Africa Forum Report

2016

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Opening remarks

Andrew Skipper, Partner and Head of Africa

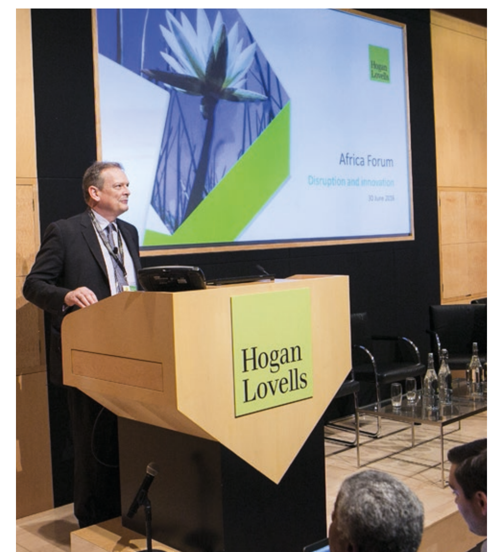
Over the last few months, a lot has been said about Africa's future. The Africa Rising narrative has been challenged, with some pundits claiming this led to an overinflated bubble that has now burst. Or is the disruption from recent months' activity the catalyst to drive change and innovation that will take Africa to its next industrial revolution? Who is right – and if you are looking to invest in Africa for the first time, what should you believe?

At the 2016 Hogan Lovells Africa Forum, we wanted to take an honest look at what is happening on the ground, hearing from those who are at the heart of business on the continent. What they had to say was both enlightening and reassuring. Many governments are trying to shift the focus away from traditional exports such as oil and commodities, angling for more investment into the manufacturing and agribusiness, whilst technology is continually changing the economic landscape creating a budding army of entrepreneurs, and the regulators are struggling to keep up. But, ultimately, even with all the change happening, Africa still needs a stable power supply; it needs roads to get products and produce from A to B; and it needs an open and business-friendly environment to attract investment, without which none of the above can be fulfilled.

Overall the outlook is positive. There is no surprise in acknowledging that Africa is a mid-long term play, but from this forum it is true to say that some industries are being thrust into the limelight creating more immediate, short-term opportunities for those who can respond and adapt quickly. The answer may not be whether Africa is rising, but like most emerging markets it's about realising where the opportunities are and positioning yourself at the right time. Regardless of where you may be in your business strategy on the continent, one thing is sure, Africa has something for everybody.

We'd like to say a huge thank you to all our guest speakers and we look forward to seeing you at our London and Johannesburg Africa Forums in 2017.

Best regards
Andrew Skipper



The dawn of a new Africa?

Donald Kaberuka, 7th President, African Development Bank (2005-2015)

Firstly, I regret I was not able to deliver this presentation in person at the Hogan Lovells Africa Forum in June 2016. Secondly, as this is a topic I am particularly passionate about, I wanted to use this report to share my views, from the perspective of the ex-President of the African Development Bank, an economist and a proud African, of how disruption is creating a pathway for much needed innovation and reform across the continent.

Ever since the apparent end of the commodity super-cycle, a narrative about Africa has become fashionable which has been reduced to the macroeconomic implications of the lower oil or mineral prices, and the impact on the real sector as a whole. As the story goes, this would mark the end of the 'seven years of plenty' and so-called 'Africa Rising', or does it?

It is, of course, true that the headwinds in the global economy, hardening of borrowing terms and other shocks, both internal and external, are negatively affecting resource-rich countries.

But a close observation of the facts would rather point to another direction, beyond the short term macroeconomic issues that require dwweft management; the longer term prospects for African economies remain robust provided the countervailing policy stances are right and a number of longer-term structural issues are continuously addressed. Africa is, of course, a mosaic of 54 countries, with many similarities but also large differences.

More than just minerals

While the strong export growth of the last decade has contributed significantly to sustained economic growth, the reality is that such growth in resource-rich countries, though strong, has often been very volatile.

In contrast, growth in non-resource rich countries, which is the large majority, has been steady, exceeded population increase and is generally more sustained. Indeed, some of the fastest growing economies, Ethiopia, Côte d'Ivoire, and Rwanda are not endowed with oil, gas or minerals. In this second category of countries, the role of both public and private investment, greater consumer demand and increase in regional trade, have been key.

Securing the gains

During the first 15 years of the new millennium, not only did Africa turn a corner but it turned out to be much more resilient than expected. Many economies were able to recover quickly from global shocks whilst the rest of the world struggled. Now, however, the continent must deploy all the solutions in the toolbox not only to safeguard the gains of years of reforms, but also to deal with both old and emerging problems.

So, first things first; securing the gains.

Effective policy

The first thing to do is to anchor policy predictability and sound countercyclical macroeconomic policies. The continent's policymakers have a lot of experience, having navigated over two decades of economic reforms and structural adjustment in the 1980s and 1990s. The necessary fiscal and monetary policies that assure stability with flexibility are well known. Overvalued currencies do not benefit the poor; on the contrary, they create opportunities for rent-seekers. How to craft fiscally friendly and socially effective safety nets and targeted subsidies is technically not too difficult. It is the politics of vested interests that must be challenged. In this spirit, it is absolutely vital that the independence of institutions such as Central Banks is respected both in law and in fact. In the same breath, it is vital to rebuild macroeconomic buffers by limiting deficits, borrowing wisely and avoiding all things that undermine the revenue base.

It is important to emphasise this basic fact because, in recent months, the policy responses to global shocks and declining commodity prices have sometimes gone in the opposite direction to these cardinal principles.

Investing now in the youth

The second element of safeguarding achievements of recent years is to address issues around inclusion, inequalities and jobs, especially for the young.

This is not to underestimate the policy challenges that this entails, neither to ignore the global nature of the problem. It is only to emphasize the fact that all policy approaches from education, agriculture, small businesses, gender and access to financial services must be viewed through this lens. That takes time but clear plans are imperative.

> "Beyond the short term macroeconomic issues that require dwweft management; the longer term prospects for African economies remain robust."

Security and stability

This is indirectly related to the third challenge: peace, security and stability. The 1990s were years of mayhem in large parts of the Continent. The advent of the new millennium ushered in a period when those conflicts began to wane, both in number of countries involved and numbers of people affected. Of late however, without even mentioning the failed state that is Somalia, we see, from South Sudan to the Central African Republic, signs of reversals.

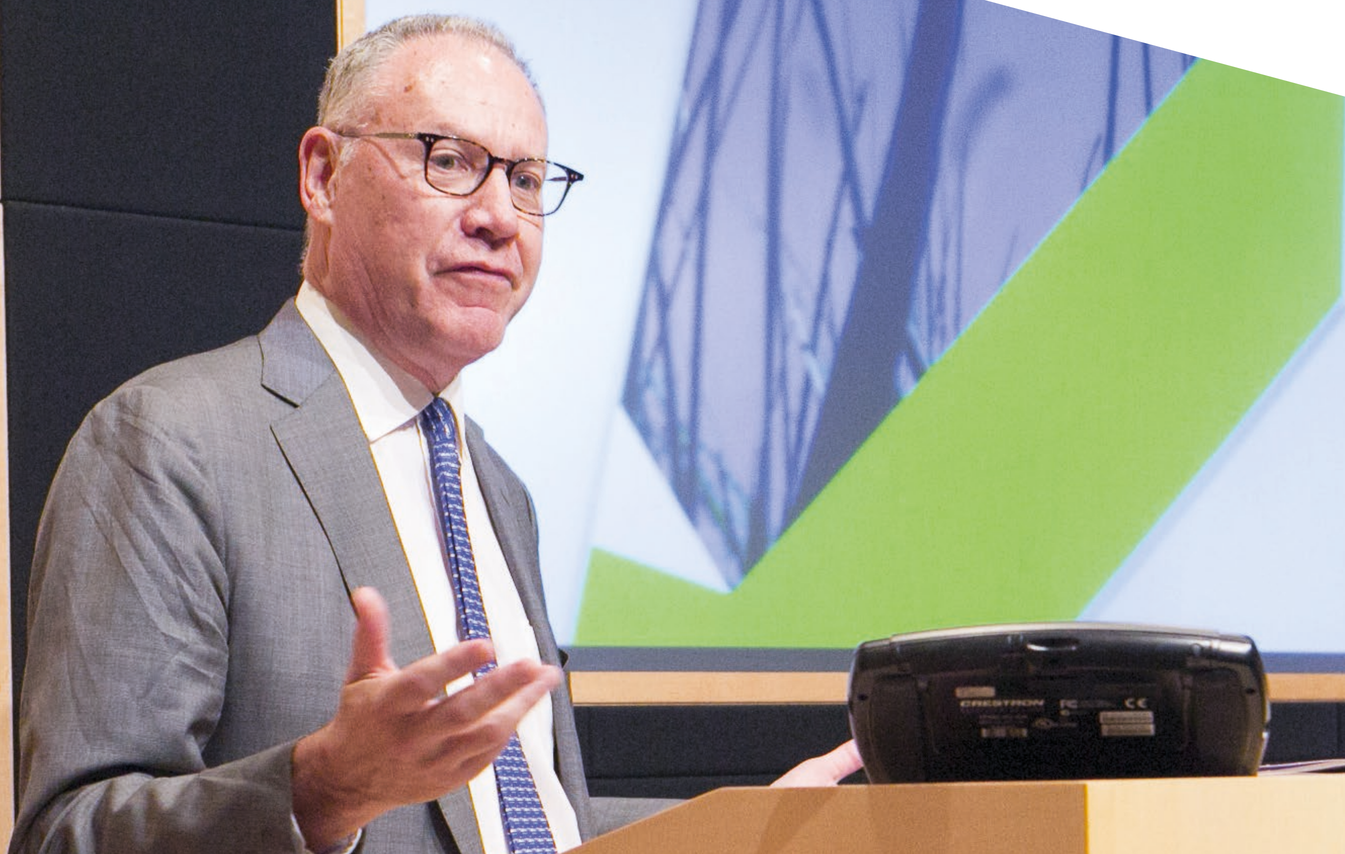
While the proximate cause of these conflicts is not social discontent per se, there are groups which feed on pockets of deprivation, exclusion, marginalisation, unemployment and lack of opportunities. It is imperative, therefore, that in order to secure lasting stability and peace, economic and social policies that drive towards cohesive inclusive societies are not only fundamental but they must be frontloaded.

These are familiar challenges to the people of Africa and her leaders, which are difficult but not insurmountable. Going forward, the truly disruptive force that is at once an opportunity or risk is around the demographic dynamics.

Crystal ball

In the next few decades Africa's population will comprise four features, all of which will fundamentally shape the continent's fortunes:

1. By 2034, Africa's labour force will surpass that of both China and India. That work force will be younger, urban, digitally connected and highly mobile.
2. Urbanisation: over the next decade alone, an additional 200 million Africans will move to the cities and other urban conglomerations, adding to the 400 million who are already urban dwellers. This will not only affect consumption and demand for all types of infrastructure and services, but also the economics of agglomeration will in all probabilities lead to a doubling of productivity.
3. Digitisation is already beginning to provide businesses with new opportunities such as online shopping, even drone delivered medical products in remote areas. We see today the impact of greater digitisation in the leapfrogging in the service delivery. This moves beyond mobile money to health, education and public service delivery.
4. The high mobility of this emerging labour force will, if cross country obstacles in movements are relaxed, lead to a larger more diversified labour market across the continent.



