collecting debts (including government arrears) owed to the failed state banks and offering partial reimbursement to their creditors, especially small depositors.

Stimulate the private sector to play a greater role in the economy by ending a tangled system of prohibitions and controls, reducing and consolidating tax obligations, simplifying procedures for creating and operating a business, and offering incentives for new investment.

Cushion the effects of structural adjustment on the less privileged and help them, through education, training, and improved health care, participate in renewed economic activity.

2.4 Economic Prospects 1991-1996

Since Benin is still largely dependent on agriculture, in any year the performance of its economy depends greatly upon the amount of rainfall received during the rainy seasons, which occur at mid-year in the north and in spring and fall in the south. Assuming average rains, the economic program has targeted real growth at the rate of three percent or more in 1991 and 1992, reaching four percent by 1994 and thereafter, which will provide one-percent growth above the increase in population.

Measures to achieve these levels include increases in food and cotton production, incentives for new industrial investment, and less stringent controls over formal-sector transit trade. Meeting these goals will require higher rates of investment (the target is for investment to grow from 11.6 percent of GDP in 1988 to 14.7 percent by 1994), to be achieved in part by stimulating savings through improved government finances and greater private confidence in the banking system.

2.5 Implications for American Investors

Benin has a very small economy, based on a narrow range of productive activities.

Political instability, mistaken economic policy, and mismanagement so degraded the economy during the first thirty years that it will take some time to bring the country back from the collapse it experienced in the late 1980s.

As a result, American investors should think small and envisage slow growth for any investment in Benin. Sweeping plans for grand projects requiring expensive foreign commercial bank financing and a high percentage of imported equipment, materials, and services are unlikely to get far.

3. SECTORAL ANALYSIS OF THE ECONOMY

Agriculture and transit trade remain at the heart of the economy and govern its future prospects, though there is growing potential in mining/petroleum, manufacturing, construction, tourism, and commercial services.

3.1 AGRICULTURE

The primary sector generates about 40 percent of GDP and employs fully three-quarters of Benin's population, mainly in the traditional subsistence production of cereals (maize, millet, sorghum) and root crops (manioc, yams, sweet potatoes), plus peanuts, livestock, poultry, fruits, and vegetables.

Cotton now dominates the export crops, although copra and palm kernels still maintain a place for vegetable oils. Fishing, mostly artisanal close to shore but also involving modern commercial operations further out to sea, adds variety to the Beninese diet, but over-fishing and pollution have made inroads on production, such that frozen fish is now imported. Wheat, rice, and foreign processed foods are imported to cater to urban consumers. Except in years of severe drought, the country is otherwise self-sufficient in food.

3.2 MINING

Benin's major mineral resource is petroleum. The Ministry of Mines has identified deposits of gold, iron ore, phosphates, limestone, marble, pegmatite, red and white clays (including kaolin), and sand and gravel suitable for construction purposes. It suspects deposits of nickel, zircon, titanium, diamonds, and peat.

For now, the petroleum industry's activities consist of operating the Sémé deposit offshore of Cotonou, pumping oil from existing wells into holding tanks onshore and transferring it to tankers sent by purchasers. Two additional wells drilled in recent years have reversed a decline in production, restoring it to the present level of about 4,000 barrels/day of high-gravity crude. Oil-bearing structures beneath the producing reservoirs are now being evaluated. Preliminary work on geological structures east and west of Sémé (offshore) offers evidence that additional oil fields exist, but exploration thus far is inconclusive as to commercial value. There are also promising onshore sites, but the Canadian group now holding exploration rights has not been very active and the government of Benin may look for new partners.

Benin lacks recent, comprehensive geophysical data, since no modern aerial or ground survey has been undertaken. The existing geological maps are (a) a set on the scale of 1:500,000, produced by the colonial government, and (b) several sets of uncoordinated and partial maps on the scale of 1:200,000, produced under various unrelated projects. Occasional ground exploration has focused on likely prospects. Known deposits of gold require further investigation, while iron ore, phosphates, and marble await substantial increases in world market prices.

3.3 Manufacturing

Benin has a modest manufacturing sector processing agricultural products (cotton ginning, oil pressing, maize milling) and producing consumer goods (beer, soft drinks, sugar, soap). There are two mills making cotton cloth, and one producing cement.

One American firm, Société Béninoise de Sidérurgie, processes imported steel bars and coiled sheets into reinforcing rods and corrugated panels; this firm is the first private investment in a start-up industry in Benin for several decades. A British firm, Rothmans, recently bought the previously state-owned cigarette factory, a French firm has bought one of the textile mills, and a Norwegian firm has bought one of the cement plants. Another Norwegian firm has been negotiating to buy a refrigerated fish-storage facility.

3.4 CONSTRUCTION

The long-lasting economic depression has taken its toll on the construction industry. As the economy picks up, there should be opportunities for road construction and rehabilitation, including the paving or repaving of streets and highways. Infrastructural projects led by multilateral donors, such as a planned dam and hydroelectric generating station, may offer opportunities to foreign firms--projects funded by bilateral aid programs are often tied to contractors from the donor country. The construction of small office and apartment buildings is a favorite way for Beninese individuals to invest their savings. Cotonou is full of such buildings at various stages of completion, awaiting the availability of funds in order to progress to the next stage.

3.5 TOURISM

Beninese business operators and government officials alike are hopeful that tourism will attract foreign investors at an early date. They point to the Sheraton Cotonou, the city's most modern (and only first-class) hotel, to the capital's many restaurants, African markets, and a center for local arts and handicrafts. Nearby towns such as Abomey and Ouidah offer much of cultural and historical interest, but tourist services there remain limited. European investors are currently developing campgrounds near the seacoast. The rustic charms of game preserves, bird sanctuaries, and national parks in the center and north of Benin may appeal to the tourist who wants to see game animals, birds and exotic flora in the wild.

3.6 BUSINESS AND COMMERCIAL SERVICES

Opportunities for business services have hitherto been limited largely to the support of trade. Attorneys and accountants are available to help with the establishment of businesses and with meeting tax and audit requirements. The national insurance company is for sale, but public utilities are still by and large owned by the government, and most transportation services (port, railway, trucking) are oriented toward the transit trade. The national airline no longer exists, although Benin participates in Air Afrique; a small commuter airline (involving European and Beninese investors) recently began service to interior towns and neighboring capitals. Otherwise, general aviation is almost completely lacking.

Transit trade occurs on two levels:

(1) formal transactions (many involving large quantities and high values) in the modern sector, where written accounts are kept and tax and tariff requirements are given some attention at major border crossing points; and

(2) small, informal transactions, some taking place at night on dirt paths that cross the frontier miles from the nearest customs checkpoint.

The scope of formal trade is significant for Benin's economy, and even more so for Benin's government, since about 50 percent of tax revenues are produced by customs duties. The volume and value of informal trade are literally incalculable, inasmuch as the trade completely escapes taxation and official measurement.

3.7 Implications for American Investors

Successful investment is likely to be in niches within agriculture and agroprocessing, perhaps petroleum, tourism, and specialized business services, the latter most likely linked to the country's transit trade.

