Africa Newsletter

Edition 1, 2021

Hogan Lovells

Welcome to our latest edition of the Hogan Lovells Africa Newsletter, which covers the first half of 2021.

It is a pleasure to start this edition with an interview that took place earlier this year between our Head of Africa practice, Andrew Skipper and Her Majesty's Trade Commissioner for Africa, Emma Wade-Smith OBE. They both co-chair the UK government's Africa Investors Group, and the discussion continues the conversation around themes raised at the UK-Africa Investment Conference held in January 2021.

We then move on to two articles authored by members of our Paris team. The first one discusses the prospects for Africa following the launch of trading under the AfCFTA, which also happened at the beginning of the year. In the second, lawyers from our Paris arbitration team talk about how a recent decision from the CCJA, the Supreme Court for OHADA legislation, reinforced its pro-arbitration approach.

Two South Africa focused articles follow. In the first, Wessel Badenhorst, our Office Managing Partner in Johannesburg looks at how the recent increase in demand for commodities will lead to a rise in foreign direct investment in mining across Africa. Then, in a joint article, two of our lawyers (from Johannesburg and Frankfurt) compare the recent POPIA in South Africa to the UK's GDPR provisions.

As always it is great to be able to feature some articles co-authored with or written by some of our relationship firms. The first of these discusses opportunities for the construction industry across the continent; we then take a look at the changes which have been made to Ethiopia's Commercial code; and we round off this section with the latest joint article from our A Local Perspective series, which looks at the renewable energy sector across Africa but with particular focus on Uganda.

We then include two pieces which following on from recent events. The first was written after our participation in the Ministry of Justice's UK-Africa Legal Services Conference, and Andrew Skipper discusses the role of UK Legal Services across Africa. We then have a piece about our recent Business Leaders Series, which has a regional focus.

We finish with our usual feature focusing on some of our recent pro bono highlights in Africa. Don't forget to also look at the information about some of our recent work, and the HL Africa events calendar.

We hope you enjoy this edition of the newsletter. As always, please get in touch if you have any questions or comments.

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The UK-Africa trade relationship

A conversation with Emma Wade-Smith OBE and Andrew Skipper.

The Department for International Trade (DIT) hosted the 2021 Africa Investment Conference, showcasing the breadth of existing UK-Africa investment relations while encouraging other companies to do the same. Emma Wade-Smith OBE, Her Majesty's Trade Commissioner for Africa and Andrew Skipper, co-Chair of the AIC and Head of Africa Practice had a reflective Q&A discussion about the AIC's achievements.

One year on from the UK-Africa Investment Summit, what did the Africa Investment Conference (AIC) aim to achieve?

Emma Wade-Smith OBE – Building on last year's UK-Africa Investment Summit, hosted in London by the British Prime Minister, the UK's Department for International Trade (DIT) designed and hosted the 2021 Africa Investment Conference with the ambition of showcasing existing UK-Africa investment relationships with a view to encouraging more companies to follow suit. As Government, we felt it would be most compelling to hear the voice and experiences of businesses that are actively engaged in Africa, especially against the global backdrop of the COVID-19 pandemic and international economic and business recovery efforts. The virtual conference, which attracted close to 7000 registrations, brought together UK and African businesses from key sectors such as infrastructure, renewable energy, financial & professional services and agri-tech to discuss the reality of doing business in Africa and to "match-make" British investors with African projects and entrepreneurs in search of funding.

Andrew Skipper – For the private sector and with the Africa Investors Group representing a broad range of business interests on the continent, this was a good opportunity to reset and reemphasise our practical commitment both to partnering in Africa and supporting further investment from the UK to the continent and vice versa. The AIC allowed us to reach out virtually to a vast number of potential investors and opinion formers with a clear and positive message about the attractiveness of the UK as a place for investment and partnership. It is great that Emma and her team were determined to host the event notwithstanding the global circumstances and the number of registrants is a testament to its success.

Over the last year, how has the UK strengthened its trade and investment relationship with Africa?

Emma Wade-Smith OBE – Firstly, we have been growing. The UK Government's trade and investment network in Africa has more than doubled in size over the last two years, in recognition of the growing and untapped commercial opportunities that we see across the continent.

At the UK-Africa Investment Summit in January 2020, the UK Government announced 27 deals worth a combined £6.5 billion, with a further £8.9 billion of other deals and commitments publicised on the day. Since then, we have been working hard to maintain momentum around our ambition to establish the UK as Africa's investment partner of choice. To help harness investment appetite, we launched DIT Africa's online Investment Deal Room (https://www.hoganlovells.com/en/blogs/the-a-perspective/the-uk-africa-trade-relationship), in partnership with Asoko Insight, to showcase African investment projects to UK investors. Over the last year, the Deal Room has published 86 projects with a combined value of some £550 million.

To ensure that we are supporting existing UK investors in Africa, we launched the Africa Investors Group (AIG) – that Andrew and I co-chair– to ensure that our Government efforts are providing our companies with the support they need and that, collectively, we can design the most effective approach to inspiring more companies to invest in Africa. Over the period ahead, the UK's work in Africa will have a strong focus on maximizing the potential of the green economy to support sustainable economic recovery from COVID-19, which will help create new jobs and protect long-term growth and stability.

Andrew Skipper – There is no doubt that COVID has made life more challenging in global terms, and not least in Africa where being on the ground and developing mutual relationships is so important. In the case of my own business, we set ourselves the challenge of remaining "present" on the continent even when we could not be physically there. We have achieved this through a range of innovative and virtual means such as the A Perspective podcasts (https://www.hoganlovells.com/en/knowledge?searchtext=the%20a%20perspective%20podcast), which have allowed our core business and relationships on the continent to thrive even during the pandemic. The truth is that all the issues which required investment in Africa have been enhanced rather than reduced and our commitment has therefore simply been reenergised. More broadly, we have seen that business on the continent has remained resilient, notwithstanding the impact of the pandemic. There is still much activity and investment (and interest) in Africa remains strong.

With the development of the African Continental Free Trade Area Agreement (AfCFTA), how do you see the UK-Africa relationship developing?

Emma Wade-Smith OBE – The UK welcomed the start of trading under African Continental Free Trade Area Agreement (AfCFTA) terms on 1 January. We see the enormous potential that this has to boost intra-African trade and offer even greater business opportunities for UK companies over the years ahead. The UK directly supported the AfCFTA negotiations through our African Union Support Programme, by providing targeted technical assistance to its negotiators. We have also boosted our team on the ground in Accra, to be able to work closely with the AfCFTA Secretariat based there as they pursue their important work of realising the benefits that can be enjoyed from this Agreement.

The UK is a strong advocate of free trade. Alongside the implementation of the nine trade agreements that we have signed with 16 African countries and the UK Generalised Scheme of Preferences, we will continue to support the liberalisation of trade across the continent. We are also focused on working with Africa's business and political leaders to reduce the non-tariff barriers that constrain the ability of businesses to grow and create more jobs.

Andrew Skipper – The AfCFTA should be a game changing opportunity for Africa to deliver scale and added value on the continent through the opening of trade barriers and borders, which in turn should provide stability and growth. This should also give those outside the continent who are prepared to work in partnership with local businesses and government, an opportunity to drive business and create mutual benefit for the long term. The UK with its approach towards long-term and sustainable investment outcomes, should be well placed to support growth, but

success will be hard won in a globally competitive market and UK business will have to ensure an intensity of effort is applied along with a clear commitment to listen and to develop and support relationships on the continent.

What are the current investment opportunities across Africa for British businesses?

Emma Wade-Smith – With a fast-growing market of 1.2 billion potential consumers and predicted economic growth returning across the region this year, the dynamism and evolution of Africa's economies and the talent and innovation of its people will continue to generate exciting investment opportunities for UK businesses. In line with our focus on rebuilding cleaner, greener and more inclusively, I see particular growth potential for technology and innovation as well as across the green economy. This includes sustainable infrastructure; renewable energy; agri-tech; education and skills; as well as healthcare and financial and professional services. But we do not need to limit ourselves to these areas; Africa is incredibly vibrant and entrepreneurial, so there are possibilities everywhere.

Andrew Skipper – In my business, and from the businesses we talk to, we see a range of continuing opportunities, but these vary between different places. Africa is of course, notwithstanding the promise of AfCFTA, not a homogeneous market but a complex and vast range of different opportunities in 54 countries. These require businesses intending to invest first in understanding each market and learning to respect them. As a provider of services which form the majority of the UK's GDP it is clear that the opportunities for developing relationships and business across a range of sectors are and will be strong. This applies equally to the traditional sectors, as well as infrastructure and natural resources, in addition to new tech, education and life science. So, one size does not fit all, but the infinite variety gives real opportunity.

How do you support British businesses looking to enter the African market?

Emma Wade-Smith OBE – The UK Department for International Trade's Africa network supports UK businesses and African buyers, to increase trade and investment flows between the UK and Africa. Our network consists of over 140 trade and investment experts located in over 20 African markets. We also provide advisory services to UK companies interested in exporting to and investing in Africa, helping them through dedicated, market-specific support, including market entry and access advice and information on market barriers. My teams are only an email away – I encourage any UK company with business queries about Africa to get in touch with us at DIT.Africa@fcdo.gov.uk.

Andrew Skipper – In addition to Emma's overview, the AIG is keen to help support investment and encourage it in collaboration with the government.

As we head towards COP26, how is the UK supporting Africa's green energy transition?

Emma Wade-Smith OBE – We are already seeing a strong interest in developing and increasing renewable energy in many of Africa's economies. A number of UK companies are already accessing these opportunities, for example in Senegal and Ethiopia. We want to enable even more renewable energy projects, including with support from the UK's export credit agency, UK Export Finance (UKEF), which has allocated £2 billion to support clean growth projects. Last year, for example, UKEF supported the construction of 108 rural healthcare clinics in *Zambia*, which will be powered by solar energy.

In addition, thousands of Ghanaians will get access to drinking water through Aqua Africa's solar-energy powered water project, with a direct loan from UKEF. Additionally, the UK's development finance institution, *CDC Group* is shifting its focus towards greener investment priorities, with more than $1 billion of climate finance committed over the past three years and an ambition for their investment portfolio to be net zero by 2050.

Andrew Skipper – There is no doubt that the global focus on renewables and clean tech will be a critical part of the future. Africa has an enormous role to play in this, including in educating the rest of the world in the unique challenges it faces and has already overcome. The private sector will reflect this. There are of course a range of sensitivities in dealing with this based on history and a balance of necessity. This means that a partnering, fair and mutual approach is especially important.

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Launch of trading under the AfCFTA: stepping in the right direction

On 5 December 2020, the same day as Nigeria's ratification of the African Continental Free Trade Area ("AfCFTA"), the African Union adopted the "Johannesburg Declaration on the Start of Trading Under the Agreement Establishing the African Continental Free Trade Area" (the "Declaration"). The Declaration, while acknowledging that negotiations regarding Rules of origin, tariff concessions and specific commitments on Trade in Goods and Services have yet to be finalized: *"DECLARE(s) the start of trading, as from 1 January 2021, under the Agreement establishing the African Continental Free Trade Area (AfCFTA) based on the agreed Rules of origin."*

So how does the AfCFTA reconcile, on the one hand, the launch of trade while, on the other, acknowledging that Phase I negotiations regarding tariff negotiations are not yet concluded? Perhaps the answer is hinted at in H.E. Wamkele Mene, the AfCFTA Secretary General's, words in the press briefing he released shortly after the launch: that this "step" marks the beginning of the lengthy journey awaiting the AfCFTA, similar to the fate of other ambitious free trade agreements throughout the world.

