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Contingent liability management practices in West Africa

CABRI Case Study

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Acronyms and abbreviations

AfDB	African Development Bank
DSA	debt sustainability analysis
ECOWAS	Economic Community of West African States
FCS	fragile and conflict-affected situations
GDP	gross domestic product
IMF	International Monetary Fund
PEFA	Public Expenditure and Financial Accountability
PFM	public financial management
PFRAM	PPP Fiscal Risk Assessment Model
PPP	private–public partnership
SOE	state-owned entity
SOC	state-owned corporation
WAEMU	West African Economic and Monetary Union

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1 Introduction

This case study seeks to illustrate the successes, challenges and shortcomings that countries in the Economic Community of West African States (ECOWAS) have experienced when strengthening and building capacity to manage contingent liabilities; and what risks these liabilities have posed to national budgets in the region.

ECOWAS consists of 15 countries in West Africa, with a population of more than 380 million people. ECOWAS focuses on harmonising policies for integrated purposes and development.

For the last five years, the region has been through a period of sustainable economic and rapid population growth against a background of social and political uncertainty. Several countries in the region are still facing security challenges that have an impact on stability, development and economic growth. Almost half the countries of the region are fragile states affected by conflict (World Bank 2020).

Moreover, the COVID-19 pandemic has affected macro-economic fundamentals in West Africa. Lockdown measures to combat the spread of the COVID-19 virus have led to a slowdown of economic activity in several countries, where governments had to step in with protocols, health policies and financial support. All the recent macro-economic indicators show that the economies of the West African Economic and Monetary Union (WAEMU) are entering a period of recession, with a projected growth rate for 2020 estimated at 2.4%, compared to 6.6% before the pandemic (UEMOA 2020).

This situation has impacted public finances and increased fiscal risks. With less revenue collected and an increase in public spending, regional governments' cash flow positions are under severe pressure. This has increased the risk of governments not fulfilling their commitments as well as the risk of the materialisation of contingent liabilities. Most debt managers questioned in the CABRI survey think that contingent liabilities will be realised in their country because of COVID-19.

With more budget allocations targeted towards public health and higher borrowing costs, other budget programmes (infrastructure development and other social expenditures) have been put on hold (UN 2020). The COVID-19 pandemic has also revealed other challenges and shortcomings that countries must deal with, such as mitigating the risks contingent liabilities pose to national budgets and the financial soundness, in general, of the economy. Strengthening capacity in managing contingent liabilities through better policies, practices and processes are, therefore, essential to mitigate these risks.

This study was compiled by CABRI with information obtained through a survey sent to public debt managers responsible for the management of contingent liabilities in eight countries in the region. The initial intention was to cover all 15 countries in the ECOWAS region but only eight countries (Benin, Burkina Faso, Côte d'Ivoire, Ghana, Mali, Togo and other countries that requested anonymity) responded to the survey. Nevertheless, the survey responses have now been constituted in this study as a sample for the region. The study was limited by the fact that debt managers were not always able to provide the required information. This made it difficult to analyse any reforms, or the lack thereof, over time.

Table 1: Latest debt sustainability analysis in 14 ECOWAS countries

Countries	Risk of debt distress
Benin	Moderate
Burkina Faso	Moderate
Cape Verde	High
Côte d'Ivoire	Moderate
Gambia	High
Ghana	High
Guinea	Moderate
Guinea-Bissau	Moderate
Liberia	High
Mali	Moderate
Niger	Moderate
Senegal	Moderate
Sierra Leone	High
Togo	Moderate

Source: IMF and World Bank (2020)

2 Contingent liabilities in the region

Even if contingent liabilities are considered negligible or have been disregarded for some time in the West African region, the related risks are real and imminent, hence their increased importance in public finance analyses (see contingent liabilities to GDP in Figure 3. There is nowadays greater awareness of the need to improve public financial management (PFM) systems and for more regular financial assessments to be conducted by countries' technical and financial partners, namely the International Monetary Fund (IMF), the World Bank and the African Development Bank (AfDB).

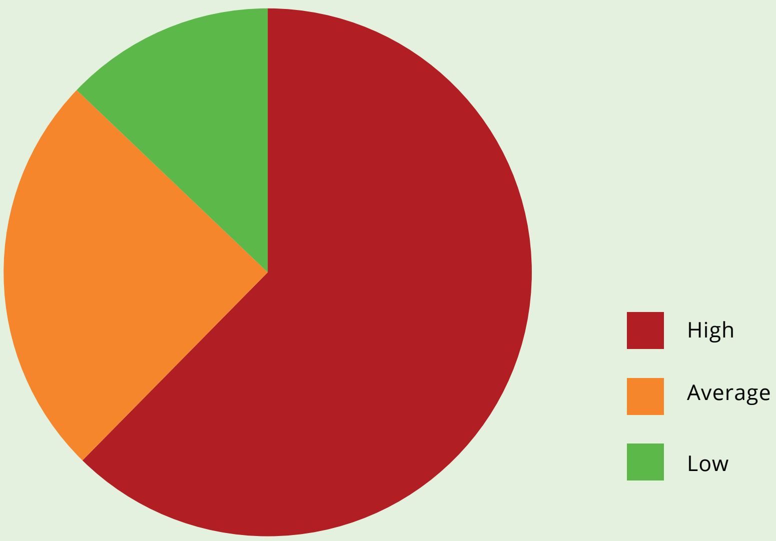
Types of contingent liabilities

The survey revealed that the most frequently encountered **explicit** contingent liabilities are guarantees granted to: (1) state-owned entities (SoEs); (2) sub-national governments (local authorities); (3) the private sector; and (4) public–private partnership (PPP) as a result of an increase in PPP-related projects to finance public infrastructure.

