OFFICIAL DOCUMENTS

GRANT NUMBER D334

Financing Agreement

(Additional Financing for Improved Investment Climate within the Organization for the Harmonization of Business Laws in Africa "OHADA" Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

ORGANIZATION FOR THE HARMONIZATION OF BUSINESS LAWS IN AFRICA

(Organisation pour l'Harmonisation du Droit des Affaires en Afrique)
AGREEMENT dated as of the Signature Date between the INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") and the ORGANIZATION FOR THE HARMONIZATION OF BUSINESS LAWS IN AFRICA (Organization pour l'Harmonisation du Droit des Affaires en Afrique or "OHADA") ("Recipient") for the purpose of providing additional financing for activities related to the Original Project (as defined in the Appendix to this Agreement).

The Association and the Recipient hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to this Agreement) apply to and form part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

2.01. The Association agrees to extend to the Recipient a grant, which is deemed as Concessional Financing for purposes of the General Conditions, as set forth or referred to in this Agreement, in an amount equivalent to ten million five hundred thousand Special Drawing Rights (SDR 10,500,000) ("Grant"), to assist in financing the project described in Schedule 1 to this Agreement ("Project").

2.02. The Recipient may withdraw the proceeds of the Grant in accordance with Section III of Schedule 2 to this Agreement.

2.03. The Maximum Commitment Charge Rate is one-half of one percent (1/2 of 1%) per annum on the Unwithdrawn Grant Balance.

2.04. The Payment Dates are January 15 and July 15 in each year.

2.05. The Payment Currency is Euro.

ARTICLE III — PROJECT

3.01. The Recipient declares its commitment to the objective of the Project. To this end, the Recipient shall carry out the Project in accordance with the provisions of Article V of the General Conditions and Schedule 2 to this Agreement.
ARTICLE IV — REMEDIES OF THE ASSOCIATION

4.01. The Additional Events of Suspension consist of the following:

(a) Any of the OHADA Treaty and the Headquarters Agreement has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Recipient to perform any of its obligations under this Agreement.

(b) A Member Country has: (i) taken or permitted to be taken any action which would prevent or interfere with the execution of the Project or the performance by the Recipient of its obligations under this Agreement; or (ii) failed to afford a reasonable opportunity for representatives of the Association to visit any part of its territory for purposes related to the Project.

ARTICLE V — EFFECTIVENESS

5.01. The Additional Condition of Effectiveness consists of the following, namely that the Recipient has updated the Project Operations Manual to reflect the new activities and the new procurement requirements under the Procurement Regulations in a manner satisfactory to the Association.

5.02. The Effectiveness Deadline is the date ninety (90) days after the Signature Date.

5.03. For purposes of Section 9.05(b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty years after the Signature Date.
ARTICLE VI — REPRESENTATIVE; ADDRESSES

6.01. The Recipient's Representative is the Permanent Secretary of the Recipient's Permanent Secretariat.

6.02. For purposes of Section 10.01 of the General Conditions:

(a) The Association's Address is:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America; and

(b) the Association's Electronic Address is:

Telex: Facsimile:
248423 (MCI) 1-202-477-6391

6.03. For purposes of Section 10.01 of the General Conditions:

(a) the Recipient's address is:

Secretariat Permanent de l'OHADA
Avenue Charles de Gaulle,
Quartier Hippodrome, face MINREX
B.P 10071, Yaoundé
Republic of Cameroon

Telephone: (237) 22210905/22212612
Facsimile: (237)-22216745; and

(b) the Recipient's Electronic Address is:

E-mail:

secretariat@ohada.org
AGREED as of the Signature Date.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By:

[Signature]

Authorized Representative

Name: Elizabeth Haybren

Title: Country Director

Date: July 13, 2018

ORGANIZATION FOR THE HARMONIZATION OF BUSINESS LAWS IN AFRICA (Organisation pour l'Harmonisation du Droit des Affaires en Afrique)

By:

[Signature]

Authorized Representative

Name: Dorothee C. Sossou

Title: SPI/01HAA

Date: July 13, 2018
SCHEDULE I

Project Description

The objective of the Project is to strengthen OHADA's institutional capacity and sustainability to support, in its member countries, selected aspects of investment climate reforms.