Background

To fully grasp the current situation of the AfCFTA, a brief reminder is in order: the agreement establishing the AfCFTA was signed in March 2018 after the conclusion of its founding legal texts and is comprised of several legal instruments, notably i) the AfCFTA Agreement (the first and anchor instrument) and ii) the Protocols (with their associated annexes and appendices) on Trade in Goods, Trade in Services, and Dispute settlement to be finalized as part of Phase I negotiations to conclude by June 2021, and on Investment, Intellectual Property Rights, Competition and E-Commerce Policy to be negotiated as part of Phase II and Phase III negotiations, scheduled to conclude at the end of the year. The deal unites an estimated $3 trillion market, and could help to realise more than $84 billion in untapped intra-African exports, according to a new report by the African Export-Import Bank.[1]

What the Declaration changes

Starting from 1 January 2021, State parties that have ratified the convention may now import or export goods based on the tariff concessions and rules of origins proposals that they have submitted. In the Declaration's terms, Member States are therefore now able to trade on the basis of *"legally implementable and reciprocal tariff schedules and concessions with agreed rules of origin and customs documentation"*.

It has also been agreed, at the ministers' level, that countries that have not yet implemented or agreed to tariff schedules or approved relevant customs documentation, should nevertheless give credit to traders that have started trading under the rules.

For example, if Country A has not yet implemented the appropriate customs documentation enabling it to trade under the AfCFTA tariffs, it will nonetheless be expected to recognize the exporter based in Country B (who has implemented relevant tariffs and customs documentation), to whom he will have to apply the reduced tariffs under which the exporter is now trading. On 4 January 2021, Ghana officially recognized the first consignment of goods to be exported under AfCFTA preferences.

What there is left to be finalized by June 2021

Outstanding tariff schedules and rules of origin have to be finalized. Member states are thus urged, in article 13 of the Declaration, to complete their tariff reduction schedules and finalise essential rules of origin by July 2021. By means of an indication of the effort still required to conclude Phase I negotiations, Silver Oiakol, the chief of staff at the AfCFTA secretariat stated that 90% of the rules of origin had been agreed with the remaining 10% to be completed before July.[2] The rules for trade in services must also be finalized in order to seal Phase I of the project. Once Phase I is completed, phase II and III negotiations can begin with regards to investment, competition, intellectual property rights and E-commerce, with a view to completion by 31 December 2021.

Highlights of the Declaration

Other than its symbolic significance as the first tangible operational result of the AfCFTA's coming into force in 2019, the Declaration also highlights several novel features of the AfCFTA which are worth bearing mention.

First, the Declaration acknowledges and commends the Pan African Payment and Settlement System ("**PAPSS**") , elaborated in collaboration with Afrexim Bank, as the first centralized payment market infrastructure for processing, clearing and settling of intra-African trade and commerce payments, as a key tool for a smooth implementation of the AfCFTA. Benedict Oramah, President of Afreximbank, has mentioned that PAPSS would save the continent more than US$5bn in payment transaction costs per year.[3] Thus, African companies will be able to clear and settle the transactions between them using local currencies and no longer rely on third currencies such as the Euro or the dollar which has historically led to high costs and longer transaction times.

Second, the Declaration recognizes the key role that digital platforms will play in supporting the AfCFTA's implementation, notably the AfCFTA app which enables an African trader to gain access to other parts of the African market. Any interested person may register to this platform and obtain an AfCFTA number that will then allow them to gain a Pan-African business profile. Once the procedure is complete, these persons will then have access to the platform and be able to connect with other business persons throughout Africa. Other benefits of this application include a simplified due-diligence process ensured by the "Trusted identity profiling feature", the ability to access, generate and submit digital paperwork to government agencies easily and to streamline transactions, and obtain AfCFTA benefits such as low or zero duties.

Third, the Declaration emphasizes women's and youth's contributions as inextricably linked to the AfCFTA's success: Particular focus has been given to women in trade whereby it has been said that the agreement aims at closing the gap in pay for women.[4] A specific protocol on this matter is to be considered in the coming months.[4]

Impact on investment

Although the start of trading under the AfCFTA is generally good news, the fact that phase I negotiations will not conclude until July of 2021 means that phase II negotiations, which include the investment protocol, will be delayed to the end of the year. This is significant in light of the fact that the investment protocol, whose raison d'être is in great part to encourage confidence in investors and therefore have a significant impact on intra-African trade, is still relatively far from being enacted. The inclusion of an investor state dispute settlement system, for example, into the AfCFTA's investment protocol, could be seen as bringing predictability and consistency for both investments and dispute resolution, thereby tying in with the general objectives of the AfCFTA of "foreseeability" and "uniformity". It may also potentially lead to the growth of arbitration centres in Africa, and standardise the enforcement of intra-African arbitral awards, for example through the creation of a legal regime for the free movement of arbitral awards across the continent, similar to the OHADA model.

In conclusion, while 1 January 2021 undoubtedly marks a step in the right direction for the AfCFTA, a date praised and celebrated accordingly by heads of state and the business community alike, much still remains to be done for its full potential to be unleashed. As this article shows, 2021 promises to yield still many developments for the AfCFTA, the launch of trade merely being the first step of a long and rewarding journey.

**Previously published by ALB on 02/03/21 (iclg.com/alb/15766-launch-of-trading-under-the-afcfta-stepping-in-the-right-direction*) and reproduced with kind permission of the publishers.*

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1 https://www.africanews.com/2020/12/31/excitement-as-africa-counts-down-hours-to-start-of-trading-under-afcta/.

2 https://www.reuters.com/article/uk-africa-economy-idUSKBN29G1CD.

3 https://www.afreximbank.com/afreximbank-announces-1-billion-adjustment-facility-other-afcfta-support-measures-as-african-leaders-meet/.

4 https://www.sabcnews.com/sabcnews/ramaphosa-highlights-importance-of-trade-agreement-to-empower-women/.

The CCJA reinforces its pro-arbitration approach

The Common Court of Justice and Arbitration (CCJA), the Supreme Court for OHADA legislation (the Francophone Africa organisation with harmonised business law across the 17 OHADA State parties), recently reinforced a pro-arbitration approach in Grant Thornton and others v. Pape Ndiaga Mbengue (No. 193/2020), which upheld the arbitrability of a dispute and the arbitrator's power to apply public policy provisions.[1] This is good news for doing business in Africa, as discussed below.

Background to the appeal

On 9 April 2013, Mr. Mbengue and Mr. Gaye, respectively the manager of Excellence Consulting Group and the general manager of Grant Thornton (GT), signed a memorandum of understanding (MoU) on behalf of their companies which provided a framework of cooperation through which they would share human, logistical, and financial resources to develop their activities. On the basis of this MoU, Mr. Mbengue became the director and chairman of the board of directors of GT, while Mr. Gaye remained general manager of GT. The MoU contained an arbitration clause referring disputes ultimately to the CCJA as the arbitral institution.

Mr. Mbengue was removed from his post as director and chairman of the board in May 2018, and was replaced by a new chairman. This decision was approved in subsequent shareholder and board meetings. Mr. Mbengue, dissatisfied with this decision, applied to the Commercial Court of Dakar to cancel the relevant minutes in an effort to prevent the appointment of the new Chair. In response, GT argued that the Commercial Court of Dakar did not have jurisdiction over the dispute due to the MoU's arbitration clause.

While the Commercial Court of Dakar upheld the arbitration clause and declined jurisdiction, the Court of Appeal overturned the decision in June 2019. The decision held that, despite the arbitration clause being agreed between the parties in the MoU, the dispute pertained to certain public policy provisions of the OHADA law (i.e. the convening and holding of general meetings and meetings of the board of directors) and that, as such, it was not arbitrable.

Article 2 of the OHADA Uniform Act on Arbitration states that a party may agree to arbitrate any rights over which it has free will.

The Court of Appeal of Dakar took the view that, as the rights being debated included obligatory requirements for companies to respect with regard to their meetings, there was no such "free will". It further held that the dispute had to be decided by national court judges.

Decision of the CCJA

GT appealed to the CCJA (in its role as Supreme Court), arguing that the arbitration clause in the MoU conferred jurisdiction on the CCJA as the arbitral institution. The question put to the CCJA was whether an arbitrator can apply public policy provisions in the process of making a decision (and thus allow the present dispute to be resolved via arbitration) or whether only national court judges have this power.

The CCJA granted the appeal of GT and ruled that it was appropriate to set aside the judgement of the Court of Appeal of Dakar on the basis that (1) the mere existence of public policy provisions does not prevent the parties of a corporate dispute from resorting to arbitration; and (2) arbitrators have the power to apply these public policy provisions. In essence, the CCJA ruled that the dispute could be referred to arbitration.

Impact for doing business in Africa

It is well recognised that there are certain disputes which cannot be referred to a private forum such as arbitration (for example criminal law, family law, inheritance law, etc.) and are deemed to be non-arbitrable by relevant legal provisions (such as national laws or international conventions). However, as demonstrated in this CCJA case, there are also instances when public policy provisions can impact a natural or legal person's contractual rights, and resolution by arbitration is nevertheless still possible. In this decision, the CCJA confirmed that the sole fact that a dispute may lead the arbitrator to apply public policy provisions does not mean that the dispute should automatically be deemed non-arbitrable, and that a distinction should be made between the application of public policy provisions and the arbitrability of a dispute.

This approach comes in line with decisions previously upheld in other jurisdictions. In as early as 1975, a Swiss court in Ampalgas held that *"a dispute concerning the validity or termination of a contract can be referred to arbitration even if one of the parties raises an argument based on a public policy rule"*. In France, in both the Ganz and Labinal cases, the Court of Appeal held in substance that *"in international arbitration, the arbitrators have jurisdiction to rule on the arbitrability of a dispute which is submitted to them, having regard to the notion of international public policy, and if they conclude that the dispute is arbitrable, they may apply any rules relevant to the dispute, regardless of whether these are public policy rules"*. In Fulham Football Club (1987) Ltd v Richards, a corporate dispute concerning a breach of the articles of association (which contained an arbitration agreement), the English Court of Appeal held that unfair prejudice claims under Section 994 of the Companies Act 2006 (i.e. a form of statutory actions brought by aggrieved shareholders against their company) are capable of being arbitrated, provided they do not involve the making of any winding-up order (a remedy which would invoke the court's supervisory jurisdiction).

In taking this approach, the CCJA confirmed the view prevailing in other major pro-arbitration jurisdictions: arbitration can take place even where elements of public policy are concerned, and that public policy rules will be included in the rules of law that arbitrators can apply in resolving the disputes submitted to them. This decision will be welcomed by investors, businesses, and practitioners of arbitrations brought under OHADA rules, and will continue to develop the growing profile of the CCJA as an arbitral institution, reassuring parties that corporate disputes such as the one discussed here can be settled through arbitration and that they are not forced to resort to national court litigation.