Implicit contingent liabilities are (1) payment defaults by SOEs and local authorities; (2) the contingent liabilities of privatised SOEs; (3) the collapse of financial institutions (in particular those falling under the decentralised financial system or micro-finance institutions); (4) the cost of compensation for lawsuits or disputes; and (5) support or recovery initiatives for natural disasters (floods, storms) or diseases (Ebola, COVID-19).

Of the countries surveyed, 62.5% consider the contribution of contingent liabilities to fiscal risk as very high; 25% think they are moderately significant; and 12.5% think the risks are not significant (see Figure 1 below).

Figure 1: Level of importance of contingent liabilities in the surveyed countries



Source: CABRI survey results

Contingent liabilities in managing government debt

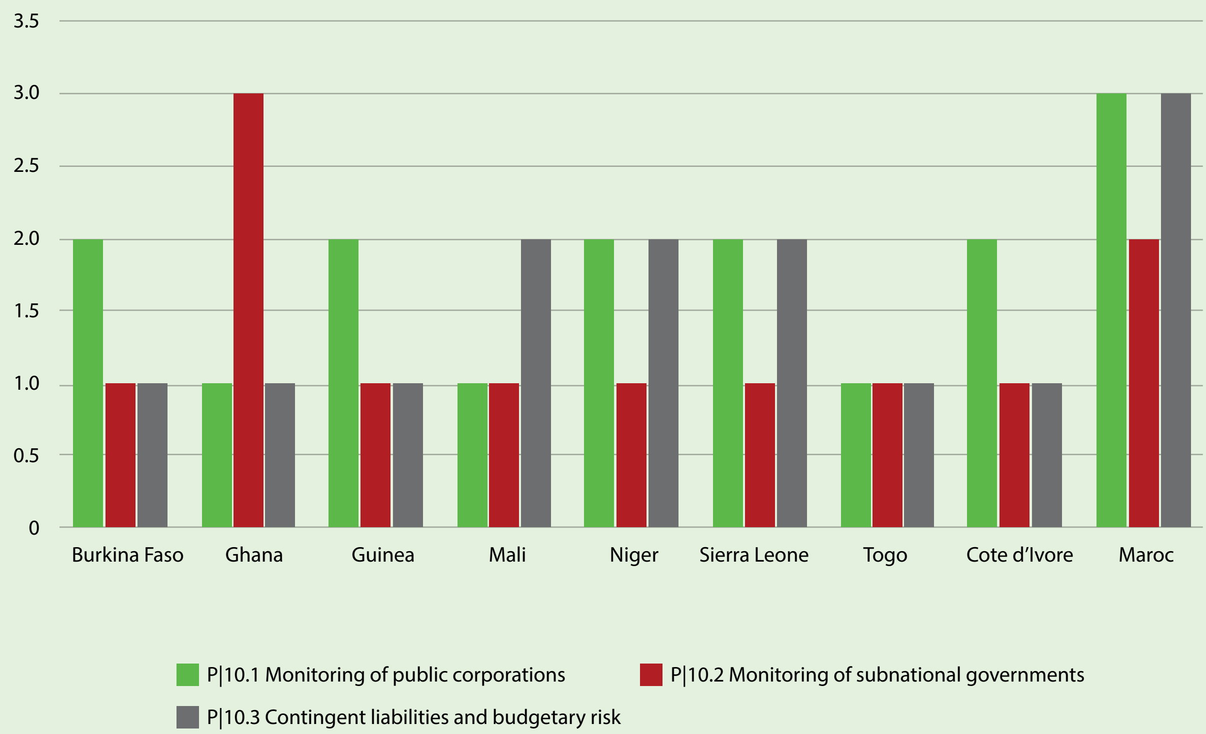
According to a recent report by the IMF and the World Bank (2020) on debt sustainability analysis (DSA) of government debt in the region, 5 out of 15 countries have a high risk of debt distress (Ghana, Cape Verde, The Gambia, Liberia and Sierra Leone), and 9 out of 15 have a moderate risk of over-indebtedness (see Table 1).

The indebtedness of countries often increases significantly when contingent liabilities are badly managed, which increases the possibility of those liabilities materialising (Cebotari 2008; Weber 2012). The risks of contingent liabilities materialising in the region also increase significantly when the financial situation in SOEs starts deteriorating. Specifically, risk can materialise in situations where state guarantees were issued (***explicit*** contingent liabilities) in times of crisis (political, economic, social or environmental), or where governments need to support the public and private sectors (***implicit*** contingent liabilities). Indeed, several SOEs – those supplying water and electricity – have played a major role in government policies for uplifting the poor and providing services during the lockdown. These policies do not necessarily add to or ensure the financial stability of SOEs, but, because it is government policy, SOEs are obliged to provide the service. Even with PPPs related to roads and other infrastructure, low tariffs make it impossible to recover operating costs, especially considering the reduced economic activity during the lockdown period.

