Synthesis Report

Undertaking AfCFTA gap analyses

What are we learning?

Dirk Willem te Velde, Bernardo Arce Fernandez, Derrick Abudu, Yohannes Ayele, Max Mendez-Parra, Roslyn Ng'eno, Fahd Azaroual, Paul R. Baker, Smita Bheenick, Damon Bristow, Mary Chege, Mag-Teerey Ibrahim, Mouhamadou Kane, Charity Korir, Manfred Kouty, Arnaud N'Goran, Dode Seidu, Abdou Touray and Zizwe Paul Vilane

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Key messages

- State Parties must align their investment frameworks with the Protocol establishing the African Continental Free Trade Area (AfCFTA) on Investment (the Protocol on Investment) within five years of its entry into force. The Protocol was adopted in February 2023 by the African Union Heads of State and Government.

- A structured gap analysis methodology, developed by the AfCFTA Secretariat with analytical input from ODI Global (the AfCFTA–ODI Global methodology), now underpins the Secretariat's country- and regional-level implementation support and is being institutionalised as a core component of the Protocol on Investment Implementation and Support Programme (PIISP).

- The Protocol on Investment needs to be cross-checked with existing national and regional investment frameworks to identify gaps and actions to be undertaken.

- Pilot gap analyses suggest several areas in which countries will have to align with the Protocol, including operationalisation of focal points, aftercare services, dispute settlement and sustainable development. Early work has already shown initial impact.

- Effective gap analyses require deep interrogation of investment codes and sector legislation, grounded in in-country stakeholder engagement. Timing and sequencing, particularly alignment with active reform cycles, are important to translating findings into policy change.

- The Secretariat is now operationalising gap analysis findings through the PIISP, a structured four-year continental delivery programme offering tiered, demand-driven support to State Parties. Gap analyses are therefore not standalone exercises but entry points into an ongoing and institutionalised implementation pathway.

Acknowledgements

About this publication
This synthesis builds on a range of investment gap analyses in 21 countries, including Protocol on Investment-wide analyses for Djibouti, Eswatini, The Gambia, Ghana, Kenya and the Economic Community of Central African States (11 countries) and gap analyses for Articles 6–10 only in Côte d'Ivoire, Mauritius, Morocco, Senegal and Uganda.

Developed by the AfCFTA Secretariat, in collaboration with ODI Global and country-level stakeholders, the methodology reflects the Secretariat>s normative mandate under Article 43 of the Protocol on Investment to coordinate technical assistance and capacity-building for State Parties. It was rolled out during 2025–2026.

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Abbreviations and acronyms

AfCFTA	African Continental Free Trade Area
AGII	Africa Green Industrialisation Initiative
BIT	bilateral investment treaty
BOSS	Business One-Stop Shop
DFZ	Djibouti Free Zone
DRC	Democratic Republic of Congo
ECCAS	Economic Community of Central African States
EIPA	Eswatini Investment Promotion Authority
ETIPA	Eswatini Trade and Investment Promotion Act
FDI	foreign direct investment
GIEPA	The Gambia Investment and Export Promotion Agency
GIPA	Ghana Investment Promotion Authority
IPA	investment promotion agency
NFP	national focal point
PIISP	Protocol on Investment Implementation and Support Programme
PoI	Protocol on Investment
REC	regional economic community

Executive summary

The African Continental Free Trade Area (AfCFTA) Protocol on Investment (PoI) establishes a continental framework to promote intra-African investment and support sustainable development. It affects national, bilateral and regional regimes, and requires progressive alignment. Gap analyses are therefore needed, to assess country compliance, identify divergences and prioritise reforms. The report proposes a structured methodology: mapping PoI provisions, benchmarking them against laws and practices at country level, identifying gaps and developing actionable reform plans with clear institutional responsibilities.

Gap analyses have been conducted across diverse contexts. A first group of analyses examined the PoI comprehensively, covering protection, facilitation, promotion and dispute settlement. The countries covered here were Djibouti, Eswatini, The Gambia, Ghana, Kenya and Economic Community of Central Africa States countries. A second group focused more narrowly on investment facilitation and promotion, particularly under Articles 6–10 of the PoI, and covered Côte d'Ivoire, Mauritius, Morocco, Senegal and Uganda. Eswatini and Ghana also underwent a specific Articles 6–10 analysis alongside the PoI-wide analysis. These experiences have highlighted both shared challenges and country-specific priorities.

Several general lessons have emerged. Gap analyses are most effective when aligned with ongoing reforms to investment laws (as in Eswatini, The Gambia and Kenya) and when they extend beyond investment codes to sector laws and institutions. Common gaps include weak promotion of intra-African investment, fragmented institutional mandates, limited digitalisation, weak aftercare and grievance mechanisms, and lack of incentives for sustainable investment. Initial impacts are evident. In Eswatini, findings inform legal reforms. In The Gambia, amendments based on the gap analysis are under discussion. In Kenya, the focal point has been officially designated after a capacity-building mission.