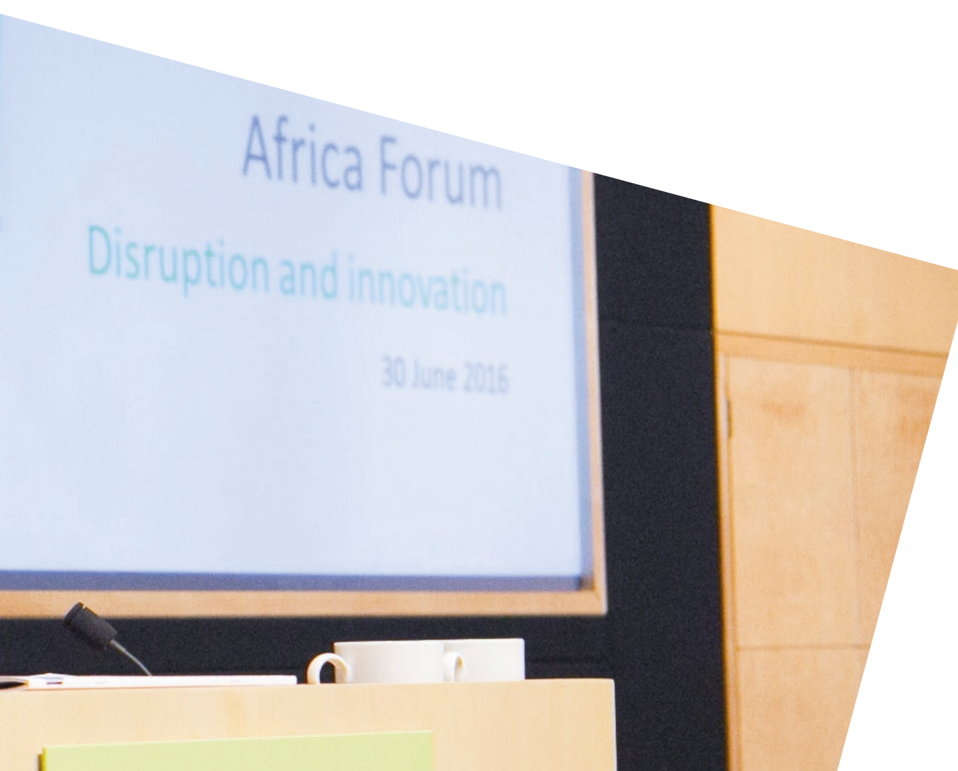
This is Africa (TIA)

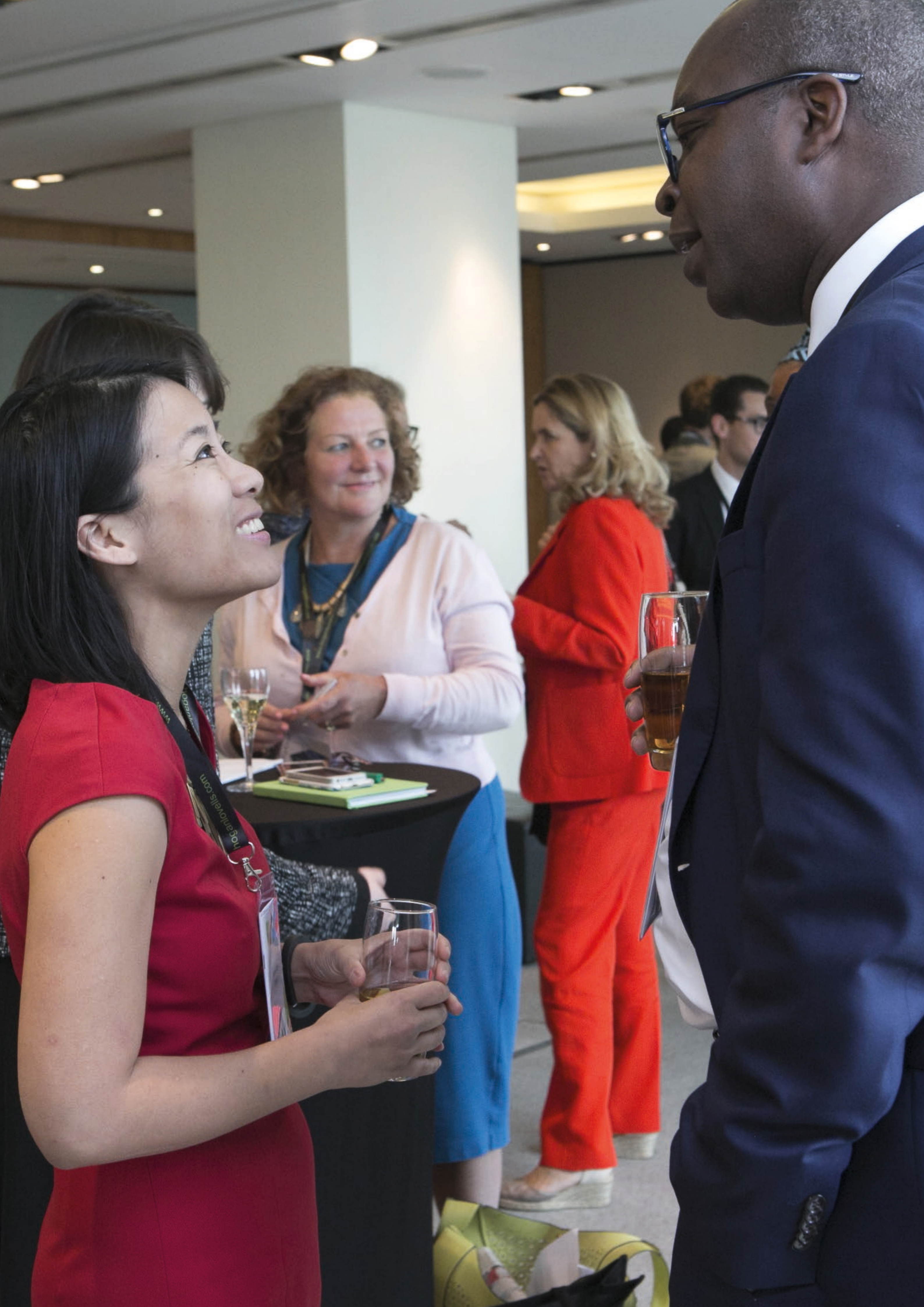
Although this presents new opportunities, we cannot ignore that this is Africa, with its own idiosyncrasies and rules, so it is worth taking note that:

> By 2034, Africa's labour force will surpass that of both China and India. That work force will be younger, urban, digitally connected and highly mobile.

1. Nothing is pre-ordained; the demographic dividend is a window that opens and closes rather quickly. Hence the importance of the policy space and actions taken today; from quality education and infrastructure development to further lowering of barriers on trade and the movement of people across Africa. The recent decision to introduce the African passport is a step in the right direction.
2. At this time when the global economy is said to be 'secularly stagnant' and managing the downside of globalisation is now a priority everywhere, Africa cannot 'decouple'. Upgrading of policies from regulations and institutions that anchor rule of law, stability and inclusion are primordial. That must go hand-in-hand with leveraging the millennials and the digital economy.
3. In all this, one issue is critical; far too often governments know what to do. They have the right policies, but limited capacity to deliver. We have come a long way in the realm of public/private sector partnerships. This is not a panacea, but with such a frontloaded, overloaded agenda that is needed in the new global landscape, the relationship between the market players and the state will be crucial, from providing education, healthcare and helping to close the infrastructure gap. Only in this way can Africa tackle her ambitious agenda of transformation, by ensuring a continent at peace, integrated and able to provide jobs and opportunities for its young people.

The disruptive forces Africa – and indeed the World – face are also full of opportunity and promise. It is those choices that we make today, some of them difficult, that will determine the outcome.

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Transforming African economies

As we know, falling commodity prices have hindered economic activity in sub-Saharan Africa, but they have also prompted governments in the region to reassess and reposition their economies. While there is still a long way to go, the investment landscape in Africa is improving.

Nicholas Cheffings, Chair of Hogan Lovells, expertly navigated a panel of key industry players including Franck Behiblo, Head of Corporate Development at Quantum Global; Olusola Lawson, Investment Director for West Africa at African Infrastructure Investment Managers (AIIM), a subsidiary of Old Mutual and Andrew Skipper, Head of Africa at Hogan Lovells.

"Africa is not what it used to be a few years ago," says Franck. "Working with governments remains a complex matter as each country is very specific and success requires in-depth assimilation of these local markets; but compared with 10-15 years ago there has been much improvement across Africa, with confidence and trust being built up."

The government sector plays an important part in creating confidence – by building the right framework and providing support, governments can create an environment that is attractive to investors not only within Africa but also from outside. "As an infrastructure investor, working in partnership with governments is central to everything we do," says Lawson. It is a developing story and there are encouraging signs of progress. An Economist Intelligence Unit survey of the top 15 economies in Africa showed that the top 10 all have public-private partnership [PPP] enabling legislation. Among the others, laws are going through parliaments and only two do not yet have a clear framework for PPP. "During the past six years," he adds, "there has been a significant push by governments across sub-Saharan Africa to set up enabling environments for investors. The creation of an enabling environment is very important for private equity investors; much more so than incentives," Lawson adds.

Franck adds that building trust is particularly important in doing business in Africa as we speak of long-term projects and potential to be realized through the development of Africa-specific solutions as opposed to the application of an investment framework that worked elsewhere.

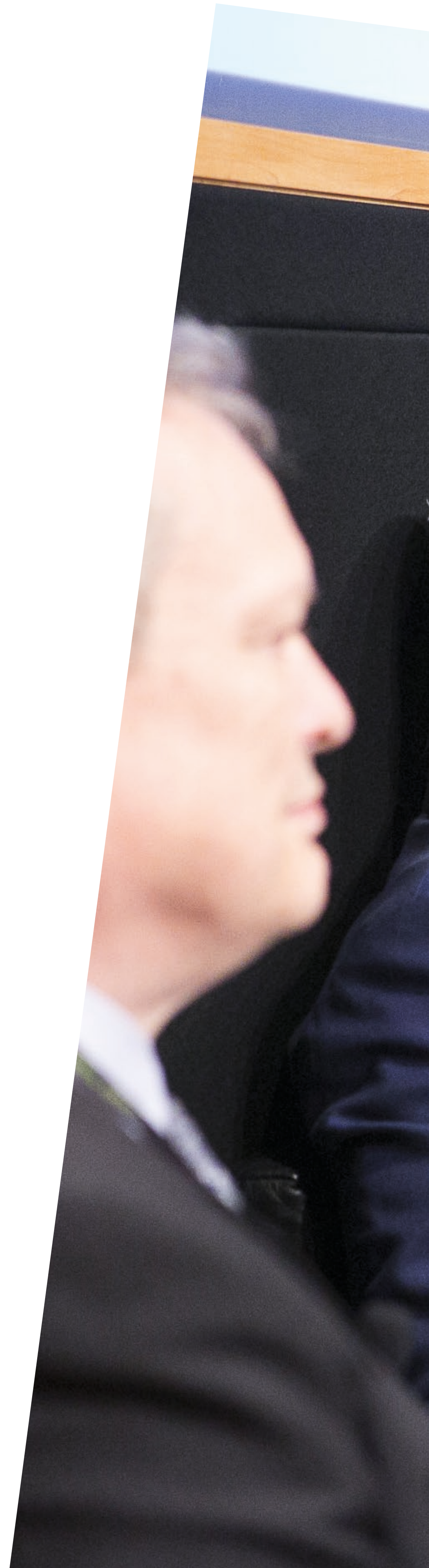
Such are the opportunities in the region that Quantum Global remains very positive on the market despite the drop in commodities prices; it strongly believes there are gaps and inefficiencies that can be addressed. “There are many sectors we believe we can help to support, including infrastructure and agriculture. With the right environment and working in partnership with governments, we know we can bring in the right partners to Africa to support development in these sectors; co-investors and businesses that previously have been reluctant to enter the market.”