** Thanks go to Bogdan Popescu (Trainee in International Arbitration, Hogan Lovells Paris) for contributing to this article.*

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1 A full copy of the decision is available at: http://biblio.ohada.org/pmb/opac_css/doc_num.php?explnum_id=4764.

SA mining is ripe for foreign direct investment

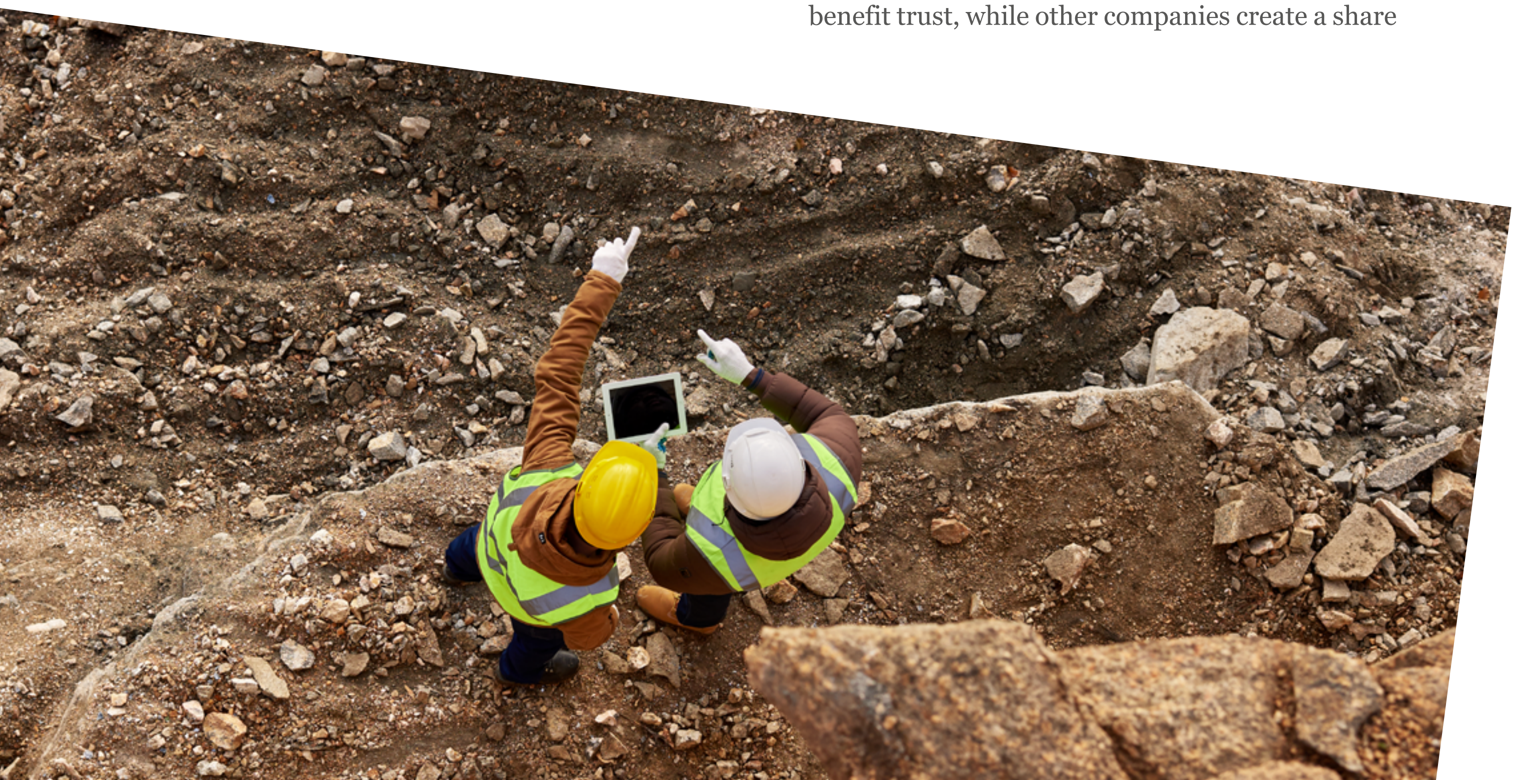
The recent increase in demand for commodities has led to a concurrent increase in demand in mining, which will undoubtedly lead to a rise in FDI in mining.

Foreign direct investment (FDI) in SA fell by almost half in 2020, in line with the worldwide downturn caused by the global Covid-19 pandemic, according to UN Conference on Trade and Development (Unctad) figures. The country attracted only R2.5bn of new investments in 2020, a sharp 45% drop from the 2019 figure of R4.6bn

However, with many of the Covid-19 sanctions on doing business being lifted since mid to late 2020, FDI is seeing signs of recovery. With its good business climate, strong focus on production and financial services, and a tourism and retail sector showing great potential, SA remains attractive to investors.

A particularly strong area for investment in SA is the mining sector, which is a major part of the economy, being the world's largest producer of chrome and platinum, and the second largest producer of palladium and zirconium. Our country also exports significant amounts of coal, diamonds and iron ore. In 2020, the SA Reserve Bank reported that mining and quarrying was the second-largest sector to secure investment during 2018 at 25.5%.

The recent increase in demand for commodities has led to a concurrent increase in demand in mining, which will undoubtedly lead to a rise in FDI in mining. Worldwide the need for palladium and platinum is high given that these materials are key in controlling vehicle emissions, which are becoming more stringent for China and Europe.



When speaking broadly about FDI in mining, ministerial approval of the change of control in those businesses is needed. This we usually refer to as section 11 approvals, which take an average of nine to 12 months but can take as long as 18 months. This requirement does not extend to listed entities, however. What does apply to all mining acquisitions in SA, including FDI, is that the mining company must comply with all of the conditions of its mining right.

Firstly, the business must comply with the Mining Charter in terms of the following: 30% of ownership must be in the hands of historically disadvantaged groups, of which 5% of those shares must be held for the benefit of the mine's host communities and 5% of shares must benefit the company's employees. These shares usually come in the form of a community trust and an employee benefit trust, while other companies create a share pool. The guiding principle here is that there has to be a real benefit, which all comes down to dividend flow.

The department of mineral resources and energy encourages trickle dividends, so the money received by beneficiaries is not only governed by profit but also ensures there is a regular flow of funds to communities and employees. Equity in transactions is also dealt with as part of broader social and labour plan compliance to ensure community and employee projects benefit from the company, so a more sustainable economy is built within the communities that sit around the mining entity.

For example, the company is required to build up small business around the mine, which often fall into the categories of security and logistics, both important for the mining entity. These stipulations do not apply to the rights that were granted under the previous Mining Charter, but they do reflect a real drive by government to try to broaden the equity base of mining companies so that it doesn't benefit just one person.

For example, mining procurement is also more specific in the mining industry to meet BEE requirements, such as capital goods and operational expenses being differentiated. The equity requirement of ownership transfer in the case of a mining entity usually takes nine to 12 months to finalise and, in the case of FDI, can only be implemented once ministerial approval of the transaction has been obtained.

If the FDI does not involve a change of control but rather involves buying out assets and putting them into a new entity, then what flows from that is a change of licence or licence holder. This can be a complicated process because of environmental approvals, for example water licences, atmospheric emissions licences and environmental authorisations, all have to move across. There is therefore a part of the project that has to focus on bringing the regulatory compliance into line, and this is where the right kind of legal advice becomes crucial. A few of the change of licences can be done post implementation of the sale, but it is an ongoing process thereafter.

Some change of licences can take time. What often happens is that certain mining operations were approved under a certain environmental plan, and the new owner might want to change the scope slightly. The mine would then have to undergo a formal environmental impact assessment, which can take 12-24 months, and then only after ministerial approval.

Although the SA economy, and the mining sector specifically, have taken a bit of a knock with Covid-19 and existing hurdles before the pandemic, it is undeniable that now is a good time to invest in mining given that it is a buyers' market.

**This article was first published in Business Day (https://www.businesslive.co.za/bd/opinion/2021-06-02-sa-mining-is-ripe-for-foreign-direct-investment/) on 2 June 2021, and is reproduced with kind permission of the publishers.*

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A spotlight on data protection laws in Europe and South Africa

South Africa and Europe have in recent years both introduced data protection legislation. Although there are many similarities, there are also some key differences that are important to understand. For both, the main purpose is to protect the public's personal information and privacy. Under each regime, those failing to adhere and to safeguard personal information can face significant penalties, both punitive and reputational.

In Europe, the General Data Protection Regulation ("**GDPR**") came into force on 24 May 2016 and set a two year grace period for compliance which officially came to an end on 25 May 2018.

In South Africa, the Protection of Personal Information Act 4, of 2013 ("**POPIA**"), although introduced, and partially enacted, in 2013, was only fully enacted in June of this year which meant organisations were given until 1 July 2021 to fully comply. This deadline has now come and gone and, although expected, led many rushing in the last few months to ensure compliance and pressuring boards to adopt draft policies.

The enactment of POPIA also led to many European businesses asking the question: does compliance with GDPR not provide me with sufficient cover for, as well as compliance with, POPIA in South Africa? There is no clear cut answer, and tailored advice should be sought in each individual case. Even though POPIA and GDPR are, in many ways, quite similar, compliance under GDPR does not automatically ensure a business's compliance under POPIA, and vice versa.

GDPR vs. POPIA: A snapshot

Before tackling the above, it should be noted that the principles behind each of the two are fundamentally the same: both GDPR and POPIA are intended to ensure that personal information is only processed under certain conditions, kept safe and to educate those involved as to what to know and do when there is a suspected data breach. Under both GDPR and POPIA, certain individuals are appointed who are held responsible for data protection within their respective organisations and who are tasked with ensuring that data is only processed for the specific purpose for which it was originally provided to their respective organisations.

The GDPR, passed by the European Union, wapplies to those established in the EU but also those established outside of the EU but who render services or offer goods to data subjects based in the EU.

The core similarities (and differences) between GDPR and POPIA are can be highlighted as follows: other than the obvious territorial

differences of application being the European Economic Area vs. South Africa, while both refer to personal data (personal information in the case of POPIA) relating to natural persons, POPIA extends its definition more broadly and refers to both living natural persons and corporate entities. There is another key geographical difference between the two, notably where the personal data (or personal information) is processed: Under POPIA it must be processed within the borders of the Republic of South Africa, whereas under GDPR the data processing must be done not only within the EU but GDPR will also apply when those responsible for processing (data controller or processor) are based elsewhere if the data being handled is the personal data of a data subject within the EU.

Both GDPR and POPIA place obligations on the controller ("responsible party" under POPIA) and the processor ("operator" under POPIA). The controller and processor must each implement appropriate measures to ensure the risks associated with data collection and processing are adequately addressed considering the nature of the personal data involved. However, the level of legal obligations placed on controllers by both GDPR and POPIA is higher than those placed on processors. GDPR requires a controller to demonstrate compliance with all data protection principles outlined therein and POPIA requires that they ensure compliance with the conditions for lawful processing set out therein.

Both GDPR and POPIA provide data subjects with extensive rights relating to their personal data/ information, which include the right to access, to object to any form of processing (i.e. for marketing purposes) as well as the right to call for corrections to or destruction of their personal data/ information. GDPR goes even further in affording data subjects the right to access such data in a structured, machine readable format and the right to transmit their personal data from one controller to another without interference.