The report concludes that the PoI is ambitious and implementation remains critical. Gap analyses provide a practical basis for sequencing reforms and identifying early actions. They can generate momentum even before full ratification. Early evidence confirms that gap analyses and engagement activities are generating tangible impact, including updates to national legislation and the formal notification of national focal points. Significant gaps nevertheless persist, particularly in sustainable development provisions, dispute settlement and aftercare services.

1 Introduction

The African Continental Free Trade Area (AfCFTA) Protocol on Investment (PoI) represents a key step towards establishing a coherent investment governance framework across the continent. It introduces common principles and disciplines intended to guide how investment is regulated, facilitated and promoted within AfCFTA State Parties. Its implementation requires a clear understanding of how existing national and regional frameworks operate in practice, and how these relate to the emerging continental architecture. Full implementation has the potential to substantially increase intra- and extra-Africa foreign direct investment (FDI).[1]

Investment gap analyses serve as a diagnostic tool to support implementation. They provide a structured way to examine the consistency of current legal, regulatory and institutional arrangements with those of the PoI. The approach here, developed through collaboration between the AfCFTA Secretariat and ODI Global, enables countries and regional bodies to assess not only formal provisions but also administrative practices and institutional coordination, which are critical for effective implementation.

The AfCFTA Secretariat's role in undertaking gap analyses is grounded in its institutional mandate under the Protocol on Investment (Article 43), which tasks the Secretariat with coordinating technical assistance and capacity-building to support State Parties in meeting their Protocol obligations. Gap analyses are therefore not standalone activities. They constitute a structured diagnostic instrument that enables the Secretariat to engage State Parties and regional economic communities (RECs) to enable them to identify implementation priorities, assign responsibilities and sequence reforms. Findings feed directly into the Protocol on Investment Implementation and Support Programme (PIISP), the Secretariat's primary delivery mechanism for translating Protocol obligations into operational outcomes at the national and regional levels.

A series of pilot applications across countries and RECs has generated a growing evidence base. These exercises highlight variations in legal frameworks, institutional capacities and policy priorities, while also pointing to common areas requiring attention.

This synthesis report is structured as follows. Section 2 discusses the need for investment gap analyses. Section 3 presents an emerging methodology (based on AfCFTA–ODI Global collaboration) for investment gap analyses. Section 4 discusses emerging findings and contains some meta-level lessons. Section 5 presents emerging generic lessons from the analyses. Section 6 concludes.

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1 Te Velde, D.W., Pengelly, T. and Raga, S. (2022) 'Africa's economic integration and prospects for UK investors'. Briefing. London: ODI (https://media.odi.org/documents/Briefing_FDI_and_AfCFTA__.pdf).

2 The need for investment gap analyses

The AfCFTA PoI has legal implications for national, bilateral and regional investment rules. It sets a continent-wide investment framework with which countries and economic communities must align. The PoI rationale is to encourage intra-African investment flows to foster sustainable development.

At the national level, State Parties are committed to bringing their laws, regulations and policies into alignment with the PoI within five years of the PoI's entry into force. They have up to five years to terminate intra-African bilateral investment treaties (BITs), including their survival clauses. Regarding extra-African BITs, State Parties are encouraged to take into account the PoI while negotiating new treaties or reviewing existing ones. At the regional level, State Parties shall make best endeavours to review and revise existing regional investment rules, within 5–10 years of entry into force of the PoI.

State Parties commit to bringing PoI provisions into effect. The PoI sets a minimum common aspiration whose implementation relies, in part, on its materialisation at the regional and national levels. Areas that are already regulated may need to be adjusted or updated; those that are not even regulated will have to be developed. To identify actions to be developed, an investment gap analysis is required.

Investment gap analysis entails comprehensive study of the AfCFTA State Parties' frameworks, in both hierarchical and thematic terms. Since the PoI has legal effects at three levels, the gap analysis requires a study of regulations at the community, international and national scales, which may have different hierarchies. Thematically, the PoI sustainable development approach includes provisions on issues related to the environment, labour, consumer protection and access to justice, among others. Apart from this, most countries attract investment in specific activities governed by sectoral regulations, such as in mining and telecoms, among others.

An investment gap analysis starts with the main investment legal bodies but should include other relevant legal bodies according to the PoI provision of interest. An in-depth analysis goes beyond the identification of similar provisions to delve into specific areas of divergence. The complexity of such an exercise explains the need for gap analyses to enable State Parties to establish an action plan towards PoI implementation.