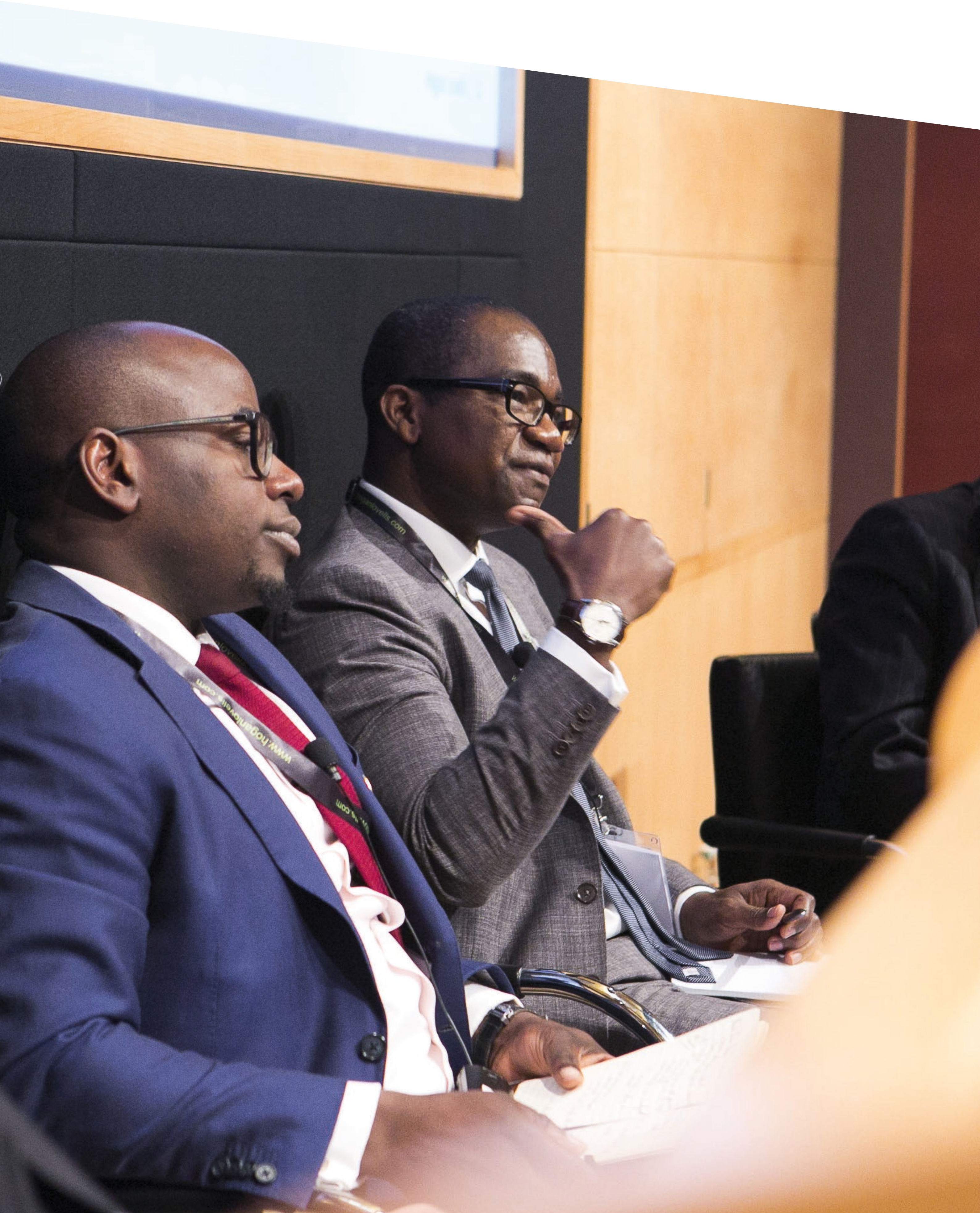
Growth markets

Infrastructure and agriculture are considered the two areas of greatest promise for investors in the region and, with oil prices remaining low, investors are attracted to alternative sectors such as these. But in order to get the most out of their investment, a number of issues must first be addressed. Andrew Skipper, Head of Africa at Hogan Lovells, says investors need three things: certainty, corruption to be dealt with and currency to be stabilised. While Nigeria has stabilised its currency, there are still issues in repatriating funds, he says. There are also challenges in some countries around the certainty of who owns land and how crop yields can be exported. “Often, breaking of contracts make it challenging for external investment in Africa”, he says.

Lawson says infrastructure has the potential to play a significant role in boosting GDP in Africa. “Power represents around 40% of the cost of most businesses in Africa. Greater efficiencies in the power supply chain will drive GDP growth. Nigeria, with 180 million people and one of the largest countries in the world, generates less electricity than the city of Bradford. It generates 4 gigawatts of power; imagine what the country could do if it generated 30 gigawatts,” he says.

Franck agrees on the importance of power generation to sub-Saharan Africa. “Without power, goods can’t be transported, labs can’t be built – progress can’t be made. Power must be the number one priority for every African country,” he says. The international entities are there to invest in power infrastructure funds, provided that favourable, enabling regulation and business environments exist,” he adds. “If an investor can’t get money out of a country, it will think twice about going into it. Power infrastructure projects are long-term and investors need certainty of the tax scenario, political regime and business laws. Many African countries rely on short-term funding, which is more expensive than long-term capital. Many investors, particularly from Asia, want to enter the African power market but the conditions are not always encouraging.”





Lawson says AIIM has invested more than $1bn in African energy projects, with one of the largest being the renewables sector in South Africa. "There are risks to be mitigated in Africa, but our approach is not to sit on the side lines and hope for change. We actively figure out how currency and other risks can be mitigated – there are various ways this can be done. For example, power purchase agreements (PPAs) can be linked to the USD or to a basket of currencies. "The power market in Africa has never been hotter and returns in certain market segments (such as renewables) are being pushed to dangerously low levels. There is a strong demand from investors, but comparatively few well-structured projects and when one emerges, it the competition to get into it is very high," says Lawson.

Investment vehicles

The main investment vehicles in the region are PPPs or joint ventures. Skipper says most clients with whom he works prefer joint ventures, sometimes because local content investment rules in some countries require such an approach. Again, the key to a joint venture is certainty and clear arrangements that are acceptable to all parties. "Coming from outside a country a joint venture makes sense because you really need to know local people," he says.

PPPs require government underwriting and the acceptance of responsibility. Skipper notes that some African governments viewed PPPs as a way of putting all of the risk of a project on to the private sector. "Governments need to understand risk allocation between the public and private sector and underpin that on a long-term basis," he says.

Lawson agrees, pointing out that PPP programmes that have been successful have involved input from high-quality sell side advisors on the government side. "Deals that are not well-structured will not gain international investment and are likely to fail," he adds.

"PPP deals are fairly complex and require a certain degree of expertise at country level to discuss what the ideal investment structure should be in light of the country's planned economic development in the long run" says Frank. "But I would ask are they practical for Africa? Locking a country into a deal for 20-30 years would assume such agreements stretch across various governments that should honor the commitments sealed by previous governments. Are we ready for that? PPPs are a good concept, but they have to be fair and equal for all sides."

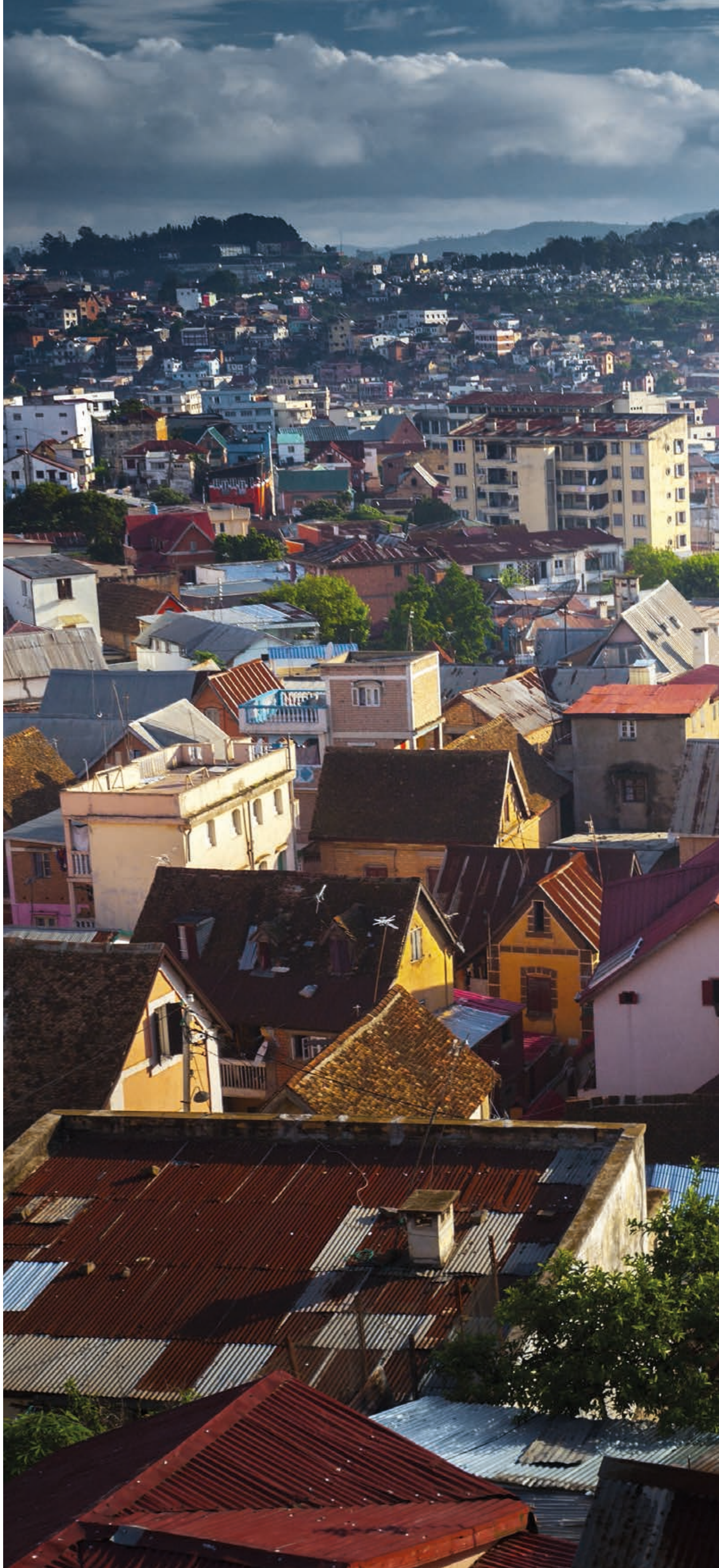
Disruption and innovation in African investment

One of the areas that could prove to be transformative for Africa is that of power generation. While investors may be focused on traditional, long-term infrastructure projects for power generation, there are interesting off-grid developments occurring in Africa.

"In Africa people need power, but there is a complex web of the value chain to navigate. Increasingly, people are trying to bypass that web and get power delivered directly, via rooftop solar, for example," says Lawson.

Franck agrees this is a "very exciting" area. "Whatever sector you choose, it needs power. In Africa, around 30% of post-harvest production is lost because there isn't the right storage capacity. If that 30% could be recouped, a community could fund a school or a small hospital. Having power delivered where people need it is very important and much of the investment here is focused on young entrepreneurs. The opportunities in agriculture will continue to grow as the world's population grows", he adds.

Encouraging pension funds in African countries to invest in infrastructure is also an area that has great potential, although in some cases it would require sensible changes in legislation with regards to pensions investment policies. At present, significant sums are locked in pension funds and are not put to use. While there is a risk of investing in projects, Franck points out that there is a bigger risk in doing nothing with the money.



Power on and Power up: Solving Africa's Energy Crisis

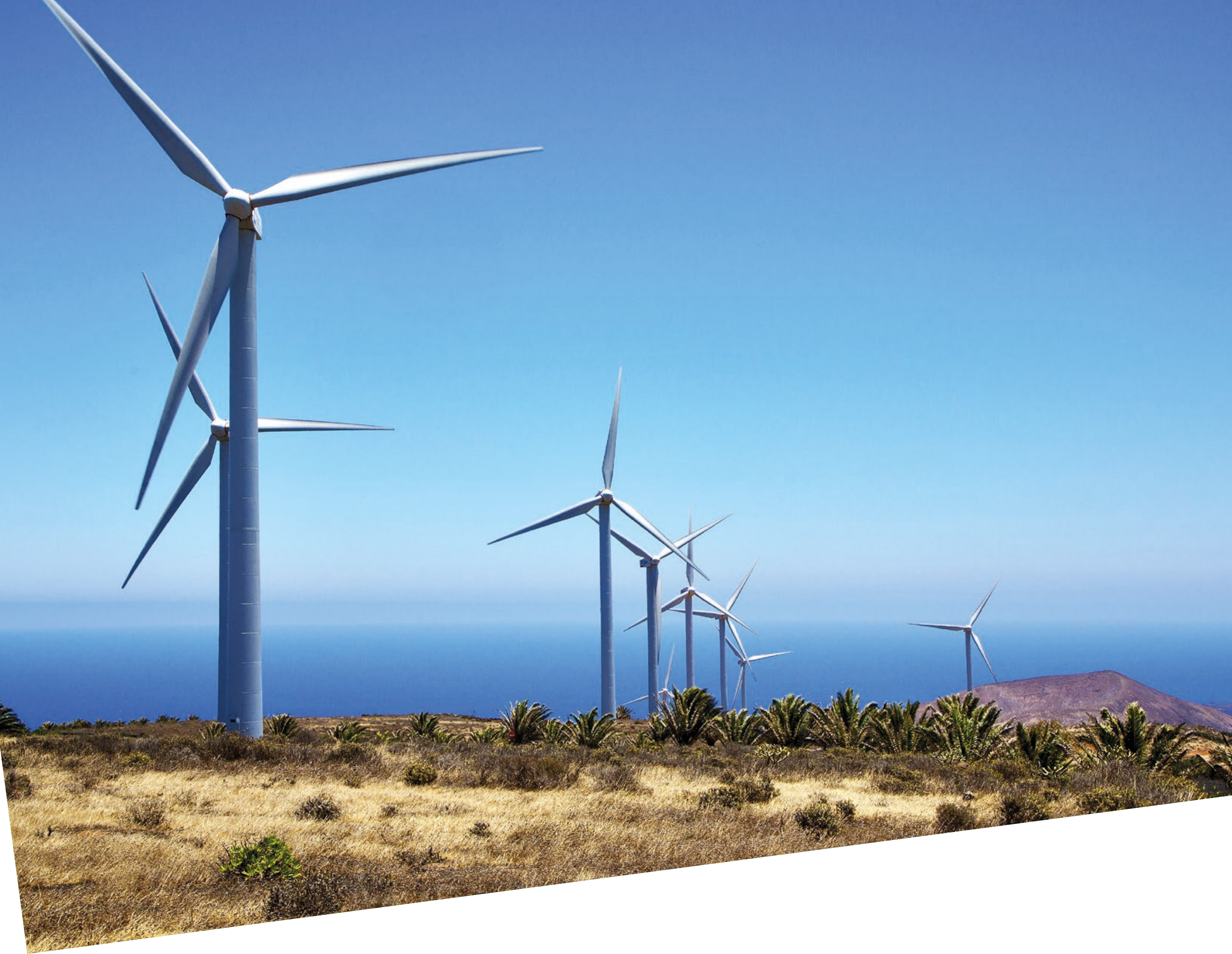
This panel included Matthias Schweinfest (General Manager for Projects, GE Steam Power Systems), Fabio Borba (Managing Director, Abraaj Group), David Edwards (Managing Director for North Africa, Aggreko) and Meagan Fallone (CEO, Barefoot College) who shared their bright ideas on tackling Africa's energy crisis. Scot Anderson, Hogan Lovells Global Head of Energy & Natural Resources, chaired the discussion.