The Project consists of the following parts:

Part 1: Building institutional capacity and sustainability of OHADA and Project Implementation

(a) Strengthening OHADA's programs through:

(i) provision of technical advisory services for: (A) preparation and validation of selected priority Uniform Acts including on electronic transactions, Leasing and Factoring; (B) preparation of a draft Act on resolution of conflicting laws and circulation of public acts to ensure that any decisions taken in a Member Country on the basis of the OHADA Uniform Acts automatically become part of the Member Countries' national judicial administrative rulings and is enforced throughout the OHADA zone; and (C) preparing revision to the Uniform Act on organizing simplified loan recovery procedures.

(ii) dissemination of Uniform Acts and judicial decisions in the Member Countries.

(iii) implementing activities to strengthen OHADA to carry out its core mandate including: (A) developing an accounting system for associations and nonprofit organizations; (B) revising the National Accounting Council of OHADA regulations; (C) validation of the Credit Registry (Registres de Commerce et de Crédit Mobilier; RCCM) forms and activities for its software deployment; (D) carrying out studies on the establishment of an office of the public prosecutor for the CCJA; (E) providing training to key OHADA personnel in their respective areas of professional specialization; and (F) reforming the structures and building the capacity of the OHADA National Commissions through provision of technical assistance and equipment.

(b) Carry out activities for promoting OHADA's financial sustainability to generate revenues on a regular basis and collect Member Countries' dues, including: (i) developing a business plan for ERSUMA, the regional school for judicial officers; (ii) preparing and implementing a communication strategy to raise the profile of ERSUMA, the Common Court of Justice and Arbitration (CCJA) and
OHADA, with a view to attracting more business and strengthening support among member states; (iii) conducting a feasibility study for the establishment of new headquarters; (iv) translating all new acts into Spanish, Portuguese and English; and (v) preparing a strategic plan to review the objectives and cost structure of OHADA in light of available sources of revenue.

(c) Strengthening OHADA Permanent Secretariat and project implementation through: (i) provision of technical advisory services to revise OHADA internal financial management manual and update its integrated information system, (ii) financing of fiduciary costs associated with the project, and (iii) strengthening OHADA’s monitoring and evaluation capacity.

Part 2: Capacity building for the Common Court of Justice and Arbitration (CCJA) and Regional Superior School for Magistrates (ERSUMA)

(a) Strengthening the institutional capacity of the Common Court of Justice and Arbitration (CCJA) by: (i) deploying RCCM software in member states; (ii) connecting the RCCM software to central OHADA systems; (iii) provision of immersive trainings of new CCJA judges at the International Chamber of Commerce Paris; (iv) implementation of registry management and arbitrage center software; (v) development of a case management system; (vi) implementation of an integrated archives system and providing equipment for the CCJA documentation center; and (vii) upgrading of CCJA technical rooms.

(b) Strengthening the institutional capacity of the Regional Superior School for Magistrates (ERSUMA) as a leading institution of training through: (i) provision of training and recruitment of the necessary specialized technical experts to provide specialized training such as on arbitration; (ii) supporting its research capacity in business law by supporting its program on emerging topics and installing new IT infrastructure; (iii) developing an annual directory of business law professionals as well as a guide to OHADA law; and (iv) carrying out a feasibility study to examine the potential for a professional master’s program in business law.

Part 3: Improving Corporate Financial Reporting

(a) Improving the quality of financial reporting of companies in OHADA member countries by: (i) disseminating and implementing the revised OHADA accounting standards; (ii) training of trainers on financial reporting; (iii) establishing a resources center with information on the corporate financial reporting tools developed by the project; and (iv) creation and the operationalization of national accounting councils (Conseil National de la Comptabilité) in countries where they do not exist.
(b) Strengthening the capacity of professional accounting organizations by: (i) disseminating legislation on the auditing standards and the code of ethics through a combination of face to face trainings, social media and the internet to the same audience; (ii) implementing the quality assurance system; (iii) promoting and supporting the establishment of professional accountancy organizations in the countries where they currently do not exist, and (iv) evaluating compliance of the professional accounting organizations with the requirements of the International Federation of Accountants.

