Hogan Lovells

Africa Newsletter

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Welcome to the first 2020 edition of the Hogan Lovells Africa Newsletter

To start off, we take a look at the competition law developments which continue to gain traction in Africa. Then we move on to focus on the regulation of Cyrptocurrencies in Africa and China.

We have two arbitration articles in this edition; the first one looks at the proposed amendment of Nigeria's federal arbitration law and examines how this could improve the arbitration landscape in Nigeria significantly; and the second discusses the choice of a Mauritian arbitral institution.

At Hogan Lovells, we work with some excellent local firms across this continent, and offer secondments to some of the lawyers from these firms. This edition includes two articles written by some of these recent secondees. In the first, Nour El-Deen Al-Senawy from Zulficar & Partners in Egypt, takes a look at Egyptian's new Sovereign Wealth Fund: Partnerships for Sustainable Development.

Then we have a great feature which focuses on doing business in Kenya, Nigeria and Zambia, written by three other secondees: Diana Almadi (Kenya Revenue Authority), Josephine Udonsak (ACAS-Law), and Mulopa Ndalameta (Musa Dudhia & Co.).

Our pro bono work across Africa is important to us, and so we follow on with an article taking a look back over our five year partnership with SPRING.

The recent events section kicks off with an insightful article written by our Head of Africa, taking a look at the UK's Africa agenda following the UK Africa Investment Summit we attended last month, which was hosted by the UK Prime Minister, Boris Johnson in London. We then finish with a feature about the relaunch of our Johannesburg office at the end of last year.

And before you go, don't forget to read about the details of our upcoming events and some of our recent work on the continent.

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

The Hogan Lovells Africa Team

Andrew Skipper
Partner, Head of Africa practice
T +44 20 7296 2923
andrew.skipper@hoganlovells.com

Alison Diarra
Lawyer – Africa Network Manager
T +44 20 7296 2845
alison.diarra@hoganlovells.com

Abena Poku
Senior Marketing & Business
Development Manager - Africa
T +44 20 7296 5538
abena.poku@hoganlovells.com

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Competition law developments in Africa

Competition law is continuing to gain traction in Africa, and it is also developing as countries update their competition legislation. We set out below some developments across Sub-Saharan Africa.

New competition legislation

Pursuant to the enactment of Angola's Competition Act in 2018, Angola's Competition Law Regulation was approved in October 2019. The Act prohibits various restrictive practices, including abuse of dominance; abuse of economic dependence; and agreements between undertakings, including concerted practices or decisions, that have as their object or effect, the restriction of competition. The Act also regulates mergers, requiring notification prior to implementation of transactions involving undertakings which have a turnover above a certain level[1], or where the combined entity will have a market share of 50% or more. Parties found to have contravened the Act will be liable for a penalty of up to 10% of their annual turnover for the preceding year for prohibited conduct, and up to 5% for failure to notify a merger.

Nigeria has also introduced competition legislation by way of the Federal Competition and Consumer Protection Act ("FCCPA") which was signed into law in February last year. The regulatory body is the Federal Competition and Consumer Protection Commission ("FCCPC"), which will review all mergers and business arrangements[2] to ensure that these arrangements do not distort or impede the markets. Guidelines regarding merger thresholds are yet to be set by the FCCPC. On 13 November 2019, guidelines were introduced to provide for merger filing procedures in relation to foreign to foreign mergers having a Nigerian component. The FCCPC will also monitor prohibited conduct such as abuse of dominance and restrictive agreements which have the effect of preventing, restricting or distorting competition. The penalty for contravening these provisions is up to 10% of a company's annual turnover, as well as imprisonment and/or a fine for individuals of up to 10 million Nigerian Naira for particularly egregious offences such as cartel conduct.

From a regional perspective, on 31 May 2019, ECOWAS launched its regional competition authority in Gambia. The regional competition authority has been established to implement the regional competition rules Which were adopted in 2008 but which had not until now been enforced. It is our understanding that the core mandate of the regional authority will extend to keeping under review, commercial activities in the Community market to identify practices which may distort competition or which may adversely affect the economic interest of consumers.

There are a number of countries in Africa with plans to introduce competition legislation, including Ghana, Uganda and South Sudan.

Amendments to competition legislation

South Africa has enacted an Amendment Act which was signed into law in February 2019, introducing wide ranging amendments to its competition legislation. The Amendment Act seeks, among others, to address the issue of economic concentration and to drive transformation in the South African economy. Some important amendments include: the enhancement of the market inquiry process; and amendments to the abuse of dominance provisions, aimed at protecting small businesses and those controlled by historically disadvantaged persons; including the introduction of buyer power provisions. From a merger control perspective, an important change is the proposed introduction of a committee of cabinet members and public officials which will, in parallel with the analysis by the competition authorities, consider proposed acquisitions by foreign firms which may adversely affect South Africa's national security interests. The Amendment Act also does away with the so-called "yellow card" for certain first-time

1 Turnover of 450 million Kwanzas, if their combined market share is between 30% to 50% of the Angolan market, or otherwise combined turnover of 3.5 billion Kwanza.
2 Before the enactment of the FCCPA, mergers were regulated by the Securities and Exchange Commission.

offences, and penalties of up to10% of the firm's annual turnover or exports in South Africa may now be imposed for all first-time offences. The maximum penalty for repeat offenders has increased to up to 25% of the firm's annual turnover or exports. Some provisions are yet to be brought into effect, but Regulations regarding Price Discrimination and Buyer Power have been published, as have draft Guidelines on these issues.

Botswana has also amended its competition legislation, with the President of Botswana having assented to new legislation in April 2018, which came into effect on 2 December 2019. Of significance is that the new legislation prohibits restrictive horizontal practices such as price fixing, market division and bid rigging. It also introduces the concept of personal liability, with directors of companies engaged in cartel conduct facing the risk of a fine of up to BWP 100 000 (approximately USD 10 000) or imprisonment for up to five years or both. In addition, the new legislation has expanded the abuse of dominance provisions to include; predatory conduct, tying and bundling, loyalty rebates, margin squeeze, refusal to supply or deal with other enterprises, including refusal of access to an essential facility, requiring or inducing any customer to not deal with other competitors, discriminating in price or other trading conditions and exclusive dealing. In instances where an enterprise has failed to notify a merger or implemented a merger before approval, the enterprise may attract a penalty of up to 10% of the purchase consideration or the combined turnover of the merging parties. Public interest is also given more prominence.

Kenya also introduced amendments to its competition legislation relatively recently, in December 2016. Like South Africa, the abuse ofbuyer power has been recognised as a restrictive trade practice and is prohibited. Guidelines on this topic were recently issued, and the CAK has also formed a specific Buyer Power Unit to monitor compliance, with contraventions attracting financial penalties and the possibility of imprisonment not exceeding five years. As regards mergers, while previously all mergers required some form of notification to the CAK, in 2018, Kenya introduced thresholds below which firms would be exempt from filing a merger notification, although these are still quite low – 500 million Kenyan Shillings ("KSH") (approximately US$ 4, 947, 000) combined assets or turnover of the parties in Kenya. Where mergers fall above that threshold but below KSH 1 billion, a somewhat simplified process is applied. Zimbabwe is also in the process of amending its legislation, although this has been in the pipeline for a while but has not yet been finalised.

Corporate Leniency Policies

A number of countries have introduced a leniency policy in an attempt to encourage whistleblowing of competition law contraventions. One recent example is Namibia, which launched its Corporate Leniency Policy ("CLP") in respect of cartel activity in October 2018. Although a leniency applicant will not be subject to adjudication in the High Court, the CLP states that the granting of leniency will not protect the applicant from criminal or civil liability as result of participating in the cartel conduct.

Mauritius recently made changes to its leniency programme. In January 2018, the CCM amended its CLP, which now affords initiators amnesty by allowing them to approach the CCM for leniency in return for a 50% reduction in the penalty.