According to a survey of attendees at the Africa Forum 2016, the lack of reliable energy is the single most severe barrier to economic growth in Africa. Looking at the statistics, it is easy to see why. Across sub-Saharan Africa, 600 million people – two thirds of the population – do not have access to electricity. That number is expected to rise by 45 million by 2030 as electrification struggles to keep pace with population growth. Energy consumption per head in sub-Saharan Africa is a fraction of that in other developing economies, and this so-called "energy gap" is growing.

The effect on economic growth and investment in the region should not be underestimated. Local businesses – "the lifeblood" of regional economies, in the words of our panel – suffer on average 56 days of blackout each year. It is estimated that power shortages cost between 2% and 4% of GDP annually.

The first obstacle the energy sector faces is securing funding to build the generation and distribution infrastructure the continent so desperately needs. More than US$800 billion of additional investment will be needed by 2040 just to keep pace with demand, which is set to quadruple over the same period. Yet there is no lack of private capital; rather, the difficulty for funders is to turn infrastructure projects into bankable investments. Last year only 23 projects in Africa reached financial close, of which all but seven were in South Africa. Lead times are long, averaging 7-10 years from inception to financial close, after which investors may wait decades to see a return on their investment. Naturally, this requires long-term funding solutions.

According to Fabio Borba, project development is key to reduce the electricity supply gap in Africa. Investors such as the Abraaj Group have an opportunity to get



involved in development and create bankable projects sooner. When developing projects, not just the project's technical feasibility and financial model are important, but also whether the grid can support the new capacity; whether the Government can provide the necessary guarantees; and the impact on the local community and environment. Development finance institutions (DFIs) have a key role to play, both in providing financing and in driving regulatory reform: they are the 'bridge' between the public and private sectors.

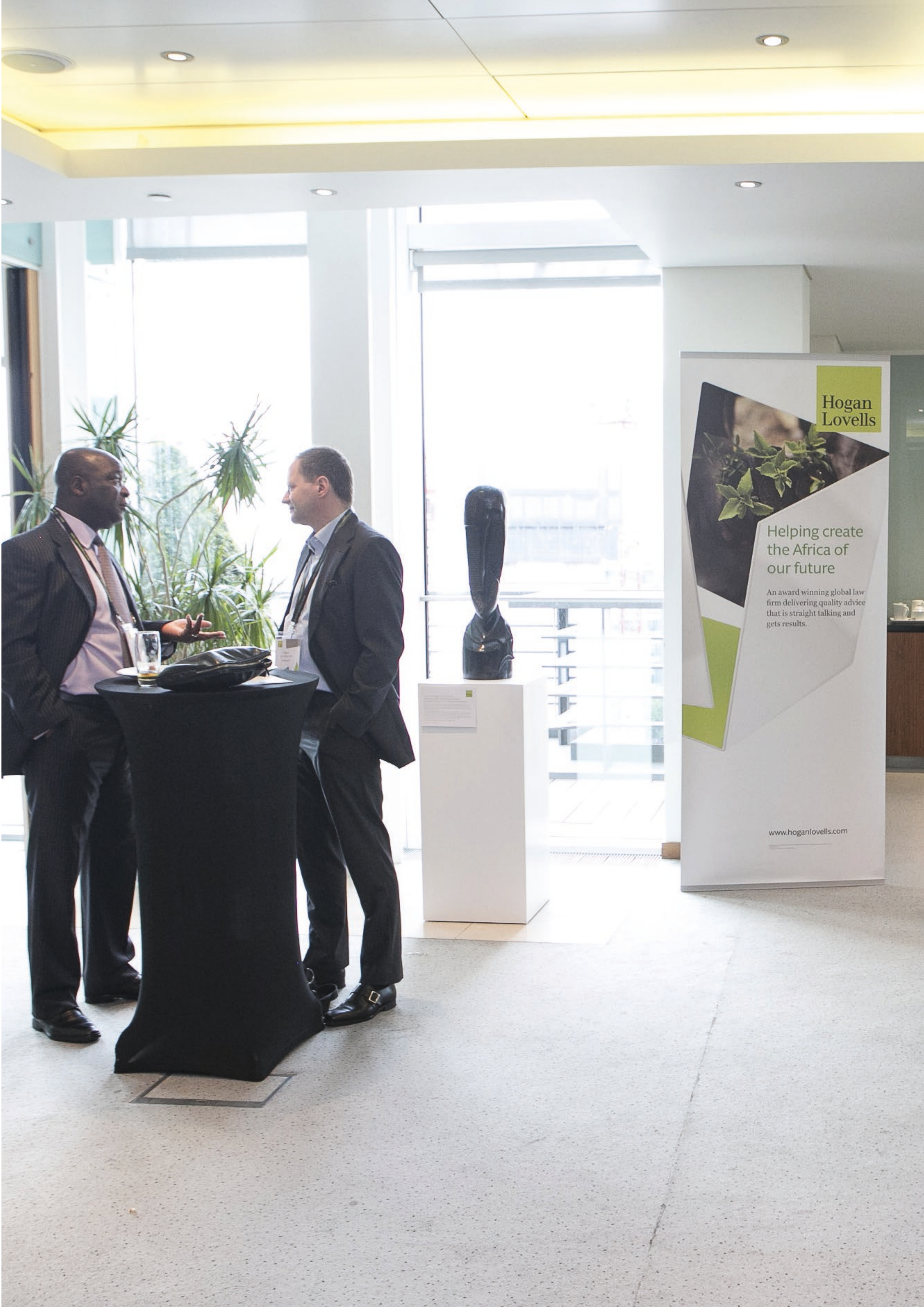
Already, these funders are looking towards the next generation of projects across Africa. At present, coal is the single largest energy source, though the share of production through gas, hydropower and renewables is growing. McKinsey predicts that 40% of power will be gas-generated by 2040. In the long term, the potential for renewables is even greater: potential solar capacity in sub-Saharan Africa is conservatively estimated at 11 TW, enough to meet over half of the entire world's current energy needs. Nevertheless, coal will continue to play a significant part of Africa's energy mix for years to come. Matthias Schweinfest from GE Steam Power Systems told us that GE is currently adding 9.6 GW of steam power capacity in South Africa. In doing so, it will take advantage of the latest technology. Its new build of coal-fired power stations is designed to be smarter and more efficient, achieving 50% efficiency in generation compared with the current global average of 30%. It follows that for every unit generated, tomorrow's power stations will have lower fuel costs and a smaller environmental impact.

Innovation is not confined to large-scale generation, however. Traditional power stations can take decades to design and build, whereas businesses and communities already suffer load shedding, if not a total lack of access to energy. What the continent needs are pragmatic, innovative solutions in the short and medium term to bridge the gap.

Enter companies like Aggreko, which provide temporary interim power solutions. Aggreko can provide a 200 MW facility from greenfield site to commissioning in less than four months, compared to 10 or more years for traditional power stations. These interim plants are vital, not only to relieve the pressure on many countries' struggling power infrastructure, but can also connect industries and communities that are currently off the grid. "It's a practical way to keep the lights on now, while giving governments and industry time to think for the long term," explained David Edwards. In one case, a medium-sized power station was constructed to power a remote gold mine, fuelled by stranded natural gas, which it would have been uneconomic to exploit using a traditional build. Further opportunities exist in the regional integration of power infrastructure, such as the Aggreko-EDM joint venture trading power between Mozambique, Namibia, Zambia and South Africa.

Indeed, one of the greatest challenges is bringing power to off-grid, rural areas where generation and transmission infrastructure is severely lacking. As Meagan Fallone said, "There can be no country-wide development without addressing development in rural areas." Regional disparities are huge; 90% of households in Nairobi are connected to the grid, but only 10% in the rural north-west of Kenya. Businesses in these regions must rely on expensive diesel generators, whereas consumers must manage with kerosene lamps or batteries. These are markets historically overlooked by traditional utilities companies, and innovative start-ups and the voluntary sector are stepping up to meet this untapped demand. One such NGO is Barefoot College, which provides solar panels to rural villages and trains illiterate and semi-literate women as engineers to maintain them; so far, it has brought power to over half a million people in the world, a significant proportion of whom are in Africa. This is also an area where the public and private sectors have joined forces with NGOs: Barefoot College has partnered with Apple to develop and sell solar-powered projectors and tablets to schools. Through education and reliable energy, it aims to narrow the gulf between urban and rural communities and foster greater gender equity.

Rising to the challenge of powering Africa will require a concerted effort between governments, DFIs, investors, contractors and NGOs. The scale of the crisis is daunting, but the potential rewards – both for industry and society at large – are immeasurable. As the panel agreed, access to energy drives social change as well as economic growth: "Energy is crucial to the survival of communities and economies, let alone their development."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Solving the infrastructure conundrum

It comes as no surprise that there is a substantial infrastructure deficit in Africa. Conservative estimates suggest that sub-Saharan Africa will require US$100 billion to be invested annually over the next 10 years in projects simply to keep pace with current growth. This imperative need for infrastructure investment has been recognised and the means to secure sustainable infrastructure delivery are available, yet the infrastructure gap still remains – why?

Against this backdrop, the panel of David Ofosu-Dorte, Senior Partner at AB & David, Ethan Chorin, CEO at Perim Associates, Fredrik Galtung, President and Co-Founder of Integrity Action, and Gregory Ness Executive Director, Project & Export Finance at Standard Chartered Bank, were asked to share their views on the key stumbling blocks for infrastructure in Africa. On a more positive note, the panel offered insight into the constructive role that disrupters can play and their potential solutions for solving this infrastructure conundrum. The panel was chaired by Jeremy Brittenden, partner and lead North specialist, and he encouraged the panel to be as honest as possible, no matter how contentious their views might be.

Democracy as a disrupter

'Democracy itself is a disrupter in Africa' was the key message from David Ofosu-Dorte. Such a message is not as controversial as it might initially seem – he stressed that this does not, and should not, advocate a return to dictatorships. Rather, infrastructure projects are constrained by the four-year political cycle in many African countries. Large infrastructure projects fundamentally take time to plan and deliver, but four years is only 48 months and projects cannot be completed in one electoral cycle. This uncertainty is stalling the momentum for future projects. Ofosu-Dorte stressed that the market needs to understand the project pipeline and plan effectively for the government cycle and beyond in order to pave the way for more sustained infrastructure development.

The local story

For Ethan Chorin, a fundamental ingredient to success in Africa is understanding where the political and financial centre of gravity sits. 'Disruption' can cover anything from war, to a change in the commercial environment, or a global or pending global catastrophe. In Africa in particular, although disruptive and even catastrophic, 'chaos brings opportunity' because it can offer a country the chance to redefine itself and redevelop its infrastructure at the same time. This is tied to the individual country's local story, and how it sees itself as a player in its own sphere. Chorin highlighted that one successful solution for delivering projects is for countries to work together (including via trading blocs) to fund and develop projects that are mutually beneficial and complement what each country can bring to the table. For Africa, chaos can be both the stumbling block and the solution.

Integrity action: “helping communities fix development projects”

One of the most pressing challenges for investing in infrastructure in Africa is the failure to maintain integrity and trust in a project, both in the planning stages and once it is up and running. It is precisely this issue that Fredrik Galtung is trying to address with his social enterprise, Integrity Action. Their mission is to ‘empower citizens to act with, and demand, integrity’. Integrity Action works as a ‘Trip advisor’ for projects; they have created a ‘development check’ app in several languages, covering 19 different sectors, 11 different countries and 398 completed projects, with a further 600 in the pipeline. It covers project elements such as budget, completion, timescales, monitoring and, most importantly, project effectiveness. This practical and accessible autonomous feedback offers full transparency, and the positive feedback loop leads to trust. The key with the app is that it delivers real results – Integrity Action has helped to fix faulty projects and to reward the best contractors. Galtung gave the example of a failed water project in Kenya. To begin with, the project was plagued with numerous issues, including pumps being stolen by the water companies. Integrity Action trained up community monitors to monitor the project and now, three years later, the water projects are still all working and local monitoring is still in place.