The PoI distinguishes between continuous obligations (which require sustained compliance over time, such as transparency and information publication under Article 10), time-bound obligations (which must be fulfilled within defined timeframes, such as the five-year legal alignment requirement under Article 52 and BIT termination under Article 49) and event-driven or punctual obligations (triggered by specific circumstances, such as grievance management under Article 45 or dispute resolution under Article 46).[2] A

2 Mbengue, M. M. (2024) 'Consultancy for the development of the Implementation Plan for the AfCFTA Protocol on Investment'. AfCFTA Secretariat, January, Section C.3. The typology distinguishes between constant, time-bound and punctual obligations, and between mandatory 'shall' provisions and best-endeavour commitments, as a framework for sequencing State Party implementation actions.

gap analysis that does not distinguish between these categories risks producing action plans that conflate immediate compliance priorities with longer-term structural reforms, or that fail to flag urgent obligations. Bringing this typological clarity to State Parties is itself a form of technical assistance: many governments were uncertain which obligations were immediately binding, which were aspirational and which required legislative action as opposed to administrative adjustment. The gap analysis methodology was designed to resolve this uncertainty and give governments a sequenced, obligation-specific reform agenda.

The gap analyses further serve as a function that extends beyond country-level compliance planning. They translate treaty obligations into concrete, prioritised reform actions and provide the evidentiary basis for continental implementation decisions. This includes identifying countries that require foundational support, where institutional operationalisation remains the binding constraint even where formally well-aligned legal frameworks exist, and distinguishing them from countries ready for versus accelerated engagement, where legal alignment is sufficiently advanced to move toward investment facilitation and pipeline development. Aggregated gap analysis data also enables the Secretariat to report credibly on PoI implementation progress to the Council of Ministers, and to demonstrate concrete implementation traction.

3 Gap analysis methodology

The appropriate identification of gaps is critical to developing effective action plans. The AfCFTA Secretariat developed the gap analysis methodology as a practical implementation instrument grounded in the structure and typology of the PoI. ODI Global has supported its application and refinement across countries and regions. This typology was first elaborated by Makane Moïse Mbengue for the AfCFTA Secretariat Implementation Plan for the Protocol on Investment (January 2024).

The AfCFTA–ODI Global methodology follows four main steps, but its design reflects specific institutional choices made about what PoI alignment means in practice.

1. List all PoI provisions, divided into parts (including investment promotion and facilitation, investment protection standards, dispute settlement and sustainable development) and 54 articles.
2. Cross-check appropriate national or regional investment regimes and other relevant legislation to identify relevant provisions related to PoI provisions.
3. Explore the gap between the PoI and domestic and regional regulations.
4. Formulate an action plan to overcome the gaps within five years, including responsible institutions.

Box 1 Methodological framework – key design principles

The approach to gap analysis reflects four methodological principles developed through the interpretation the AfCFTA Secretariat's institutional mandate and the PoI's architecture:

1. **Obligation-type mapping.** The Secretariat's typology distinguishes binding obligations ('shall' provisions) from best-endeavour provisions. Within binding obligations, continuous, time-bound and event-driven categories shape the sequencing of recommended actions. This typology is the entry point for the gap analysis, not a post-hoc categorisation.
2. **Practice-level interrogation.** The methodology requires examination of institutional practices alongside formal legal provisions. A national focal point (NFP) may be formally designated but non-functional; a one-stop shop may exist on paper but not be integrated across agencies. The methodology is designed to surface this gap between law and practice, which is often where the most consequential implementation failures occur.
3. **Stakeholder validation.** The gap analyses is a combination of desk-based analysis and direct engagement with stakeholders. This require in-country missions, structured stakeholder consultations organised by thematic area and co-development of action plans with responsible institutions. This participatory design, illustrated in the Eswatini case, ensures country ownership and improves the durability of reform commitments.
4. **Linkage to the PIISP delivery architecture.** Gap analysis findings feed into PIISP country engagement under the tiered model: Tier 1 (foundational – diagnostics, NFP designation), Tier 2 (alignment – legal reform, BIT transition) and Tier 3 (acceleration – pipeline development, development finance institution engagement).

Identifying PoI provisions goes beyond merely listing them. The PoI commitments have different levels (binding or 'shall,' encouraged),[3] scopes (continental, internal), actors (states, investors) and timeframes (constant, punctual). Apart from this, some articles have sub-articles, which may regulate slightly different activities. For example, investment facilitation regulates issues on the granting of visas (Art. 7.2 of the PoI) and aftercare services (Art. 7.3). These elements should be unpacked to gain a better understanding of the commitments.

Cross-checking with the applicable investment framework requires a multi-level and multi-thematic analysis. Investment is a crosscutting activity, and this includes its legal framework. Countries are usually bound by international, regional and national investment rules. While most gap analyses are focused on national investment rules, PoI commitments may be regulated by regional law. In parallel, investment provisions are found beyond the main investment laws, including in regulations on labour, tax, human rights and environment, among others. Additionally, sectoral regulation may be of relevance, for example if mining or energy are relevant fields of FDI. Thus, any gap analysis must be comprehensive.