Conclusion

It can be seen that competition law is a focus of many African jurisdictions. Companies doing business in Africa would do well to take note of these developments, and ensure that they comply with the various laws in place across the continent, to avoid the costly consequences of having been found to have contravened the provisions of the legislation.

Lesley Morphet
Partner, Johannesburg
T +27 11 052 6115
lesley.morphet@hoganlovells.com

Regulating cryptocurrencies in Africa and China

The 2019 United Nations Conference on Trade and Development's World Investment Report, indicates that between 2013 and 2017, Chinese direct investments in Africa grew by 65%, placing China among the top five direct investors in Africa after France, the Netherlands, the U.S. and the UK. In the wake of the African digital transformation in financial (especially payment) services and the expanding cryptocurrency markets, does the regulatory framework, or lack thereof favour a convergence of interests between China and the African continent?

China: blanket ban on cryptocurrencies and promotion of blockchain-based innovation

In October 2019, President Xi Jinping gave a speech describing blockchain as an "important breakthrough in independent innovation of core technologies" and calling on the country to become a leader in this technology. Xi Jiping's endorsement of the technology contributed to a surge of the Bitcoin and Ethereum value, despite the fact that virtual currency had been prohibited in China since 2017.

The China ban on cryptocurrencies was preceded by a series of warning messages from the regulators. In 2013, faced with the speculative Bitcoin bubble and the risk-taking behaviour of some Chinese investors, the Central Bank, along with other regulators in banking, securities and insurance, advised against Bitcoin transactions. They indicated that Chinese financial and payment institutions were not allowed to engage in any activities related to bitcoin and had to report any suspicious transactions involving virtual assets that may be connected with fraud, gambling, money laundering or other criminal activities.

However, these initial measures could not curtail the nationwide cryptocurrency fever boosted by numerous Initial Coin Offering (ICO) projects. According to the report issued by the Chinese Internet Financial Risk Assessment Platform on ICO development in the first half of 2017, approximately 65 projects raised up to USD 373 million, representing 20% of the total amount raised by ICOs across the globe. It turned out that the majority of those ICOs were scams and the increasing impact on the Chinese economy and social security led the country regulators to step in with an overall ban on ICOs. In September 2017, the Central Bank and other regulators jointly issued a statement on the risks of ICOs, referred to as "unauthorised and illegal public fundraising", which prohibited any individual or legal entity from conducting ICO-related activities, including operating cryptocurrency exchanges and providing related marketing and advertising services.

The ICO ban caused a short-term decline in cryptocurrency use and pushed Chinese platforms to go abroad. Despite the government's crackdown, the main Chinese exchanges, which appear to be shut down within China, have continued to provide trading services to Chinese investors via a broker-dealer network (over-the-counter), where many 'self-media' companies and individuals play a role in advertising and promoting ICO projects through social media , such as social media public accounts and other discrete channels. Consequently, with the boom of Bitcoin, ICO activities were intensified in the first five months of 2018, with around 537 ICOs raising USD 13.7 billion, according to a PwC report.

As a result of those loopholes, the regulatory measures have been reinforced. In 24 August 2018, Chinese regulators, led by the Central Bank and the Ministry of Public Security, issued another statement on the risk of illegal fundraising in the name of cryptocurrency or blockchain. Further to the declaration, service providers shut down many social media accounts promoting cryptocurrencies, access to overseas websites of domestic exchanges was blocked, and even hotels and restaurants stopped hosting events for ICOs.

In addition to the hostile stance of the Chinese authorities, the 2018 cryptocurrency crash significantly changed the market, with a plummeting number of ICOs and the reshuffling of key players. The surviving exchanges and investors are now hoping to grow markets in other territories which are, at best, friendly, and at worst, not yet regulated.

Popularity of cryptocurrencies in Africa

The African continent, especially the private sector and consumers, are known to be keen on financial technologies. As regards virtual money, cryptocurrencies have been used with varying degrees of enthusiasm depending on the country. The leading countries in terms of use and ownership of cryptocurrencies are South Africa and Nigeria, which are among the world's top 15.

Virtual money is particularly appealing to the population and entrepreneurs. Several factors make cryptocurrencies attractive in Africa. Only a small fraction of the population has access to bank accounts. When they do, the holding and transaction fees are often two to three times higher than in other countries. For similar reasons, Africa has been the world leader in mobile money, which allows payments and transfers using a simple (not necessarily smart) mobile phone, without a bank account or internet connection. The double-digit inflation rate in some African countries is also a contributing factor.

Beyond the use of Bitcoin and other imported currencies, new currencies have started mushrooming throughout Africa. To some, in the West African Economic and Monetary Union countries, the creation and use of cryptocurrencies is seen as an opportunity to achieve monetary independence from the CFA Franc, an increasingly controversial post-colonial currency that is about to be renamed 'Eco'. A Cameroon secessionist group has created the AmbaCoin which is intended to be the currency of the state the militants want to create. Currency exchange platforms are also multiplying on the continent.

The authorities' position: ban, laissez-faire, wait and see, regulate

Some countries, such as Namibia and Algeria, have imposed a clear ban on the use of cryptocurrencies. For example, the 2018 Algerian Finance Act provides that "the purchase, sale, use or possession of so-called virtual money is forbidden".

Like the Chinese government, the African authorities are aware of the risks linked to the use and trading of cryptocurrencies such as scams, Ponzi schemes or cyber attacks with the impossibility to trace the authors of such acts owing to the encrypted nature of the operations.

Other countries, which had initially adopted a 'wait and see' approach, have recently made public statements expressing their opposition to cryptocurrencies. For example, in November 2019, the Bank of Tanzania issued a public notice on cryptocurrency stating: "this is to advise members of the public against trading, marking marketing and usage of virtual currency because doing so is contrary to existing foreign exchange regulations."

In September 2019, a similar statement was issued by the Ugandan Finance Minister. A few weeks earlier, the Governor of the Burundi Central Bank declared: "virtual money, otherwise known as cryptocurrency, is neither regulated nor issued or guaranteed by any government or central banks. Therefore, it is not legal in Burundi". In January 2020, the Bujumbura crypto money company Crowd1 was raided and over 300 people were arrested, 17 of which were placed in custody for suspected fraudulent activities.

Other central banks have declared that using or trading virtual money is not allowed, but used a language that denotes a certain level of tolerance. Ghana is an interesting example. Its central bank stated, without using the words 'illegal' or 'forbidden', that the use of cryptocurrency was not licensed but, at the same time, the central bank was exploring how to regulate such technology in a way that benefits the country:

"While the Bank of Ghana acknowledges the enormous potential in the blockchain technology and how that can significantly transform the payments system landscape and promote financial inclusion, we are assessing with stakeholders and other international partners how the subsequent use of the blockchain technology into digital currencies would fit into the global financial and payments architecture. The public is therefore strongly encouraged to do business with only institutions licensed by the Bank of Ghana to ensure that such transactions fall under our regulatory purview".

Ghana is one of Africa's leading countries with regard to fintech and cryptocurrencies. It can be anticipated that an overnight strict ban could have adverse consequences on the country's economy.

In Senegal, where cryptocurrencies are currently used to a lesser extent, the Government has backed the creation of the 'Akoin', a virtual currency to be used in Africa and primarily in a smart city to be built near Dakar at the initiative of the entertainer and entrepreneur Akon.

As regards Nigeria and South Africa, the authorities have been taking actual steps to regulate cryptocurrencies. In August 2019, the FinTech Roadmap Committee of the Nigerian Capital Market was approved. The report provides that the country's Securities and Exchange Commission (SEC) needs to decide on its preferred classification of cryptocurrencies between commodities, securities or currency. The recommended classification is either as commodities or securities but not as currency. The report also suggests that the SEC should be responsible for the regulation of virtual financial assets exchanges and develop a framework around it.

South Africa has been proactive in its effort to regulate the cryptocurrency industry after a series of consultations with the stakeholders in the fintech and banking industries. The authorities are looking to issue regulations in 2020.