Galtung acknowledged that whilst the app has worked for smaller projects, the approach may not necessarily work for monitoring billion dollar projects, such as ports or airports. However, surrounding large projects there are always other smaller infrastructure projects required, whether these are roads, water or sanitation projects, and these would be perfect for the Integrity Action review system.

Understanding the African market

As the closing panellist, Gregory Ness focused on delivering projects from the developer standpoint. From his point of view, ‘the real block for Africa will sit with the project developers’. It is a mistake for developers to move in and treat Africa like Europe – it is its own market and requires its own nuanced approach. The reality is that, in order to create solutions, developers must first do their homework and to understand the complexities of doing business in Africa, whether practically, politically or economically. Teams must be appropriately staffed and require a dynamic combination of experience and resilience. Getting the basics of planning and structure right from the start is key to ensuring the long-term success of projects.

Solutions for the future

The answer to the infrastructure conundrum is not an easy one. Africa is at risk of being trapped in a vicious circle – the lack of reliable infrastructure is holding back economic growth, but the continent needs future prosperity, security and economic investment to fund its infrastructure.

Ultimately, it would seem from our panel that developers and stakeholders should factor in the political backdrop from the early planning stages. It is important to recognise each country’s visions, ambitions and influence, as this is a key disruptive driver for change and, on a practical level, to balance these ambitions alongside what is actually deliverable in both the short and long term.

The changing face of finance in Africa

Denys Denya, Executive Vice President of Afreximbank, Jean Craven, Director and Joint Chief Investment Officer of Barak Fund Management, Saad Rahman, Managing Partner of Amani Partners and Eric Guchard, CEO of Homestrings, discussed the various sources of funding currently available in Africa and how the landscape may change in the near future. Hogan Lovells partner Shalini Bhuchar chaired.

The current landscape

It was emphasised that DFIs continue to play a vital enabling role in African finance, particularly in the context of infrastructural development projects. Afreximbank is perhaps one of the most notable examples of this. DFIs respond to market developments and plug gaps and/or entice investors as required when traditional funding sources dry up. Denys discussed the fact that such entities are particularly important in Africa because they mitigate the volatility experienced by many different regions across Africa, such volatility arising as a result of political turbulence, lack of infrastructure and/or the geography of a particular region.

Commercial bank lending is the primary source of funding, but with headwinds faced by commercial banks on a global scale, it was noted that the continent as a whole is facing a funding gap of circa US$150 billion. Questions naturally arise, therefore, as to how much further the reliance on DFIs can be pushed and whether this reliance will extend to include other (international) DFIs. Chinese development banks, in particular, are expected to provide cover for funding shortages in power, roads, aircraft financing and other infrastructure projects. China is significantly reliant on African commodities, so it seems logical that it would seek to establish its presence in various infrastructural capacities across the continent.

There is also the question of whether alternative forms of finance will start to establish themselves as a viable alternative to commercial bank debt and if so how their role will intertwine with that of the DFIs. The panel discussed alternatives such as crowdfunding, financing from debt funds and alternative funding products such as Islamic finance and mezzanine finance.

Other funding sources and products

Islamic finance is an important financing product and developments in regulatory and legal frameworks have already commenced to allow more Islamic finance into the region; for example, the Islamic Development Bank, an AAA-rated DFI, is very active in its role alongside DFIs such as Afreximbank. While its focus is on infrastructure projects, it also provides trade finance for member countries. Through its private sector arm it helps develop capital markets in its member countries with the aim that they can become self-sufficient in terms of liquidity. Saad noted that the liquidity offered by Islamic finance is likely to play a complementary role where other funding sources fall short. He cited pension fund liquidity (once opened up on the continent) as an example of such a funding source.

Mezzanine finance enjoys a degree of popularity (particularly in the context of short-term trade finance). Barak Fund, for example, has been particularly active in sub-Saharan Africa across a number of industries. Whilst mezzanine finance can be used as a sole source of funding with characteristically high yields promised for investors, the volatility that accompanies these high yields tends to make it unsustainable as a single source of capital for most businesses. As Jean pointed out, it is therefore often used in conjunction with other forms of financing – and indeed commercial banks and DFIs partner well with debt funds providing a mezzanine tranche.

Crowdfunding has also recently emerged as a possible source of funding. A recent global study has indicated that crowdfunding resides mainly in the USA, the UK and mainland Europe, where prevalent middle classes tend to enjoy large disposable incomes. For Africa, the closest equivalent appears to be funding provided by diaspora (who currently send around US$60 billion annually into the continent, US$15 billion of which is being spent looking for investment opportunities). Eric explained that, notwithstanding the potentially high funds flow that can be generated though crowdfunding, as a product crowdfunding is unlikely to establish itself as a funding source in Africa without proper resources, policy support and promotion of opportunities being put in place. Along this line of thinking, tax incentives for middle class investors (such as exist in the UK) may be the place to start.

Capital markets

The panel discussed the fact that the African debt capital markets have matured over the last decade, with average ticket sizes for sovereigns and large corporates of US$450 million per issuance. We are currently seeing a shift towards local and smaller corporates accessing these debt capital markets and the industry is forecasted to see that type of participation rise with local currency issuances increasing.

Many African countries face challenges in terms of developing their capital markets, with the two key problems being a lack of regulatory framework and lack of liquidity. However, this is forecast to change such that there is a degree of consistency in access to debt capital markets across the continent. Development banks are again expected to play a big role in developing and supporting this change.

Is commercial bank debt still the backbone of finance in Africa?

All panel members agreed that commercial bank debt will continue to be the backbone of financing in Africa for the foreseeable future, for a variety of reasons. Africa's dependence on the commodity cycle (which in turn creates huge reliance on commercial banks to fill the void) was cited as a key reason for this, as is the current lack of a proper regulatory framework for the capital and financial markets.

While alternative finance is expected to grow, not much is expected to change in the short term. Further, a key catalyst in this growth is the development of intra-continental trade, where levels lag far behind those in the Americas, Europe and Asia. This can only be developed internally and is itself reliant on appropriate government initiatives being put in place.

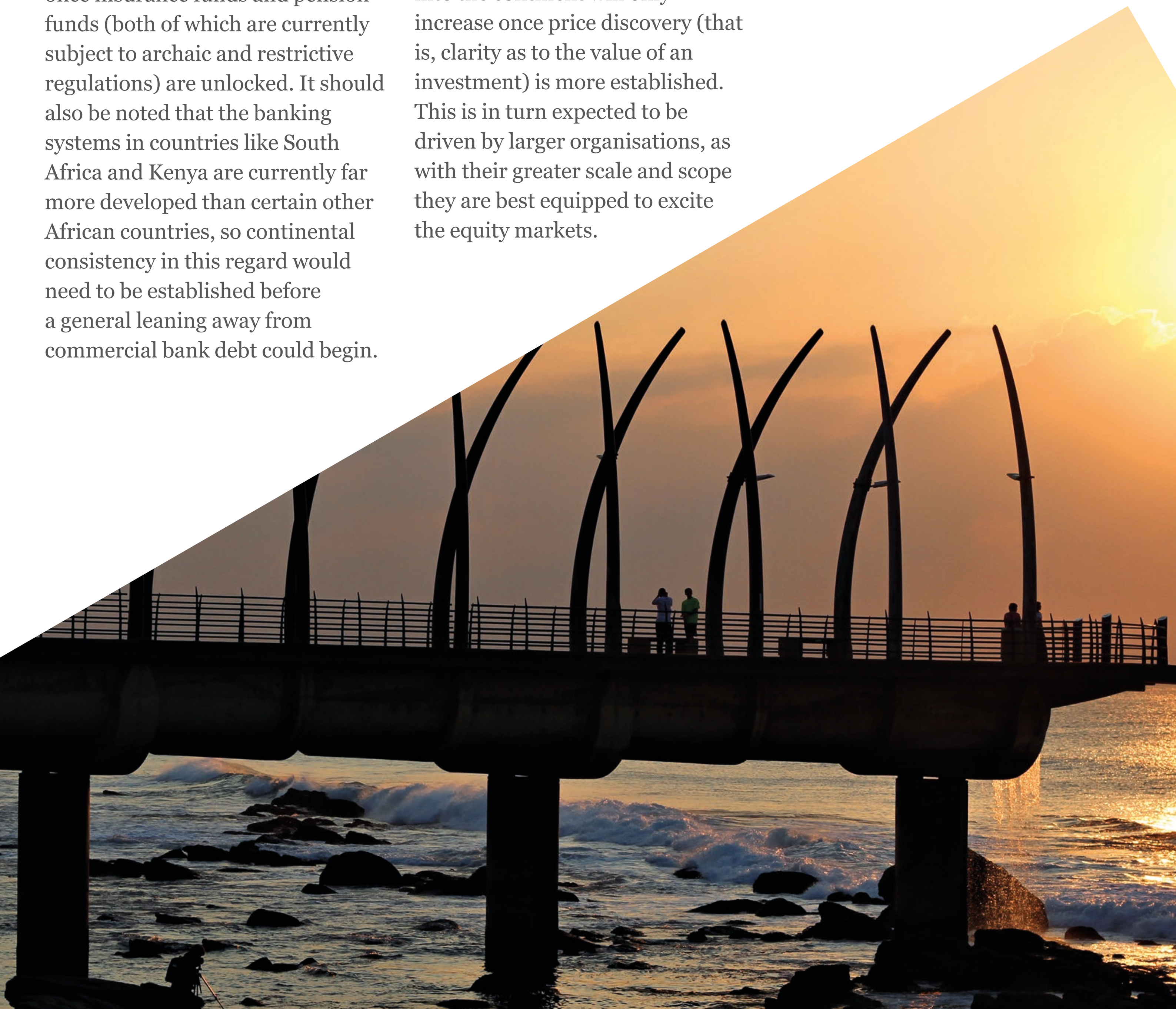
Looking ahead

In terms of debt funding, commercial bank debt is expected to remain the primary source of long-term funding in Africa; it is expected that this might change over time once insurance funds and pension funds (both of which are currently subject to archaic and restrictive regulations) are unlocked. It should also be noted that the banking systems in countries like South Africa and Kenya are currently far more developed than certain other African countries, so continental consistency in this regard would need to be established before a general leaning away from commercial bank debt could begin.

It is anticipated that China's role (at both a government-to-government level and a private level) and India's role (at a private level) will continue to increase.

It is expected that equity funding into the continent will only increase once price discovery (that is, clarity as to the value of an investment) is more established. This is in turn expected to be driven by larger organisations, as with their greater scale and scope they are best equipped to excite the equity markets.

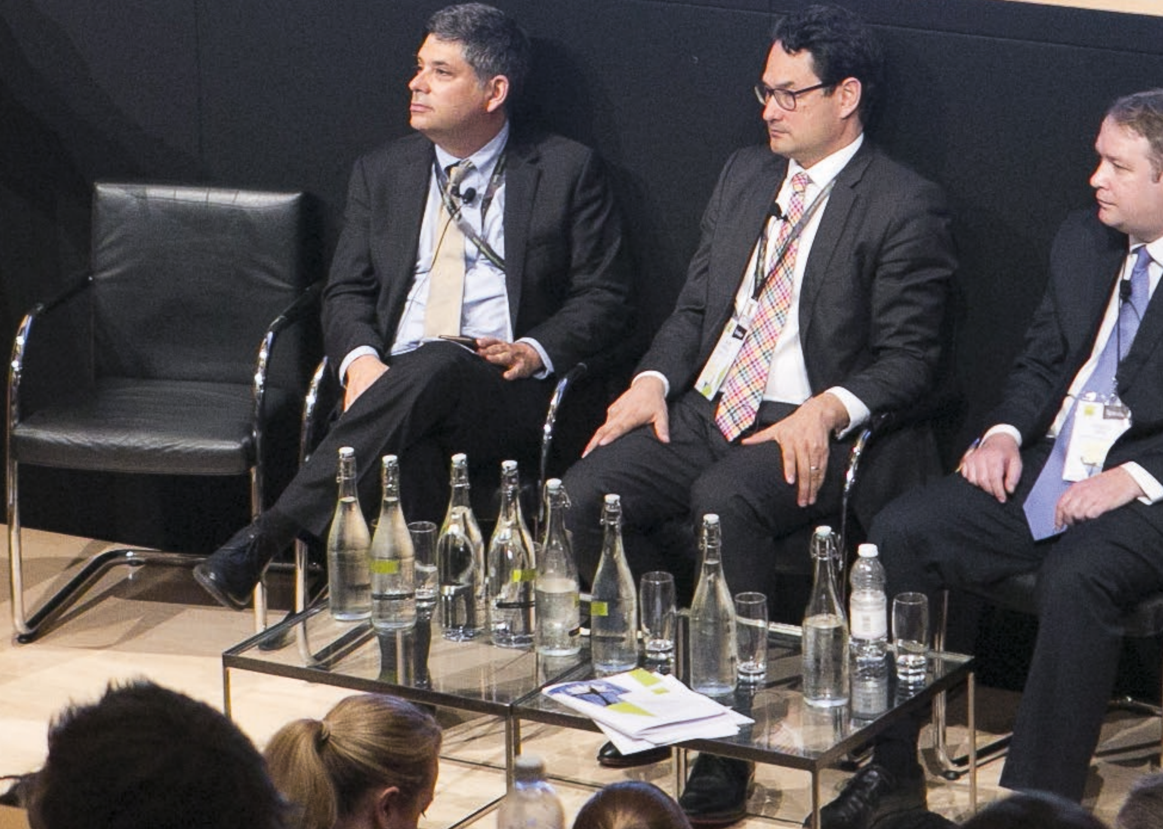
There was little debate that development banks are and will continue to be, indispensable to the African economy.