Recognising the gaps between the PoI and applicable regulations requires an in-depth analysis of the latter's provisions and practices. Once the PoI commitments and the regulation of interest have been identified, the comparison should reveal convergences and divergences. This should be complemented by a review of the countries' investment-related practices. For instance, some national focal point (NFP) activities (Art. 9 of the PoI) may already be among the activities developed by the investment promotion agency (IPA), but the IPA may not yet be designated the official focal point.[4]

The gap analysis should consider the detailed elements of the applicable provisions. It should not only explore provisions in the same legal area within the country's framework. On expropriation (Art. 19 of the PoI), for example, it should establish whether the country's tools cover both direct and indirect expropriation.

The action proposed will depend on the gap identified. Some gaps will relate to formal investment provisions; others may deal with the practices of stakeholders. The actions could thus range from the development or reform of an investment-related provision to the operationalisation of activities. In case a reform is needed, the legal processes for reform will likely guide the actions to be developed.

Table 1 presents a proposed template for systemic gap analysis.

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3 In a recent analysis, the AfCFTA Secretariat categorised commitments as articles with 'shall' or 'best endeavour' and found 51 'shalls' and 11 others.

4 The AfCFTA Secretariat has guidelines for the designation of focal points.

Table 1 Model gap analysis comparing the AfCFTA PoI and country regulations, selected examples

PoI provision	Country X regulation or practice	Gap	Proposed action plan
Investment promotion and facilitation (Ch. 2 of PoI)			
Art. 7.3 (encouraged provision): Establishment of one-stop shops, aftercare services and digitalisation of procedures	The country has one-stop shops and aftercare services, but procedures are mainly on paper.	Procedures should be digitalised.	Promote the creation of an online platform for investment procedures. Responsible: IPA
Investment protection standards (Ch. 3 of PoI)			
Art. 19 (binding provision): Protection against unlawful direct and indirect expropriation	The country has a law on direct expropriation with the applicable legal procedures and compensation	There is no regulation on indirect expropriation.	Develop provisions regarding indirect expropriation or state liability. Responsible: IPA, legislative power

Source: Authors

In practice, the suggested methodology benefits from complementary actions, particularly those that favour ownership by stakeholders. Box 2 exemplifies this through the case of Eswatini.

Box 2 Applying gap analysis in practice – the Eswatini experience

Eswatini's application of the gap analysis methodology illustrates how the framework can be operationalised in a grounded and policy-relevant manner. Crucially, the process did not treat the PoI as an abstract legal instrument applied in isolation, but situated it within the country's economic context. This included an assessment of firm-level FDI dynamics and benchmarking against comparator economies, ensuring identified gaps reflected real constraints affecting investment entry, operation and expansion. By anchoring the analysis in actual investment patterns and economic stakes – not solely legal provisions – the exercise was able to identify not just where misalignments existed but also why they mattered for development outcomes.

The gap analysis was then validated through inclusive stakeholder dialogue, using breakout sessions organised by thematic areas and guided by specific questions. This participatory design fostered strong ownership among institutions, which in turn strengthened prospects for implementation. Responsibilities were clearly assigned across lead and supporting agencies, while sequencing and timelines were co-developed rather than imposed. The process concluded with refinement stages, where proposed actions were stress-tested and improved collaboratively – resulting in reform-ready outputs, including draft legislative provisions, a phased implementation roadmap and an aligned institutional framework.

This methodology is likely to lead to a whole range of gaps and associated actions. AfCFTA Secretariat staff have suggested[5] there are some quick wins for countries that can bring investment benefits. These include:

- designation and operationalisation of NFPs
- publication of investment-related information
- undertaking investment promotion activities
- enhancing investment facilitation through simplification and digitisation of procedures
- establishing or enhancing complaint and grievance management mechanisms
- cooperation and coordination among regulatory authorities.

5 Presentation at AfCFTA–ECCAS–ODI Global meeting in Yaoundé, 24-25 March 2025, on investment gaps in the Economic Community of Central African States (ECCAS) region.

4 Emerging findings

The findings across these gap analyses confirm a pattern that was anticipated in the design of the PIISP but that is now evidenced at scale. The primary implementation challenge is not the absence of legal frameworks but the gap between formal provisions and operational delivery. Most State Parties have investment laws, promotion agencies and at least partial compliance with key PoI provisions. What is systematically absent is the institutional coherence, administrative capacity and interagency coordination needed to make those frameworks effective. This finding fundamentally shapes the Secretariat's implementation support model, which prioritises institutional operationalisation alongside legal alignment, and treats the two as parallel rather than sequential.