The current risks that contingent liabilities pose, together with the financial impact of the COVID-19 pandemic, will severely impact the fiscus and lead to higher debt levels, according to World Bank and IMF forecasting. And according to the CABRI survey, 87.5% of the responding countries believe that the COVID-19 pandemic will increase the risk posed by contingent liabilities and that there is a high probability of SOEs defaulting.

The pandemic has led to the further deterioration of public finances because of higher debt levels. Higher borrowing requirements mean that public finances will take longer to stabilise (Bova et al. 2016). Some debt relief, in the form of debt-freeze or postponement of interest payments, has been made possible by organisations such as the G20, Paris Club and others, but these relief measures are short term in nature and countries in the region face significant challenges to restore fiscal stability and to cater for current and any future crises. See Figure 2 showing the Public Expenditure and Financial Accountability's (PEFA) country risk assessment scores.

Figure 2: PEFA assessment scores on country contingent liabilities management and other fiscal risks



Source: PEFA data per country (2016, 2017, 2018, 2019, 2020)

3

Contingent liabilities for SOEs and PPPs

Contingent liabilities – those that the countries of the region most often quote or include in their annual financial statements – are risk guarantees given by the state to public and private entities and PPPs. In the contingent liability management reform process, countries seem to have chosen to first address explicit liabilities, that is, guarantees granted to SOE and PPP contract risks. The analysis will therefore mainly focus on the management of these liabilities. According to the results of the survey, the countries of the region consider guarantees given to SOEs as the most significant.

Risk and contingent liability trends in West Africa

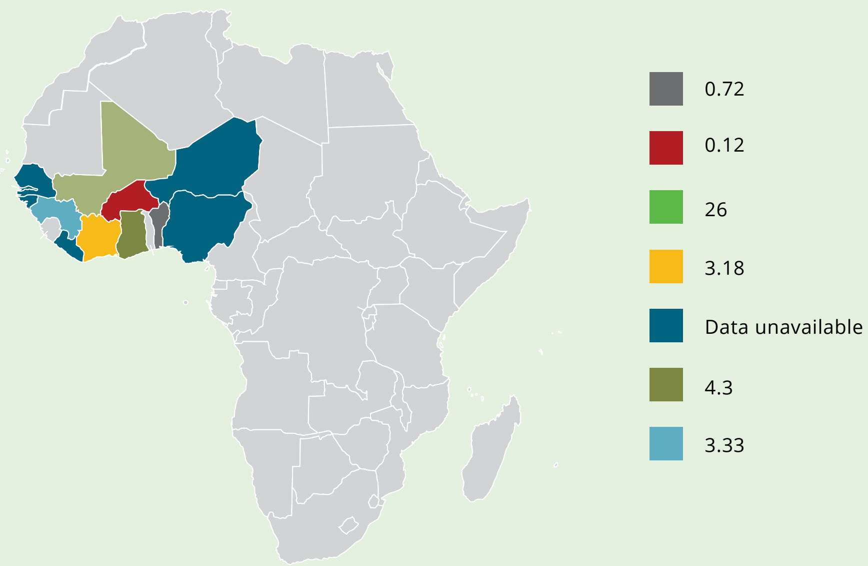
The survey was unable to obtain data on the full outstanding amount of contingent liabilities per country in the region. While some information was provided, it remains limited or incomplete.

In countries like Cape Verde, both debt levels and contingent liabilities are considered high, with debt levels exceeding 100% of GDP and contingent liabilities at 26% of GDP. Where data was available, it seems the ratios are rather low and vary between 0 and 4%. For the remaining countries, the contingent liability data as a percentage of GDP was not available (see Figure 3). Several factors may explain the unavailability of data for these countries:

- The sensitivity of the information for debt managers;
- The unavailability of data because of the challenges managers experience coordinating different role players;
- A lack of skills to identify, evaluate and quantify liabilities;
- A poor capacity to monitor and gather data;
- A tendency to hide the risks of liabilities to not increase the level, or the risk, of over-indebtedness – which will reduce access to non-concessional financing; and
- Lack of budget credibility and transparency in general.

As long as the above issues are not addressed, obtaining reliable data to analyse the risks that contingent liabilities pose to national budgets will remain a challenge in most countries. Countries where data is not available might be surprised to discover the impact and consequence of contingent liabilities on their public finances.

Figure 3: Map of the ratio of contingent liabilities to GDP (%)



Source: Country data collected in the survey

Contingent liability risk management practices in West Africa

Besides the challenges with data, the risks posed by contingent liabilities are a growing concern in West Africa. Some countries in the region have introduced their own risk mitigation practices and others, such as in the WAEMU region, have a common policy approach in managing contingent liability risks.

Proper risk mitigation practices, however, can only operate within a structured legal and institutional framework in which data on contingent liabilities can be collected, analysed and monitored. Other practices (such as reporting, accounting and auditing) can then follow, leading to better oversight and transparency.