Under POPIA, there is a requirement for every private and public body (under POPIA) to appoint an information officer, which should be the CEO or another senior executive. This requirement under GDPR states that every private body is to appoint a GDPR officer, which is oftentimes someone from within the legal team. Current guidance also requires the information officer to be located in South Africa, which has raised some practical concerns for corporates that have no South African presence. There are also system delays in registering information officers on the new online portal. However, the South African Information Regulator has advised that no action will be taken against organisations or their information officers for failing to register given these processing delays.

With respect to the consequences of a breach under the GDPR and POPIA, the financial penalties imposed under POPIA may be significantly lower when compared to the relatively high GDPR fines; however, POPIA provides for potential criminal liability for non-compliance.

Compliance under GDPR and its effect on your status under POPIA

In short, compliance under GDPR does not mean that one is automatically either compliant under POPIA or exempt from having to comply. Due to the global nature of business and situations where attendees at online events or visitors to websites usually hail from all corners of the world, the effect is that a South African company will have to ensure compliance both under GDPR (when processing data from anyone within EU) and under POPIA (offering specific protection to South African individuals, organisations and businesses alike). Those who have already adhered to the 1 July 2021 POPIA compliance deadline can confirm, however, that compliance under GDPR means one does not have to "start from scratch" to ensure compliance under POPIA, as the two are based on the same underlying principles.

Even though the deadlines for compliance have passed, it is still possible to put the measures associated with GDPR and POPIA in place in order to avoid incurring penalties.

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Growing opportunities for the construction industry in Africa

In April 2021, Africa Construction Law, in collaboration with some of the leading law firms in the African construction law space (including Hogan Lovells and Aluko & Oyebode), organised a week-long programme which brought together experts and stakeholders from across the globe, to discuss the opportunities, challenges and areas for growth within the construction industry in Africa. One of the key takeaways from the conference was that the enormous potential, resources and opportunities on the continent remain relatively untapped.

According to the Deloitte Africa Construction Trends Report 2020, there were about 385 projects under construction in Africa with a minimum value of USD 50 million and with a total project value of USD 399 billion. Of these projects, 30.6% were located in East Africa, 26.5% in Southern Africa and 19.7% in West Africa. African governments continue to play a major role in the construction space with government owning 75.8% of the projects on the continent. They are also key to the funding of projects with a funding share of 27.5% of the construction costs of projects, with private consortia and China following closely behind with 15.1% and 13.5% funding shares respectively.

Despite the increase in infrastructural spending and investment in the last decade, the state of infrastructure in most of Africa is still behind other parts of the world. As at 2020, McKinsey reports that *"as a share of GDP, infrastructure investment in Africa has remained at around 3.5% per year since 2000… By way of comparison, China spends about 7.7% of GDP on infrastructure and India 5.2%"*. There is clearly the need for more private sector involvement in order to close the infrastructure gap between Africa and the rest of the emerging markets. Referring to what it calls Africa's infrastructure paradox, McKinsey rightly notes that *"there is need and availability of funding, together with a large pipeline of projects, but not enough money is being spent"*. In many African cities, there are ongoing infrastructural projects, plans and projections for future projects.

Remarkably, these projects represent only a small fraction of the infrastructure needed to adequately support the growing population in these countries. There is, therefore, an urgent need to match some of the viable projects in the pipeline with private sector funds, in order to see the kind of infrastructural development that Africa needs at the moment.

In a report prepared by London-based think-tank, Overseas Development Institute, in January 2020, it was noted that the rate of profit on investment for firms investing in Africa is higher than in many other parts of the world. The report further revealed that in the year 2019, the rate of return on all inward foreign direct investment in African countries was 6.5%, which was higher than the 6.2% rate in Latin America and the Caribbean and the 6% rate in developed countries. With some purposeful intervention, the construction industry in Africa is poised to explode.

Indeed, the growing need for infrastructure in most of Africa, the rapidly growing population across the continent which consists of a large number of young people, the lower production cost in Africa compared to other parts of the world, as well as a high return on investment, all indicate that labour-intensive industries like the construction industry are in for a boom.

Project risks, obstacles and challenges

Like any other jurisdiction and continent across the globe, infrastructural investment in Africa is not without its risks. Potential risks include political, commercial, project delivery, claims related and legal risks.

Take political risks, for example: A change in government could potentially mean a new economic direction and policy for the country. This risk is particularly high in some African nations where political instability continues tobe a challenge. Potential investors may also be exposed to commercial risks, including environmental factors, problems in the supply chain and delays in the completion time.

The project delivery risk is another factor to consider. While contractors would usually assume contractual responsibility for on-time, on-budget, and on-quality delivery, there are a couple of factors that can affect the delivery of a construction project on the continent. For example, there is the trend to maximise risk transfer regardless of the contractor's capability to best manage the risk; a combative contracting culture which runs contrary to the collaborative approach to project delivery adopted in many international standard forms of contract; a lack of transparency on contractor's capability; border controls and currency control risk; poor risk planning and performance management of resources and costs.

There are also claims related risks. Like in many jurisdictions, the culture of underbidding by contractors with a view to recouping through claims is prevalent in many African projects. While many international construction contract forms in use for international projects within the continent contain notices and claims management provision, the meaning and legal significance of these provisions depend entirely on the applicable law which differ and depend on the legal tradition in the specific jurisdiction. In Egypt, for instance, the Court of Cassation in Challenge No. 1164 held that based on article 657 of the Civil Code, time bar provisions would be enforced. However, awareness or knowledge of the claim by the asset owner would override the strict obligation to give timely notices as required under the contract. This approach is likely to differ in common law jurisdictions where time bars are strictly enforced.

There are also legal and enforcement related risks often associated with an evolving legal environment. In many African countries, there is often a disconnect between the legal framework as it is on paper and the law as it operates in practice. There are also regulatory related risks, including delays in the administration of the court system, delays in obtaining licences, approvals and permits from government agencies and an uncertain regulatory environment especially as it relates to local content regulation.

Navigating the tide and the need for proactive project management

Notwithstanding the risks and challenges highlighted above, statistics suggest that the African construction industry offers an enormous opportunity for investors and with careful and proactive project management, market intelligence and experience of the market, investors can successfully navigate the terrains, mitigate any risk and maximise return on investments on the continent.

Moreover, with organisations such as Africa Construction Law, the level of knowledge and sophistication on construction law issues across the continent will only continue to rise, leading to the adoption of international best practices in the procurement and management of construction projects. Additionally, the adoption of international standard forms of contract for international construction projects ensures that parties contract under familiar risk allocation matrix, thereby minimising the project risk.

Also, the legal and arbitration frameworks have, in the last couple of years, been updated to reflect recent commercial realities. For example, on 13 January 2020, Nigeria introduced a Finance Act which was designed to, among other objectives, amend the various tax laws in Nigeria, promote fiscal equity by introducing tax incentives for investment in infrastructure and capital markets as well as mitigate instances of regressive taxation.

Furthermore, arbitration which is a popular method of resolving construction disputes in Africa has in the last decade witnessed significant development with jurisdictions like Ghana, South Africa and Tanzania modernising their arbitration frameworks.

Courts across the African continent have also shown increased willingness to enforce validly made arbitration agreements and awards. Only recently, the Nigerian Supreme Court in the case of *Metroline (Nig.) Ltd v. Dikko* [2021] 2 NWLR (Pt. 1761) 422 at 445 upheld the decision of the Court of Appeal enforcing an arbitral award in the face of a challenge seeking to nullify the award on the ground that the award was made against a non-signatory to the arbitration agreement. Similarly, in *Peepul Capital Fund II LLC v. VSoft Holdings LLC* [2019] UKPC 47, the Privy Council (on appeal from Mauritius) upheld the decision of the Supreme Court of Mauritius which refused to set aside an arbitral award on the basis of alleged breaches of natural justice and public policy.

As at today, many African states have ratified both the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 ("New York Convention") and the International Centre for Settlement of Investment Disputes Convention ("ICSID Convention"). The steady uptake of the New York Convention and the ICSID Convention across Africa demonstrates intent by African states to ensure that investments within the continent are protected and reassure investors that their investments are protected due to the reliable enforcement mechanism afforded by these conventions.

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Review of the Ethiopian Commercial Code

Changes have been made to Ethiopia's Existing Commercial Code ("EEC"), which has been in place since 11 September 1960. The New Commercial Code ("NCC") was enacted on 12 April 2021. In fact, it is a bit of a misnomer to refer to the amendment as the NCC since the entire ECC has not been replaced. Only Book I, Book II, and Book V of the ECC have changed; the articles in the other books in relation to carriage and insurance as well as negotiable instruments remain effective pending the issuance of the financial services code.

The NCC is introduced at a critical juncture, when the Ethiopian government is also taking other initiatives aimed at changing its overall legal environment for business, such as the investment laws, business registration and licensing laws, securities laws, the law on commercial arbitration, drafts dealing with the establishment of financial market/stock exchange and other laws pending reform. To what extent the NCC, as a basic code, is aligned with all these initiatives and embodies basic principles to be used as an umbrella law remains to be seen as they start to be tested in practice.

While it is difficult for us to capture all the changes reflected in the NCC in this article, we have made effort to identify the key issues. We will focus on the following three main areas.

1. Traders and Businesses

Traders Defined Expansively: The NCC expanded the list of business activities that would characterize a person undertaking them professionally and for gain as a trader. All the activities listed in the ECC have remained and 16 more have been added. The NCC has also indicated clearly that the list is illustrative, opening the definition to capture other activities that are not included in the list.

Holding Companies as Traders: The NCC has recognized holding companies as traders. The ECC had not provided many details with regards to the definition and regulation of such companies except a few provisions relating to their accounts. The Commercial Registration and Business Licensing Proclamation No 980/2016 defines a holding company as a limited liability business organization incorporating two or more limited liability companies, that has a special registration certificate. The NCC expands this definition by pointing out that a Holding Company is a trader governed under the NCC. It is not clear how the tax law will treat a Holding Company and whether it will enjoy tax treatments accorded to it in other jurisdictions where it is prevalent.

Streamlined Book-keeping: Although the NCC retained the key obligation of traders to keep books of accounts, exempting what it refers to "petty traders" to be defined in a special law, it now recognized the possibility to keep books of account supported by modern technology. It eliminates the provisions detailing how journals, balance sheet and inventories are to be organized.

Registration and Online Register: The NCC retains the obligation of registration. As the framework in the ECC presupposes a unitary state and is outdated, the NCC introduces registrations at two levels: the Federal Register and the Regional Register. It also imposes an obligation on the Ministry of Trade and Industry to establish a federal level electronic database accessible to the public online. The ECC assigns any disputes arising between the applicant and the official in charge of the register regarding entries in the commercial register for resolution by the registering entity, whereas the NCC makes a clear reference to the competent courts of law.

2. Business Organizations

Memorandum of Association: The main document that is identified as a basis for an incorporation of a business in the NCC is the memorandum of association. The NCC explicitly points out that different government authorities may provide a draft template for traders to apply. However, the parties are not required to adhere to any of the templates and have the freedom of contract. The implication of this is that parties can include in their memorandum of association, in addition to what is required by law, concepts such as drag along, tag along and exit which were rarely included in the memorandum of association of companies.