Some grey areas and open doors to regulations

On a global scale, the use of cryptocurrencies is largely unregulated, even though some efforts are being made to design a legal framework in some countries and on an international basis. For example, it was announced, at the January 2020 World Economic Forum in Davos that an international consortium of public and private stakeholders, such as banks and NGOs, would be put in place to draft guidelines for cryptocurrency governance.

With regard to China, we have seen that the country has not opted for a light regulatory framework with a regulatory sandbox for cryptocurrency but rather for a stringent centralised system, which is consistent with China's political culture and its overall development strategy. Following the logic of centralisation, as well as the efforts to develop blockchain-related technology to a high level of sophistication, the Chinese Government is considering adopting a state digital currency.

In Africa, where cryptocurrencies could be more beneficial than on other continents, only few countries have unambiguously prohibited cryptocurrencies. Others have warned against their use and countries such as Burkina Faso, Niger, Mali, the two Congos and Guinea have not expressed any firm position so far. Investors locally and internationally could view the absence of formal prohibition as an opportunity to develop their business provided that their activities are not in conflict with the local regulations and they also prepare themselves in the event of an overnight ban.

Aissatou Sylla
Senior Associate, Paris
T +33 1 53 67 47 47
aissatou.sylla@hoganlovells.com

Ying Lou
Associate, Paris
T +33 1 53 67 38 74
ying.lou@hoganlovells.com

Nigeria's new bill embraces modern arbitration

The past decade witnessed remarkable developments in the law and practice of arbitration in Africa. In view of current happenings across the continent, there are already indications that this new decade will not be any different, with a number of African countries (including Nigeria) already in the process of enacting new arbitration laws.

The bill amending the Nigerian Arbitration and Conciliation Act (the "Bill") is particularly welcome and long overdue, especially in view of Nigeria's continued role and tremendous potential both in the continent and in global business. Recent reports and statistics released by leading institutions like the London Court of International Arbitration ("LCIA") and International Chamber of Commerce International Court of Arbitration ("ICC") show an increase in the number of international arbitrations involving Nigerian parties. These reports also show that there has been an increase in the number of parties from Africa, with Nigerian parties taking the lead.[1] Moreover there have been a number of innovations in the international arbitration sphere since the enactment of the existing Nigerian Arbitration and Conciliation Act (the "Act") in March 1988.

In view of recent developments across the globe and the signing of the African Continental Free Trade Agreement, it has been projected that there will be a further increase in investment activities in Africa, which will further contribute to an increase in the settlement of disputes by arbitration across the continent – the Bill could therefore not have come at a better time.

Key provisions in the Bill

The Bill is largely based on the UNCITRAL Model Law 2006. Accordingly, this article will only highlight and discuss key provisions in the proposed law.

1. Limitation period

Under the existing limitation law in Nigeria, an action to enforce an arbitration award has a six-year limitation period calculated from the date the cause of action accrued. While many jurisdictions calculate the limitation period from the date of the breach of the arbitration agreement (failure to honour the resulting award), the Nigerian Supreme Court in *City Engineering Nigeria Ltd. v. Federal Housing Authority* held that the limitation period is calculated from the date that the cause of action accrued (date of the event that necessitated the arbitration proceedings). The implication of this decision is that with respect to arbitration proceedings conducted under the Act, the limitation period runs even during the period of the arbitration proceedings.[2] The effect of this is that where there are lengthy arbitration proceedings coupled with lengthy periods where the losing party pursues annulment proceedings or seeks to set aside the arbitral award, a successful party may lose its right to enforce the award in Nigeria.

Fortunately, the Bill seeks to clarify the position in *City Engineering Nigeria Ltd. v. Federal Housing Authority* by providing that, in computing the time for the commencement of proceedings to enforce an arbitral award, the period between the commencement of the arbitration and the date of the award shall be excluded.

2. Award Review Tribunal

The Bill establishes a second tier tribunal known as the Award Review Tribunal to deal with any application by an aggrieved party to review an arbitral award on any of the new grounds highlighted in section 5 below. This is however an opt-in provision.

Unless parties to an arbitration proceeding agree otherwise, the Bill proposes that the Award Review Tribunal will consist of the same number of arbitrators as the arbitral tribunal that determined the dispute at first instance. The Bill allows parties to agree on the procedure to be followed by the Award Review Tribunal, failing which the Award Review Tribunal would conduct its proceedings as appropriate and will be expected to render its

1 For example, in the LCIA 2018 Annual Casework Report, not only did Nigeria have the highest number of parties from Africa, casework data show statistical rises in the number of parties from Nigeria – from 1.3% in 2017 to 2.8 in 2018.

2 The Arbitration Law of Lagos State 2009, however, provides that for the purpose of computing the time within which an enforcement application must be brought, the limitation period begins to run from the date of the award and not before.

decision in the form of an award within 60 days from the date on which it is constituted, thus creating certainty for parties.

Where the Award Review Tribunal has set aside the award in whole or in part, a party has the right to apply to the court to review the decision of the Award Review Tribunal. Where the Award Review Tribunal has affirmed an award in whole or in part, an application to the court to set aside the award of the first instance tribunal or the Award Review Tribunal as the case may be, may only be made on the grounds of public policy or arbitrability, which are somewhat limited grounds.

By opting for this provision, parties insulate their dispute from systemic problems, including the congestion and delays in the administration of cases at the Nigerian courts.

3. Third-Party Funding ("TPF")

Historically, the concepts of "champerty" (the maintenance of an action in exchange for a share in the benefits of the proceedings) and "maintenance" (the giving of assistance or encouragement to a litigant by a person who has neither an interest in the proceedings or any other motive recognised by law as justifying interference) prevented the use of TPF. However, there appears to be a growing, global trend towards permitting the use of TPF in arbitration proceedings. The Act makes no reference to TPF and as such it has been generally argued that TPF is presently not permitted in a Nigerian seated arbitration.

Following the trend in other common law countries like Hong Kong and Singapore, the Bill incorporates a TPF provision potentially heralding a new dawn in the practice of arbitration in Nigeria. When the Bill is eventually passed into law, the torts of maintenance and champerty will no longer apply in relation to third-party funding of arbitration in Nigeria.

While TPF will definitely benefit Nigerian parties, especially small and medium scale businesses, it potentially gives rise to a host of complex procedural and ethical issues, including confidentiality, conflicts of interest, legal privilege, disclosure and attorney-client relationship, for which proper regulation is required.

4. Emergency arbitrator

The Bill introduces an emergency arbitrator, providing a party requiring urgent reliefs to submit an application for the appointment of an emergency arbitrator to any arbitral institution designated by the parties, or failing such designation, to the court. This should be done at the time of filing a request for arbitration or after filing the request for arbitration but prior to the constitution of the arbitral tribunal.

If the relevant arbitral institution or court determines that it should accept the application for the appointment of an emergency arbitrator, it is expected (unless the parties otherwise agree) to appoint an emergency arbitrator within two business days of the date on which the application is received. Any decision of the emergency arbitrator is to take the form of an order and must be made within 14 days from the date on which the file is received by the emergency arbitrator. The Bill also allows parties to conduct emergency proceedings through a meeting in person, by video conference, telephone or similar means of communication.

By stipulating such short timings and allowing teleconferencing hearings, the Bill will improve the accessibility of practical interim relief in time sensitive circumstances. This is particularly applicable in construction related disputes, which are often plagued with delay.

5. Grounds for setting aside an award

Under the existing Act, a party may apply to set aside an award where an arbitrator has misconducted him/herself or where the arbitral proceedings, or award, have been improperly procured.

Unfortunately, the Act does not provide guidance on what amounts to misconduct or improper procurement, thus leaving the courts with wide discretion.

The Bill replaces the current grounds for setting aside awards with the clearer grounds contained in the UNCITRAL Model Law 2006. By virtue of this provision, recourse to a court against an arbitral award may be made only by an application for setting aside under any of the following grounds: legal incapacity, invalid arbitration agreement, lack of due process, exceeding the scope of the submission, procedural irregularity, arbitrability and public policy.