Investors interested in reaching the Nigerian market via Benin will want to weigh the convenience and peace of mind gained by operating out of the smaller and calmer Benin business environment. It is worth noting that the representative of an American firm manufacturing pharmaceuticals in Nigeria and marketing consumer goods in West Africa recently moved his residence from Lagos to Cotonou, citing security, ease of doing business, and amenities as reasons for the move.

Investors should also evaluate the trade-offs between doing business (a) in a monetary system, the CFA franc zone, affording free convertibility and transferability of funds, and (b) in one whose currency, the Nigerian naira, is so deeply devalued that it confers strong competitive advantages on exporters--not only throughout Africa, but in some overseas markets as well.

They should also bear in mind that some categories of transit trade depend upon violating tariff and other customs barriers on the Nigerian side of the border. Doing such business in Nigeria entails crossing moral and legal lines that, once breached, can lead to business relationships of astonishing complexity, opacity, tenacity, and ferocity.

4. STATE'S ROLE IN THE ECONOMY

Benin is in the midst of a major reorientation of the economy away from state intervention and toward stimulation of private enterprise. Small private farms continue to produce most of the country's food, and private merchants handle much of the trade. Privatization is therefore likely to have its greatest effect in the modern sector, opening new opportunities for investors, particularly in agribusiness.

4.1 STRENGTH AND ROLE OF THE PUBLIC SECTOR

By the end of the Kerekou government's Marxist-Leninist period, there were some sixty state enterprises and about fifteen other state economic institutions, operating everything from the postal service to a tomato-paste cannery.

As of October 1991 the new government, assisted by the World Bank, had decided to retain thirty-two entities, among them the electricity and water utility, the post office, the social security system, the national lottery, the petroleum exporting company, and a number of firms owned jointly with foreign governments (China, Libya, Nigeria).

Nineteen others were liquidated (with another two teetering between sale and shut-down); the failed firms included banks, the national airline, and a chain of pharmacies.

A further half-dozen or more have been sold, and several more are for sale. Among those for sale are the following:

1. a flour mill producing wheat flour and cornmeal
2. a cashew-nut processor
3. several transportation companies

4. a tomato-paste cannery

5. a fruit-juice bottler

6. a brewery and soft-drink producer

7. a mineral-water bottler (to be spun off from the brewery)

8. a vegetable-oil processor

9. a fertilizer mixing facility

10. a cement factory

11. a sugar complex (Nigerian part-ownership)

12. an insurance company

The relative health of these concerns varies, but most are worth investigating.

4.2 Strength and Role of the Private Sector

The private sector has always been overwhelmingly dominant in Benin in the sense that independent small farmers growing subsistence crops in rural communities form the base of the economy. Even at its most radical, the government was unable to collectivize the peasants, although it instituted widespread controls over all phases of planting, harvesting, and marketing. (Even ordinary travel in the countryside was rigidly policed.) Since the change of government, the most severe constraints have been dismantled, and the structural adjustment program aims to create free markets.

The other sector of the economy that resisted state control was the transit trade. Commerce has a long tradition in West Africa, and although the government forced out the French trading interests held over from the colonial period, it was never able to dominate the African private merchants.

Manufacturing and modern industrial processing, however, became very much the preserve of the state, although bad policies and ineffective management destroyed most of the enterprises set up during the Kerekou regime. All ran at levels far below capacity, and several never became operational at all. At present there are very few Beninese available who have the skills and experience needed to take over and operate such enterprises; although traditional merchants display acute business skills and manage trade risks with distinction, their attitudes and experience do not appear to transfer well into production management. For the present, Benin must rely upon foreign managers and investors until a generation trained in and accustomed to the running of production facilities can rise through the ranks.

4.3 Implications for American Investors

The reversal of the state's role in the economy leaves a large gap in industrial production and processing, and in management skills.

The distortions in the economy make it difficult simply to come in and begin filling the void. Many of the prerequisites for the smooth conduct of business have to be jury-rigged or done without while trying to get into production.

These problems notwithstanding, conditions for investors in Benin are better now than ever before. Whether looking to acquire the assets of one of the state enterprises chosen for privatization, or to set up operations from scratch, the potential investor will find many areas of the economy in which no one is currently operating--sometimes for good reason, but sometimes simply for lack of funds and know-how.

5. INVESTMENT CLIMATE

The government of Benin is struggling, with genuine effort and good will, to create an investment climate that will be attractive to foreigners and Beninese alike. Investment opportunities in manufacturing will tend to cluster around commodity-processing, while those in the services sector will tend to support commerce. Niche opportunities may appear in mining, fishing, tourism, and construction.

5.1 RECENT INVESTMENT PERFORMANCE

The massive liquidation of state-owned enterprises suggests a substantial disinvestment during 1990-1991, although the true destruction of value within these entities occurred (but may not have been recorded) years earlier. The establishment of several private banks with foreign shareholders and the sale of several state-owned firms to private investors are clear signs of the new trend toward greater investment; performance figures for these investments are not yet available, however.

5.2 EXPERIENCE OF PRIVATE INVESTORS TO DATE

Although Benin has come through an economic disaster, a number of investors hung on, and are now looking toward the rewards earned by their persistence.

The three American firms operating in Benin (Sheraton, Atlantic Petroleum Incorporation, and Société Béninoise de Sidérurgie, or SBS) acknowledge difficulties in doing business, but none is considering withdrawing from the country. Some are even looking to expand--the founder of SBS has been considering investment prospects in agroprocessing. The new private banks reportedly are doing well.

All acknowledge that making investments will be largely an ad hoc, case-by-case procedure for the near future because of the inexperience of the government in dealing with investors, and because of the newness of the investment code.

5.3 Investment Outlook

The government, aided by the donors, is moving to remove artificial barriers to investment, certainly a welcome change. But real barriers to investment remain:

Lack of trained manpower

In a country in which most workers are illiterate farmers, there is a shortage of managers, technicians, and skilled workers. During recent decades the quality of education declined, and graduates were absorbed into the civil service or state entities. Many who believe themselves qualified lack the skills and experience that modern firms need. Providing basic education to the population and reorienting secondary school and higher training toward productive skills will take some years. In the meantime, there exists a small pool of unemployed or underemployed managers, technicians, and skilled workers who obtained training or experience abroad.

High costs

The overvalued CFA franc, whose foreign-exchange rate Benin cannot control, increases local prices for labor and materials, pricing Beninese products out of many overseas markets. In addition, the distance to foreign markets adds a substantial transportation premium to the cost of export goods.

Nigerian competition

Given its size and resources, including capital investments made during the oil-boom years, Nigeria has a long head start over Benin, especially in the manufacture of consumer products. The sharp devaluation of the Nigerian naira, which cut the cost of those products in franc-zone countries, has given Nigeria a large market share in Benin. It will take major changes in franc-zone monetary policies to redress the competitive balance, although even in the absence of CFA franc devaluation a rise in oil prices and a subsequent recovery of the Nigerian economy would do much to stimulate appetites for the transit goods Benin once handled in large quantities.