(c) Establishing a chartered accounting diploma program in the OHADA area/zone through provision of technical advisory services to: (i) organize validation sessions on the study on the creation and development of a chartered accounting diploma in the OHADA zone; (ii) define a business model that would ensure sustainability of the diploma; and (iii) develop mandatory continuing professional development requirements in line with international education standards.
SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

Project Coordinating Entity

1. The Recipient shall:

(a) vest main responsibility for Project implementation, management, coordination and supervision in the Permanent Secretariat under the leadership of its permanent secretary ("Permanent Secretary") who shall act as Project coordinator, said Permanent Secretariat to be staffed at all times during Project implementation with personnel adequate in numbers and having functions, experience and resources satisfactory to the Association, including an additional procurement specialist and financial management specialist for the Project and an accounting specialist, said staff to be responsible for the Project's administration, implementation, and coordination and related fiduciary matters covering, inter alia, the overall procurement, financial management, audit, monitoring and evaluation and reporting aspects thereof, all as further described in the Project Operations Manual ("POM");

(b) ensure an active and efficient collaboration and coordination, for purposes of Project implementation, among the Permanent Secretariat, CCJA, ERSUMA and selected other OHADA structures agencies and entities, listed in the POM; and

(c) maintain the Permanent Secretariat assigned under the direct administrative authority of the council of ministers of finance and justice of OHADA to which its Permanent Secretary will report periodically during said council's regularly scheduled bi-annual meetings, as specified further in the POM.

Project Steering Committee

(d) Entrust responsibility for general policy guidance and for defining the Project's strategic orientations in the council of ministers of finance and justice of OHADA, the deliberating body of OHADA under the OHADA Treaty, which shall act as the Project steering committee ("Project Steering Committee"), which shall be responsible for deciding outstanding issues and constraints.
C. Project Operations Manual

1. (a) The Recipient shall update the Project Operations Manual (POM) as set forth in Section 5.01 of the Agreement and thereafter maintain throughout implementation of the Project, the POM in form and substance to the Association including setting forth, respectively, rules, methods, guidelines, specific development plans, standard documents and procedures for the carrying out of the Project, including the following:

   (i)  (A) the detailed description of Project implementation activities, their sequencing and the prospective associated timetable and benchmarks; and (B) the detailed downstream institutional arrangements in relation thereto;

   (ii) (A) the Project's administrative, accounting, auditing (internal, external and technical/operational), reporting, financial (including cash flow aspects), disbursement and procurement methods and procedures, including all pertinent standard documents among which interim financial reports and standard bidding documents and model contracts approved by the Association; and (B) the detailed institutional and organizational arrangements in respect thereof;

   (iii) the plan for the monitoring, evaluation and supervision of the Project including all physical, social and information technology-related aspects; and

   (iv) the performance indicators for the Project.

(b) The Recipient shall ensure that the Project is carried out in accordance with the POM.

2. In the event of a conflict between the provision of the POM and this Agreement the provisions of this Agreement shall prevail.

3. The POM may only be amended from time to time in consultation with, and after written approval of, the Association.

D. Additional Implementation arrangements

1. The Recipient shall ensure that:

(a) annual Project work plans, audit plans (external and technical) and budgets are prepared by the Permanent Secretariat, are subsequently reviewed in consolidated form by the before being furnished by December 15 in each year to the Association for its review and are thereafter implemented with
diligence and efficiency taking into account the Association's comments, observations and recommendations thereon;

(b) annual reviews of selected activities of Project implementation described in the POM are undertaken and measured against Project results monitoring indicators set forth in the POM; and

(c) a mid-term review of Project implementation is carried out jointly with the Association not later than thirty (30) months after the Effective Date and, thereafter, all measures required for the efficient completion of the Project, based on the conclusions and recommendations of said report and the Association's views thereon are implemented by the Recipient.

E. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

Section II. Project Monitoring, Reporting and Evaluation

The Recipient shall furnish to the Association each Project Report not later than one month after the end of each calendar semester, covering the calendar semester.

Section III. Withdrawal of the Proceeds of the Grant

A. General

1. Without limitation upon the provisions of Article II of the General Conditions and in accordance with the Disbursement and Financial Information Letter, the Recipient may withdraw the proceeds of the Grant to: (a) finance Eligible Expenditures; in the amount allocated and, if applicable, up to the percentage set forth against each Category of the following table:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Grant Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods, works, non-consulting services, and consulting services,</td>
<td>10,500,000</td>
<td>100%</td>
</tr>
<tr>
<td>Training and Operating Costs for the Project</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL AMOUNT</td>
<td>10,500,000.00</td>
<td></td>
</tr>
</tbody>
</table>
B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A above, no withdrawal shall be made for payments made prior to the Signature Date except that withdrawals up to an aggregate amount not to exceed equivalent to eight hundred and forty thousand Special Drawing Rights (SDR 840,000) may be made for payments made prior to this date but on or after June 1, 2018.