This amendment will be a breath of fresh air to arbitration users long frustrated by the never-ending debate as to what constitutes "misconduct" and "improper procurement".

6. Interim measures

Unless otherwise agreed by the parties, the Bill empowers an arbitral tribunal to grant interim measures at the request of a party. The exercise of this power is subject to conditions, which the party requesting for the interim measure is expected to satisfy. The Bill also provides that a party may, without notice to any other party, make a request to the arbitral tribunal for an interim measure, together with an application for a preliminary order directing a party not to frustrate the purpose of the interim measure requested.

The Bill also empowers the arbitral tribunal to modify, suspend or terminate an interim measure or a preliminary order it has granted or, in exceptional circumstances and upon notice to the parties, on the arbitral tribunal's own initiative. This includes where important facts were concealed from the arbitral tribunal, the measure or order was fraudulently obtained, or facts come to the knowledge of the arbitral tribunal, which, if known, at the material time, would have led to the tribunal refusing to grant the measure or order

Conclusion

Overall, aside from the operative changes, many of the amendments broadly seek to modernise the Act with language and tools now widely prevalent in modern-day international arbitration proceedings. The Bill, if successfully enacted and implemented, will bring Nigeria's arbitration law and practice in line with the global arbitration landscape of today, and indeed contribute to ongoing efforts to make Nigeria a more attractive and viable arbitration seat.

Ademola Bamgbose
Associate, London
T +44 20 7296 2881
ademola.bamgbose@hoganlovells.com

Eniola Asaolu
Trainee, London
T +44 20 7296 5893
eniola.asaolu@hoganlovells.com

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The choice of a Mauritian arbitral institution

On 12 November 2019, the Mauritius International Arbitration Centre ("MIAC") hosted an event to celebrate its relaunch following the termination of the institution's joint venture with the London Court of International Arbitration ("LCIA") in July 2018. Like many other arbitral centres that have emerged across Africa, the MIAC aspires tobecome the top dispute resolution centre for the region. Its Mauritian competitor is the dispute resolution arm of the Mauritius Chamber of Commerce and Industry ("MARC").

From the perspective of commercial contract drafters who opt for arbitration in their dispute resolution clauses, the trend in the development of numerous regional arbitration centres makes the selection of the right institution and its procedural rules an increasingly sophisticated exercise. The governing structure, costs and arbitration rules of each institution are factors that affect its suitability to administrate a dispute. Perhaps more importantly for cross-border matters is the diversity of members of the decision-making body of the arbitral institution, and their ability to appoint arbitrators who have a practical familiarity with the jurisdictions and commercial cultures in which a particular dispute arises. In that respect, much has been said about the under-representation of African arbitrators in matters with an African interest. The commitment of regional institutions to address this concern makes them more "sellable" during the negotiation of an arbitration clause.

Despite the competition, the two Mauritian arbitral institutions have the potential to attract a great deal of interest in Africa and Asia on the back of the credibility of Mauritius as a well-developed arbitration jurisdiction and the only "safe seat" of arbitration in Africa that is identified in Delos's Guide to Arbitration Places.

The LCIA-MIAC arguably put Mauritius on the map

The development of arbitration in Mauritius for the resolution of cross-border disputes is closely related to the level of foreign investment which is channelled through Mauritius to finance operations in Africa and Asia across various sectors. These investments are made through special purpose vehicles ("SPVs") incorporated in Mauritius. This cluster of the financial services industry of Mauritius started thriving about 10 to 15 years ago. The arbitration clauses that were drafted in the constitution of these SPVs or shareholders' agreements at the time of raising the investments refer mostly to LCIA, Singapore International Arbitration Centre ("SIAC") and International Chamber of Commerce ("ICC") for the administration of disputes arising from or in connection with those agreements. This explains why these institutions are most seen in practice as being the ones administering Mauritius-related disputes.

However, the establishment of the LCIA-MIAC Arbitration Centre in 2011 helped to "regionalise" arbitration. It was a welcomed effort by both local and international parties, and a strong contender for reference in arbitration clauses. The LCIA-MIAC organised regular conferences and seminars which were hugely successful, including the ICCA Congress in 2016. Although not many disputes are known to have been administered by the LCIA-MIAC during its seven year existence, the reference to the institution and its rules in arbitration clauses received much traction. After the termination of the LCIA-MIAC joint venture in July 2018, the LCIA took over the administration of disputes arising out of agreements that referenced the institution.

The rise of the MARC and the coincidental termination of the LCIA-MIAC partnership

Although established in 1996, the MARC experienced a new level of success when it revamped its structure in 2017 and issued a sophisticated set of procedural rules in 2018, a few months before the termination of the LCIA-MIAC joint venture.

The institutional set up of MARC is on par with its international competitors: its permanent secretariat is headed by Dipna Gunnoo (previously Counsel at the defunct LCIA-MIAC Arbitration Centre), the MARC Court is headed by Neil Kaplan QC and composed of eminent practitioners from a diversity of jurisdictions in Africa, Asia and Europe, and its Advisory Board also consists of internationally renowned experts and is chaired by Sarah Grimmer, the Secretary-General of the Hong Kong International Arbitration Centre ("HKIAC"). Further, its administrative costs and arbitrator fees are relatively inexpensive as compared to its international competitors. A further potential attraction is its modern set of arbitration rules, which provide an emergency arbitrator procedure, a small-claims expedited procedure, summary dismissal of claims or defences, disclosure of third party funding or insurance, and an optional appeal procedure.

While the familiarity with the MARC structure and rules has won over a fair portion of the local market, it is unlikely to have yet achieved the same level of traction as the defunct LCIA-MIAC Arbitration Centre with international practitioners. To some extent, the MARC is perceived as an acceptable choice for Chinese investors who are looking for a low-cost alternative to the established (but expensive) international institutions. The factors that contribute to that perception are the co-operation agreement entered into between the MARC and the Shenzhen Court of International Arbitration in 2017, the MARC's participation in the Hong Kong Arbitration Week in the last two years, the fact that the Chinese market is generally less familiar with (and thus less impressed by) the big international arbitral institutions, and the appointments of Neil Kaplan QC (based in Hong Kong) as President of the MARC Court and Sarah Grimmer (the Secretary-General of the HKIAC) as first chair of the MARC Advisory Board.

While it is true that the MARC is a low-cost alternative to the international brands, the perception that it primarily appeals to the Chinese market is, in our experience, inaccurate. If anything, the appointments of Kaplan and Grimmer, who both played an important role in the establishment of the HKIAC, are viewed as an effort to replicate the Hong Kong success story in Africa. Further, MARC clauses are commonly inserted in commercial agreements with an African, Asian or French interest across various sectors. The institution has also administered a fair number of disputes arising from those agreements in recent years, ranging from USD 2 to 20 million in size of claims.

The promising relaunch of the MIAC

MIAC's new offering is not vastly different from that of the MARC. It has an Advisory Board composed of eminent practitioners and headed by Emmanuel Gaillard. It is understood that the Advisory Board provides policy advice to the Secretariat, supporting the institution's adherence to international standards. The MIAC is also managed by a board of directors that is not involved in case management and is headed by Salim Moollan QC, a well-known arbitration practitioner and arbitrator of Mauritian extraction. Its arbitration rules are closely based on the UNCITRAL Arbitration Rules, which lack the innovative features of the MARC Rules – such as an emergency arbitrator procedure, a small-claims expedited procedure, and the disclosure of third party funding or insurance – but are nevertheless tried and tested internationally. What further differentiates MIAC is the financial support of the Mauritian government (with reportedly a guarantee of non -interference), as well as its continued strategy to leverage its relationship with an international arbitral institution, which is today the PCA. In that respect, the MIAC's secretariat is led by two co-registrars who are also Legal Counsel at the PCA, and the Secretary-General of the PCA serves as the appointing authority.