Legal and institutional frameworks

Legal and institutional frameworks are essential building blocks in the management of contingent liabilities because they determine the rules, practices and processes to follow. This section covers the nature, strength and weaknesses of legal and institutional frameworks in the region.

Legal frameworks

In the West African region, and in particular in the WAEMU countries, a general policy on debt management is stipulated in WAEMU Directive No. 09/2007/CM/UEMOA (4 July 2007), which includes the terms of reference in Member States for government indebtedness policies and the management of government debt. Furthermore, Article 43 of Directive No. 06/2009/CM/UEMOA (26 June 2009), as stipulated by the WAEMU Finance Act, sets out the rules and conditions under which guarantees are issued. Other countries in the region have specific regulations that govern these guarantees. A consolidation of these regulations into national legal frameworks has led to the adoption of various Decrees and Orders in WAEMU countries relating to the overall legal and management frameworks for government debt, which include the terms and conditions for approving government guarantees.

The survey revealed that most countries do have a legal framework for the management and approval of guarantees, even though it may not always be complete. It should be noted that the WAEMU regulatory framework – which applies to all countries in the region – does not explicitly cover contingent liabilities and fiscal risks. Ghana is the only country in the region which has a specific framework covering all contingent liability and fiscal risk matters.

At a regional level, there are no common regulations on PPPs. However, each country has adopted an Act or a Decree on PPPs. WAEMU is still considering the adoption of a common PPP Project Management Act.

Institutional frameworks

On the management of debt and guarantees at the regional level, the WAEMU institutional framework particularly advises the following:

- Parliament should determine the ceiling of guarantees to be granted annually in the Finance Act.
- There should be a coordinating structure to provide technical advice on the decision to grant guarantees.
- The Cabinet should take the decision to approve guarantees.
- The Minister of Finance should be the authority responsible for negotiating and signing conditions and agreements on guarantees.
- Guarantees given by the government should be audited by external and internal auditors annually.

According to the WAEMU Finance Act, guarantees given by states should be capped by Parliament on an annual basis. Parliaments, however, do not always fulfil their oversight role to limit guarantees as per the prescribed debt management strategy and annual borrowing requirements; they also do not make provision for the possibility of guaranteed loans materialising, or for other possible risks in the region.

Furthermore, while legislation specifies that guarantees are approved and issued by a Decree approved by Cabinet, often this responsibility is delegated to the Minister of Finance.

External debt auditing is not yet common practice, and the question of guarantees is not a concern for auditing institutions (given their poor capacity). The survey respondents revealed that contingent liabilities in most countries of the region (6 out of 8) are not audited by any external bodies appointed by the Office of the Auditor-General.

In accordance with WAEMU regulations, most Member States have set up a government debt coordinating committee, whose secretariat functions are performed by the government debt directorate (e.g. a national committee on government debt). This body provides technical advice on debt and debt management regulatory requirements and decisions (in particular on applications for guarantees) that are subject to its review. However, in practice, the advice of this committee is often biased, or it gets ignored in final decision-making for political reasons. In some countries, this committee does not operate properly and does not issue recommendations in accordance with its responsibilities (see Table 2 on institutional arrangements per country.)

With regards to the configuration of the structure responsible for managing SOE and PPP guarantees, it should be noted that the establishment of a structure responsible for coordination is highly recommended. In some cases, this responsibility is split between the government debt directorate, the PPP directorate and/or the fiscal risk or public enterprise monitoring division. Hence there is often a problem in most countries with coordinating and monitoring the risks posed to the fiscus by contingent liabilities.

Table 2: Institutional arrangements in WAEMU countries

	Debt management office	PPP office or unit	Fiscal risk unit
Benin	X	X	
Burkina Faso	X	X	
Cape Verde	X		
Côte d'Ivoire	X	X	
Gambia (The)	X	X	
Ghana	X	X	X
Guinea	X	X	
Guinea-Bissau	X		
Liberia	X	X	
Mali	X	X	
Niger	X	X	
Nigeria	X	X	
Senegal	X	X	
Sierra Leone	X	X	X
Togo	X		

Source: CABRI survey data and other sources

Contingent liabilities monitoring mechanism

Monitoring of contingent liability risk occurs at several different levels depending on the institutional arrangements of each country. In general, monitoring is done by compliance with the procedures and conditions established in accordance with the relevant regulations when the guarantee was first issued. After the recommendation and approval of the guarantee agreement, an Excel or automated database is created and updated for the guarantees, as approved, which then needs to be incorporated into the consolidated annual financial statements. Each country has a specific mechanism for monitoring SOE and PPP contracts for oversight purposes and to avoid risk.

Determining and subsequently managing SOE guarantee exposure against set conditions is important for monitoring guarantee performance. The financial soundness of SOEs should also be monitored to ensure sustainability, and the continuous monitoring of SOEs is thus an essential part of managing any related contingent liabilities. The recent PEFA country assessment reports show poor performance (a score of 1) by most countries in monitoring their SOEs (PI10.1, see Figure 2). This underperformance may be explained by inadequate governance and accountability mechanisms of SOEs as well as by poor government supervision of, and political interference in, these entities.