5.4 INVESTMENT OPPORTUNITIES

Agriculture and agricultural processing

The list of firms in section 4.1 gives some indication of the range of activities already attempted. Similar possibilities may exist in livestock and ocean fishing.

Also, the existence of a small teak plantation suggests possibilities in forestry products.

Mining

Including oil exploration and production, as well as geological and geophysical services, since Benin's mining potential has never been explored systematically.

Tourism

Including small hotels, travel agencies, guided tours, perhaps franchised fast-food restaurants.

Construction and construction materials

SBS is a pioneering American investment in this sector.

Basic manufacturing and processing

The American Embassy at Cotonou cites glass-bottle manufacturing and sea-salt extraction as examples of the type of basic manufacturing and processing opportunities available in the economy.

Services

A turnkey regional hospital or similar facility is another interesting possibility--self-contained and self-sufficient, simple, and providing for a basic need in the country.

Business services

Including informatics, possibly general aviation.

5.5 IMPLICATIONS FOR AMERICAN INVESTORS

The investment climate, once abysmal, is now improving rapidly as a result of policy changes.

Opportunities will be constrained by the structure of the Beninese economy, in which the emphasis traditionally has been on agriculture and transit trade.

Where niche opportunities exist, Americans will be welcome to compete.

6. REGULATION OF FOREIGN INVESTMENT

Benin's new investment code seeks to provide standardized national treatment for all types of enterprises, whether local or foreign. The government offers various packages of investor incentives and in general offers an attractive regulatory environment for investment.

6.1 GOVERNMENT POLICY

Partly at the behest of the donors, but largely because of its disastrous experience with Marxism-Leninism, Benin has embraced free-market economics and private production as models for raising the country out of its current morass.

The government of Benin has adopted new codes of investment, commerce, and employment, and stands ready to adapt regulations and administrative procedures to accommodate investors.

Essentially, the investment code aims to level the playing field for all investors, pledging the same benefits and obligations to state-owned, mixed-ownership, and private enterprises. The investment code guarantees every firm, whether engaged in commerce, industry, agriculture, crafts, or services, the following rights:

> the free choice of suppliers, clients, and services;
>
> the free entry, residence, movement, and departure of foreign employees and their families;
>
> freedom of management;
>
> the free transfer of capital, including profits and regularly declared dividends, as well as funds resulting from divestiture or cessation of activities.

It further guarantees that the government of Benin will undertake no nationalization or expropriation except in case of public need, in which case compensation will be determined and paid in advance according to international law and custom.

Because the code is relatively new, investors have little experience on which to base just how well the letter of the code reflects actual practice. In general, however, investors are optimistic, and the government is making a serious effort to make the new code work.

6.2 Investment Priorities of the Government

Guided by the donors, the government has set investment priorities for itself as follows:

- open the economy to private investment and free markets;

- shift the emphasis of investment from industry to agriculture;

- restructure the public enterprises, which includes finding investors for the ones to be privatized, but also reorganizing and re-equipping the ones the government has decided to keep, and selling the assets of those to be shut down entirely.

- renew emphasis on human resources: basic education, health care, and support for disadvantaged groups in a changing economy;

- improve the return on investment in physical infrastructure through a better choice of priorities; planning, organization, and execution of projects; and the maintenance of completed structures.

6.3 Incentives for Investors

Benin offers three slates of tax and tariff exemptions in accordance with the size of the capital investment and the scope of production. Tax incentives under the investment code can also vary according to the size of capital, the number of local jobs created, the locale, and the activity. Different reporting obligations are levied on small/medium, large, and very large firms. The incentives remain in effect for five to nine years, depending upon the location of the activity; this measure is intended to promote investment in rural areas. Each new firm must apply for and receive the government's approval of its designation as a privileged investment.

6.4 Acquiring Real Estate

In principle, foreigners may now own land freely, but the ownership of real property is an area of contention because the new government has nullified expropriations carried out under the Kerekou regime. Former owners are coming forward to reclaim their property, in many cases from occupants who bought it legally from the government before the constitutional change. It may take some time for the courts to deal with the resulting disputes. As a result, investors seeking real estate should beware of becoming involved with disputed properties.

6.5 Establishing a Business

Benin still calls for the negotiation of a separate convention establishing a foreign investment. Requirements for creating an enterprise vary, depending upon the organizational structure (partnership, corporation, etc.) and type of economic activity (mining, manufacturing). There being no *guichet unique* or similar central office for processing requests to start a business, the applicant must make the rounds of government in order to learn what the requirements are. A local attorney, particularly one who makes business law a specialty, is thus almost essential.

6.6 Regulation of Competition

In the past, state entities received monopoly control over markets for their products; the informal sector systematically subverted such controls. Under the new government, monopolies are being dismantled, although a number still exist.

As an example, the state-owned hydrocarbon-fuels retailer, which has a nominal monopoly over sales of gasoline, diesel fuel, motor oil, kerosene, and similar products, faces direct competition from thousands of small operators who offer smuggled Nigerian gasoline in old whiskey bottles on the streets and at roadsides.

In general, however, investors should not have serious difficulty entering most sectors or business activities. General procedures for regulating competition are becoming more standard and familiar as enterprises and the government become more familiar with how market-driven systems operate.

6.7 Investment Protection

In theory, investment protections are embodied in the investment code and in the investment conventions establishing each new enterprise. In practice, government agencies, without meaning to do so, make decisions that undercut investors.

In a recent example, the protective tariffs that made one foreign investor's products competitive with imports were lowered without prior notice, apparently without any consideration of possible effects. Likewise, when the Japanese aid program offered a substantial grant in goods, Beninese officials requested a large quantity of these same products, a contravention of Benin's policy that no products already manufactured in Benin be included in such grants.

Such practices are likely to plague Benin for some type, due for the most part to inexperience. Investors should be cautious, therefore, and expect continuing changes in the investment environment.

6.8 Implications for American Investors

Despite all the efforts to make Benin an attractive investment venue, considerable distance remains before Benin catches up with African countries whose economic policy reforms have a head start on Benin's.

Officials express considerable interest in export-processing zones, *guichets uniques*, and similar concepts used to attract American investors, but at present American investors should certainly seek local advice (from attorneys and accounting firms) about how to meet all the legal, technical, employment, and fiscal requirements attendant on creating and operating a business in Benin.

Frustrations with the investment environment will remain for some time to come, but the government is likely to make every effort to assist investors with problems.

7. INFRASTRUCTURE

Benin's economic infrastructure is skewed toward transit trade and the ill-fated state enterprises, but efforts will be made to improve conditions in rural areas where the bulk of agricultural activity is located.

7.1 TRANSPORT

Port Facilities

Benin's main port, Cotonou, offers a 1,320-meter wharf that can handle six ships measuring 150 meters each, a 500-meter wharf for petroleum tankers, a container storage area of about 65,000 square meters, and a bonded customs area for goods in transit between Cotonou and Burkina Faso, Mali, and Niger. Port capacity is approximately 2 million metric tons a year.