This section presents findings from the range of countries examined in gap analyses. An analysis of current country investment frameworks against the PoI reveals important gaps. This section examines the core gaps across the four PoI dimensions: investment promotion, investment facilitation, investment protection and sustainable development. Across all four, a key challenge is not (just) the absence of rules or institutions, but also their limited effectiveness, weak integration and insufficient operationalisation. This paper refrains from using country examples, but the countries that own the gap analyses (Djibouti, Eswatini, The Gambia, Ghana, Kenya, Economic Community of Central African States (ECCAS)) and stocktakes (Côte d'Ivoire, Mauritius, Morocco, Senegal) can further explain the details.

In the area of **investment promotion**, substantial progress is evident in the formalisation of country-level policies and strategies and the creation of dedicated agencies tasked with attracting investment. Many systems now identify priority sectors, undertake branding efforts and engage in outreach to potential investors. However, a key gap persists in the articulation of a compelling and evidence-based value proposition. Sector prioritisation is often overly broad or insufficiently grounded in detailed analysis of competitiveness, supply chains and investor motivations. Geographically, efforts tend to focus less on intra-African flows. All this results in promotional efforts that are descriptive rather than strategic, limiting their ability to differentiate effectively in a competitive global landscape.

Institutional capacity constraints further weaken promotion effectiveness, as agencies may lack sector-specific expertise or the analytical tools needed to refine targeting strategies. In addition, weak coordination with other public bodies limits the ability to present a coherent and responsive interface to investors. Monitoring and evaluation systems are often underdeveloped, meaning that the impact of promotion efforts is rarely tracked in a systematic manner, thereby constraining learning and accountability. The operationalisation of national focal points (NFPs) may help with this – not just their formal establishment but also, and more importantly, a strong mandate linked with resources to implement it. This would help at national level, but also at a regional level, given the coordination with other NFPs.

The second pillar, **investment facilitation**, highlights a different but equally significant set of gaps related to the efficiency, transparency and predictability of administrative processes. Reforms in this area have led to the introduction

of digital platforms, the simplification of procedures and the creation of one-stop service centres. Despite these efforts, investors frequently encounter complex and fragmented administrative systems. Procedures often involve multiple agencies, redundant documentation and unclear or inconsistent requirements. In many cases, digital solutions coexist with manual processes, leading to duplication rather than simplification.

A central weakness in investment facilitation is the absence of effective coordination across institutions involved in the investment process. Investment projects typically require approvals and interactions across a wide range of authorities, and the lack of integrated workflows results in delays, uncertainty and higher transaction costs. Transparency also remains limited, as investors may not have access to clear, up-to-date information on procedures, timelines or regulatory expectations. Access to information shows different levels of progress but remains a common area of improvement. This lack of predictability increases perceived risk and can deter investment. Although some systems have introduced mechanisms for resolving investor grievances, these are often insufficiently empowered, limiting their ability to address systemic bottlenecks. As a result, facilitation frameworks sometimes fall short of delivering a seamless and investor-friendly experience.

Moreover, there is a notable gap in aftercare services, which are essential for retaining investors and encouraging reinvestment. Existing investors, who often represent the most immediate opportunity for scaling up investment, are not systematically engaged or supported. Aftercare is particularly helpful because it helps manage grievances in an early state, in line with PoI objectives.

In the domain of **investment protection**, the gap between formal legal provisions and their practical enforcement can be pronounced. Many country-level frameworks incorporate strong legal protections, including guarantees of fair treatment, safeguards against expropriation and access to dispute resolution mechanisms. However, the effectiveness of these protections depends heavily on the capacity and integrity of institutions responsible for their enforcement. Judicial systems may be slow or overburdened, and administrative decisions may lack consistency or transparency. This creates a disconnect between the rights granted in law and the realities faced by investors.

In addition, investment protection regimes are often fragmented across multiple legal instruments, including general investment laws, sector-specific regulations and international agreements. As a result, investors require accessible and reliable information so they can navigate regulations without incurring unnecessary compliance costs. This is particularly the case for smaller investors, who may lack the resources to manage legal complexity. There is also an emerging tension between the strengthening of investor protections and preserving governments' policy space to regulate in the public interest, particularly in areas such as environmental protection, public health and industrial development. Many legal frameworks have yet to fully develop a clear balance between investment protection and the right to regulate, increasing the risk of uncertainty and investment disputes. The absence of clear and balanced frameworks for managing these trade-offs represents a significant gap in current country-level investment regimes.

The fourth dimension, **sustainable development**, reflects the most significant divergence between ambition in the PoI and actual policy development

at country level. Sustainability considerations have increasingly been incorporated into investment strategies, with growing recognition of the need to align investment with environmental, social and long-term economic objectives. However, these commitments are often not translated into legal frameworks, or operational criteria or measurable outcomes. There is frequently a lack of clear standards, indicators and enforcement mechanisms to ensure investments contribute meaningfully to sustainable development.