Change of Business Forms: The NCC makes changes to the six forms of business organizations recognized by the ECC. Firstly, it removes what is known as the Ordinary Partnership form. This was already hinted as unnecessary by the drafters of the ECC, as it is essentially conceptualized as a non-commercial association. Secondly, it introduces two new business forms: the Limited Liability Partnership (LLP) and the One Person Company (OPC). Thirdly, it acknowledges the structuring option of setting up Groups of Companies including Wholly-Owned Subsidiaries. A more nuanced definition is provided for Branch Company as well.

The LLP Form: The LLP is an improvisation on the Limited Partnership already contained in the ECC and different in the sense that all the partners, whether participating in management or not, have limited liability. The LLP is intended to provide an opportunity for professional service firms (eg lawyers, accountants, auditors, architects, etc.) to organize in a corporate form while enjoying limited liability to the extent of only their contribution to the capital of the LLP.

The OPC Form: The OPC is formed just by one person making a declaration in a form prescribed by law. It enjoys a legal personality autonomous or separate from the person forming it and its liability is limited to the extent of the contribution that the person makes in the company. Liability does not extend to any other property and this feature makes this form very suitable to sole proprietors. It seems the intention of the law is to offer an opportunity to natural persons who are sole proprietors to set up an OPC if they wish to and may not extend to apply to a corporate entity (an artificial person). The person forming the OPC may be the manager or may appoint another person as manager. It is important to note here the prohibition that one person cannot establish more than one OPC, although it is not clear why this is the case. The NCC states that its provisions governing a Private Limited Company shall apply, as appropriate, to OPC without prejudice to the special rules.

Group, Subsidiaries and Branch: The NCC provides a definition for a Group as consisting of a set of companies comprising of the parent company and all its national and foreign subsidiaries, unless otherwise indicated; whereas a Subsidiary is defined as a company subjected to the control of another company, the "Parent" company, either directly or indirectly through another subsidiary. One of the situations in which a parent company is considered to have control over a subsidiary is where a company owns, directly or indirectly, more than half of the voting rights in that subsidiary. As a variation of a subsidiary company, a Wholly-Owned Company is defined to mean a company with no other shareholders except its parent company and any other subsidiary of its parent company, or persons acting on behalf of its parent or such subsidiaries. In principle, a subsidiary has a separate legal personality from its parents. While the NCC presumes that a Wholly-Owned Company is governed by the parent and takes instruction from it, it requires a not-wholly-owned subsidiary to disclose in the Commercial Register kept by the Ministry of Trade and Industry or another pertinent authority whether its management is directed by the parent. The advantages of setting up as in any of these forms is not self-evident given that the tax law is yet to take them into consideration, and it is not clear what tax advantages lie in any of them.

The Branch company, unlike subsidiaries, is not considered as autonomous and does not have its own legal personality. It is defined as a fixed establishment of a foreign business organization or a similar entity that is staffed and set up to pursue economic activity for gain on behalf and for the account of the said business organization or similar entity for a definite or indefinite period. It can have its own manager, who is expected to fulfill the eligibility requirements for directors of a share company.

A Branch will be cancelled from registration if its parent is dissolved; its parent decides to close it; the branch manager has failed to file, as soon as reasonably possible, accounting documents and other statements regarding the foreign business organization or entity and a branch creditor establishes that its claim cannot be satisfied out of the foreign business organizations assets within Ethiopia.

Merger and Divisions: Unlike the ECC, the NCC has introduced a definition of merger and divisions explicitly and provided for the various ways that they take place. A merger or division plan is required with contents prescribed by the law and the plan has to be drawn up by an independent expert. Merger or division needs to be publicized in a newspaper with a national circulation. The effects of merger or division is also clearly stated. The NCC has made it clear that the company that does not survive a merger does not need to go through the process of liquidation. The detailed provisions of the section dealing with merger and division must be seen in the light of their compatibility with the competition law regime which governs them currently.

Changes on Existing Forms of Companies: The NCC has introduced a number of changes to the provisions relating to Private Limited Companies (PLCs) and Share Companies. These changes are of various levels of depth and importance and it is not the purpose of this article to reflect all of them.

With respect to the PLC form, however, it is important to note the changes below:

- the right of members of a PLC to form a Board, as a management body is clearly recognized;
- the minimum par value of a share has been increased from ETB 10 to ETB 100 (this is the same for share companies);
- meetings via video conference or other means of communications have been recognized as legitimate;
- recognition of pre-emption rights for shareholders when an offer is made by a non-shareholder; and
- a company is permitted to buy back its shares.

Among the notable changes introduced to Share Companies is the right of minority shareholders to demand the redemption of their shares provided that the majority shareholder holds more than nine-tenths of the shares in a company.

3. Bankruptcy and Schemes of Arrangement

Change in the rationale of the law: The NCC has reoriented the Ethiopian bankruptcy system's outlook, conveying that priority is given to rehabilitation or rescuing the troubled business, and liquidation is the last option.

Articulation of Objectives and Increased Survival Opportunities: While the ECC focuses more on bankruptcy proceedings and devoted scanty attention for Schemes of Arrangement for a business in difficulty, the NCC replaces the Schemes of Arrangement and enriches it, expanding the options by introducing the following proceedings: Preventive Restructuring Proceedings (PRP) and Reorganization Proceedings (RP) before a business enters Bankruptcy Proceedings (BP). While the three proceedings share a common objective, that is to promote economic stability, maximize the value of the estate of the debtor and ensure legal certainty through efficient, effective and timely procedures, each of them also has a unique focus clearly stated in the NCC. The NCC deals with each proceeding in detail in separate sections of the legislation.

Adopting the unitary approach: In the ECC, two separate proceedings may lead to liquidation or scheme of arrangement (reorganization) depending on the applicant's relief. However, in the NCC, a single proceeding leads the business through RP and BP.

Consolidation of the Regime: The NCC is applicable to banks, other financial institutions, and state-owned enterprises (SOEs) subject to special features indicated in specific laws applicable to these entities. This is deliberately done with the knowledge that the regime has been fragmented across various laws that were enacted catering to needs arising after enactment of the ECC.

Clarifying the Concept of Suspension of Payments: The proceedings are initiated when the debtor is determined to have suspended its payments. The ECC defines this date very broadly, whereas the NCC presumes suspension of payments to occur when the debtor is unable to pay its debts which are due and payable with its liquid assets, which include credit reserves, overdraft, and similar facilities available to the debtor. The need to provide a default notice to the debtor by the creditors is also emphasized in the NCC. The NCC defines the period of suspicion to cover the period between the date of suspension of payment determined by a court and the opening of the reorganization or bankruptcy proceedings and limits it not to exceed a maximum of 18 months, as opposed to 24 months in ECC. It also makes a workable distinction between pre-insolvency and post-insolvency claims. It maintains the execution of ongoing contracts, with the exception of employment contracts; banking and insurance contracts; administrative contracts; and contracts concluded in the framework of financial markets, including stock exchange, which are all subject to special laws.

Detailed Jurisdiction Provisions: The NCC grants the Federal High Court, in the place where the individual's principal place of business or the registered office of the company or the legal person is situated, jurisdiction to decide matters relating to PRP, RP, BP and sets forth by way of illustration the kind of matters linked to these proceedings. It also provides the scenarios of proceedings where group companies are involved as well as the circumstances under which Ethiopian courts assume international jurisdiction in these proceedings. Interestingly, the NCC recognizes and gives effect to foreign judgments relating to PRP, RP and BP. Even though the NCC sets forth nine preconditions to be fulfilled by the person seeking recognition, it is interesting to note that the precondition of reciprocity as embodied in the Ethiopian Civil Procedure Code dealing with the recognition of foreign judgments is not one of them, paving the way for a diligent judgment creditor to seek recognition and enforcement in Ethiopia.

More Elaborated Rules of Priorities of Creditors: Unlike the ECC, the NCC sets forth detailed rules regarding the priority of creditors in the context of each of the proceedings (PRP, RP, BP) by differentiating among secured and unsecured creditors.

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Renewed Hope. Renewable Energy in Post-COVID-Africa – A Ugandan Perspective

Africa, along with the rest of the world, is trying to overcome an unprecedented crisis in the form of the COVID-19 pandemic. The question to ask is not whether Africa can show its resilience and bounce back, but more how, and particularly, which industries will lead the race? The answer may be simple – energy, or more precisely, renewable energy that is decentralised, cost-efficient, clean, affordable and internationally supported.

Ongoing developments across Africa can and will enable renewable energy to become a cornerstone of post-COVID economic growth on the continent in the next few years. The constant and exponential rise of the population in Africa for one will naturally drive the demand for more and more energy in the foreseeable future. Support from the international community, largely in the form of development partnerships as well as domestic and foreign investors, will play an important part in establishing the renewable energy sources at affordable pricing particularly for the continent's most vulnerable.

Investment potential of renewable energy

Due to the broad availability of renewable energy resources, Africa is ideally placed to utilise renewable energy whose production saw double-digit growth pre-COVID. This trend is set to continue and even increase after the pandemic. It is projected that by 2040 renewable energy will contribute for half of Africa's energy demand, with solar captive photovoltaic ("PV") taking the lead.

However, despite the abundant availability of renewable energy resources nearly everywhere in Africa's deserts and tropical regions, Africa has not nearly tapped all of its potential and, according to the International Renewable Energy Agency, there is a massive investment gap on the African continent.

Historically (and it is fair to generalise on this particular aspect) it is no secret that Africa's road to unhampered access to sufficient power has been met with significant hurdles such as deficient infrastructure and poor policy and legislation that would otherwise encourage and adequately foster investment in the sector. More specifically, various regulatory uncertainties have hindered private domestic and foreign investments in the past.

However, these hurdles are being constantly challenged by lawmakers and role players. The African Union is focussing on renewable energy as a core of its energy policy and is making strides harmonizing and improving African energy policies. Many African countries themselves have introduced and implemented several policies like tax reductions, grants, loans or subsidies to accelerate the investments in the renewable energy sector. The Africa Clean Energy Corridor ("ACEC") is a regional initiative aimed at accelerating development of renewable energy and the cross-border trade of renewable energy within the so-called Eastern Power Pool and Southern Power Pool. The initiative was endorsed in the fourth assembly of International Renewable Energy Agency ("IRENA") in 2014 by ministers of various countries including Egypt, Uganda, South Africa, Kenya and Lesotho, with support growing and leading to the engagement of 30 more governments.

In addition, international initiatives like the Climate Investment Platform supplement those efforts. The United Nations Development Program is creating tools and standards to measure impacts and provide guidance on investments. Thus, the continent is steadily growing more and more attractive to investors and provides for a major opportunity for investment in the renewable energy potential, even in the post-COVID era.

It is now necessary to make use of these opportunities, to facilitate partnerships between governments and private investors and to roll out first projects in public-private-partnerships. The World Bank, the European Union and the German Kreditanstalt für den Wiederaufbau (KfW) support renewable energy projects, which contributes to security for investments and the successful implementation of time-consuming and complex projects in the renewable energy sector. More importantly, the African Union itself, supported by IRENA, collaborated to find innovative solutions and work closely together to advance renewable energy Africa-wide in order to boost the response to the COVID-19 pandemic This newly found drive to establish renewable energy sources has now to be considered by investors and one country that should not be overlooked is Uganda.