Air Transport

The Cotonou airport accommodates large jet aircraft (runway length 2,400 meters), and there are smaller airports at four other cities. Air Benin, the national airline, was shut down in 1987, but Benin remains a participant in the Air Afrique international passenger-airline consortium; in addition to Air Afrique, half-a-dozen other airlines provide international service to Cotonou. General aviation appears to be largely undeveloped in Benin.

Railroads

The Organisation Commune Bénin-Niger Chemin de Fer et des Transports (OCBN) was created during the 1950s to manage the 440-kilometer railway between Cotonou and Parakou. The latter town is linked by road with the Republic of Niger (the rail line from Parakou to Niamey having been delayed for lack of funds) and with Burkina Faso. Jointly owned by the governments of Benin (63 percent) and Niger (37 percent), OCBN also operates rail lines westward from Cotonou to just beyond Ouidah, and northeast from Cotonou to just beyond Porto Novo; OCBN is also responsible for the truck transport of goods from Parakou to destinations in Niger, although private haulers are now permitted to compete for this business.

Roads

For a small African country, Benin has an extensive road network: 7,450 kilometers suitable for vehicles. Coastal roads and several roads in the interior, including the important stretch from Parakou to Malanville, Niger (700 kilometers), have all-weather paved surfaces.

7.2 Energy

Firewood provides most of the energy consumed in Benin. Gasoline is imported from Nigeria (much of it smuggled), and electricity is imported from Ghana or obtained from a hydroelectric station on the Mono River, which forms the border between Benin and Togo. A second Mono River hydroelectric project is planned.

7.3 Communications

The government-owned postal and telecommunications system now offers direct dialing and fax-machine capability via satellite to the United States, Europe, and several nearby countries. Service is generally expensive and still not entirely reliable.

7.4 Private Business Services

Professional services (legal and accounting) in support of business are available in Cotonou. There is a sizable pool of unemployed office workers, some of whom might require substantial training on the job. In Cotonou the Centre de Perfectionnement et d'Assistance en Gestion provides courses on business subjects, including finance, accounting, marketing, procurement, inventory control, and personnel management, among others; computer training is available as part of the program. There is also a Centre de Promotion pour l'Emploi et la Petite et Moyenne Entreprise (supported by the U.N. Development Program), which helps unemployed graduates find jobs in the private sector and counsels them on setting up small businesses of their own. This organization also provides business training.

7.5 Implications for American Investors

The infrastructure necessary for the conduct of business is available but limited.

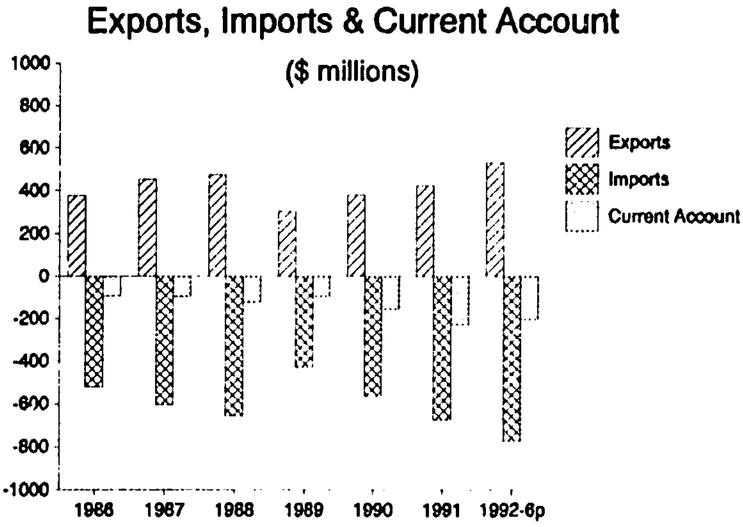
American investors should be prepared to make do without the latest high-technology business-information and communications systems common in industrialized countries.

Investors should also be prepared to provide roads, power, and water services if necessary.

8. FOREIGN TRADE AND BALANCE OF PAYMENTS

Benin consistently runs a current and trade account deficit, but published balance of payments information fails to provide a complete picture of Benin's international commerce because substantial shares of both imports and exports move through informal sector channels. Much of this trade involves goods that transit Benin on their way to neighboring countries, particularly Nigeria. Formal sector trade with countries outside the franc zone is subject to foreign exchange regulation imposed by the BCEAO.

8.1 Summary of Major Indicators



Note: exports and imports include goods and nonfactor services fob.

8.2 Recent Performance

As the data in Sections 2.1 and 8.1 indicate, 1989 was virtually a lost year for Benin's economy, as politics captured the nation's attention, but 1990 saw a sharp rebound as confidence in the country's economic future returned and business activity increased.

The scenario under structural adjustment for the coming four years shows continued growth, but at the cost of a continuing trade deficit, as Benin imports what it needs to rehabilitate the economy and stimulate production. Thus, the donors will have to help support growth by maintaining a steady flow of grants and loans.

8.3 Exports

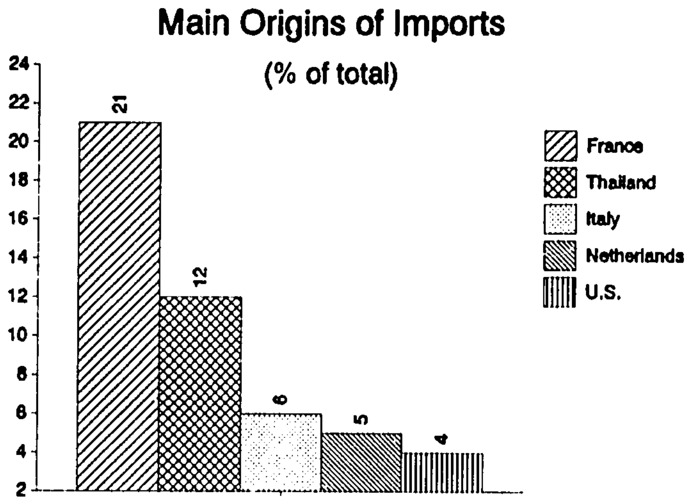
Benin's principal goods exports are crude oil and cotton, followed by vegetable oils and cocoa beans (Benin produces almost no cocoa, but neighboring Nigeria is a major exporter).

8.4 Imports

Benin's principal imports are manufactured goods, food, and refined petroleum products.

8.5 Direction of Trade

Benin's foreign trade is heavily oriented toward the European Community, where France regularly accounts for almost half of total EC exports to Benin. Japan normally accounts for less than 10 percent, while the United States often falls below five percent of Benin's total trade.



8.6 EXCHANGE RATE POLICY

The CFA (Communauté Financière Africaine) franc is the currency of countries that belong to the Union Monétaire des Etats de l'Ouest Africaine (UMOA): Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo. The UMOA is the organization through which the French government provides a stable monetary system to its former colonies in West Africa. The French treasury maintains a UMOA operations account in Paris, governed by a committee dominated by French officials. African member governments have only marginal influence on the value of the CFA franc or on the overall stability of the UMOA system. Membership in the UMOA means that each member country is technically obliged to repay its capital account obligations to the French treasury, but the French government continues to give de facto grants to poor members by repaying their accounts due.