As a consequence, SOEs in the region are currently experiencing financial difficulties, leading to the accumulation of arrears and an inability to service their debt. Whether debt is guaranteed or not, it still poses risks because the fiscus will ultimately have to make any payments due to creditors. The weakest SOEs, in general, are the electricity and fuel supply companies, who constantly experience financial loss and often approach government for guarantees or subsidies.

Regarding monitoring PPPs and their risks, most countries have recently instituted a PPP monitoring structure. With the support of the World Bank and the IMF, some use the PPP risk assessment tool, the PPP Fiscal Risk Assessment Model (PFRAM). However, considering that this practice is still new and that role players lack experience, inadequacies in managing PPP contracts have further contributed to higher risks for the fiscus.

The biggest and most common shortcomings are poor coordination practices between the various role players, especially in their efforts to understand the full impact of the risk or exposure. In most instances, government debt directorates are not included in the analysis of PPP risks. Consequently, when guarantees are called, these directorates may not have been informed, and provision for funding may not have been made.

The poor oversight and monitoring of SOEs is a major concern in most countries because unplanned funding is often required (see Figure 2). The World Bank recently supported countries such as Niger and Mali to strengthen their capacity to better monitor the risks posed by contingent liabilities and to maintain oversight over their SOEs.

Determining risks and how to deal with them

An effective strategy should be followed regarding the management of contingent liabilities to prevent risks from materialising. Mitigating against risk starts with the recommendation and approval process for granting government guarantees, followed by a post-approval process that continuously analyses and assesses the risk.

Approval process of guarantees

An application for a guarantee is normally accompanied by a project assessment and the financial statement of the SOE making the application. Ensuring compliance with the conditions of the application is a ***sine qua non*** for the technical committee to consider in order to verify the nature, public utility and sustainability of the project, the financial well-being of the enterprise and the compliance of the loan conditions with the objectives of the debt strategy. After having considered the conditions defined by law, a recommendation is made to the Minister or Cabinet for approval. Most countries acknowledge having these conditions and processes in place for evaluating applications, making recommendations and approving government guarantees. However, some conditions and restrictions vary – for example, if the provisions of a guarantee are complied with, then government exposure should be reduced. However, it does sometimes happen that projects which do not fulfil the conditions still benefit from receiving a state guarantee.

In practice, as part of the endorsement or guarantee agreement, some countries collect a fee on approved guarantees to reduce the government's exposure (in Ghana and Burkina Faso, amongst others). The sustainability of the project and the financial soundness of the SOE are considered as the main conditions for obtaining approval on the issuance of a government guarantee.

Countries in the region generally have good frameworks in place to approve guarantees, but , in many instances, these practices are not well applied, which can lead to politically motivated decisions on the approval of government guarantees.

Risk analysis and assessment tools

There are various tools available to analyse and assess contingent liability risk, namely, amongst others: an analysis of credit risk; an analysis of the sustainability of government debt; the assessment of PPP risks; and risk analysis conducted on contingent liabilities.

Framework for the sustainability of government debt: The traditional analysis of the sustainability of government debt (DSA) for some countries in the region is limited and only includes central government debt. Countries are either doing their own DSA or are assisted by the IMF and the World Bank. These DSAs, however, are limited and may not cover, for example, SOEs' external or domestic debt. Over the past few years, recommendations based on international best practice suggest that all liabilities should be included for a better understanding of risks and better decision-making. In the region, only a limited number of countries analyse the guaranteed debt and other guarantees of SOEs and PPPs while ignoring their unguaranteed debt and their domestic debt. This constitutes a major risk with regards to the strategic nature of the services provided by these SOEs, which could be due, as explained above, to the unavailability of data and/or poor oversight.

PPP risk assessment tool: With the support of the World Bank and the IMF, some countries use the PPP risk assessment tool (the PFRAM). However, given that this practice is still new and capacity to use it is limited, inadequacies have been noted in PPP contract management. Ghana uses the PFRAM tool while other countries such as Senegal use the PPP risk matrix.

Other tools: According to the survey, only a few countries are currently using risk assessment and analysis models, such as Ghana, which is currently using the Credit Risk Assessment Framework and the Risk-Based Fee Model. Usage of these tools has not yet become common in the region – 82% of respondents acknowledge they are currently not using any tools, but do carry out an analysis of exchange- and interest-rate risks.

Mitigation measures: With IMF support, some countries (Senegal, Côte d'Ivoire) are currently conducting DSAs with stress-testing-led action plans with measures to mitigate fiscal risks. The most common measures to avert risk, however, are prevention through monitoring, assessment, certain corrective measures, guarantees, and guarantee account funding charges. Some countries, such as Ghana, report having mitigating measures, but many others do not.

It is clear from the above that only a few countries analyse and evaluate contingent liability risks and have adopted measures to mitigate such risks. If risks are not assessed with the appropriate tools, or prevention measures are not in place, governments will never be able to plan to avoid shocks to the fiscus.

Financial statements: Reporting and accounting

According to international accounting standards, contingent liabilities should be accounted for in the government's annual financial statements. All contingent liabilities should be assessed according to the probability of their being called as higher or lower than 50%. Out of eight countries surveyed, seven indicated that the probability of their contingent liabilities materialising is higher than 50%. Due to restricted information sharing and the limited availability of data, financial statements are often severely incomplete.