2. The Closing Date is December 30, 2022.

Section IV. Other Undertakings

A. The Recipient shall within two (2) months from the Effective Date customize the accounting software to take into account the new activities under the Project, all in a manner satisfactory to the Association.

B. The Recipient shall within three (3) months from the Effective Date update the terms of reference for the external auditor in a manner satisfactory to the Association.
APPENDIX

Section I. Definitions

1. "Anti-Corruption Guidelines" means, for purposes of paragraph 5 of the Appendix to the General Conditions, the "Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants", dated October 15, 2006 and revised in January 2011 and as of July 1, 2016.

2. "Category" means a category set forth in the table in Section III.A.1 of Schedule 2 to this Agreement.

3. "Common Court of Justice and Arbitration" and "CCJA" means Cour Commune de Justice et d'Arbitrage, the Common Court of Justice and Arbitration, established under the OHADA Treaty as a supreme court with ultimate appellate jurisdiction over all national courts for the adjudication of business-related cases based on challenges to Uniform Acts, and residual original jurisdiction over a small range of other commercial cases.

4. "ERSUMA" means Ecole Régionale Supérieure de la Magistrature, the Regional Superior School for Judicial Magistrates established under the OHADA Treaty to offer continuing professional development and training to judges of national courts in matters covered by the Uniform Acts.

5. "Factoring Act" means a law to be prepared and adopted in the OHADA Zone to facilitate firms in selling their accounts receivable invoices to third parties (factoring firms) at a discount.


7. "Headquarters Agreement" means the agreement dated July 30, 1997, between the Member Country of Republic of Cameroon and OHADA for the establishment of the headquarters of the Permanent Secretariat.

8. "International Federation of Accountants" means an entity created on October 7, 1977, to serve the public interest by: contributing to the development, adoption and implementation of high-quality international standards and guidance; contributing to the development of strong professional accountancy organizations and accounting firms, and to high-quality practices by professional accountants; promoting the value of professional accountants worldwide; speaking out on public interest issues where the accountancy profession's expertise is most relevant.
9. "International Chamber of Commerce Paris" means a world business organization with its headquarters in Paris, France, charged with promoting international trade, responsible business conduct and a global approach to regulation to accelerate inclusive and sustainable growth, or its successor.

10. "Leasing Act means a law to be prepared and adopted in the OHADA Zone to facilitate the financing of investments in equipment thereby providing financial solutions for, among others, informal and rural communities to finance equipment without additional guarantees.

11. "OHADA Commission for Accounting Standards" means the entity known as Commission de Normalisation Comptable OHADA established under the authority of the Permanent Secretariat to operate as the accounting standards setting body in the OHADA Zone pursuant to a November 2008, OHADA council of ministers’ resolution.

12. "OHADA Zone" means the geographical area of Western, Central Africa and the Indian Ocean, in which the OHADA issued Uniform Acts, once formally adopted, become immediately enforceable in the national legislative framework of the signing countries after ratification by their respective parliaments, thenceforward superseding national laws.

13. "Operating Costs" means in respect of Section III.A.1 of Schedule 2 to this Agreement, the non-consultant incremental expenses incurred on account of Project implementation, including office equipment and supplies, vehicle operation and maintenance, communication and insurance costs, bank charges, office administration costs, utilities, travel, per diem and supervision costs, salaries of locally contracted employees, but excluding salaries of civil servants of OHADA member countries.

14. "OHADA Treaty" means the Traité Relatif à l'Harmonisation du Droit des Affaires en Afrique, an open-membership treaty for the harmonization of business laws in Africa signed in Port-Louis, the Republic of Mauritius on October 17, 1993 (as amended), and signed by the following countries: Burkina-Faso, Central Africa Republic, Democratic Republic of Congo; Gabonese Republic; Republic of Benin, Republic of Cameroon, Republic of Chad, Republic of Côte d'Ivoire; Republic of Equatorial Guinea; Republic of Guinea, Republic of Guinea-Bissau, Republic of Mali, Republic of Niger, Republic of Senegal, Republic of Togo; and the Union of the Comoros.