The UMOA's usefulness lies in the free convertibility of the CFA franc at the rate of 50 CFA francs for 1 French franc. This parity rate has remained unchanged since 1948; it long ago evolved into one of the pillars of Franco-African cooperation, making any adjustment virtually unthinkable.

The institution through which UMOA operates in Africa is the Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO), which acts as a central bank for the seven UMOA members. The BCEAO regulates the money supply and sets bank rates separately for each member, taking into account the state of its economy and its balances with the French treasury. Member countries thus sacrifice sovereignty over their own money and banking in exchange for a stable exchange rate and a convertible currency. The CFA franc offers a significant advantage to the African francophone countries because it imposes some financial discipline, discipline not often apparent in non-francophone African countries.

An additional attraction of the system is that any amount of CFA banknotes may be converted into French francs upon their presentation in France; the transaction is not recorded. The French francs thus obtained may be converted into other foreign currencies in accordance with existing French regulations. In recent years, this has meant virtually free conversion of the CFA franc.

8.7 Currency Outlook

There are rumors that the CFA franc, which is overvalued by approximately 30 percent, will be allowed to float in relation to the European Currency Unit (ecu) in 1991, with some flexibility. When the French franc becomes part of the European Monetary Union (EMU), the CFA franc will, in essence, be linked to the German mark. It is more likely, however, that the French will continue to support the CFA franc for the near future, maintaining convertibility and subsidizing members' reserve accounts. Longer-term prospects, however, are uncertain.

Although the parity rate (50 CFA francs to 1 French franc) was for decades thought immutable, an impending change was widely rumored in France and francophone Africa during May 1990. According to the story, each

African member state was to have a different parity rate following the restructuring. The change failed to materialize, and French officials denied that any such move had been under consideration. Despite the disclaimer, though, the system's drain upon the French treasury has clearly become a matter of concern, as has the overvaluation of the currency in several African member countries. Some early and dramatic resolution of these issues is possible, but it appears more likely that Paris will await the monetary-policy alignments taking place in connection with the European economic union before acting. Thus, any major steps before 1993 are highly unlikely.

For the longer term, with the 50-to-1 parity rate between the CFA franc and the French franc now subject to rumors, CFA franc holdings have become somewhat chancier in terms of foreign-exchange risk, but convertibility risk has not increased.

A parallel market for the CFA franc, however weak, is emerging. Over the next two years there may be an issuance of new denominations to stem illicit streams of CFA francs out of the franc zone. Officials are thinking of putting metal strips on the new bills so that anyone trying to take them out of the country illicitly will be caught by metal detectors.

8.8 Trade and Payments System

Transactions within the franc zone are not controlled, but all transactions involving foreign exchange, i.e., outside the franc zone, must be carried out through a commercial bank, which then applies for foreign exchange from the local branch of the BCEAO.

8.9 Licensing Requirements

There are now no license requirements for exports, nor are there any for imports originating within the franc zone, the European Community, and the Africa/Caribbean/Pacific developing countries. Import licenses for other areas of the world, including the United States, are to be phased out by the end of 1991.

8.10 INVISIBLES

Transfers of invisibles within the franc zone are uncontrolled. Those outside the franc zone are required to go through the Ministry of Finance, but in some cases approval authority has been delegated to authorized banks. Transfers of income accruing to non-residents in the form of profits, dividends, and royalties are subject to prior authorization. The transfer of up to one-half of the net salary of expatriates is permitted, subject to authorization by the Ministry of Finance upon the presentation (within three months of the pay period) of the appropriate pay voucher. Payments of invisibles to South Africa are prohibited.

8.11 CAPITAL TRANSACTIONS

Capital movements within the franc zone are free of exchange control; most others require prior approval by the minister of finance, although capital receipts from outside the franc zone are also permitted freely. Special controls are in effect over borrowing abroad, over inward and outward direct foreign investment or sale of shares and securities. The minister of finance must be informed in advance of any foreign direct investments into Benin, including those made by companies, branches, or subsidiaries in Benin that are directly or indirectly under foreign control. The liquidation of investments requires a similar declaration. Capital transactions with South Africa are prohibited.

8.12 REGIONAL AND INTERNATIONAL AFFILIATIONS

As a member of the franc zone and a signatory to the Lomé Convention, Benin may see its relations with France and the European Community considerably affected by the creation of a common European financial system in 1992. In any case, Benin has preferential access to EC markets for qualifying goods (see appendix).

The Economic Community of West African States (ECOWAS), although falling far short of the expectations attendant upon its creation in 1975, nevertheless provides a framework for regional economic integration should the member states ever decide to pursue it. Achievements in the areas of travel, economic consultation, and recently (in attempting to enforce a cease-fire among factions in Liberia) politics offer some hope that ECOWAS can be revived and allowed to negotiate reductions in tariff and other barriers to economic cooperation in the region.

8.13 Implications for American Investors

Benin's proximity to Nigeria and its preferential access to the EC may provide opportunities to an American investor with the right mix of markets and products.

Whatever the future of the franc zone, and despite the difficulties resulting from the overvaluation of the CFA franc, the free convertibility and transferability of capital and profits from Benin offer attractive advantages.

9. EXTERNAL DEBT AND AID

Benin is heavily burdened by both domestic and foreign debt. With technical and financial help from the donors, it is making considerable progress on the former, while benefiting from rescheduling and forgiveness of foreign debt, or at least that portion owed to official creditors.

9.1 External Debt

At the end of 1989, external debt totaled $1.177 billion, of which $1.046 billion was long-term and $131 million short-term (of which $10 million was owed to the IMF). Of the $1.046 billion in long-term debt, $761 million was owed to official creditors, over half to multilateral lenders, principally World Bank agencies. Debt due to donors, whether multilateral or bilateral, was mostly at concessionary rates.

Benin has lately benefited considerably from debt forgiveness by bilateral donors (notably France and the United States), such that the U.S. Embassy in Cotonou estimates that total foreign debt fell in 1990 to about $824 million.

Following the establishment of a three-year, SDR 21.9 million (about $25 million) IMF structural adjustment facility in 1989, the Paris Club of Western creditor governments agreed in 1990 to an extensive rescheduling of Benin's obligations.

9.2 Foreign Aid

Benin's most munificent benefactor is France. During the period 1986-1990, for example, the French Caisse Centrale de Coopération Economique alone provided 766.6 million French francs (about $125 million), much of it during the latter three years. Responding to Benin's political transformation, the

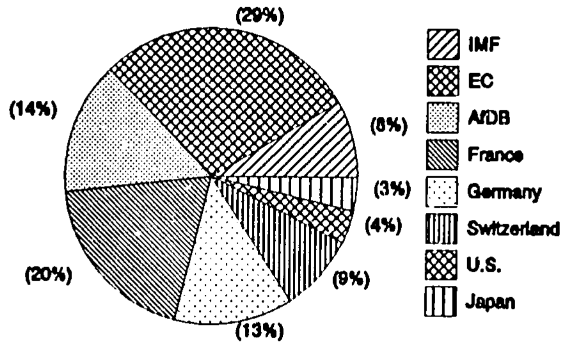
United States pledged $57 million for basic education, to be disbursed over the coming four to five years.