Publication of reports on contingent liabilities

According to the IMF's (2011) *Public Sector Debt Statistics:*

Guide for Compilers and Users, countries should regularly publish a report on outstanding contingent liabilities, trends, risks and mitigation measures. Some countries (Ghana and Cape Verde) do compile and publish a detailed annual report in compliance with accepted standards while others partially include this in public sector debt reports issued periodically or in budget strategy documents under the fiscal risk section. A high proportion of countries in the ECOWAS region (12 out of 15) do not report on fiscal risks – which includes contingent liabilities – in their budgets. Two countries (Ghana and Cape Verde) publish contingent liabilities on their websites.

Obtaining and publishing information on PPP contracts and guarantees (and related risks) is not yet a widespread practice in the region.

External auditing and oversight

As a regulatory requirement, contingent liabilities should be audited by external auditors and their findings should be reported to Parliament, who should oversee compliance and make recommendations. Countries are also obliged to regularly report on the risks and the performance of contingent liabilities to Parliament for review purposes.

In the region, external auditors conduct audits on public debt, but, in many instances, do not have the technical competence to make an in-depth analysis of the real risks facing contingent liabilities. The survey has shown that external audits have only been done in two countries (Ghana and Benin). Reports and the required information are not detailed enough to allow auditors to make a full assessment of the risks.

Parliaments hold regular hearings on the performance of PPP contracts. However, due to the limited knowledge of the risks posed by contingent liabilities and their current priorities, the oversight function of parliaments is limited. In some instances, external auditors do not address contingent liability issues in their findings or, as the survey pointed out, audits on contingent liabilities are not done regularly.

Obtaining and publishing information on private–public partnership contracts and guarantees (and related risks) is not yet a widespread practice in the region

4 Reforms in the management of contingent liabilities

Since identifying weaknesses and challenges in contingent liability management, countries of the region have started reforming the relevant standards and practices. The focus is mainly on strengthening the legal and institutional frameworks to improve monitoring and oversight of SOEs and PPPs.

Progress has been made towards a better awareness and understanding of the fiscal risks posed by contingent liabilities and PPPs, and several countries have requested support and technical assistance. Most countries' reform programmes involve a partnership with the IMF or the World Bank, with established plans of action to improve the management of contingent liabilities and PPPs and to better analyse their impact on fiscal risks.

The consolidation of public financial accounts is one important reform currently under way whereby the fiscal risks arising from public entities will be systematically recorded, measured and monitored.

Government oversight capacity is also being strengthened. In addition, with the increase in PPP contracts, measures to strengthen regulations, institutions and capacity as well as ways to better monitor and assess PPP projects are currently being undertaken in the region.

Table 3: Country reforms

	Legal framework	Institutional framework in charge	Assessment tool used	External auditing and oversight – Parliament, supreme audit institutions (SAIs)	Transparency
Burkina Faso	Yes, for guarantees	Debt Office	Monitoring	No	No
Benin	Yes, for guarantees	Debt Office	Monitoring	Yes, Parliament	Partially in the quarterly debt report
Côte d'Ivoire	Yes, for guarantees	Debt Office	Monitoring	Yes, Parliament	Report on contingent liability risks included in the national budget as an annexure
Ghana	Yes, for contingent liability and fiscal risk	Fiscal Risk Unit and sub-committee	Credit Risk Assessment tool	Yes, Parliament and SAI	Report on contingent liability and fiscal risks produced and published annually
Mali	Yes, for guarantees	Debt Office	Monitoring	No	Report on contingent liability risk included in the national budget as an annexure
Senegal	Yes, for guarantees	Debt Office	Monitoring	-	-
Togo	Yes, for guarantees	Debt Office	Monitoring	No	No

Source: CABRI survey data

Regulations and institutional matters

With processes to reform their legal frameworks and strengthen institutional arrangements underway, WAEMU countries (Benin, Burkina Faso, Côte d'Ivoire, Guinee Bissau, Mali, Niger, Senegal and Togo) view the management of guarantees as part of their legal framework (via a Decree or an Order). Other countries have adopted specific legislation for the management of contingent liabilities.

Ghana has more specific and wide-ranging legislation on fiscal risk management. To incorporate regular fiscal risk assessments, Ghana has established an inter-ministerial committee to monitor fiscal risk and a unit responsible for effectively coordinating all monitoring activities.

Monitoring SOEs

WAEMU countries have identified their shortcomings in the monitoring and oversight over SOEs to analyse fiscal risk and have implemented several reforms. These are:

- Adopting the consolidation of government accounts;
- Establishing an SOE monitoring body;
- Regular monitoring and performance reporting;
- Instituting an accountability mechanism with performance contracts for SOEs (Benin, Côte d'Ivoire);
- Establishing a database for guarantee monitoring purposes;
- Restructuring some SOEs;
- Setting more stringent conditions for SOE guarantees and/or borrowing activities;
- Strengthening audits and oversight (Benin, Burkina, Côte d'Ivoire);
- Including guarantees and public enterprise debt in sustainability analysis (Senegal); and
- Including the overall financial situation of SOEs in the annual budget (Benin).