Renewable resource potential in Uganda

Uganda is rich with abundant renewable energy resources including hydropower, thermal, geothermal and solar. The estimated renewable energy power generation potential is 5,300 MW and includes an estimated 2,000 MW of hydro power, 450 MW of geothermal, 1,650 MW of biomass cogeneration and an average of 5.1 kWh/m2 of solar energy.

As of January 2021, Uganda had achieved less than a third of this potential, with an installed capacity of approximately 1,268.9 MW. Generation capacity is dominated by hydropower currently at 1,023 MW which is expected to increase to 1,623 MW in 2021 with the commissioning of the 600 MW Karuma Hydropower Project in northern Uganda. Hydropower is supplemented by cogeneration power plants with a combined capacity of 100 MW and in recent years solar power plants, with a capacity of approximately 60 MW, have also received more attention from investors. Uganda also has promising potential for the exploitation of geothermal energy. Wind potential is generally unexploited, but new studies are underway in Karamoja, in the north-eastern part of Uganda, which could represent an opportunity for investment, and a wind farm that is expected to generate up to 20 MW has been licenced.

Sector reforms and investment opportunities

Over the last two decades, the electricity sector in Uganda has undergone a fundamental transformation which has seen the sector grow from three power plants in 2001 to over 40 completed plants in 2021. This growth is largely attributed to the liberalization of the energy market in 2001 when the government unbundled the generation, transmission and supply of electricity previously conducted under a single state-owned company. The Electricity Act of 1999 supported the liberalization and initiated the development of a robust regulatory framework which has consistently been ranked as the most developed electricity framework in Africa by the African Development Bank's Electricity Regulatory Index for Africa.

Today, whereas large hydropower plants are still largely owned by the government, Independent Power Producers ("IPP") now account for 60% of the generation capacity. Distribution is largely dominated by a publicly traded company called UMEME as well as other smaller private role players. The Transmission Segment is wholly-owned by the Government of Uganda, however, a legal and regulatory framework is currently being developed for private investment in this segment, as well as a standardized Transmission Service Agreement and Implementation Agreement to facilitate such investments.

With the demand for electricity growing at an annual rate of 10 to 12%, the Ugandan government is very keen to develop its renewable resource potential by installing 3,400 MW of generating capacity from renewable sources and intends to achieve universal access by 2035.

According to the Africa-EU Renewable Energy Cooperation Programme, several market segments could benefit from the application of renewable energy for electricity generation: Large-scale hydropower plants, small, mini and micro hydro plants (community-based), grid-tied / captive power plants for industry and institutions (flower, vegetable, fruit, tea) for biomass projects as well as grid-tied / waste to energy conversion; dome biogas for cooking.

Solar power is promising for rural electrification / mini-grids and stand-alone systems for households, commercial users, agriculture and industry; stand-alone / back-up or captive power systems for small businesses and industry; grid-tied power plants, and for Geothermal projects, exploration and grid-tied power plants.

These investment opportunities are supported by further innovations:

- Previously, transaction costs were high and negotiation of agreements was lengthy. However, in 2014 the Electricity Regulatory Authority, with the help of development partners, developed standardised legal agreements such as power purchase agreements and implementation agreements which significantly reduced both the transaction costs and time, as well as boosted security for investors. Further, Uganda's well-developed regulatory framework also adds to investor security.
- Renewable energy projects in Uganda may be eligible for two types of feed-in-tariffs. Firstly, the Renewable Energy feed-in-tariff (RE FiT) introduced by the government in 2007 and secondly, the GET FiT programme introduced by KfW in cooperation with other donors which tops up government tariffs with a premium and serves to boost the attractiveness of investments in the renewable energy sector.
- VAT exemptions for solar equipment and supply of goods and services to contractors and subcontractors of renewable energy projects, and subsidies for end-users have also supported expansion of the sector.

Conclusion

The COVID-19 pandemic provided a renewed emphasis on African renewable energy opportunities. During the widespread lockdowns, the power demand was higher than ever before, while the lack of access to electricity has shown its tendency to intensify the human catastrophe. But renewable energy can be the foundation for Africa's post-COVID recovery, while also playing an important role in global efforts to contain the spread of the virus. This should make renewable energy a top priority for African lawmakers and domestic and foreign investors alike.

**This article forms part of our A Local Perspective Series which can be viewed on our Africa Insights page - (https://www.hoganlovells.com/en/blogs/the-a-perspective/renewed-hope-renewable-energy-in-post-covid-africa-a-ugandan-perspective).*

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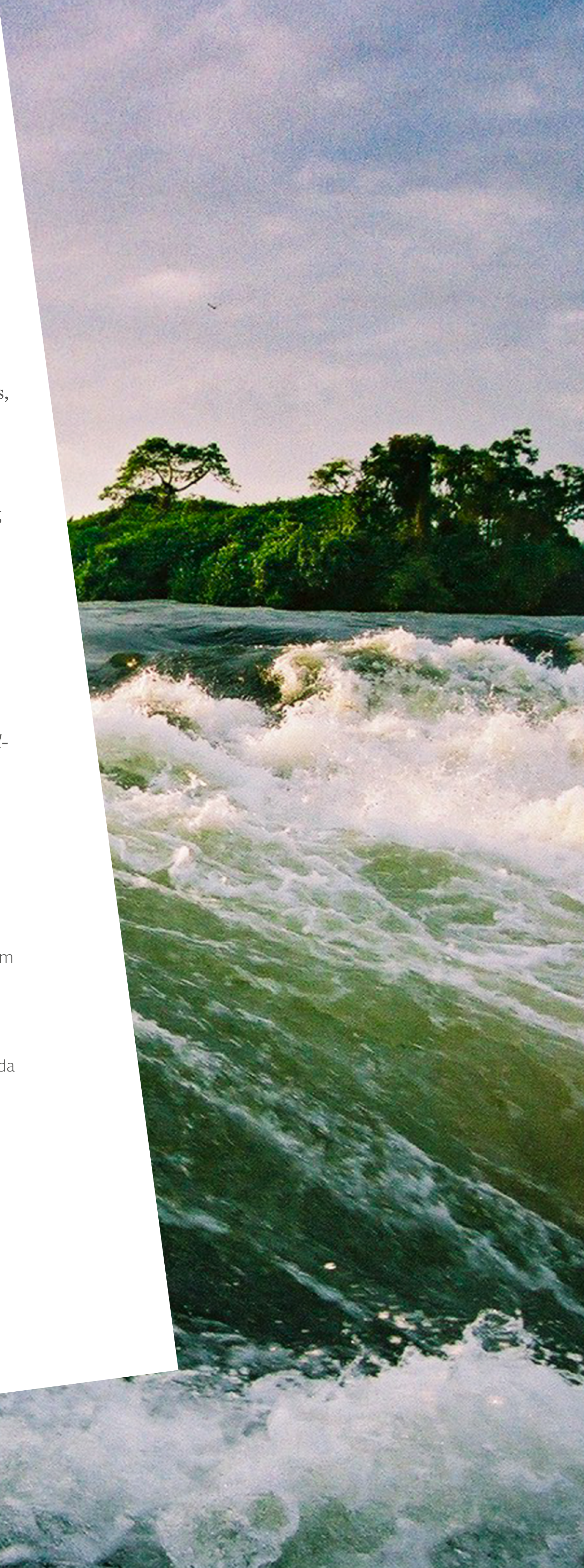

UK Legal Services in Africa

As readers will know, the UK government recently issued their Integrated Review for Global Britain in a Competitive Age. This review has come in for a lot of criticism, not least when coupled with the dramatic decrease in ODA and, for those who see Africa as key for the coming years, its lack of detail or focus on the continent. I work in the private sector, as Head of the Africa Practice at Hogan Lovells, and I am also co-chair of the UK Government's Africa Investors Group set up by Emma Wade-Smith the UK's Africa Trade Commissioner. So I can see the issues in the round and, frankly, beyond the Integrated Review.

As a passionate promoter of Africa I want to focus on the practical and positive role that the legal sector in the UK is taking in the African legal space, and increasingly in the public sector, led by the Ministry of Justice and the Lord Chancellor and his international team. Put simply, Africa is a continent which for a range of geopolitical, demographic and business reasons will be at the centre of global business in the coming years and UK lawyers, like other businesses, have to take notice and engage now. Much business in Africa is still based on English Law; so this is as critical for government (and the exchequer) as it is for private sector.

The private sector has for many years operated on the continent using a variety of structures and strategies. In the case of Hogan Lovells, we have an office in South Africa and elsewhere we work in a coordinated way from our offices worldwide in partnership with leading firms with whom we have close relationships in the other 53 countries. The approach we adopt is based explicitly on understanding, partnership, respect and mutuality. This is in my view business critical. Other practices have a range of alternative, but valid and productive approaches. The legal services sector generated £165.5m worth in legal services exports for the UK in 2018 alone (ONS, 2018).

Put simply this is something we have to engage with, and this is increasingly understood.

What is different is how HMG appear to be addressing business and law on the continent and this is the focus of this article. I want to look at a number of reasons to be cheerful for what seems to be a change in emphasis on the part of HMG and the Ministry of Justice, often working in tandem with the DIT and FCDO, to the engagement of UK lawyers with African lawyers and business. This is coupled with the promotion of English Law both as a business base, but also critically as underpinning rule of law, good governance and ultimately prosperity. And in a spirit of partnership. There are no doubt other examples on top of those I reference (and indeed other views) – I simply speak as I find from my experience.

1. DIT and FCDO have in the last 12 months held 2 major Africa focused events promoting partnership and trade on the continent – the Africa Investment Summit and the recent Africa Investment Conference, both supported by the Prime Minister. In each of these the legal sector performed an important role in delivering the events and speaking at them. Indeed for the latter I, a lawyer, chaired the opening plenary session with leading CEO's from the continent.

2. HMG have set up the Africa Investors Group which comprises a range of large global businesses with interests in Africa and these events had been preceded by a range of local activity and one off trade missions, which has 3 legal service members which shows the level of support being given to the sector; as noted, I am currently the co-chair.

3. MoJ has embraced the legal services sector as a significant part of UK international trade. This is highlighted in Africa by:

    a. the holding of 2 virtual trade missions on the continent of Africa promoting UK legal Services, focusing on partnership and supported at the highest level in Government by the Lord Chancellor and the minister for Africa. These have been well attended by lawyers and business in the UK and in Africa and presented in a way that promotes business and partnership.

    b. various initiatives including the Legal Services Working group on UK/Nigeria as part of the Economic Development Forum, that group being led by Helen Grant MP and comprising a group of leading lawyers from UK and Nigeria and the minister of trade for Nigeria.

These events are not just wallpaper and they give sound advice to practitioners wanting to work with clients in Africa. At the recent MoJ event I chaired the opening panel which had leading general counsel from global businesses with a focus on Africa. This session, which is a must listen for legal practitioners (https://youtu.be/jmalon4xd_w), gave clear and "straight talk" guidance from a client perspective including delivery of advice, collaboration with other law firms, understanding of client business and critically their values and finally the absolute need for a diverse approach.

So Africa is a key market for lawyers, notwithstanding the Integrated Review it seems that HMG "gets it" and that the legal sector is being taken seriously. So we should engage.