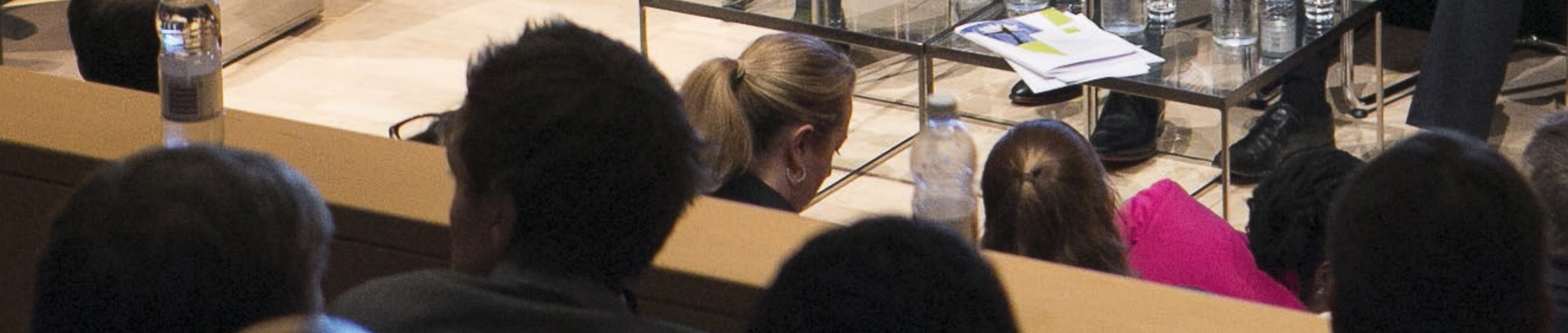


Panellists
Jeremy Brittenden
Partner, Hogan Lovells

Ethan Chorin

Gregory Ness
Executive Director
Standard Chartered





African fintechs chart their own course

Financial technology (Fintech) is one of the most significant – and disruptive – developments in financial services for decades. Digital technologies, often developed by innovative start-up companies, are transforming banks' operating models and the way they deliver services to customers. This is not a trend restricted to developed economies, as mobile money and payment solutions contribute to a seismic change in the personal wealth and lifestyles of many Africans, facilitating financial inclusion across the continent.

This high-paced panel was chaired by Rachel Kent, Global Head of Financial Institutions at Hogan Lovells and included Suzanne Prosser, Group General Counsel at MicroEnsure, a developer of emerging markets insurance products; Edward George, Head of Group Research at pan-African bank Ecobank and Viola Llewellyn, co-founder and president of Ovamba Solutions, a Fintech-driven platform for small and medium sized enterprises (SMEs) in Africa.

Fintech is not a new concept in Africa. Suzanne says: "Innovation is part of the DNA of Africa." Mobile payments technology was embraced by African consumers well before it gained traction in more developed economies, for example.

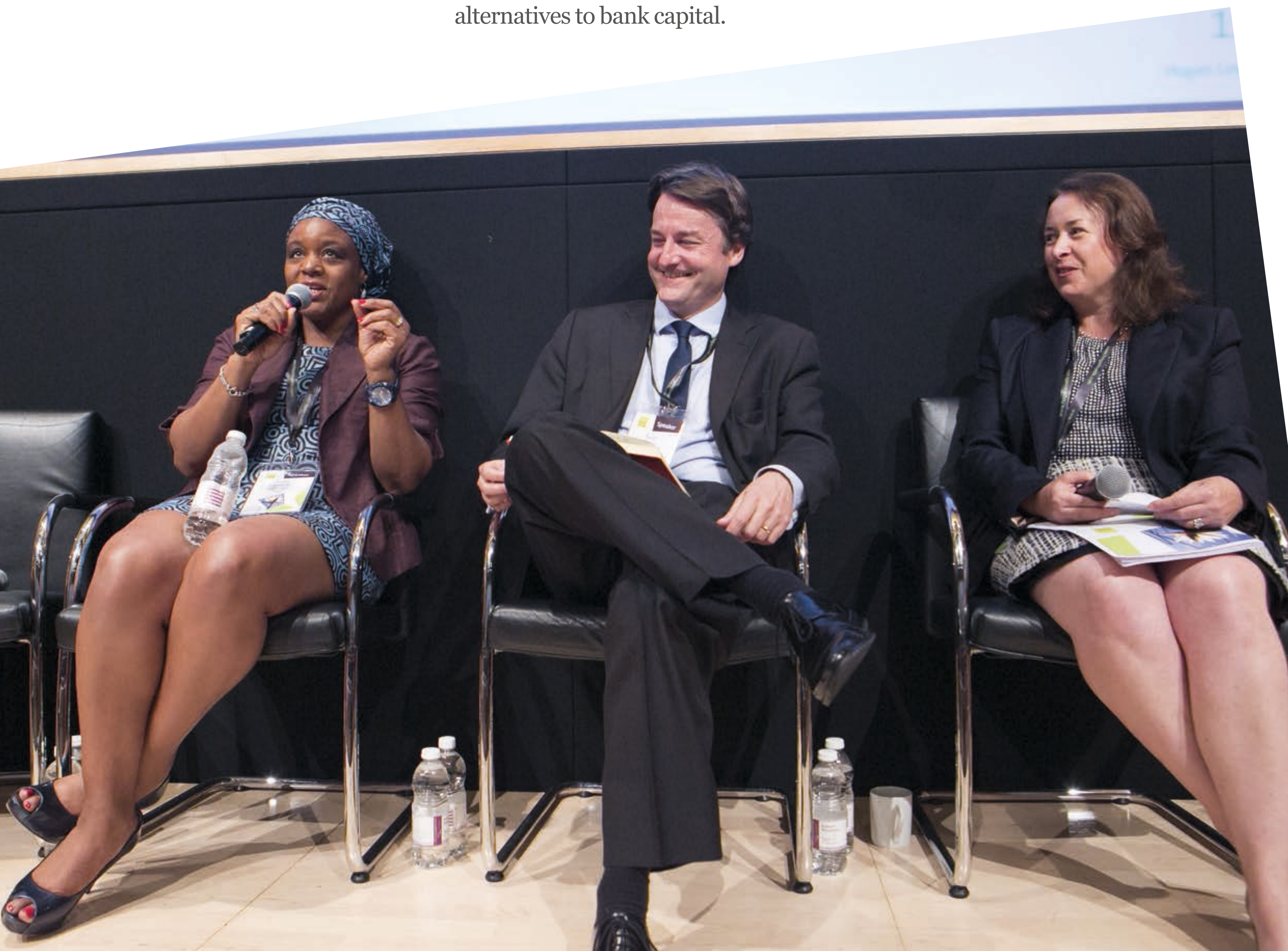
One of the most high-profile examples of Fintech disruption in the region is M-Pesa, a mobile money transfer service developed by Vodafone for mobile network operators Safaricom in Kenya and Vodacom in Tanzania. It has since expanded to Afghanistan, South Africa, India, Romania and Albania. M-Pesa allows users to deposit, withdraw and transfer money and pay for goods and services with a mobile device. For many Africans, their only experience of financial services is via mobile phones. Originally designed to address financial inclusion, at least 40% of Kenya's GDP now flows through the M-Pesa system, says Edward. M-Pesa hasn't yet repeated in other countries its stellar performance in Kenya. The secret of its success there, says Edward, is the backing it received from the authorities. The financial regulator and the Kenyan Government were involved in M-Pesa from the start and the Central Bank is committed to its success. The model they adopted, with M-Pesa sitting as a separate entity between Safaricom and the banks, has enabled the launch of mobile lending and savings services (such as M-Shwari), whereas in other African countries direct partnerships between banks and mobile network operators have not worked well.

> Innovation is part of the DNA of Africa.
>
> *Suzanne Prosser*
> *Group General Counsel at MicroEnsure*

In many aspects of financial services, African countries can leapfrog developed nations and move to more innovative products and services. Financial institutions in developed countries are often burdened with legacy technology and business models that prove costly to adapt to changing customer demands.

Viola says financial institutions have not been very innovative in the region during the past 40 years. "There are no credit departments in Africa and it is very difficult to find data to build a risk profile that would enable access to credit," she says. There are, however, alternatives to banks that can provide SMEs and individuals with access to capital. Ovamba, for example, develops mobile applications and online platforms that provide alternatives to bank capital.

There are "endless start-ups" investigating the application of technology to address unbanked people in the region, says Edward. Companies that are using disruptive technologies such as blockchain are forging ahead in financial services in Africa and "unless banks get their heads around this" they could lose around one-third of their business in the region during the next five years.



Challenges for African fintechs

There is significant promise for Fintech businesses in Africa, but there are also challenges, including distribution, mistrust of financial institutions, under-developed infrastructure and a varied customer base. A pragmatic approach to providing financial services in the region is often required.

"Old-fashioned" distribution models are not always appropriate for all consumers. In targeting low-income consumers, products should be simple and reliable," says Suzanne. "They also should be scalable and grow with customers as they become more comfortable with financial products."

A long-standing characteristic of Africa, says Edward, is the ambition of many governments in the region to develop "perfect" solutions from end-to-end. In the case of financial services, disruptive solutions do not have to be holistic.

Perhaps the most challenging aspect for financial services in Africa is the lack of credit history and collateral that many citizens experience. Money transfer systems, such as M-Pesa, address this by enabling users to build up credit histories. Another solution, First Access, combines financial and mobile data to reliably predict credit risk for borrowers in informal markets. Users are given a credit score that they can then take to a bank. M-Pesa is still a text-based payments system, despite the growing use of smart phones, while many of Africa's e-commerce start-ups operate pay-on-delivery services in cash rather than using e-payments.

Fintech has the power to disrupt consumer expectations and behaviour around financial services. The ineffective approach of financial institutions towards credit, says Viola, means that Fintechs are emerging that act as a bridge, or a gateway, to the independent and alternative delivery of credit. "Ovamba uses Fintech solutions to assess the collateral of customers based on goods that are in transit. Via electronic commerce we can buy these goods on behalf of the customer and sell them back using Sharia finance principles," she says. This enables people to access capital in the absence of collateral.