Côte d'Ivoire is considering creating a financial performance dashboard for SOEs as well as including an annexure on fiscal risks in the budget.

Monitoring PPPs

With regard to monitoring PPPs, the current reforms underway in the region include:

- Adopting a PPP Act and relevant Decrees;
- Asserting the role of the Minister of Finance in PPP contracts;
- Establishing PPP units within the Ministry of Finance;
- Establishing an inter-ministerial PPP steering and promotion committee;
- Strengthening skills in PPP contract negotiation;
- Establishing a PPP projects database, with the inclusion of these projects in the national public investment programme;
- Using a PPP risk assessment tool such as the PFRAM;
- Establishing a PPP project information dissemination platform (Senegal);
- Analysing cost-effectiveness of PPP projects; and
- Reporting on PPP projects in the budget.

In order to achieve a common policy, the WAEMU states are considering adopting a Directive on PPP monitoring in the near future.

Liability risk identification and mitigation tools

To date, debt sustainability analysis (DSA) has not taken any contingent liabilities into consideration. Over the past few years, some countries (Benin, Burkina Faso, Côte d'Ivoire, Ghana and Mali) have considered including contingent liability data in their DSAs, even if the data is incomplete.

Countries are also starting to: include contingent liabilities as part of their budget process; share risks by including a risk fee in the guarantee contract; and monitor these risks more effectively to prevent any guarantees being called.

Several countries are planning to issue regular reports on fiscal risks, and to identify and recommend mitigation measures related to the nature of the fiscal risks identified (Ghana). Other countries issue partial reports that are included in the budget documents or in the budget strategy (Benin, Côte d'Ivoire).

Dissemination of information on contingent liabilities

The public in the region still only has limited access to information concerning contingent liabilities. However, with the adoption of a public finance transparency code, governments can share some information with their citizens, depending on availability.

5 Remaining challenges

It is commendable that there is a general awareness of the risks contingent liabilities pose, which has led government authorities to take many different types of remedial action. While some countries have experienced significant, though still limited progress, others are still trying to find their feet. Each country has its own challenges, but, overall, the most common challenges are to do with weak regulatory and institutional frameworks, limited management practices, insufficient monitoring and weak staff capacity.

Regulatory and institutional framework challenges include:

- Limited focus on and coverage of contingent liabilities within the regulatory framework;
- Institutional mechanisms suffering from limited coordination while having the responsibility to manage contingent liabilities;
- Weak political will to discuss and confront the issue of contingent liabilities; and
- Limited or non-existent interventions by external oversight authorities in the management of liabilities.

Management challenges include:

- Low capacity for using risk assessment and analysis tools;
- Lack of transparency in the management of contingent liabilities, with the unavailability of relevant information;
- Building capacity (an issue mentioned by all role players);
- Low awareness of citizens and civil society; and
- A strong tendency not to be open and transparent about contingent liabilities or to consider them negligible.

SOE monitoring challenges include:

- Poor SOE monitoring mechanisms, which increases risk;
- Poor governance practices within SOEs;
- Political influence on SOE appointments and hiring;
- Price fixing and controls, which affect the financial viability of some SOEs, especially in the water, electricity and fuel sectors; and
- Low SOE revenue streams (price fixing) and pressure from government to deliver on their promises.

PPP monitoring challenges include:

- Lack of management expertise in departments affecting PPP project monitoring and performance;
- Weak capacity to negotiate PPP contracts within departments, causing some projects either to fail or accrue losses for the state;
- Inadequate mechanisms to ensure delivery in PPP contracts;
- Weak institutional frameworks;
- Lack of a coherent PPP strategy; and
- Insufficient use of PPP risk analysis.

Capacity building challenges include:

- Weak capacity for implementing the necessary reforms;
- Insufficient training on managing contingent liabilities;
- Insufficient peer learning and exchange between countries; and
- Greater commitment required from national Parliament, the Office of the Auditor-General and from civil society to drive better management of contingent liabilities.

6

Concluding remarks

This case study has identified the risks countries are likely to face if their contingent liabilities are not managed well. The evaluation of contingent liability management with the PEFA tool (Figure 2) revealed weak or average performances in the region.

The survey conducted on management practices shows that, in most of the countries, the internal capacity of regulatory and institutional frameworks to manage contingent liabilities are limited. This has contributed to weak oversight of SOEs and PPPs as well as ineffective coordination amongst the different stakeholders.

The survey also indicates that most countries do not include contingent liabilities in their debt sustainability analysis, with the risk that negative impacts on the fiscus go unmeasured. Both the tools and the capacity to measure the risks are limited, with such analysis only conducted in a few countries.

Only Ghana, Cote d'Ivoire and Mali have made any progress in reporting and disclosing their contingent liabilities on an annual basis.

Parliaments and the Offices of the Auditor-General have a key role to play to ensure compliance through external auditing and oversight. However, their participation in this regard is considered weak in the region. There are no limits on the issuances of guarantees and the auditors' annual reports to Parliament have limited coverage of contingent liabilities.

The case study shows that countries with better institutional and regulatory frameworks such as Ghana have performed better in the management of their contingent liabilities.