**This article was first published in the Law Society Gazette (https://www.lawgazette.co.uk/features/doing-business-in-africa/5108587.article) on 24/05/21, and is reproduced with kind permission of the publishers*

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Collaborating with industry figureheads to deliver our interactive Regional Business Leaders Series

As part of the firm's commitment to advancing resilient, sustainable-led growth in Africa, and in partnership with IC Publications, Hogan Lovells organised a series of virtual regional dialogues to explore the key sectors and industries that will take centre-stage during Africa's economic recovery and advance resilient sustainable-led growth, post COVID-19. Over the last four months, our West Africa (Wednesday 19 May), East Africa (Tuesday 15 June) and North Africa (Thursday 15 July) webinars all took place. Over 700 attended and more than 1000 people have listened to core members of our Africa practice and influential industry figureheads sharing experiences and insights into the opportunities in their respective region.

The Series was designed as part of a collaborative cross-office and cross-practice effort. Hogan Lovells partners from across the firm presented our firm's perspective on legal trends, our Head of Africa Practice, Andrew Skipper, chaired panel discussions on prospects in each region, and fireside chats with instrumental figures took place.

West Africa

The first event invited leading private sector players and investors operating in West Africa to discuss the latest industry developments in technology, infrastructure, renewable energy and trade & logistics. It featured thought leaders who shared industry knowledge to help facilitate growth in West Africa. Among them was Yvonne Mhango, Head of Research - Africa, Renaissance Capital who shared insight into the current state of the region and avenues for growth.

Arun Velusami, partner in Hogan Lovells' infrastructure, energy and natural resources group, spoke extensively on the recent challenges that have confronted the continent since the pandemic and how they have affected the Infrastructure and Energy sectors in Africa. Arun is highly experienced and has advised governments and developers in a variety of energy projects with particular focus on power projectsin Africa, including renewable energy, thermal, and hydro-power projects.

Former Prime Minister of Benin and Co-Chair of SouthBridge, Lionel Zinsou, spoke with Olivier Fille-Lambie, a Partner in our Paris office, in a fireside chat on financing African economies and the impact on the population. He shared that the private sector is a major contributor to job creation and the most important power behind sustainable growth in Africa. Speaking further, he stated that infrastructure and logistics remain key areas for investment in Africa to unlock productivity.

A panel moderated by Andrew Skipper and consisting of Oti Ikomi, Chief Executive Officer of Proton Energy; Joseph Alain Saraka, Chief Strategy Officer at ARISE; Michelle Patrick-Akinrinade, Investment Advisor - Anglophone West Africa at U.S International Development Finance Corporation (DFC); and Sangu Delle, Chief Executive Officer of Africa Health Holdings discussed the new paradigm for Africa and what it means to the different business activities on the continent.

The recordings from the West Africa webinar can be found here (https://ehoganlovells.com/rv/ff007a03e1bfe4dbc46e31cb7446ac5c7b08cfcb).

East Africa

The Series continued with East Africa on 15 June and explored the new investment opportunities in the Agriculture sector, discussed the recent telecom liberalisation efforts in Ethiopia and provided insight into the new wave of investments in technology and data infrastructure across the region. Almost 300 private sector experts and investors across the sub-region, led by core members of Hogan Lovells Africa practice gathered virtually to discuss how to leverage these growth opportunities.

Following an economic overview given by Joel Kibazo, Partner at JK Associates, Andrew Skipper facilitated a panel session, consisting of Adil El Youssefi, Regional CEO for East Africa at Liquid Intelligent Technologies; Isis Nyong'o-Madison, Principal at Asphalt & Ink and David Auerbach, Co-Founder of Sanergy. They discussed crucial insights into the informal sector and the new wave of investments in technology and data, as well as the role of 'impact funding' in East Africa.

Also among the industry leaders present was Daudi Karungi, Founder, Afriart Gallery, who discussed the potential for the private sector and government to invest in the business ecosystem for greater returns.

Two of our leading Africa practice partners expanded on these insights.

Tobias Faber, a partner in Hogan Lovells Frankfurt office, spoke in-depth on the growing demand for energy in East Africa and the ongoing investment in the sector from a European perspective. While, partner Joseph Kim from Hogan Lovells Tokyo office elaborated on the impact of energy on Africa's economy from an Asia point of view.

Group Managing Director and CEO (President Emeritus), Eastern and Southern Africa Trade and Development Bank, Admassu Tadesse, spoke with Shalini Bhuchar from Hogan Lovells London, during the fireside chat on driving investments in the region and the stimulations required in the agricultural and technological sectors. He shared that the agricultural sector needs major investments, in terms of fertilisers, storage facilities, and equipment, to harness the sector's potential. In addition, he affirmed that data, technology, and agriculture have remained the major opportunities for investments in Africa.

The recordings from the East Africa webinar can be found here (https://ehoganlovells.com/rv/ff007e27edeaad13b9ffd3a0854189e87b276e27).

North Africa

More recently, the attention turned to North Africa. This event explored key investment opportunities in infrastructure and energy, and also provided important insight into the new wave of technology and healthcare across the North Africa sub-region.

Andrew Skipper anchored the session which featured thought leaders who shared industry insight to facilitate growth across North Africa. Among the industry experts present was Sorana Parvulescu, Partner, Political Risk, EMEA at Control Risks, who gave a regional overview of the economic state of the sub-region and identified the need for growth and favourable investment in North Africa. Commenting on these insights, Bruno Cantier and William (Bill) Ferreira, partners at Hogan Lovells Paris and Washington offices, explored in-depth the golden opportunities in the education, healthcare, infrastructure and the growth in 'impact' projects across North Africa, as well as the significant effects on Africa's economy.

Tunisia's former minister and Chairman of GCA Asset Management, Dr. Slim Feriani, spoke with Samaa Haridi, a partner in the Hogan Lovells New York office, during a fireside chat on potential sectors that will stimulate growth in Tunisia and North Africa at large and some of the challenges that may occur. Recognising the need for more private sector investment, Dr. Feriani commended the immerse contribution made to integrating the economy. On the opportunities for investment in North Africa, Dr. Feriani highlighted the attractiveness of the region compared to other markets in terms of human and financial resources.

A panel consisting of Ismail Talbi, Senior partner andEgypt MD at Africinvest; Adel Goucha, Partner at RMBV; and Kenza Lahlou, Co-founder and General Partner at Outlinerz Ventures, also discussed key areas for investment in North Africa which include increasing opportunities in technology for all sectors as well as the role of 'impact funding' across the North Africa region.

The recordings from the North Africa webinar can be found here (https://ehoganlovells.com/rv/ff007dd287ce83d5a4c5126dd544adf6dc86046d).

Southern Africa

The last webinar in the Business Leaders Series, focusing on Southern Africa, will be taking place on Thursday 11 November. For more information, contact **abena.poku@hoganlovells.com**

Commenting on the Business Leaders Series, Head of Hogan Lovells Africa Practice, Andrew Skipper said,

"The insights shared from these industry leaders have proven that Africa continues to increase its potential for growth. Dialogues like this help to build affinity between private sector leaders and investors while examining growth prospects on the continent. At Hogan Lovells, we continue to be committed to understanding, operating in, investing in and respecting the continent of Africa, and we are excited to champion the journey to economic recovery and sustainable growth.

West and East Africa hold huge potential for investors to make an impact on Africa's overall development; and North Africa also remains a critical region for large-scale investment opportunities. We recognise the role and importance of the private sector towards achieving growth and it has proved valuable to engage thought leaders in demonstrating the great prospects the region can achieve in these vital sectors."

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Highlights of our pro bono work in Africa

International Paralympic Committee

For the past 2-3 years we have been supporting the Paralympic movement in Africa in particular, Malawi, Zambia, Ghana, Kenya and Namibia.

The project aims to challenge the stigma that is associated with disability by highlighting the achievements of the African athletes in the Tokyo Paralympic Games to audiences in Africa. It has been led by our social enterprise client, the **Global Disability Innovation Hub** (GDIH), Loughborough University's sports programme and the IPC funded by FCDO. It builds on the concept we developed with the Haiti Paralympic team at London 2012 (https://www.thetimes.co.uk/article/in-the-city-edward-fennell-gngv6j8bw7q).

In particular, it will involve the gifting of a TV highlights package of the Paralympic Games to be held in Tokyo 2021 to the national broadcasters of Malawi, Zambia and Ghana so that audiences can see the potential of their athletes and be inspired by their performances, with the aim of changing perceptions. The TV broadcasts may well be supported by community showings in collaboration with the British and possibly French Embassies. It will also involve an education programme **I'm Possible** (https://www.paralympic.org/im-possible developed in collaboration with the IPC and the National Paralympic Committees (NPC) in each country on the issue of disability rights and inclusion.

The team in London have been supporting GDIH, with Penny Thornton advising on the broadcasting contracts and Matthew Knowles working closely with the NPCs to support them to get their athletes to Japan though the qualification programme.

Going forwards the aim is to expand the programme for Paris 2024.

In addition, Camilla Froehlich, in our Frankfurt office, has been working with Nathan Searle in London to negotiate and comment on the Kenyan Paralympic committee constitution; and Camilla has also been supporting the IPC and the Namibian Paralympic Committee in providing comments to the Namibian Draft National Sports Act.

South African Wheelchair Rugby

Lamis Adam (Johannesburg) and Camilla Fröhlich/Kristina Laewen (Frankfurt) recently advised South African Wheelchair Rugby (SA WCR) on their compliance under the Protection of Personal Information Act (POPIA) in South Africa prior to the 1 July 2021 deadline. This included general compliance advice, drafting the privacy policy under POPIA, further advice relating to the collection of data, appointment of an information office, instant messaging to go out to all users of the website, as well as the drafting of a Promotion to Access of Information (PAIA) Manual to be used by SA WCR members.

AgroData

Following on from the AfriTech XYZ workshops, we have continued to work with one of the social enterprise tech start-ups that attended the workshop. AgroData optimises smallholder farming, restores soil resources and improves rural livelihoods through sustainable farming practices with modern technology.

We are advising AgroData on various issues including reviewing a MOU they have in place with local farmers, working with our relationship firms on the ground in both Nigeria and Uganda. Contact Camilla Froehlich or Johannes Gross (Frankfurt) for more information.

Riders for Health

One of our leading social enterprise clients, Riders for Health, spoke to us about the pandemic in rural Africa. Prior to the Pandemic, the social enterprise provided motor-cycles and maintenance to support health care delivery in Lesotho, Malawi and Gambia. The motorbikes are now used as part of contact tracing, COVID testing and to deliver education around hands, face, space. Riders for Health are working with the rural vaccine programme in Nigeria which has received 200,000 doses of vaccine for a population of 200m. Riders for Health is part of a vital delivery system and as has invented cold storage backpacks (see photo) and funded a cold storage to ensure the vaccines have a longer life. They urgently need a backup generator for the vaccine refrigeration.

Thanks to Alastair Shaw (London) for his continuing IP support for the charity.