9.3 Multilateral Adjustment Programs

Phase two of the structural adjustment program, which runs from 1991 to 1993, totaling some $253.2 million, was designed by the World Bank, which is providing $88.7 million of the funding. Other participant/contributors include:

Funding for Phase Two

($ millions)



Cofinancing for some $60 million has yet to be arranged. The World Bank and UNDP are expected to arrange a donors' round table before the end of 1991 to mobilize funding for Benin's medium-term investment program.

9.4 Implications for American Investors

Benin's foreign debt situation, now under managerial direction from the World Bank and the IMF, precludes much foreign borrowing for the foreseeable future.

Significant debt forgiveness and high levels of aid, coupled with the comparative strength of the CFA franc system, mean that Benin's external indebtedness is unlikely to affect availability of hard currency for repatriation or remittance.

The key implications of both debt and foreign aid are that the donors are in Benin for the long term, and their prescriptions are laying the foundations for a free-market economy in which foreign investors will have an equal opportunity to seek out opportunities and compete for profits.

10. LABOR

Lack of trained labor is a major problem in Benin. Most Beninese lack formal schooling and are largely illiterate. Few have technical or business training. Investors will have to count on providing comprehensive training, and most workers are eager to learn.

10.1 PROFILE OF LABOR RESOURCES

According to figures from the government of Benin, as of 1991 the economically active population between the ages of fifteen and sixty-four was almost 2.5 million. Between 60 percent and 70 percent engage in agriculture, herding, or fishing; probably fewer than six percent work in industry, while the balance work in the services sector, including the civil service. There were about 130,000 salaried office jobs in 1991.

10.2 UNDER- AND UNEMPLOYMENT

Benin suffers from several of Africa's endemic labor crises:

> a continuing decrease in the number of jobs available (aggravated by the closure of many state-owned enterprises)
>
> a rapidly increasing population and (as a result) a growing body of job seekers; and
>
> a continuing influx of rural workers into urban areas, where they find limited employment opportunities (at least in the formal sector) and overwhelm the government's ability to provide social services.

In addition, the government's inability to hire all graduates, and its retrenchment efforts in the ministries and state-owned firms, have created a pool of under- or unemployed people who have educational credentials and office experience, but whose lack of skills, experience, and attitudes appropriate for private business may make retraining a necessary part of their transition. Structural adjustment projects to help such workers are already under way.

10.3 Incomes Policy

The government no longer attempts to use the civil service and state-owned firms as mechanisms to provide employment to secondary-school and college graduates. It remains very much concerned about employment levels, however.

New firms negotiate an employment agreement, specifying the number and nationality of employees, training and advancement programs, and so on, as part of the convention setting up the enterprise. Although ministers recognize the need to allow management flexibility concerning employment levels within the firm, personnel cuts and layoffs remain among the most sensitive political issues any private investor must face in dealing with the official bureaucracy. Even after several years of economic liberalization, Beninese officials are loath to accept staff reductions as a necessary part of doing business in a free-market economy.

10.4 Labor Unions

Although Benin has a history of labor-union activity dating back more than fifty years, and although unions were at the forefront of political movements before independence, for most of the past generation the unions were completely dominated by the government, operating as a subordinate arm of the sole political party. In August 1989, however, the national union of teachers in higher education withdrew from the national syndicate, which itself declared independence from President Kerekou's political party just two months later. The union movement then withdrew from the Marxist-dominated World Federation of Trade Unions.

Today the movement has splintered, but many unions belong to the Centrale des Syndicats Autonomes, whose secretary general acknowledges that workers have come out of the Marxist-Leninist experience with insufficient or inappropriate skills, as well as an indifference to discipline on the job. In the future, he avers, organized labor will consider the national welfare and the importance of promoting and preserving productivity gains as important aspects of the workers' interests.

10.5 Employment of Expatriates

There are no legal limitations on the employment of expatriates; rather, management positions are defined in the convention establishing the company, and investors agree to provide training and advancement programs to qualifying Beninese employees.

10.6 Expatriate Living Conditions

Housing suitable for expatriate managers is available in Cotonou, but at rather high rents. Foreigners, including foreign firms, are now allowed to buy real property in Benin (but see Section 6.5). The manager of an American firm manufacturing in Nigeria recently decided to move his family from Lagos to Cotonou out of preference for the amenities available in Benin.

There is an international school in Cotonou that offers classes in English, but American residents recommend schools supported by the French aid mission as providing superior curriculum, teachers, and facilities through secondary school.

Inasmuch as Benin lacks Western cultural attractions, other than occasional visiting artists appearing at the American, French, or other foreign cultural centers, expatriates must provide their own. On the other hand, Cotonou offers a variety of local cultural events, works of art, markets, and restaurants. Nearby, Abomey and Ouidah are both places of considerable historical interest, and there are game preserves and bird sanctuaries (one with hotel facilities) in central and northern Benin.

10.7 Implications for American Investors

Although the majority of Benin's workers engage in subsistence agriculture, there is a pool of urban workers with educational credentials and office experience.

Given the country's long experience under a Marxist-Leninist government, managerial, technical, and administrative skills readily adaptable to private production are in short supply. Intelligent and willing Beninese may, therefore, need considerable retraining in order to become effective members of an entrepreneurial team.

Investors will not, in practice, have complete freedom in employment decisions because of the government's concern about maximizing employment. Such matters are negotiable, however.

The labor-union movement, although much concerned about the social costs of structural adjustment, is unlikely to provide organized resistance to the introduction of foreign methods and standards in the workplace. Finding and keeping a job has become much more important to the average union member than pressing demands upon employers.

11. FINANCIAL SECTOR

The financial sector, especially banking, was among the most severely damaged under the previous economic regime. As a result, the government is receiving intense structural adjustment assistance from donors to rebuild the sector. New institutions are being created and new sources of financing provided, though the sector will remain very basic over the medium term.

11.1 Overview of Financial Sector

During the Kerekou years, all financial institutions in Benin were nationalized. Today, the country's financial sector is struggling to recover from a complete collapse, triggered by the failure of all the state-owned banking institutions during 1988 and 1989. The collapse engendered a severe liquidity crisis, sharply curtailing economic activity and hobbling the government's efforts to meet its obligations.

The monetary system survived because Benin is a member of UMOA. With the aid of the IMF, the World Bank, the European Community, France, the United States, and the BCEAO, Benin's financial system is gradually being put back together again as part of the structural adjustment program.

11.2 Banks

The end of 1987 saw the banking system in a virtual state of collapse, and in the following months the Caisse Nationale de Crédit Agricole (CNCA), the Banque Commerciale du Bénin (BCB), and the Banque Béninoise de Développement (BBD) were closed, victims of mismanagement. As part of a four-year, donor-assisted effort to restructure the entire banking sector (with foreign aid on the order of 5 billion CFA francs a year), the government of Benin liquidated the CNCA and was in the process of liquidating the BCB and BBD banks during 1991. An office to pursue the recovery of their outstanding assets has been set up, with the goal of paying back the deposits of small savers, social and humanitarian organizations, investment projects, domestic financial institutions, state-owned enterprises (for employee-severance-pay purposes), small and medium-sized firms, and embassies.