It is still very early to gauge the interest of the market to refer to the MIAC in arbitration agreements. With an offering which is on par with that of the MARC, the choice of MIAC as an alternative institution will most likely depend on the extent to which it promotes itself to the international investment community and arbitration practitioners. In the past, MIAC's marketing efforts did not go unnoticed. The recent establishment of a Practitioners' Group is also aimed at fostering the institution's relationship with the local and international arbitration community.

It is particularly interesting that while, on the one hand, the MIAC relies on its relationship with the Mauritian government and the PCA as evidence of its credibility and stability, on the other hand, the MARC puts forward its absolute political and institutional independence as a stronghold of its mission to represent and be used by the business community. Be that as it may, in our view, both Mauritian arbitration centres seem generally well equipped to administer international arbitration matters with the level of sophistication and experience as their international competitors. Whether one is better suited than the other for reference in a specific contract is a matter that needs to be considered on a case-by-case basis.

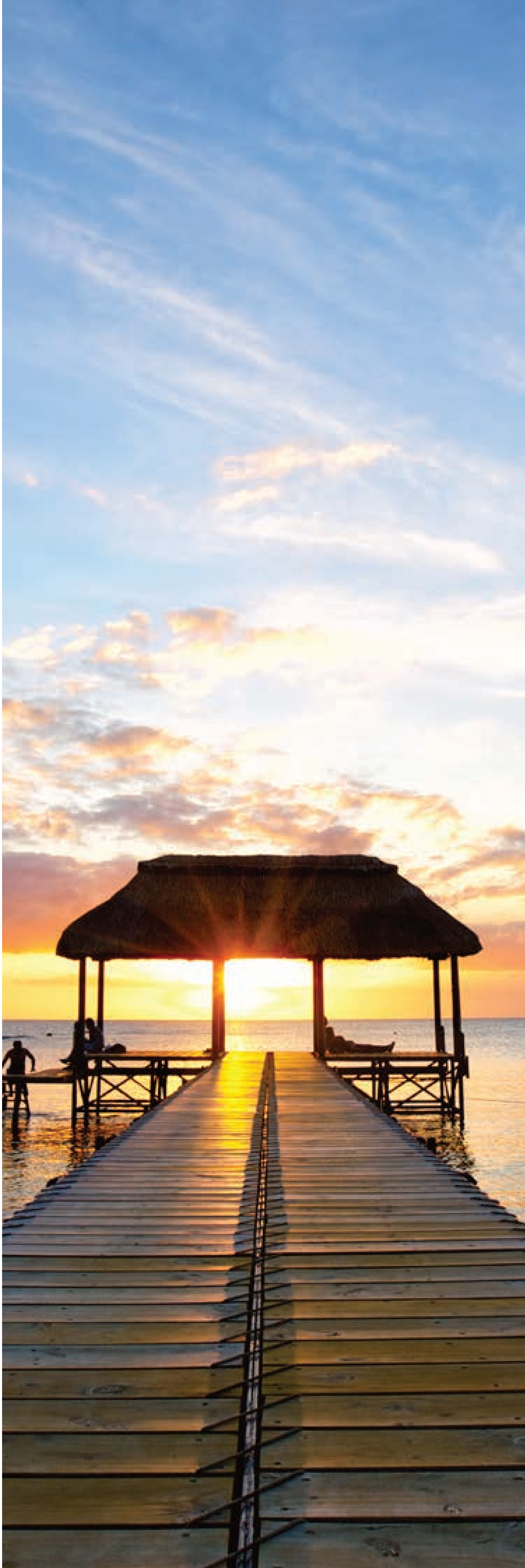
Will the MARC or the MIAC detract investors from the more established international institutions?

Admittedly, however, most American and European investors continue to feel more comfortable to refer their disputes to the more established international arbitral institutions. Although the administrative fees charged by those institutions are relatively high, they tend not to be prohibitive. Hence, it is the expected continued increase in investments from the African and Asian communities that is most likely to influence the reference of disputes to regional centres such as the MARC and the MIAC. In that respect, intra-African trade is expected to grow with the coming into effect of the Agreement Establishing the African Continental Free Trade Area, while the China Belt and Road Initiative continues to generate significant infrastructure investments in Africa. Although the precise circumstances relating to these projects will be different, in general terms it may well be sensible for contracts relating to those investments to refer to a regional arbitral institution like the MARC or the MIAC for the resolution of disputes.

**This article was first published on the Kluwer Arbitration Blog on 23 December (http://arbitrationblog.kluwerarbitration.com/2019/12/23/the-choice-of-a-mauritian-arbitral-institution), and is reproduced with kind permission of the publishers*

Ben Hornan
Partner, London
T +44 20 7296 5701
ben.hornan@hoganlovells.com

Bilshan Nursimulu
Barrister, Mauritius
T +230 211 9300
bilshan.nursimulu@hoganlovells.com



Egyptian Sovereign Wealth Fund: Partnerships for sustainable development

Sovereign Wealth Funds ("SWFs") are typically associated with oil rich countries looking to diversify their sources of revenue and spread their investments across several diversified sectors. Their principal objective is to secure long-term macroeconomic stability and reduce the adverse effects of global trade on the prices of energy and related commodities, on which their economies rely.

In developing countries, SWFs are also established to narrow the increasing financing gap for development projects, which represents a major obstacle for any sustainable development plan. This is the case of the recently established Egyptian SWF ("ESWF").

The Egyptian economy has been recovering from a major setback following the political uprising and turmoil at the beginning of 2011. The government has adopted a bold comprehensive economic reform program to restore macroeconomic stability and induce sustainable growth. Starting with currency devaluation in late 2016 to address the foreign exchange market distortions, on the back of a $12 billion IMF Extended Fund Facility, Egypt has taken bold steps to address the bottlenecks, improve the investment eco-system, complete much needed infrastructure projects, and succeeded in attracting foreign investment and tourism back into the country.

However, the government has been pushing ahead with the next phase of its planned economic revamp and the country is now on the lookout for more sustainable partnerships to help in its quest to establish major infrastructure projects and invest in reviving its industrial sector.

The ESWF has been established by a special law 177 of 2018, to invest in sustainable development projects, in partnership with other SWF's, financial institutions and other local and international investors, utilising the Egyptian State's underperforming or unexploited assets and managing them in a commercial manner to make profit, create jobs and induce sustainable growth and development.

The ESWF's mandate is to attract foreign investment by offering investors partnership opportunities in sectors most associated with sustainable development.

The ESWF has an initial authorised capital of EGP 200 Billion and an issued capital of EGP 5 Billion (approximately USD 317 Million), but the real value resides in the assets to be allocated to it by different ministries or other governmental owned entities. In fact, any underperforming or unexploited assets which are privately owned by the State may be transferred to the ESWF without consideration by a Presidential Decree.

As such, ESWF may enter into partnerships with investors by establishing a joint venture company for the exploitation of a certain asset or to develop a project in a strategic area, in which case ESWF contributes the assets or the land,

and the investors inject the required capital and technology, and the parties co-develop, operate and manage the asset or the project through the joint venture company.

Otherwise, the investor may enter into a development contract with the ESWF under which the investor undertakes full responsibility and risk for the development, operation and management of the project.

The ESWF's mandate is not only limited to reinvest in the unexploited and underperforming assets, but it may also develop or acquire major projects that may actually be quite profitable, but where the government wishes to share the project risks with an investor having the necessary experience to manage such risks. This is the case, for example, of the famous three power plants co-built by Siemens AG (simply known as the Siemens Plants), where the ESWF is planning to take over around 30% of the shares of the company owning the first plant and offer the rest to international investors. By offering one or more of such power plants to private investors, the government aims to shift the burden of debt repayment of the loans obtained to finance those plants, and possibly also the management, operation and maintenance of such plants, to the private sector.

In fact, it seems the ESWF may undertake any project and exploit any asset for the purpose of sustainable growth and development. There are no clear defining limits to the scope of its investments.

The ultimate challenge for the ESWF is to achieve the results expected from it acting as an investment fund for the State, that seeks to achieve profit, while evaluating the overall social and economic impact of the projects it undertakes in the context of sustainable development.