15. "Permanent Secretariat" means the executive organ of OHADA or its successor.

17. “Project Operations Manual” and “POM” means the framework document containing all the rules, methods, directives, guidelines, indications and details of Project implementation as agreed between the Recipient and the Association, as said manual may be updated from time to time.

18. “Project Steering Committee” means the committee described in Section I.A.1(d) of Schedule 2 to this Agreement.

19. “RCCM” means the commercial registry known as Registre du Commerce et du Crédit Mobilier, maintained by CCJA.

20. “Signature Date” means the later of the two dates on which the Recipient and the Association signed this Agreement and such definition applied to all references to “the date of the Financing Agreement” in the General Conditions.

21. “Training” means the cost in respect of Section III.A.1 of Schedule 2 to this Agreement, associated with the training and approved by the Association for reasonable expenditures (other than expenditures for consultants’ services), including: (i) travel, room, board and per diem expenditures incurred by trainers and trainees in connection with their training and by non-consultant training facilitators; (ii) course fees; (iii) training facility rentals; (iv) training material preparation, acquisition, reproduction and distribution expenses; and (v) other costs directly related to training preparation and implementation.

22. “Uniform Act” means a piece of legislation adopted under the OHADA Treaty as the law of its signing member states.

Section II. Modifications to the General Conditions

The General Conditions are hereby modified as follows:

1. Section 2.06 is modified to read as follows:

“Section 2.06. Financing Taxes

The use of any proceeds of the Grant to pay for Taxes levied by, or in the territory of, the Member Country on or in respect of Eligible Expenditures, or on their importation, manufacture, procurement or supply, if permitted by the Legal Agreements, is subject to the Association’s policy of requiring economy and efficiency in the use of the proceeds of its credits and grants. To that end, if the Association at any time determines that the amount of any such Tax is excessive, or that such Tax is discriminatory or otherwise unreasonable, the Association may, by notice to the Recipient, adjust the percentage of such Eligible Expenditures to be financed out of the proceeds of the Grant.”

2. Paragraphs (b) and (c) of Section 3.18 are modified to read as follows:
"(b) All Financing Payments shall be paid without restrictions of any kind imposed by, or in the territory of, the Member Country, and without deduction for, and free from, any Taxes levied by, or in the territory of, the Member Country.

(c) The Legal Agreements shall be free from any Taxes levied by, or in the territory of the Member Country, or in connection with their execution, delivery or registration."

3. In Section 5.11, paragraph (a) is modified to read as follows:

"Section 5.11. Visits

"(a) The Recipient shall take all action necessary or useful to ensure that the Member Country affords all reasonable opportunity for representatives of the Association to visit any part of their territories for purposes related to the Grant or the Project."

4. Section 6.01 is deleted in its entirety and the remaining section in Article VI is renumbered accordingly.

5. Section 8.02 is modified as follows:

(a) Paragraph (j) on Membership is modified to read as follows:

(i) Membership. The Member Country or any member of the Recipient: (i) has been suspended from membership in or ceased to be a member of the Association; or (ii) has ceased to be a member of the International Monetary Fund.

(b) Paragraph (m) is renumbered as paragraph (n), and a new paragraph (m) is added to read as follows:

"(m) Interference. The Member Country: (i) has taken or permitted to be taken any action which would prevent or interfere with the execution of the Project or the performance by the Recipient of its obligations under the Financing Agreement; or (ii) has failed to afford a reasonable opportunity for representatives of the Association to visit any part of its territory for purposes relating to Grant or the Project."

6. The Appendix (Definitions) is modified as follows:

(a) Paragraph 79 (Member Country) is modified to read as follows:
“79. "Member Country" means the member of the Association in whose territory the Project is carried out or any such member’s political or administrative subdivisions. If such activity is carried out in the territory of more than one such member, "Member Country" refers separately to each such member.”

(b) Paragraphs 86 (Procurement Plan) and 87 (Procurement Regulations) are deleted in their entirety and the subsequent paragraphs are renumbered accordingly.

(c) Paragraph 94 (Recipient) Renumbered paragraph 92 (Recipient) is modified to read as follows:

“92. "Recipient" means the party to the Financing Agreement to which the Grant is extended."