Beginning late in 1989, the government also sought, with considerable success, to promote the establishment of private banks. By the end of December 1990 there were 43 billion CFA francs on deposit at the four in operation:

> Bank of Africa-Benin, controlled by the Luxembourg-based African Financial Holdings, which also controls Bank of Africa-Mali. Like the latter bank, Bank of Africa-Benin has many (more than 400) local private shareholders.
>
> Banque Internationale du Bénin, owned by Beninese and Nigerian private investors.
>
> Ecobank Togo, a subsidiary of Ecobank Transnational, Inc. (an investment-bank holding company created by agreement among the ECOWAS heads of state in 1988).
>
> Financial Bank, a small Swiss money-transfer office (opened in 1987 as Rasmal Finance); it was transformed in 1989 into a commercial bank.

These banks have correspondent relationships with U.S. banks.

In 1991 the Banque Nationale de Paris and the government of Benin terminated negotiations without reaching an agreement under which the bank would have established operations in Cotonou. The government is still looking for a major international bank to become the centerpiece of Benin's restructured banking system.

One desirable characteristic of a banking system properly oriented toward private economic initiatives is an effective legal framework for loan collections. In Benin, where respect for financial contracts has been severely eroded, judicial reforms providing security for banking activities (guarantees, collateral, records of land titles, qualified magistrates) have not yet been put into place. The banking-sector structural adjustment program calls for them to be established, however.

11.3 Non-Bank Financial Institutions

The state-owned CNCA has been reorganized into a network of rural savings and loan institutions catering to the owners of family farms; there are plans to restore savings and equity to former credit-union members. The only other nonbank financial institutions are affiliated with the post office: postal check services and a national savings bank, both due for reorganization as part of the banking-sector structural adjustment program.

11.4 Institutional Investors

Information concerning the portfolio-management policies of institutional investors is unavailable. Since they are state agencies (social-security system, pension fund) or state-owned firms (insurance), it is likely that most of their assets are invested in government bonds. The state-owned insurance company is for sale.

11.5 Capital Markets

Formal capital markets do not exist in Benin. The purchase and sale of business interests is arranged privately. No doubt the new private banks will investigate prospects for brokering such transactions in the future.

11.6 Monetary Policy

A newly established UMOA banking-control commission has taken over the licensing and supervision of banks, a function formerly reserved to member governments. The BCEAO, UMOA's operating arm, maintains separate monetary policies for each member country. In Benin, as in other UMOA countries undergoing structural adjustment, the IMF and the World Bank work closely with the local BCEAO to administer monetary policy and monitor monetary growth.

Credit policy is negotiated between the member government and the BCEAO to set ceilings on access to central-bank refinancing. Ceiling targets take account of the government's budget deficit, farmers' financing requirements for the next cash-crop season, and the needs of private and state-owned businesses.

As part of UMOA reforms, preferential credit allocations and preferential interest rates have been eliminated, leaving banks to lend on the basis of the market rather than by administrative regulation. The interest rates set by BCEAO for 1991 are a minimum of seven percent paid on savings deposits and a maximum of 15 percent that banks can charge for loans; the BCEAO charges the private banks 11 percent.

11.7 Implications for American Investors

The cleanup of the financial sector, an essential prerequisite to establishing institutions responsive to private-sector needs, is still in progress.

At present credit is very tight, and the government may continue to intervene in credit markets.

U.S. investors who want to become active in Benin without delay may find the private banks more responsive to them than to Beninese borrowers, but they should also be prepared to seek financing abroad if necessary.

12. INFLATION AND PRICE CONTROLS

Because of the strength of the franc zone economic institutions, inflation is not a problem in Benin. Under the structural adjustment programs, the government is progressively phasing out price controls.

12.1 Inflation and Anti-Inflation Policies

Since monetary policy is governed by UMOA and administered by the BCEAO, opportunities to monetize debt and otherwise inflate the currency are minimal. Recent performance on inflation--consumer price increases of three percent for 1990, 2.9 percent estimated for 1991, and 2.5 percent projected for 1992 through 1994--testifies to the care with which monetary growth is managed.

12.2 Price Controls

As of June 1991, four categories of commodities (down from twenty-two) remained subject to price or profit margin controls. The structural adjustment program aims at eliminating all price controls.

12.3 Implications for American Investors

Inflation is not a problem in Benin, and monetary policy is effectively managed.

The overvalued CFA franc makes production costs, including labor, articificially high for dollar-based operations.

Membership in UMOA does provide advantages, however, in the form of convertibility and transferability of funds.

13. PUBLIC FINANCE

One of the most difficult restructuring efforts underway in Benin is the reconstitution of its government. The country cannot support its administrative sector on present revenues, and donors are guiding a process that will reduce the public payroll and streamline the government's functions.

13.1 Overview of the Fiscal Situation

Benin's public finances are heavily dependent upon foreign aid, which during 1989 and 1990 probably accounted for more than 50 percent of total funds available. Much of the aid is in the form of grants, although about one-third is in the form of long-term loans at concessionary interest rates. Of its own resources, the government obtains about half from customs receipts on imports. A significant portion of foreign trade, however, involves the transit of goods handled by the informal sector, which usually escapes taxation.

In 1989 and 1990 tax revenues were unusually low because of the disruption of collection efforts by political events. Although revenues were expected to increase dramatically during 1991, expenditures were projected to rise sharply also as the government and the donors try to jump-start the economy.

The World Bank, the IMF, and other donors are providing technical assistance to improve tax collection by cutting some taxes on businesses (to encourage greater compliance), clarifying regulations, retraining revenue agents, introducing a value-added tax on formal-sector industrial production, and attempting to extend tax collection in the informal sector. Although collections in 1990 were less than it had hoped for, the government was able to keep salary payments on schedule, an achievement of considerable political value, and repay 7.5 billion CFA francs in arrears from 1989.

13.2 PUBLIC EXPENDITURES

The government budgeted 66.1 billion CFA francs for 1990, and spent 62.9 billion CFA francs, creating a deficit of over 25 billion CFA francs. For 1991 the government estimated expenses at 131.9 billion CFA francs, of which 81 billion CFA francs was earmarked for current operations and 29.3 billion CFA francs for investment (the balance being for special accounts such as the highway fund and pension programs). The 1991 deficit was estimated at 70.5 billion CFA francs; given certain donor programs already receiving annual funding, the shortfall to be financed was calculated at 49.5 billion CFA francs.

13.3 GOVERNMENT REVENUES

Receipts for 1990 reached approximately 37.6 billion CFA francs, compared with 34.2 billion CFA francs in 1989, an increase of almost 10 percent; the government's goal, however, had been 39 billion CFA francs. Foreign contributions of 12.5 billion CFA francs, plus one-time income of 3.4 billion CFA francs from the sale of state-owned firms, helped to bridge the financing gap. For 1991, the government estimated revenues at 61.4 billion CFA francs (due in large part to a resurgence in economic activity and to more effective collection efforts).