It may be useful to consider that investments directed to sectors where financial benefits are not necessarily clear for private-sector investors, such as education and healthcare, would be best managed under a separate fund. Under the ESWF law, it is possible for the ESWF to create and manage specific separate funds in joint venture with other SWF's or other investors.

A critical issue is that of limiting the ESWF investment scope to that appropriate for a sovereign wealth fund. Too wide a scope could create an eventual overlap with other government institutions with investment or improvement of underperforming assets mandates, such as the public enterprises ministry, or other state owned entities with investment driven policies.

In all cases, the ESWF promises to take the country's development plan to a new level by offering international investors, as well as the Egyptian private sector, real partnership opportunities for profitable investments in the context of sustainable growth and development in Egypt.

Nour El-Deen Al-Senawy
Zulficar & Partners Law Firm (Egypt)
Senior Associate
T +20(2) 24612 161 Ext: 119
nds@zulficarpartners.com

Focus on doing business in Kenya, Nigeria and Zambia

The Hogan Lovells Africa team has a strong network of relationship firms across Africa, and we continually seek to deepen these relationships and to mutually share our knowledge and experience. One of the ways in which we do this is by offering three-month secondments to African lawyers from the firms with which we work most closely with. Three of these recent secondees shared with us some of the recent developments and business opportunities in their respective countries, and also some cultural nuances to be aware of.

Introduction to the secondees

Diana Almadi works as Legal Counsel in the Litigation team of the Legal Services and Board Coordination Department of the Kenya Revenue Authority.

Josephine Udonsak is Senior Counsel in the Energy and Project Finance Group at the law firm of Adepetun Caxton-Martins Agbor & Segun (ACAS-Law) in Nigeria.

Mulopa Ndalameta is a Senior Associate in the Arbitration and Litigation team at Musa Dudhia & Co. in Zambia.

Opportunities and recent developments

Kenya

Kenya is ranked 56 in the World Bank's Doing Business 2020 report (3rd best ranking among African countries). It is also mentioned as a country with comprehensive reforms and is among the economies that improved their ease of doing business score the most.

Kenya's Vision 2030 was launched in 2008 as Kenya's development blueprint covering the period 2008 to 2030. It aims to make Kenya a newly industrialising "middle income country" providing high quality life for all its citizens by 2030. Currently, Vision 2030 is in its third phase of implementation through the third medium term plan driven by the Big 4 Agenda: Food Nutrition and Security; Affordable Housing, Manufacturing and Affordable Healthcare. Therefore, there are a lot of investment opportunities targeting the big 4 agenda pillars, in addition to others.

The extractive industry is looking to expand oil, gas and mining Industry, and Kenya is committed to facilitating investments in the extractive sector as a whole. Kenya recently signed into law the Kenya Petroleum Act (2019) and Energy Act 2019.

The renewable energy sector is also an area with a huge investment potential, and the sector is listed among the most active in Africa. The same is true for the ICT and digital economy sectors.

The country has legislated a wide array of tax incentives geared towards attracting and retaining investment in the country. For instance:

- An enterprise is entitled to 100% manufacturing and building investment deductions in buildings and machinery situated in the three major cities (Kisumu, Nairobi and Mombasa) and 150% investment deduction allowance in areas outside the three cities where the investment is more than two hundred million Kenya shillings.
- Enterprises located in the Export Processing Zones enjoy a 10 year tax holiday and thereafter a reduced corporation tax rate of 25% for the next 10 years.
- Investors located in special economic zones are subject to a reduced corporation tax of 10% for the first 10 years and 15% for the next 10 years regardless of whether the enterprise sells its products to markets within or outside Kenya.
- An enterprise in a special economic zone also enjoys an investment deduction of 100% on the buildings and machinery used in manufacturing (150% if investment is located outside the municipalities of Kisumu, Nairobi and Mombasa).
- Compared with the non-resident corporation tax rates of 37.5% and resident rates of 30%, these are very good tax incentives.

- Capital gains tax in Kenya is 5% of the net gain (final tax), which is among the lowest in the world.
- In so far as direct taxes are concerned, the Kenyan tax regime is stable.

Nigeria

The Nigerian government has, in recent times, demonstrated a growing resolve to create an enabling environment for businesses to thrive in Nigeria as it continues its drive to diversify the revenue sources of the economy and move away from heavy dependence on oil. This has resulted in significant efforts by the government (evident in several legal and regulatory reforms) to ease transacting business in the country while developing a legislative framework that adequately supports the development of other sectors of the economy such as agriculture, gas, power, solid minerals mining, real estate, and technology (especially fintech).

One example of such reforms – in relation to the ease of doing business – is the issuance of the Executive Order of 18 May, 2017 (On Promotion of Transparency and Efficiency in the Business Environment) which, among other things, mandates government ministries, departments, and agencies to publish (and keep up-to-date) a complete list of all requirements (including fees and timelines) for obtaining permits, licenses, waivers, and other approvals or filings. Other reforms in this regard involve making it easier to start a business in Nigeria by reducing the time needed to register a company, and improving online platforms. These efforts have been lauded by the World Bank's Doing Business 2020 Report which lists Nigeria as one of the 10 most improved places to do business.

Some other legislative reforms undertaken even more recently, and equally targeted at promoting investment in the country, include the enactment of the Federal Competition and Consumer Protection Act (FCCPA) and the Finance Act. The FCCPA, signed into law on 30 January 2019, has as one of its objectives, the promotion and maintenance of competitive markets in the Nigerian economy. The Finance Act, on the other hand, was signed into law on 13 January 2020 with an effective date of February 1 2020 and, among other things allows for the grant of further incentives (in addition to the incentives already provided in the Companies Income Tax Act) to companies engaged in agricultural production. Following the enactment of both laws, the regulatory bodies responsible for implementing each of these new laws have issued guidelines that deal with procedural matters relating to specified requirements under the said laws.

These multiple ongoing reforms indicate quite aggressive efforts by the Nigerian government to boost investment across various sectors of the economy, and the business community is very optimistic that the government will keep up with these efforts.

Zambia

In terms of opportunities, there is a serious energy crisis in Zambia right now. Hydro power has performed poorly in the last couple of years and the situation presently has led to massive load shedding. Whoever can solve this problem will win great political favour and make a lot of money.

In the short term, just to alleviate the problem the Government is now importing 300MW of power at an estimated cost of $27 million per month. Analysts have argued that this sort of money would be sufficient to construct solar power plants that would serve as a permanent solution.

The Government has also responded by putting in place legal and policy reforms to open up the sector and approval has been granted for the implementation of national off grid solar mini grids.

Away from energy, the Government has been pursuing a diversification agenda to move Zambia away from over dependence on copper. There is a deliberate push towards agriculture, with incentives like zero rating of tax on agricultural imports.

In the revised sixth national development plan, construction and infrastructure development has been identified as a major tool to achieve diversification. The priority areas are health, education and water sanitation. The Government is also looking to expand and improve on the rail network to reduce the burden on road infrastructure. The logistics and transport sector is necessarily benefiting from this.

It is worth mentioning that we have the Business Regulatory Act of 2014. This legislation is meant to protect businesses and one way it does that is ensure that any fees for licences and permits are reasonably related to defraying administrative expenses of regulators. Another thing it does is guarantee that any steps taken by regulators to suspend or cancel a licence or permit must be in furtherance of a legitimate public purpose. Failure to comply with these key principles renders the regulator or government agency liable to challenge through the court system.

Cultural nuances for doing business

Kenya

- In Kenya, it is the norm in professional circles to refer to a person using their surname, rather than their first name.
- As with any government system, there is bureaucracy. This includes decision making. It helps to keep this in mind and in your timelines when dealing with government institutions in instances such as negotiations.
- With public officials it helps to schedule meetings in addition to the regular email and letter communications. You will achieve more progress within a shorter period of time. A bonus is the development of networks and goodwill gained as a result of meeting people.
- Goodwill. This is two pronged, Community good will and government good will. You create goodwill with the government through regulatory compliance. You create goodwill with the community as an enterprise (or brand) through your business and how you treat the community that is in contact with your business (eg workers, CSR projects etc.) The Kenyan community is known to stand behind companies due to the goodwill created over periods of time and criticise where necessary.
- Do not underestimate the power of Kenyans' online presence. The Kenyan online community are very alert and are a good tool for marketing of your brand as an investor and for positive criticism as well (when necessary).