To address these issues, all countries surveyed recognise the need for capacity building. In addition, more emphasis should be placed on strengthening regulatory frameworks and improving institutional arrangements in the region.

Debt levels in the region are on the rise, limiting the financial support governments can give to struggling SOEs. Better information sharing and reporting between government departments, SOEs and PPPs will further reduce the risks posed by contingent liabilities.

As a matter of urgency, action plans to build capacity and better manage the risks posed by contingent liabilities are needed in the region. Without such urgent action, debt levels will continue to rise.

Countries with better institutional and regulatory frameworks such as Ghana have performed better in the management of their contingent liabilities

Bibliography

Andrew L & Friz B (2019) *A look inside the mind of debt managers a survey on contingent liabilities risk management*. Financial Advisory and Banking Department, World Bank. Available at: http://pubdocs.worldbank.org/en/320261553265505172/PDM-publication-A-Look-Inside-the-Mind-of-Debt-Managers.pdf

Bachmair FF (2016) *Contingent liabilities risk management: A credit risk analysis framework for sovereign guarantees and on-lending*. World Bank Policy Research Working Paper Series.

Bova E, Ruiz-Arranz M, Toscani F & Ture HE (2016) *The fiscal costs of contingent liabilities: A new dataset*. IMF Working Paper Series No. /17/82. Available at: https://www.imf.org/external/pubs/ft/wp/2016/wp1614.pdf

CABRI (2017) *Management of explicit contingent liabilities: Credit guarantees for state-owned entities' debt.* CABRI Position Paper. Available at: https://www.cabri-sbo.org/en/publications/management-of-explicit-contingent-liabilities

Cebotari A (2008) *Contingent liabilities: Issues and practice*. IMF Working Paper Series No. 08/245. Available at: https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Contingent-Liabilities-Issues-and-Practice-22398

IMF (2011) *Public Sector Debt Statistics: Guide for Compilers and Users*. Available at: https://www.elibrary.imf.org/doc/IMF069/11874-9781616351564/11874-9781616351564/Other_formats/Source_PDF/11874-9781463969813.pdf

IMF and World Bank (2020) Low-income countries debt sustainability analysis (DSA) list. Available at: https://www.imf.org/external/pubs/ft/dsa/dsalist.pdf

Irwin T & Mokdad T (2010). *Managing contingent liabilities in public–private partnerships*. World Bank Working Paper Series. Available at: https://openknowledge.worldbank.org/bitstream/handle/10986/23187/Managing0conti0le00and0South0Africa.pdf?sequence=1&isAllowed=y

PEFA (2016) Rapport PEFA: Maroc 2016. Secrétariat PEFA.

PEFA (2016) PEFA Report: Sierra Leone 2016. PEFA Secretariat.

PEFA (2016) Rapport PEFA: Togo 2016. Secrétariat PEFA.

PEFA (2017) Rapport PEFA: Burkina Faso 2017. Secrétariat PEFA.

PEFA (2017) Rapport PEFA: Niger 2017. Secrétariat PEFA.

PEFA (2018) PEFA Report: Ghana 2018. PEFA Secretariat.

PEFA (2018) Rapport PEFA: Guinéa 2018. Secrétariat PEFA.

PEFA (2019) Rapport PEFA: Côte d'Ivoire 2019. Secrétariat PEFA.

PEFA (2020) Rapport PEFA: Mali 2020. Secrétariat PEFA.

Polackova Brixi H & Shick A (2002) *Governments at risk: Contingent liabilities and fiscal risks.* World Bank and Oxford University Press Co-publication. Available at: https://openknowledge.worldbank.org/handle/10986/15233

Racheida B et al. (2017) *Évaluation de la gestion des investissements, Royaume du Maroc, 2017*. IMF FAD.

UEMOA (2020) *Note de conjoncture économique régionale dans l'UEMOA N°47, Juin 2020*. Available at: http://www.uemoa.int/sites/default/files/bibliotheque/note_de_conjoncture_economique_regionale_dans_l-uemoa_premier-trimestre_2020.pdf

Ülgentürk L (2017) *The role of public debt managers in contingent liability management*. OECD Working Papers on Sovereign Borrowing and Public Debt Management. Available at: https://doi.org/10.1787/93469058-en

UN (2020) *Impact of COVID19 in Africa.* UN Policy Brief. Available at: https://www.uneca.org/sites/default/files/PublicationFiles/sg_policy_brief_on_covid-19_impact_on_africa_may_2020.pdf

Weber A (2012). *Stock-flow adjustments and fiscal transparency: A cross-country comparison*. IMF Working Paper No. 12/39.

World Bank (2019) *Assessing and managing credit risk from contingent liabilities: A focus on government guarantees*. Debt Management Learning and Training Learning Notes. Public Debt Management Advisory, World Bank Treasury. Available at: http://pubdocs.worldbank.org/en/294941565898518464/LearningandTrainingNotes-Assessing-and-Managing-Risk-from-CLs-Final-August152019.pdf

World Bank (2020) Fragility, Conflict and Violence (FCV) List (June 2020). Available at: https://www.worldbank.org/en/topic/fragilityconflictviolence/overview

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