13.4 IMPLICATIONS FOR AMERICAN INVESTORS

Fiscal management should continue to improve, making more money available for infrastructure upgrading and other needed capital expenditures.

Efforts to get the budget into balance by reducing the government's role in the economy are likely to benefit all investors once the recessionary effects of reducing the number of state-owned enterprises and shrinking the civil service have worked their way through the economy.

14. TAXATION

Tax policy in Benin is extremely complex and uneven in implementation. Investors will have to seek assistance from local experts in planning the tax implications of particular business activities.

14.1 OVERVIEW OF TAXATION POLICY

Benin's tax code is extremely complex, both on paper and in practice. Efforts to elucidate its components can be frustrating: both local lawyers and U.S. Embassy officials stressed that interested investors should talk with expert local attorneys or consultants to study the implications of the tax code for a particular business activity.

Much of Benin's tax code and its administration is based upon the laws of the third and fourth French republics, modified a bit by the Marxist-Leninist regime. The government of Benin, encouraged by the donors, is working to simplify and clarify what has been in effect heretofore.

15. INTELLECTUAL PROPERTY PROTECTION

Investors have not had any significant experience in Benin with intellectual property protection issues. Benin is a member of the World Intellectual Property Organization, a specialized agency of the United Nations.

15.1 PATENTS, TRADEMARKS, COPYRIGHTS AND REDRESS

Benin has not yet reached the stage of economic development where issues of intellectual property protection are particularly relevant. Benin has laws on the books protecting intellectual property; the country is a member of the World Intellectual Property Organization, which presupposes a number of standard provisions for protecting intellectual property.

The fact of the matter is that there has not yet been enough investor experience with intellectual property in Benin to give any clear picture of how well it is protected there. Most investors to date have put only basic--and even obsolete--capital equipment into the country. In addition, information hardware and software are still nascent, with only a few technicians around even capable of copying or pirating higher technologies.

Redress for intellectual property cases would have to be handled on an ad hoc basis through the government, which has little or no experience with such matters so far.

15.2 IMPLICATIONS FOR AMERICAN INVESTORS

Investors should not expect significant protection or redress for intellectual property in Benin until more investors' experience indicates how well local enforcement may work.

FORMAL VS. INFORMAL SECTORS OF AFRICAN ECONOMIES

The economies of sub-Saharan African (and other developing) countries are typically segmented into formal and informal sectors. In the African context, these are not simply synonymous with legal and illegal markets, although the formal sector usually complies with laws and regulations more diligently than does the informal.

The formal sector is "modern" in the sense that its organization is bureaucratic rather than patriarchal, whereas the informal sector follows "traditional" organizational patterns and relies on "traditional" relationships of authority and status.

But the crux of the difference is that the formal sector is *literate* rather than *illiterate*--i.e., the formal sector keeps written records, especially written accounts that can be examined by tax officials and auditors, whereas informal sector economic operators keep records in their heads.

The result is that the formal sector either endures or pays bribes to avoid the taxes and regulatory burdens that the informal operator can escape simply by disappearing into a crowded market street or into the bush. This gives the informal sector a cost advantage over the formal, which means that its economic surpluses, reinvestments, and growth are often much larger than those of the formal sector, despite the latter's purported advantages of communications, technology, and scale of operations.

Structural adjustment programs of the World Bank and the IMF always target governments' budget deficits by cutting spending but also by improving revenue collection, including by trying to tax the informal sector. Although the goal is more equitable sharing of the cost of government, the effect is sometimes to put fiscal reform in contradiction with economic growth.

LOME CONVENTION PREFERENTIAL TRADE ARRANGEMENTS

The Lomé Convention is a cooperation agreement between the European Community (EC) and the African, Caribbean and Pacific Group of States (ACP). The former has twelve member states and the latter comprise of sixty-six. This convention was concluded in order to promote and expedite the economic, cultural and social development of the ACP States through trade, financial and technical assistance.

Under this convention, the chapter on Trade Cooperation has as its object to promote trade between the ACP States and the Community by improving the conditions of access for their products to the community market.

The pertinent clause reads:

2. *Products originating in the ACP States shall be imported into the community free of Customs duties and charges having equivalent effect.*

   The following products shall be considered as products originating in an ACP State.

   (a) products wholly obtained in one or more ACP State.

   (b) products obtained in one or more ACP States in the manufacture of which products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing.

Sufficient working or processing means that the goods obtained receive a classification under a different tariff heading from that covering each of the products worked or processed. The incorporation of non-originating materials and parts in a given product obtained shall only make such products lose their originating status if the value of the said materials and parts incorporated exceeds 5 percent of the value of the finished product.

When products wholly obtained in the EC or in their overseas territories or ACP States undergo working or processing in one or more ACP States, they shall be considered as having been wholly produced in that or those ACP States, provided that the products have been transported directly.

Eligible products shall be accompanied by evidence of originating status, the movement certificate EURI.

However, products which fall under a common organization of the treaty establishing the European Community or are subject on import into the Community, to specific rules introduced as a result of the implementation of the Common Agricultural Policy (CAP) may be excluded or subject to quantitative restrictions or the safeguard clause.

The following products shall be considered as wholly obtained either in one or more ACP States or in the Community.

(a) mineral products extracted from their soil or from their seabed;

(b) vegetable products harvested therein;

(c) live animals born and raised therein;

(d) products from live animals raised therein;

(e) products obtained by hunting or fishing conducted therein;

(f) products of sea fishing and other products taken from the sea by their vessels;

(g) products made abroad their factory ship exclusively from products referred to in subparagraph (f);

(h) used articles collected there fit only for the recovery of raw materials;

(i) waste and scrap resulting from manufacturing operations conducted therein;

(j) goods produced there exclusively from the products specified in subparagraphs (a) to (i).

For the purpose of para.2(b) the following shall always be considered as insufficient working or processing, whether or not there is a change of tariff heading:

(a) operations to ensure the preservation of merchandise in good condition during transport and storage;

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching, washing, painting, cutting-up;

(c) (i) changes of packaging and breaking up and assembly of consignments;

(ii) simple placing of bottles, flasks, bags, cases, boxes, fixing on cards or boards.

(d) affixing marks, labels and other like distinguishing signs on products or their packaging.

(e) (i) simple mixing of products of the same kind where one or more components of the mixture do not meet the conditions as originating product.

(ii) simple mixing of products of different kinds unless one or more components of the mixture do not meet the conditions as originating product.

(f) simple assembly of parts of articles to constitute a complete article;

(g) a combination of tow or more operations specified in subparagraph (a) to (f)

(h) slaughter of animals.

In defining the concept of originating products, Protocol I of the Lomé III Convention gives a list of working or processing operations carried out on non-originating materials which result in a change of tariff heading without conferring the status of "originating products" on the products resulting from such operations.

The Lomé Convention has a provision for financial assistance in trade promotion so that exporters from any ACP country may participate in trade fairs and exhibitions.