Nigeria

- Generally – but particularly with public sector civil servants – Nigerians like being recognised, so (obvious) greetings, acknowledging rank/hierarchy and using appropriate titles when addressing people are simple measures that can go a long way. Nurturing cordial relationships with the host communities in which a business or organisation operates is also important.
- Nigeria is a multi-ethnic society and the cultural norms acceptable to one ethnic group or within a particular geographical location may not necessarily be acceptable to/within another. It is therefore always worth confirming what is appropriate in any given context.

Zambia

- Zambians are generally friendly and welcoming people. If you get invited by your host for a meal, be it at their home or out somewhere, please accept the invitation. Turning it down may be considered rude because breaking bread is a recognised way of establishing and maintaining relationships.

Diana Almadi
Legal Counsel
Kenya Revenue Authority
T +254 728 995222
diana.almadi@kra.go.ke

Josephine Udonsak
Senior Counsel
Adepetun Caxton-Martins
Agbor & Segun (Nigeria)
T +234 1 2797030
judonsak@acas-law.com

Mulopa Ndalameta
Senior Associate
Musa Dudhia & Co. (Zambia)
T +260 966 726 602
mndalameta@musadudhia.co.zm

SPRING – The end of a season

Back in 2014, an idea was developed: What if an accelerator could be created to identify and support businesses that develop innovations which contribute to the economic empowerment of adolescent girls?

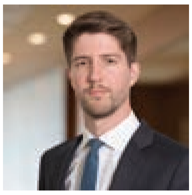
The end of September 2019 saw the close of the SPRING Accelerator, a UK Department for International Development, United States Agency for International Development and Australian Department of Foreign Affairs and Trade-funded accelerator for businesses that have the potential to positively impact the lives of adolescent girls. The economic and social benefits of investing in adolescent girls are widely known. Educated girls earn more income, marry later, and have healthier pregnancies, babies and families. Investing in girls also benefits the next generation, because more educated mothers are better equipped to educate and invest in their own children. Known as 'the girl effect dividend', investing in girls has been demonstrated to positively impact not only the girls themselves and their communities, but also whole economies.

Hogan Lovells lawyers from across the global network have supported SPRING for five years and across four cohorts, working with 75 audacious entrepreneurs in nine countries across East Africa (Ethiopia, Kenya, Rwanda, Tanzania and Uganda) and South Asia to discover and grow new business models which have the potential to achieve impact for girls. Hogan Lovells' lawyers carried out due diligence on potential applicants, advised on corporate structures, travelled to Himalayan monasteries and African savannahs to participate in bootcamps aimed at getting the businesses investment ready and answered myriad questions on IP, tax, employment law, food regulations and competition law. In addition to providing valuable legal advice, Hogan Lovells was also a key member of the project Steering Committee, helping to set the direction and strategy for the SPRING Accelerator throughout the five years that it operated.

And the results speak for themselves:

- SPRING businesses have impacted the lives of over 2.5 million girls – well beyond the initial goal of 200,000 girls.
- Businesses increased their revenue in the first year after SPRING by a median of 58%.
- Businesses have secured $38 million in additional investment.
- Participants developed radical innovations, took risks to reach untapped markets, and learned important lessons about potential avenues for impact, for girls and more broadly.
- Early evidence suggests that girls have benefited through improved access to essential health products, information and care; greater knowledge, skills and confidence; less time spent on unpaid labour; greater mobility; improved educational outcomes; and increased income and savings.

Although this SPRING season has come to an end, we are grateful to have been part of the journey and believe that the mission of investing in girls, as a key to our future, will continue.



Tom Smith
Counsel, London
T +44 20 7296 5195
tom.smith@hoganlovells.com

Yasmin Waljee
International Pro-Bono Director
T +44 20 7296 2962
yasmin.waljee@hoganlovells.com

The UK steps up to the plate in the face of new opportunities in Africa

The UK steps up to the plate in the face of new opportunities in Africa.

The UK Prime Minister, Boris Johnson, recently hosted the UK Africa Investment Summit in London. The UK finally stepped up to the plate in pushing African business at the highest level and did so in a way that focused on collaboration and partnership in the key continent for the future. I had the privilege of attending the Summit and many of the surrounding events, including a reception at Buckingham Palace held by TRH The Duke and Duchess of Cambridge on behalf of Her Majesty the Queen. From my direct experience, I can see that these events all acted to emphasise a change in tone and purpose for the UK government in its engagement with Africa, and offered presidents and businesses alike the opportunity to hold a range of bilateral meetings and to develop business around the Summit. In doing so, whilst some cynics may be quietened for a while, it is clear that there is a way to go and that this is only the start of a long journey of catch up. By now we all know the level of investment needed simply to bridge the annual $100billion plus infrastructure gap and how much needs to be done to bring power, hard infrastructure, value-add, education and the 4th Industrial Revolution to benefit billions in Africa. Let's hope the UK can play its part in working with the continent to bring this about.

PM Johnson opened the Summit with a robust call for a new start for UK and Africa. He made it clear that in his view this was an event whose time has come and that the UK should be seen as not just a friend, partner and ally, but a country to do business with. He also made it clear that he appreciated that the UK has no "divine right" to this but asked Africa to look at the facts and what the country has to offer. He said loudly that the UK is a partner of today, tomorrow and decades to come, and is the ultimate one stop shop for any ambitious growing economy.

PM Johnson also acknowledged that the UK is in a competitive market but asked us to remember an Akan saying that "all fingers are not the same" and that all countries are not the same. In his view the UK has matchless breadth of opportunity and we offer something different and mutual, and he committed to working "Side by side every step of the way"! I am sure in the new scramble for Africa others will seek to challenge this, hopefully in a way which delivers even more for the continent.

The tone and intent of this speech and many of those around the Summit was definitely seen by most as positive and encouraging. In equal measure, leaders of business are looking forward

to clear, practical evidence of action. “Where’s the beef?” they said to me. In fact, the multitude of events and meetings around the summit and some announced deals have shown a positive way forward in this regard as well.

I know this because I have seen first-hand the hard work put into the Summit in advance by government to deliver this and the range of events around it. I was able to connect and speak to many friends from across the continent who attended the Summit and other events who echoed my views. This article is nonetheless personal and reflects my own engagement with the Summit and the events around it. Those events I refer to are simply a small number I attended amongst a myriad of others, to give a flavour of the intensity of the programme.

As a firm, we participated in various events, some of which we hosted at Hogan Lovells London offices. This began with an event hosting the Hon Olamilekan Adegbite, Nigerian Minister of Mines and Steel Development, in our offices to highlight opportunities in mining in Nigeria. I chaired a panel with my colleague Kevin Pietersen from our Johannesburg office and leading Nigerian SAN, Prof. Konyin Ajayi, to discuss how mining is becoming more important as the Nigerian economy seeks to diversify away from a reliance on oil, and London was considered the right venue to promote this initiative. I then headed across town to the Hilton in Park Lane where I chaired a panel on infrastructure with the Hon. Joe Ghartey, Railways and Development Minister for Ghana at the Ghanaian Investment & Opportunities Summit. The following day I was honoured to interview His Excellency Prof. Arthur Peter Mutharika, President of the Republic of Malawi at our offices.

I also attended the reception marking 100 years of Chatham House at Bonhams (finally a cultural event!), an impressive event with the Lionesses of Africa hosted by UK Africa Trade Commissioner Emma Wade Smith and the UK Africa Manufacturing summit. Many others I missed, but others can speak to those.

The AIS was a great, exhausting, but worthwhile series of events marking a new mood in UK engagement with Africa. Let us hope we build on this in practical terms.