The role of regulation

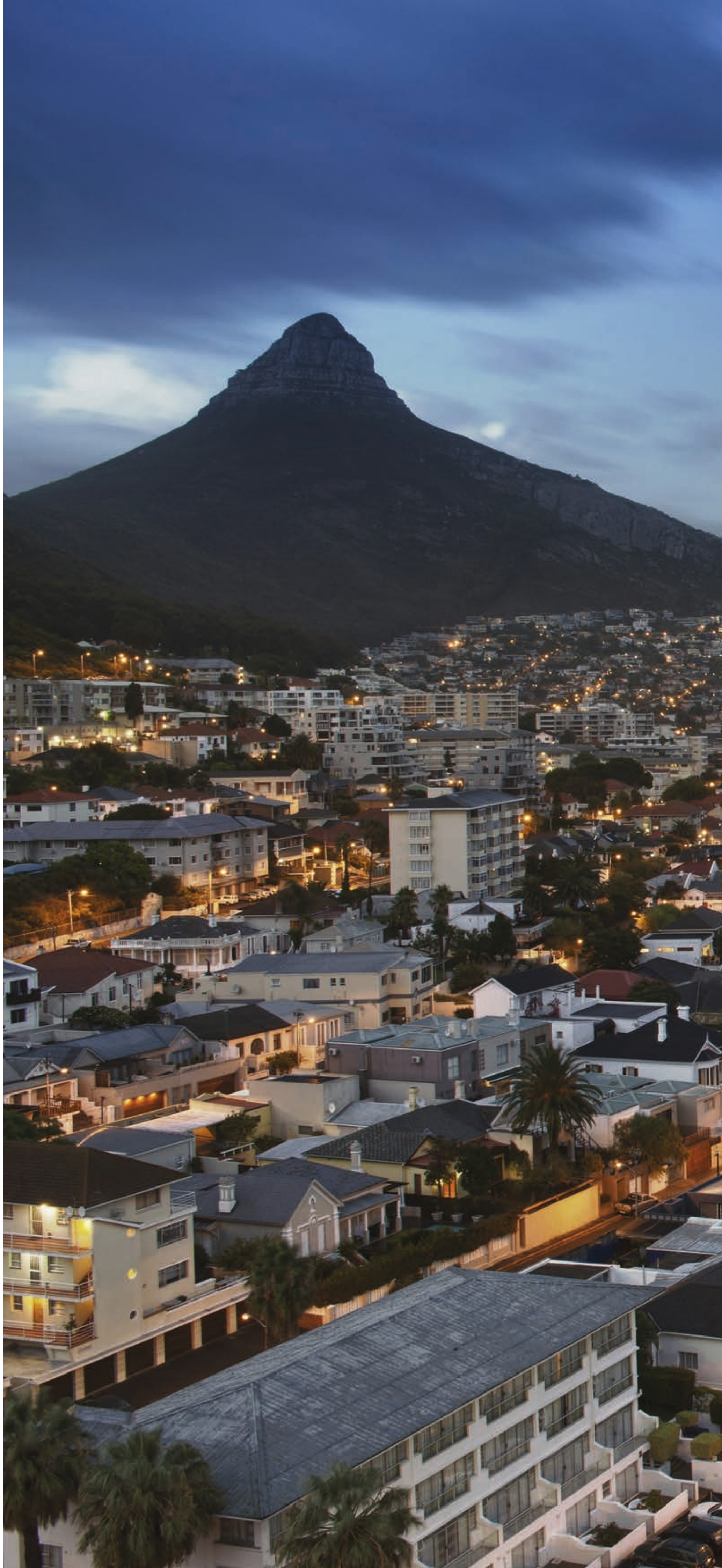
Financial regulators have a role to play in setting the right environment for Fintechs to continue to flourish in Africa. It is worth bearing in mind that Africa is very regionalised and one answer will not be applicable across all countries. Francophone countries, for example, are characterised by a lack of government engagement and immaturity of regulation related to financial services and technology. In countries such as the UK, which has a strong Fintech industry, the financial regulators are engaged in dialogue with Fintech companies and financial institutions. The Financial Conduct Authority has established a 'regulatory sandbox' that enables Fintechs and banks to experiment with products and services in a controlled, risk-free environment.

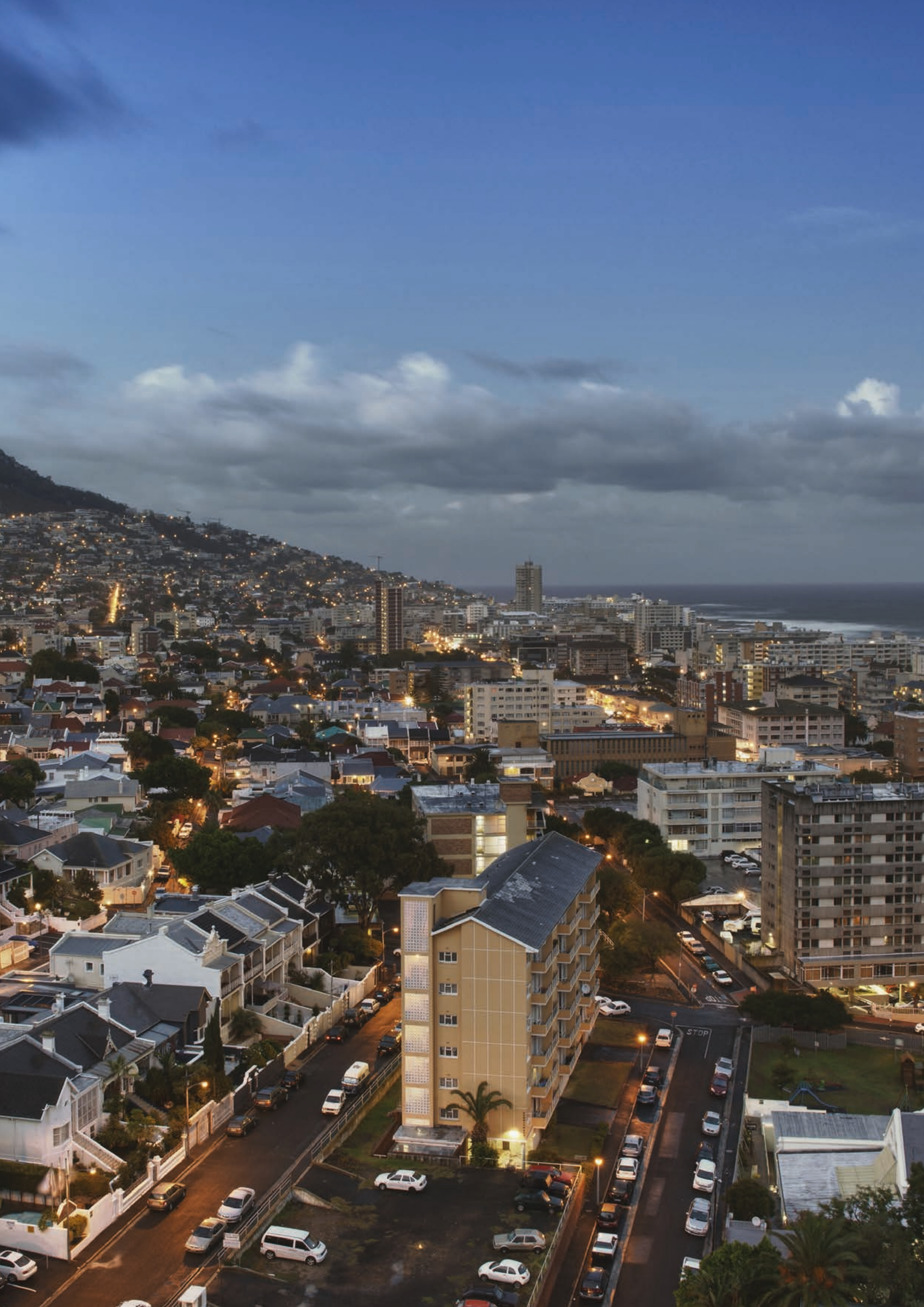
In many countries in Africa, however, there is a question as to whether incumbent financial services providers lobby governments to put up barriers to new entrants such as Fintechs. In many ways, however, Africa is better placed to harness Fintech as there is not a significant legacy of existing regulations that must be reviewed.

The future of African fintech

International investors have recognised the opportunities that exist in African Fintech but businesses in Africa in general face serious difficulties in raising capital. Viola describes intellectual property in Africa as "chronically under-valued" versus the rest of the world.

But investors see an opportunity in Fintech to deliver a very positive social impact. Fintech can help people to access financial services and improve their lives. On a macro level, it will enable financial institutions in the region to move toxic assets off their books and blockchain will help to speed up the movement of capital, surpassing the generally non-functioning bourses in the region.




STOP

New horizons:

Future trends for international arbitration in Africa

A distinguished panel shared their views on the current of state of arbitration in Africa and what the future may hold. The panel comprised Babatunde Fagbohunlu SAN, partner at Aluko & Oyebode (Nigeria), Dr Jacomijn van Haersolte-van Hof, Director-General of the LCIA; Tunde Ogenseitan, counsel at the ICC; Thomas Kendra, counsel at Hogan Lovells and Board Member at Kigali International Arbitration Centre (KIAC), and was chaired by Nathan Searle, counsel at Hogan Lovells.

Growth of African arbitration

A key theme that emerged was that there is already a well-established track record of using arbitration for African-related disputes. Such disputes have been resolved through arbitration for decades. Recent statistics from some of the leading arbitration centres show that arbitration continues to remain a popular forum for resolving African disputes:

- 12-15% of the LCIA's caseload relates to African arbitrations with Nigerian, South African and Kenyan parties the highest users. The LCIA has seen a number of arbitrations choosing seats in Africa and governing law of African jurisdictions. Interestingly, the statistics indicate that there is no strong correlation between the location of the parties and their choice of seat/governing law in relation to African-related arbitrations.
- A similar trend is being seen in ICC arbitrations with more parties choosing African seats and African arbitrators, providing evidence of a slow but clear shift towards more arbitrations happening in Africa with African arbitrators.
- KIAC now has 39 registered cases. Of these, a third relate to construction disputes, a quarter involve non-Rwandan parties and two-thirds involve Rwandan government entities. This shows that the centre is gaining momentum and explains why it was identified as an arbitration centre to watch in the next 5-10 years in the recent IBA Arb 40 report on the Current State and Future of International Arbitration.

> In addition to Kigali, the IBA Arb 40 report identified Johannesburg and Lagos as seats to watch.

Development of arbitral centres in aAfrica

In addition to Kigali, the IBA Arb 40 report identified Johannesburg and Lagos as seats to watch and identified Mauritius as already being established as an 'upcoming alternative' to traditional arbitration seats.

The panel discussed the key factors that led to these or other locations becoming an established and popular seat of arbitration in the Africa region.

In considering this issue it is important to distinguish between seats and centres. For the former, it is necessary to have a strong, stable legal system, while the latter is more reliant on the stability of the country as well as more practical matters such as the ease of access, the facilities at the centre and the support services available locally. A key driver for the success of a centre rests with the law of the relevant country and its support for arbitration. The need to support arbitration as a form of dispute resolution is being recognised by African governments. Many African countries have either recently reformed their arbitration laws, are in the process of doing so, or plan to do so in the near future, to ensure that they are fit for purpose and facilitate the growth of arbitration. Examples of such reforms can be seen by the recent recognition of arbitration in the constitution of Kenya and similar moves in Mozambique. There is a growing appreciation that having a law that is supportive of arbitration will aid in attracting investment.

Opportunities and challenges

Although plenty of experience and expertise exists within the African region, there is still a perception that parties are less comfortable with arbitrating in Africa than in traditional arbitration seats (such as London, Paris or Geneva). There is also a perception among some of the judiciary in some African jurisdictions that arbitration represents a competitive threat to the courts or a sub-standard dispute resolution mechanism requiring courts to intervene extensively when asked to review or enforce awards. Both these challenges can be addressed by greater education both of the judges and arbitration users. Another solution proposed was to seek to create an alternative support mechanism for arbitration that did not involve the local courts. This could potentially provide a quicker, more effective solution to the problems caused by interference by local courts.

One of the best ways to instil confidence in arbitration users about the local courts' support of arbitration is for the courts to be transparent in their decisions about their desire to be supportive of arbitration and for such decisions to be widely disseminated within the arbitration community. It is also important for users of arbitration and those within the arbitration community to promote diversity by seeking out the relevant expertise and experience in Africa because when the arbitration panel and process reflects the diversity of the region, it will be more credible, successful and efficient.

The future looks bright for arbitration in Africa with legal reform in many jurisdictions seeking to support arbitration and the emergence of regional arbitration centres. It will be important to facilitate such growth that the local courts clearly show their support for arbitration in the efficient and effective enforcement of awards. It is also critical that the depth of arbitration experience and expertise that exists in the region is harnessed to promote arbitration in Africa and beyond. With increased investment flows into Africa, arbitration is set to remain the method of choice for resolving international commercial disputes in the region.

Managing bribery and corruption in Africa

It's not as easy as ABC

Issues of bribery and corruption in Africa represent one of the continent's most pressing challenges. Six out of the bottom 10 countries in Transparency International's Corruption Perception Index from 2015 were African nations; President Zuma of South Africa has been engulfed by constitutional and corruption charges concerning his personal activities; and in Nigeria, despite the Government having recovered US$9.1 billion in stolen money and assets, much more still remains missing.

But businesses, professionals, governments and citizens can all point to encouraging developments. Presidents Buhari, Condé and Magufuli of Nigeria, Guinea and Tanzania respectively, have all been democratically elected to the Presidency of their countries on anti-corruption tickets. There has been increased enforcement activity with the FCPA fining multinationals Hitachi (US$19 million) and Goodyear (US$16 million) within the last 18 months. The SFO, only last year, negotiated the first deferred prosecution agreement under the UK Bribery Act 2010 with Standard Bank; and in Guinea, Nigeria, Tunisia and Morocco, legislation and regulations have been pushed through to tackle corruption.

Chaired by Crispin Rapinet, partner and Head of our Global Investigations, White Collar and Fraud practice, our panellists engaged in a lively conversation, which covered their insights into the unique continental, regional and local risks of doing business in Africa; practical tips for managing those risks; and their experience of enforcement trends across the continent.

The panel comprised Judith Poultney, an experienced Business Intelligence Manager at EY; Pedro Guimarães, a Partner at FCB Advogados in Lisbon whose work specialises in Lusophone African countries, specifically Angola and Mozambique; Isha Johansen, the President of the Sierra Leone Football Association (one of only two female FA presidents in the world) and Bérengère Parmly, a French-American lawyer and Ethics and Compliance Officer at major international engineering and construction outfit, Bechtel Limited.