This gap is viewed as both challenging and the most strategically significant finding of the pilot analyses. The Africa Green Industrialisation Initiative (AGII) is designed precisely to translate the PoI's climate and sustainability provisions, particularly Articles 8, 26 and the sustainable development strand of Article 28, into operational investment programming. The persistent absence of domestic legal and institutional mechanisms to screen, incentivise and monitor sustainable investment means the AGII's ambition of building bankable green investment pipelines cannot be realised without parallel investment law reform at the country level. Gap analyses that specifically interrogate sustainability provisions – their translation into domestic legislation, their integration into investment promotion strategies and their linkage to climate finance readiness frameworks – are therefore essential.

A further gap lies in the limited integration of sustainability into the other pillars of the investment framework. Investment promotion strategies do not consistently prioritise or target sustainable sectors, and facilitation processes rarely provide incentives or streamlined procedures for sustainable investments. Similarly, investment protection frameworks do not always incorporate safeguards that ensure responsible business conduct. Monitoring systems are also weak, with limited data on the environmental and social impacts of investment. Without robust measurement and reporting, it is difficult to assess progress or hold stakeholders accountable. Institutional fragmentation further exacerbates these challenges, as responsibilities for investment and sustainability are often dispersed across different agencies with limited coordination.

Across all four pillars, several systemic issues emerge. Institutional fragmentation remains a fundamental constraint, undermining coherence and efficiency. Capacity limitations – both technical and organisational – reduce the effectiveness of policies and institutions. Data and monitoring systems are generally weak, limiting the ability to assess performance and learn from experience. Most importantly, there is a pervasive gap between policy design and implementation. While frameworks are often aligned with international good practices, their execution is inconsistent, resulting in a suboptimal investment environment.

In conclusion, the gap analyses underscore that improving investment outcomes requires more than incremental policy reform. It necessitates a shift towards integrated, system-wide approaches that align investment promotion, facilitation, protection and sustainable development objectives. Strengthening institutional coordination, enhancing implementation capacity and embedding robust monitoring and accountability mechanisms are essential steps in bridging the gap between PoI ambition and reality at the country level. Such alignment in investment frameworks can help attract and retain investment for sustainable development.

5 Generic lessons and impacts so far

This section draws out general lessons that have emerged from undertaking gap analyses (5.1) and discusses early policy impacts (5.2).

5.1 Generic lessons about gaps

Lessons can be drawn from the various gap analyses undertaken across countries and regions. Although these studies were conducted in different institutional contexts and with varying levels of depth, they reveal a number of common patterns. They also provide practical insights into how State Parties can approach alignment with the PoI's investment promotion and facilitation provisions.

One practical lesson concerns timing. Gap analyses are most effective when they coincide with ongoing legal or policy reforms. Where investment laws or strategies are already under review, findings are more likely to be integrated into the reform process and translated into concrete policy change. The pilot studies also highlight the importance of grounding legal analysis in detailed consultations with implementing institutions.

A meaningful gap analysis benefits from various sources and a detailed analysis. Studies must therefore go beyond reviewing the investment code. Progress requires engagement with sectoral stakeholders. Analyses focused on facilitation and promotion also reveal that the more detailed the analysis is, the more comprehensive the results are. Unpacking the different elements of PoI provisions generates better and more concrete action points.

Across countries, the analyses reveal several recurring gaps. Most investment promotion regimes are not yet geared towards attracting or promoting intra-African investment. Coordination between African investment promotion agencies remains limited, and collaboration with RECs even weaker. Also at the national level, investors often face fragmented institutional landscapes, with multiple regulatory entry points and administrative duplication. Digitalisation and one-stop-shop reforms are underway in many countries, but they are frequently incomplete or only partially integrated across institutions.

Several other weaknesses also appear consistently. Visa and work permit procedures remain slow and cumbersome, limiting the mobility of skilled personnel needed for investment projects. Aftercare services are often reactive rather than proactive, and structured cooperation on cross-border aftercare is largely absent. Sustainability objectives are commonly referenced in investment policy, but clear sustainability criteria and indicators are rarely embedded in investment legislation.

Investment incentives also show limited harmonisation across AfCFTA countries. Information relevant to investors – while generally available – is often dispersed across multiple institutional platforms. In addition, most systems still lack dedicated investment grievance mechanisms for early dispute prevention.

These findings highlight the importance of prioritisation. Once the PoI enters into force, State Parties will have five years to align their laws, policies and administrative practices. This will require a wide range of reforms, and governments will need to focus first on the measures that can deliver visible improvements to the investment climate.