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Further details of the Stigma programme are here : **Sports against Stigma** (https://at2030.org/sports-against-stigma/); **Loughborough Press Sport against Sigma** (https://www.lborolondon.ac.uk/research/para-sport-against-stigma/) and the **IPC press** (https://www.paralympic.org/news/ipc-and-loughborough-university-partner-para-sport-against-stigma-project); and **Global Disability Innovation Hub** (https://www.disabilityinnovation.com/news/iddp-2020)

Recent work

Advising clients in South Africa and across the network on the South African Protection of Personal Information Act ("POPI Act") which is now in force and effect. The POPI Act is broadly equivalent to the GDPR in the EU and regulates the holding and processing of personal information.

Advising Civic, looking at setting up charitable entities in The Gambia, which will receive and use donations to fund the Great Green Wall expansion across the Sahel through civic engagement. We are advising on the process, corporate governance structure and other related issues.

Advised on the financial restructuring of Smile Telecoms Holdings Limited and its subsequent implementation through a restructuring plan under part 26A of the English Companies Act 2006; the first restructuring plan for cross border African business.

Advising a trade finance fund on a facility for a Dubai trading house to finance chrome ore exports from South Africa.

Advising a Chinese National Oil Company on its upstream oil and gas project in Nigeria.

Advising a multinational industrial corporation on doing business in South Africa, including potentially establishing a branch office.

Advising the Investment Commission of an African Government in respect of a dispute under a Concession Agreement for the management and operation of a Port. The Government's claims against the Concessionaire related to payment of royalties, failure to perform, and unlawful renewal of ancillary agreements.

Assisting a non-profit organization with legal research and analysis of environmental protection constitutional provisions in South Africa.

Advising an international financial institution, on the marketing, licensing and provision of financial services and products in South Africa.

Advised on the successful transfer of the Dilokong Chrome mine to Cheetah Chrome (a South African arm of the largest Ferrochrome producer in China) for R456m.

Advising an American pharmaceutical company on conducting oncology clinical studies in Africa in collaboration with another pharmaceutical company and two non-profit organizations.s.

Assisting a privately held American alcoholic beverage company with a pilot agreement with a large brewery to distribute a ready-to-drink product in South Africa.

We have successfully advised a pan-African bank in relation to a demand under an English law guarantee against a Dutch company.

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Events Calendar

20 January 2021:
Africa Investment Conference
Venue: Virtual event

Andrew Skipper delivered an opening plenary at the virtual Africa Investment Conference.

The Africa Investment Conference, hosted by the UK Government, explored how inclusive, sustainable and resilient investment can serve to help Africa transition to a cleaner, greener growth trajectory, in particular as we seek to build back better from COVID-19. Highlighting the UK Department for International Trade's support that is available to businesses, and driven by the insights of the recently established Africa Investors Group (a grouping of some of the UK's largest investors in Africa), the conference made the case for a strengthened, closer collaboration and partnership between the UK and Africa.

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17 February 2021:
Global Supply Chain: Africa's Opportunities post COVID-19
Venue: Virtual event

Andrew Skipper moderated the Global Supply Chain: Africa's Opportunities post COVID-19 event, hosted by South Africa Chamber of Commerce (SACC). The panel consisted of Kuseni Dlamini, Mulalo Madula, Jean Craven and Dirk van Den Berg.

They discussed how global supply chains have been disrupted and are being heavily tested due to the global challenges posed by Covid-19 during 2020. Going into 2021, Africa is well placed to pick up on these opportunities to bring solutions to global supply chains. But how?

View this discussion here (https://southafricanchamber.co.uk/global-supply-chains-africas-opportunities-post-covid-19/).

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8 April 2021:
Gearing Up: Accelerating Growth in Africa's Automotive Industry
Venue: Virtual event

Andrew Skipper moderated an event focused on the Automotive Industry in Africa, hosted by Invest Africa.

Despite having a population of over 1 billion, Africa's automotive industry only represents 1% of global new car sales, with 85% of those being sold in South Africa alone. What accounts for this disparity?

In partnership with Afreximbank, the Intra-African Trade Fair and Invest Africa this event gave a detailed examination of Africa's automotive industry covering growth opportunities, strategies investors and financial institutions can implement to mitigate the effects of the pandemic and how initiatives such as the AfCFTA will help boost manufacturing across the continent, critical for supporting sales in key growth markets like Ghana and Morocco.

To see a recording of this event, please view here (https://www.youtube.com/watch?v=AL9juq29EpU).

13 April 2021:
The UK's Integrated Review: Implications for Africa-UK Relations
Venue: Virtual event

Andrew Skipper spoke at a Chatham House Africa Programme virtual event on *'The UK's Integrated Review: Implications for Africa-UK Relations'*.

Speakers reflected on the implications of the Integrated Review for UK-Africa relations and engagement, placing it in the context of long-term challenges facing African countries, and their evolving foreign relations.

To see a recording of this event, please view here (https://www.chathamhouse.org/events/all/research-event/uks-integrated-review-implications-africa-uk-relations).

12-16 April 2021:
Africa Construction Law Week
Venue: Virtual event

Andrew Skipper, Ademola Bamgbose, Angus Rankin, Arun Velusami, Ilham Kabbouri and Nathan Searle represented Hogan Lovells at the ACL East Africa Sub-Regional Session. The ACL East Africa Sub-Regional Session panel of experts discussed the trends, common risks and challenges arising at various stages of construction projects in the region.

The theme was Demystifying Construction Law in Africa and a recording of the event is available here (https://www.youtube.com/watch?v=ywltGitDYao).

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22 April 2021:
UK Ministry of Justice UK-Africa Legal Services Spring Conference
Venue: Virtual event
Description: Andrew Skipper moderated the opening panel session of the UK Ministry of Justice's UK-Africa Legal Services Spring Conference.

This session, at an event hosted by the UK Ministry of Justice, provided an opportunity for UK and African legal professionals to hear from general counsel and discover the latest trends in key sectors from international trade and financial services to extractives and technology.

Speakers included:
- Adesua Dozie, Executive Director and General Counsel of Mobil Producing Nigeria
- Samallie Kiyingi, Director and General Counsel, African Export-Import Bank (Afreximbank)
- Micheal Schottler, Head of the Global Disputes Portfolio for Anglo American plc.
- Nkateko Nyoka, Chief Officer, Regulatory and Stakeholder Relations at Vodacom Group

The recording of this session is available here (https://youtu.be/jmal0n4xd_w.).

14 May 2021:
Africa and Arbitration – Is London still relevant?
Venue: Virtual event

Nathan Searle spoke at a webinar with the theme: Africa and Arbitration- Is London still relevant?

The panel discussed London's role in Africa-related arbitrations, including:

(1) The global trend of rising nationalism has shown up in Africa, with many arguing for the resolution of African disputes by Africans on the Continent. What is the role of the global arbitration community in this trend and the English courts' role?
(2) New growth frontiers in Africa: are London's arbitral players placed to keep a-pace?
(3) South Africa's International Arbitration Act and its role in facilitating parties to choose African seats.
(4) Opportunities for African arbitrators in a virtual environment and disputes trends arising from Africa's technology boom.

See link for more information, Africa and arbitration – Is London still relevant? (https://www.stewartslaw.com/news/africa-and-arbitration-is-london-still-relevant/).

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18 May 2021:
Alternative Dispute Resolution: Drafting your clause to enforcement

Venue: Virtual event

Dr Ademola Bamgbose, an associate in our London office spoke at an event co-organised by the Lagos Court of Arbitration and the Chartered Institute of Arbitrators (Young Members Group). The topic was, Alternative Dispute Resolution: Drafting your Clause to Enforcement – Africa Arbitration.

More information on the event can be found here (https://afaa.ngo/event-4316800).

Regional Africa Business Leaders Series
Venue: Virtual event

Hogan Lovells, in partnership with IC Publications, hosted the first three of a series of four webinars in the Business Leaders Series.

- **West Africa** (https://www.hoganlovells.com/en/events/business-leaders-series-west-africa) – 19 May 2021
- **East Africa** (https://www.hoganlovells.com/en/events/business-leaders-series---east-africa) – 16 June 2021
- **North Africa** (https://www.hoganlovells.com/en/events/business-leaders-series---north-africa) – 18 July 2021

African economies are expected to rebound in 2021. According to the African Development Bank, real GDP on the continent is projected to grow by 3.4% after shrinking by 2.1% last year, a recovery driven by the effective deployment of therapeutics and vaccines, continued implementation of the Africa Continental Free Trade Agreement (AfCFTA) and increased private sector investment and participation in the economy.

Against this backdrop, we organised a series of regional dialogues to explore the key sectors and industries that will take centre-stage during Africa's economic recovery and advance resilient sustainable-led growth.

You can watch all sessions from the series from our Africa Insights page (https://www.hoganlovells.com/en/knowledge/topic-centers/africa-insights).

3-4 June 2021:

5th ICC Africa Conference on International Arbitration
Venue: Virtual event

Dr. Ademola Bamgbose moderated the 5th ICC Africa Conference on International Arbitration. This conference "Arbitration in Africa: Expanding the Scope" was a "must attend" for arbitration professionals who wish to keep up to date with the latest institutional developments and the evolution of arbitration in Africa.

For more information on this event, view here (https://iccng.org/wp-content/uploads/2021/05/5th-ICC-Africa-Conference-2021-Programme-Guide.pdf).

30 June 2021:
Meet the female African Arbitrator: Samaa Haridi
Venue: Virtual event

Samaa Haridi, a Partner and Head of Hogan Lovells' Middle East practice, moderated a panel at the Africa Subcommittee of ERA Pledge 'Meet the female Africa Arbitrator" event.

This was an interesting and dynamic discussion which was co-moderated by Mrs Folashade Alli C.Arb and Thembela Ndwande.

For more information on this event, view here (http://www.arbitrationpledge.com/events).

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30 July 2021:
NICARB Webinar: AFCFTA And Non-State Parties: Implications For Trade And Dispute Resolution
Venue: Virtual event

Nathan Searle a partner in our Hogan Lovells London office spoke on a panel at the NICARB Webinar, with the theme AFCFTA and Non-State Parties: Implications for Trade and Dispute Resolution. The roundtable focused largely on the Dispute Resolution Mechanism involving Non-State Parties, implications of the current dispute resolution arrangement, the concerns of Non-State Parties and the domestication of AfCFTA in Nigeria amongst others.

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20 October:

Hogan Lovells Africa Forum
Venue: Save the date for our annual 7th Africa Forum.

This will be a hybrid event with the in-person element taking place at an exclusive venue in the City of London.

An event not to be missed. Sign up here (https://ehoganlovells.com/s/898c1ca3 10f7a439b978dc252011cf492c29964e/ h=ff007f191d0b8e00f0bac1cf44418c65252918bf).

For more information please contact Sima Labane at **sima.labane@hoganlovells.com** or the events team at **Events.UK@hoganlovells.com**

11 November 2021:
Southern Africa Business Leaders Series
Venue: Virtual event

Hogan Lovells, in partnership with African Business, will host the final webinar in the Business Leaders Series.

Development Bank, real GDP on the continent is projected to grow by 3.4% after shrinking by 2.1% last year, a recovery driven by the effective deployment of therapeutics and vaccines, continued implementation of the Africa Continental Free Trade Agreement (AfCFTA) and increased private sector investment and participation in the economy.

Against this backdrop, we organised a series of regional dialogues to explore the key sectors and industries that will take centre-stage during Africa's economic recovery and advance resilient sustainable-led growth.

For more information and to register, please contact the events team at **Events.UK@hoganlovells.com**

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