Crispin kicked off the session with a question to Bérengère Parmly on her experience and advice for conducting compliance programmes across Africa.

"Operate within written, local law" was Bérengère's key message; alongside stressing the importance of training; and developing and enacting compliance programmes with support from CEOs and the board, Bérengère suggested that businesses would benefit from building relationships with local counsel who understood and were

well-versed in the operation of local law. She pointed to the invaluable knowledge local counsel would have in identifying the scope of each government organisation's authority and jurisdiction; knowing where, and at what level fees, taxes and other payments should be made; and defending cases in court when the opposing party and/or the judge is suspected of foul play. By incorporating local law, companies can make their compliance programs a "living, breathing thing". Indeed, Bérengère stressed that employees would be more engaged with compliance programmes that acknowledge their own local legislation, as well as international best practices.

Judith Poultney highlighted the key trends across the continent, such as the SFO and DOJ becoming increasingly engaged with prosecuting businesses, referencing recent cases against international banks in Tanzania, and cases against multinationals in Kenya and Mauritania, amongst other initiatives such as the G20 and the World Bank's work on beneficial ownership of businesses. Judith highlighted that, for most multinationals, the key concern was the potential exposure that arose under the FCPA and UKBA when working with local suppliers or third-parties. Businesses should mitigate these risks by undertaking due diligence to assess the reputational and regulatory risks in all cases and, if necessary, they should go further by conducting interviews on the ground and undertaking much more detailed investigations into financial relationships and the sourcing of references about suppliers/third parties. Judith stressed that strong anti-bribery policies articulated in a multinational's headquarters must be understood on the ground and tailored to the local jurisdiction.

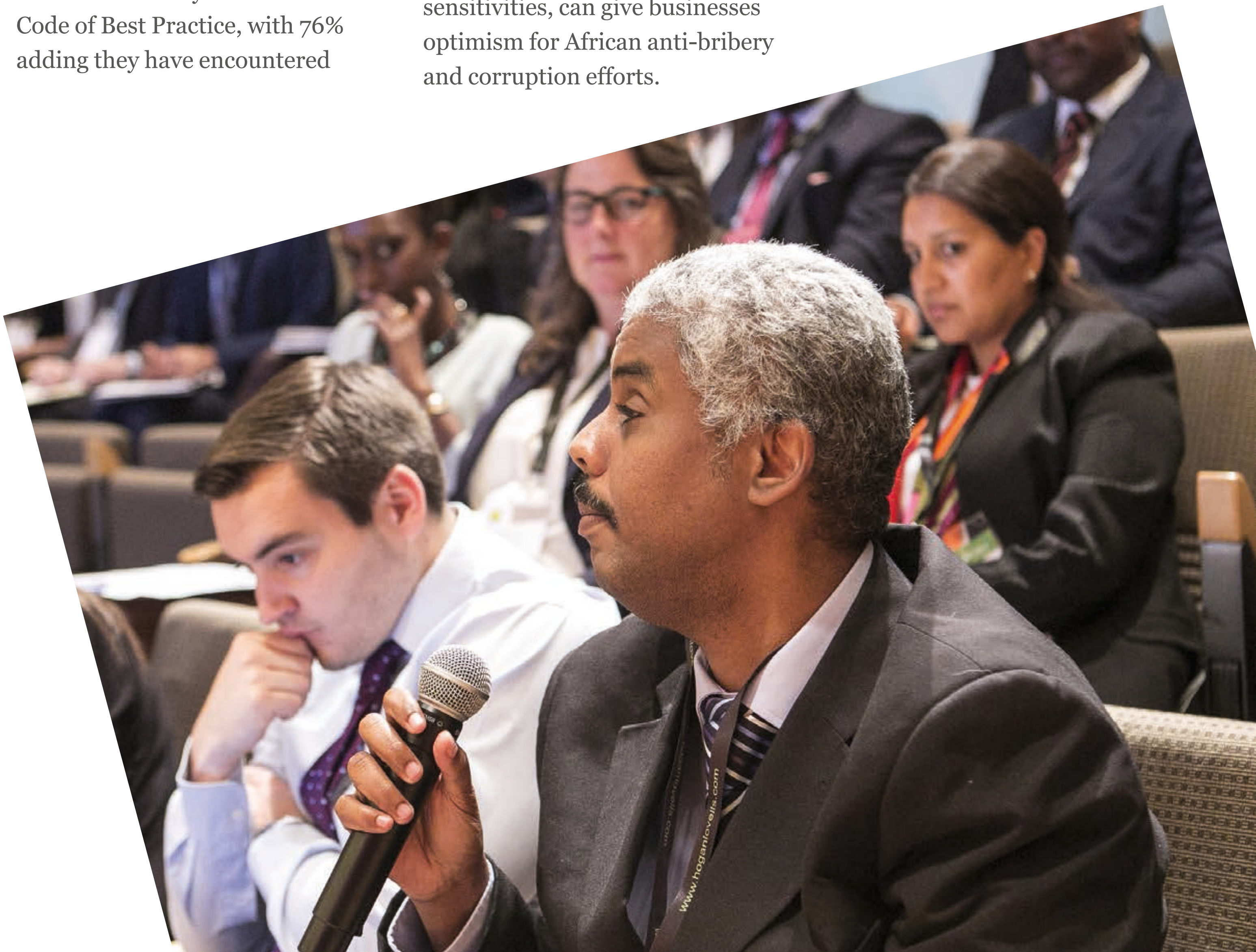
Isha Johansen recounted her journey from a football-fanatic family to the head of the Sierra Leone Football Association. Using football as a framework, Isha has used her path to, and role as, President of the Sierra Leone FA to investigate match-fixing and sexism within sport. This has led to her recently launching the first match-fixing enquiry in Sierra Leone, something which she commented is an endemic, but rarely discussed, issue. Isha stated that football is a second religion in Sierra Leone and "to understand corruption within the sport assists identification of corruption within the nation". Representations of sport by (local) journalists can reinforce perceptions of how corruption is being tackled at a grass-roots level. Isha commented that the issues of corruption and governance faced by sport are the same as those faced by business, and they should therefore be addressed on the same platform.

Lusophone countries in Africa, particularly Angola and Mozambique, have significantly different attitudes to other African countries according to Pedro Guimarães. The difficulty of transacting in Angola is exhibited by ten different laws and two different government agencies that concern enforcement. "And that's only how it is on paper," added Pedro. The reality is that rules and laws can often mean little on the ground and as poetic as they may be in print, in practice, corrupt practices still occur, depressing investment and development. In Luanda, 'paying for soda' (one phrase utilised when paying a bribe) can be commonplace,

but Pedro stressed that, following the recent oil price crisis, governments have indeed made efforts to diversify their economies and provide a business environment that is more seductive to foreign investment.

Our real-time polling data was almost as revealing as the discussion itself: 93% of our attendees felt anti-bribery and compliance efforts would be aided by an International Code of Best Practice, with 76% adding they have encountered issues of corruption in the region. A smaller majority thought that anti-bribery and corruption remains a taboo subject in Africa, but the majority of our audience voted that high bribery and corruption risk would not put them off transacting in Africa. It would seem, from our panel, heightened government activity in this area, alongside greater appreciation of local sensitivities, can give businesses optimism for African anti-bribery and corruption efforts.

> “The reality is that rules and laws can often mean little on the ground and as poetic as they may be in print, in practice, corrupt practices still occur”



In summary...

Dr Alex Vines OBE, Head of the Africa Programme at Chatham House

Africa has tremendous potential and whilst there are headwinds (FDI and aid have declined in the last year, by 35% and 5% respectively, and remittances have also decreased), opportunities remain.

Prior to the Forum, the Zimbabwe Herald contained an article that stated that Britain was "decolonising" and this was reminiscent, in Alex Vines' view, of a time when Robert Mugabe declared that Zimbabwe had "turned East where the sun rises and given [its] backs to the West where the sun sets". However, Alex Vines believes that, contrary to this sentiment, there is a serious re-engagement process occurring between key African institutions and the West, with the international community continuing to play an important role in foreign development and the contributing towards stability of countries like Zimbabwe.

The changes that are occurring on the continent are, in part, influenced by the fall in commodity prices, which is encouraging recalibration and a reappraisal of relationships. In this sense, politics is highly interconnected with business in Africa and cannot be ignored. Angola, by way of example, is showing a greater commitment to solving issues of corruption within the country, and the president, José Eduardo dos Santos, has indicated that he would like Angola to establish better relations with the USA as well as other nations.

China imports almost 60% of the world's iron ore and 30% of the world's copper. However, in recent years there has been a reduction in Chinese demand for these materials. This change in demand has had an adverse effect on countries such as Zambia, which is very dependent on the export of iron ore, and South Africa. The result of this has been growing liquidity and rising inflation in a number of countries. Indeed, it is not a coincidence that last year the President of Angola attempted to renegotiate the terms of its repayment obligations to China, governed by an oil-for-infrastructure deal. Alex Vines believes that growth and development in Africa will depend on jobs and training opportunities for Africans (the visa figures for Angola reveal that 267,490 Chinese people were working in Angola in 2013).

China is also beginning to question the profitability of a number of its investments in Africa. Last March, China required auditors from its National Audit Office to screen financial statements of state oil companies in Angola, having found a net loss of over one billion. Such high levels of scrutiny are also adding pressure on African countries to find solutions to internal issues, such as corruption.

Some British ministers, who are focused on Africa, such as James Duddridge, argue that, in future, the UK is likely to trade more with Africa. However, Alex Vines states that the evidence does not support this. The number of projects into which the UK invested in Africa since 2014 has declined. Similarly, although the amount of UK-invested trade doubled between 2005 and 2014, it remains very small and global FDI, which appeared to peak in 2014, has reduced significantly.

Alex Vines then turned his attention to Brexit and cited the following as key concerns:

Trade: Britain must bilaterally re-negotiate trade with several African countries. Britain's voice on trade will also be missed in the EU as it had adopted a consistent and reliable anti-protectionist voice within EU trade negotiations. In particular, the UK has been a strong voice on agricultural reform, to promote better opportunities for those outside of the EU. There is a danger that European trade policy will become less favourable to African nations following the UK's withdrawal from the EU.

Policy: many of the EU member states, with the exception of France, have not shown as great a commitment to African affairs as the UK. Africa may, therefore, diminish as a policy focus within Europe. By way of example, Britain made Somalia a key part of its foreign policy towards sub-Saharan Africa, directed by William Hague and David Cameron. This is likely to be much reduced in years to come, given that other Ministers have failed to show the same level of enthusiasm towards such issues.

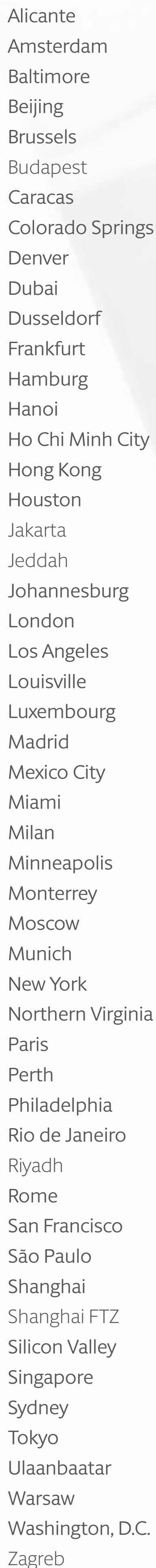
Aid: the UK has been a substantial contributor towards European aid offered to Africa, contributing approximately two billion Euros. Alex Vines stated that we are likely to see a narrower geographic focus from the UK, focusing on countries such as Nigeria, Kenya and South Africa. Further, the Government committed to using 0.7% of its gross national income for aid in Africa. Whilst the UK is unlikely to retract this commitment, the decline of the British economy may mean that it has less money to offer towards international development.

Currency volatility: African currencies are particularly vulnerable to global events and Alex Vines believes that Ghana, Zimbabwe, Zambia, Mozambique, Angola and South Africa will be hit, in particular, by the impact of Brexit in the short term.

Regionalism: Brexit may also seed doubt about a continental free trade agreement and there will be questions about what the UK's withdrawal from the EU means, if anything, for regionalism.

The importance of London for innovation: he headwinds of Brexit as well as other political crises such as those occurring in the Democratic Republic of Congo may distract financiers and policymakers from realising the opportunities that exist within Africa. The general feeling of risk will also be heightened and, consequently, lending to Africa will be under greater scrutiny, which will produce barriers for FDI flows into and project finance within the continent.

Alex Vines concluded that the sun is not setting in the West as quickly as Robert Mugabe suggested. African governments are recognising the need to diversify partnerships to navigate a changing world order and to manage risk.



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