Ultimately, the PoI provides a continental framework, but its real value will lie in its implementation. Where countries face uncertainty in applying specific provisions, they can draw on successful national experiences and international best practices. Early implementation – particularly of investment promotion and facilitation provisions – would already improve the investment environment and help prepare countries for the alignment required once the PoI formally enters into force.

At the same time, while the value of the PoI lies in its implementation, it explicitly recognises the sovereignty of State Parties, meaning that alignment does not imply uniformity in how provisions are applied. Rather, the PoI creates a framework within which countries can adapt implementation to their institutional and economic context. Such space creates a natural space in which national debates has arisen on the different practical ways to comply.

Early implementation efforts have revealed areas where these debates are prominent. These include how to better link investment incentives to sustainable development and green industrialisation objectives, the establishment of grievance mechanisms to prevent disputes through improved coordination and the effective designation and functioning of NFPs as coordination hubs across institutions and with the AfCFTA Secretariat. Discussions also extend to strengthening proactive aftercare services, engaging with the phasing-out of intra-African BITs while updating extra-African agreements and rebalancing investment promotion strategies to better capture intra-African opportunities.

The gap analyses yield several practical lessons. One concerns timing: analyses conducted alongside active legal or policy reform cycles are more likely to translate into concrete policy change. A second concerns the depth and scope of analysis: studies that go beyond the investment code to engage sectoral stakeholders and unpack PoI provisions at a granular level generate more actionable findings. A third is that legal reform alone is insufficient without corresponding investment in institutional operationalisation – that is, NFP capacity, aftercare systems, grievance mechanisms and digitalisation. Sequencing implementation support to align with a country's reform cycle also accelerates uptake. The PIISP tiering model provides the structured basis for this: gap analyses are the instrument through which a country's priority support needs are identified and its tier established.

5.2 Impact

The gap analyses are generating tangible policy impact. The AfCFTA Secretariat has already refocused its investment work programme in response to what has been learned, as set out below. Country-level impacts in Eswatini, The Gambia, Kenya and Ghana further demonstrate that implementation momentum can be built even before full ratification (Box 3).

Box 3 Reflections on AfCFTA PoI: insights from country gap analyses from the AfCFTA Secretariat's perspective

The AfCFTA Secretariat's investment work programme has been recalibrated in response to lessons from country gap analyses, which show that implementation of the PoI is not a purely legal exercise but rather a practical, sequenced and institutionally grounded process. Rather than treating the PoI as a model law requiring uniformity, the Secretariat now approaches it as a framework for alignment, under which national laws, regulations, institutions and administrative practices are progressively brought into coherence. This has shifted the work programme from conceptual alignment towards structured, country-responsive implementation support.

A key adjustment is the institutionalisation of implementation through the PIISP, which translates country-level insights into a structured continental delivery model with tiered engagement and outcome-oriented components. This reflects the recognition that implementation must link diagnostics, validation, legal alignment, institutional operationalisation and facilitation reform in a sequenced manner.

The Secretariat has also reframed legal and regulatory alignment as a continuous process. While many State Parties are aligned with the PoI in principle, gap analyses reveal that this alignment is often incomplete and undermined by fragmented legal frameworks, overlapping mandates and weak coordination. The work programme therefore combines diagnostics, treaty review, legal drafting and reform roadmaps with sustained technical assistance to embed reforms in practice.

Crucially, the programme now prioritises institutional operationalisation. Key constraints include weak NFPs, underdeveloped aftercare services, limited grievance prevention mechanisms, low digitalisation of investor services and insufficient interministerial coordination. As a result, support increasingly focuses on building functioning systems alongside legal reform.

The programme has also expanded to include implementation infrastructure and forward-looking priorities. The AfCFTA investment portal supports transparency, compliance monitoring and investment visibility, while growing emphasis is placed on sustainable and climate-responsive investment, including green industrialisation, regional value chains and bankable pipelines. Overall, the programme has shifted from compliance towards building effective national implementation systems.

Source: Executive summary and lessons informing the AfCFTA work programme on investment from Kabui and Ng'eno (2026)

5.2.1 Eswatini

Early evidence suggests the Eswatini gap analysis has begun to influence ongoing policy and legislative processes. EIPA has confirmed that the recommendations are being actively considered as part of the ongoing review of the ETIPA Bill and the national Investment Policy. The authorities have indicated their intention to incorporate some of the report's proposed actions into these instruments to advance alignment with the AfCFTA PoI.

In particular, the gap analysis has informed discussions on strengthening investment promotion and facilitation mechanisms. Proposed reforms include developing a consolidated online Investment Rulebook, establishing statutory service standards and facilitating performance reporting and formally designating EIPA as the NFP. The authorities are also considering measures to formalise interagency cooperation through memoranda of understanding between key institutions involved in investment facilitation.

Additional reforms under consideration include improving investment transparency, screening procedures and investor aftercare. This includes establishing clearer regulatory criteria and timelines for investment screening, creating a consolidated national investment information portal and developing an aftercare strategy with measurable performance indicators, including targets for small and medium-sized enterprise linkages and gender inclusion.

5.2.2 The Gambia

Legal reforms are underway. The Gambian Ministry for Trade, Industry, Regional Integration and Employment has proposed the GIEPA Amendment Bill 2025. Among other things, this seeks to align the country's investment regime with the AfCFTA PoI. As of March 2026, the bill is being discussed by lawmakers.[6]

Reform proposal strengthens sustainable development. The amendments integrate socioeconomic and environmental considerations into the investment framework, balancing investor rights with the state's policy space. It also strengthens key investment-related institutions.

5.2.3 Kenya

Implementation of the AfCFTA PoI requires active engagement with relevant stakeholders. In Kenya, a stakeholder forum on the PoI brought together government agencies, private sector representatives and regional partners to discuss the operationalisation of the agreement and its implications for the national investment framework.

Kenya has designated Invest Kenya as the NFP for the PoI's implementation. The establishment of a national focal institution is significant, as this entity can now coordinate domestic reforms, facilitate investor support mechanisms and serve as key interlocutor between national authorities and continental AfCFTA structures. Such focal points contribute significantly to PoI implementation.

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6 Ceesay, J. (2026) 'Lawmakers back GIEPA Amendment Bill to reset Gambia's investment future'. The Point, 4 March (https://thepoint.gm/africa/gambia/national-news/lawmakers-back-giepa-amendment-bill-to-reset-gambias-investment-future).

5.2.4 Ghana

Early evidence suggests that the gap analysis findings have supported the ongoing modernisation of Ghana's investment legislative framework. The analysis several gaps in the Ghana Investment Promotion Centre Act 2013 (Act 865) against the requirements and suggestions of the AfCFTA's PoI, including fragmented institutional mandates, the absence of a formal one-stop shop for investors and limited aftercare and grievance mechanisms. In this context, the development and passage of the Ghana Investment Promotion Authority (GIPA) Bill 2026 (Parliament of Ghana, 2026; MyJoyOnline, 2026) represents an important step towards aligning the national framework with PoI requirements.

Several provisions in the new legislation reflect issues identified in the gap analysis. GIPA is re-established with a clearer and more centralised mandate for investment promotion, facilitation and regulation, alongside strengthened provisions for coordination across ministries, departments and agencies. The legislation also provides GIPA with a legal basis for a one-stop shop for investors and introduces more organised approaches to investor support, including establishing an investor grievance mechanism and expanding aftercare and advisory functions.

The new Bill further emphasises sustainable development, expanding the areas of environmental responsibility and social inclusion within the Authority's functions. In addition, it introduces a more explicit focus on outward investment by Ghanaian enterprises, including within African markets, consistent with the PoI's objective of promoting intra-African investment flows. Importantly, the legislation designates the Authority as the NFP for the AfCFTA PoI, thereby providing a clearer institutional basis for coordination and information exchange.

These country-level impacts represent the early evidence base for what structured support can achieve. The PIISP is designed to institutionalise and scale this model. The progression from diagnostic to reform to monitored implementation, evident in early form in Eswatini, The Gambia and Ghana, will, under the PIISP, become a systematic continental process.

6 Conclusions

The scope of the PoI is ambitious. The pilot gap analyses undertaken jointly by the AfCFTA Secretariat and ODI Global with partners reveal the type of studies that PoI State Parties will have to carry out to establish their action plans and bring the PoI into effect. The alignment process will need to involve terminating intra-African BITs, revising regional investment rules and updating or creating national investment provisions.

Ratification of the PoI, when and where appropriate, is the first step, but the real value lies in its execution. Regardless of ratification status, implementation can start now, particularly in areas within the common practice of State Parties. Gap analyses are helpful to identify these actions, and early wins. That is especially so because the PoI embodies a set of best practices on governing investment.

Gap analyses will facilitate the creation of action plans. When a country has identified the gaps in its investment framework, it will be able to design activities to overcome them, in an action plan. It is recommended to focus on the short term (no more than six months), the midterm (no more than a year) and the long term (no more than five years). The short term will involve actions that are already in place and require minor adjustments. The midterm will involve the development of a pipeline of actions or reforms to be developed over five years. Finally, the long term will include the development and monitoring of the activities that were originally put in place.

Our findings also generate suggestions as to the timing of gap analyses and the skills needed. There needs to be deep interrogation of investment codes (preferably when they are being revised, to enable ease of uptake of recommendations for action), as well as sector legislation. Early evidence reveals that gap analyses and engagement activities have had impacts, including in terms of updates to national legislation and notification of NFPs. However, many gaps remain to be addressed. Notable themes here include sustainable development, dispute settlement and aftercare services.

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