Andrew Skipper
Partner, Head of Africa practice
T +44 20 7296 2923
andrew.skipper@hoganlovells.com

A relaunch for Hogan Lovells in South Africa

On 1 November 2019, we launched our fully integrated office in Johannesburg. Ten partners from four of Hogan Lovells' international offices were in Johannesburg during the week of 11 to 15 November to engage with colleagues from the new office and present our global offering to local clients and key influencers. Although we have been present in South Africa since 2013, following a combination with Routledge Modise and operating under the name Hogan Lovells South Africa, until now the team had remained operationally and financially separate.

On 14 November, we hosted our Hogan Lovells Johannesburg relaunch reception, which attracted a strong audience of more than 110 senior business people from South Africa, Sub-Saharan Africa and key investment hubs representing; government, large regional multinationals and conglomerates, and senior lawyers from some of the law firms we work with across the continent. The event was timed to coincide with the Africa Development Bank's (AfDB) Africa Investment Forum 2019. Our work with AfDB and Credit Suisse on the ground-breaking Cocobond long term facility of up to USD 600m, was announced by the presidents of Ghana and AfDB. The occasion was attended by Andrew Skipper and Laurie Hammond from Hogan Lovells London and Johannesburg offices respectively.

Comprising five partners and 15 lawyers, the new office provides specialist advice on corporate, finance and regulatory matters, and intends to grow in response to client needs. We will continue to advise multinational clients investing and trading in and out of South Africa and the wider African continent, and are closely aligned to the global competition, restructuring, commercial, mining and life sciences practices at Hogan Lovells.

The office includes an all-female senior corporate team who are able to provide end-to-end deal support and regularly work on cross-border transactions with the firm's London, Europe, U.S and Asia offices.

Wessel Badenhorst, who serves as Office Managing Partner, said: "We remain committed to developing our global business in Africa and maintaining an on-the-ground presence in Johannesburg that fully co-ordinates with our other key hubs around the world."

Andrew Skipper, Head of the firm's Africa practice, added: "Clients have reacted positively to our new arrangements in Johannesburg and see this as reconfirmation of our strong commitment to the country and the continent as a whole."

We also hosted two other events at the office on Wednesday 13 November, for Invest Africa and the Chevening Fellowship, which attracted over 120 guests.

The Invest Africa: Investing in Angola lunch was followed by a panel session moderated by Andrew Skipper, with representatives from Sonangol and the Sovereign Wealth Fund of Angola.

That evening, we hosted the Chevening Alumni Reception, where the guest speaker was Ben Llewellyn-Jones OBE, Deputy High Commissioner, on the request of the British High Commissioner, Nigel Casey. Other guests included Chevening Secretariats and a number of their Alumni in senior public and private sector positions.

The Hogan Lovells Johannesburg office is already busy with client work and cross-border transactions, with a strong pipeline. This is in addition to the local work for major companies. They look forward to working with you!

Wessel Badenhorst
Office Managing Partner
Johannesburg
T +27 11 052 6123
wessel.badenhorst@hoganlovells.com

Andrew Skipper
Partner, Head of Africa practice
T +44 20 7296 2923
andrew.skipper@hoganlovells.com

Events calendar

Because of COVID-19, any events that were planned after the middle of March are postponed. We will update our online Events Calendar with new dates once these are confirmed.

Drinks at Sunset – Mining Indaba

Monday 3 February 2020 | 18:00 – 21:00

Radisson Red Hotel, Silo 6, Silo Square, V&A Waterfront, Cape Town

Join us as we host an exclusive cocktail evening in honour of this renowned industry event. Network with fellow decision makers and industry leaders whilst enjoying the rooftop sights overlooking the gorgeous V&A marina in Cape Town.

For more information please contact: Anele Ndamase at anele.ndamase@hoganlovells.com or Mbali Khala at mbali.khala@hoganlovells.com

Top table dinner with Ambassador of Senegal

Thursday 5 March 2020 | 18:00 – 21:00

Hogan Lovells London office

We are delighted to be hosting an exclusive evening with the Senegalese ambassador, Her Excellency Dr Fatimata Dia Diagne.

With Senegal trailblazing on various indexes, growth has been high since 2014. The forecast remains optimistic, particularly with oil and gas production expected in 2022 and an aggressive infrastructure agenda; Senegal is clearly a country to watch. Come and hear from the Ambassador about the investment environment and upcoming opportunities.

This is an invitation only, intimate dinner with Her Excellency, government officials and senior business executives. Please let Becki Chaplin and Susanne Lea at susannelea.beckchaplin@hoganlovells.com know if you would like to attend.

GTR

Wednesday 11 March 2020 | All day

Cape Town International Convention Centre, Cape Town, South Africa

Banking and finance partner Laurie Hammond will be speaking on a panel at this year's GTR conference. GTR Africa returns for the definitive event in African trade and infrastructure finance, set to welcome over 400 delegates all keen to discuss the unrivalled business opportunities found on the continent.

Take advantage of the opportunity to hear from a wide range of experts, including corporates, banks and alternative financiers, government bodies and various other actors all involved in the exciting world of African trade, as well as unrivalled chances to network and enjoy the beautiful setting of Cape Town.

If you would like to arrange a meeting with Laurie, please contact Anele Ndamase at anele.ndamase@hoganlovells.com. To find out more about this event, please visit the GTR Africa 2020 website.

NSOL Conference reception

Sunday 15 March 2020 | 14:30 – 17:30

Harbour House, Quay Four, Dock Road V&A Waterfront, Cape Town

Hogan Lovells is delighted to once again to be participating in the leading global conference for business restructuring.

Please join us on Sunday 15 March, for a private afternoon cocktail reception at Harbour House, overlooking the gorgeous V&A Waterfront. Guests will enjoy fine wine and delicious canapés against the stunning backdrop of Table Mountain and Cape Town Harbour.

Hogan Lovells' international Business Restructuring and Insolvency partners will be attending, including Joe Bannister (London), Wessel Badenhorst (Johannesburg), Chris Dobby (China), Detlef Hass (Munich), Ronald Silverman (New York) and Jonathan Leitch (Hong Kong).

This is an open event. If you would like to arrange a meeting with the partners or attend the cocktail reception, please contact Anele Ndamase at anele.ndamase@hoganlovells.com.

Eastern Africa Experts discussion panel

Thursday 19 March | 12:00 – 14:00

Hogan Lovells London office

We are pleased to be hosting the Eastern Africa Experts Circle Panel, organised jointly by GBS Africa and the Eastern Africa Association. The discussion panel will share insights and discuss the outcome of the Africa Investment Summit, highlighting trade and investment opportunities for UK businesses to re-engage with Eastern Africa countries post-Brexit.

Invited speakers will share their views on the political and economic prospects for the region in 2020 and beyond, providing practical proposals for UK companies interested in exploring this growing market, in particular, how the emergence of Ethiopia as a more open, free-trade country will help to enhance economic growth and cross-border trade within the region. Join us as we discuss potential business opportunities in Kenya, Uganda, Tanzania, Rwanda, Ethiopia and Mozambique and how your company can succeed in this market.

Global African Awards – Pre-Awards Conference and Networking Reception

Thursday 26 March | 18:00 – 21:00

Hogan Lovells London office

In advance of the 5th Annual Global African Award (GAA) Gala Dinner on Friday 27 March, at the Mayfair Hotel in London, Hogan Lovells will be hosting the pre-awards conference and networking event for the guest speakers and nominees. Leading industry speakers will share their stories and network with fellow trailblazers.

This is an invitation only event.

LMA Developing Markets Conference

Tuesday 31 March 2020 | 09:00 – 17:00

ETC venues, St Paul's, 200 Aldersgate, St. Pauls, London EC1A 4HD

We are sponsoring the LMA's 7th annual Developing Markets Conference, taking place in London on 31 March 2020. The conference explores the challenges and opportunities associated with lending to developing markets, including a focus on Russia, CEE/CIS, Turkey, the Middle East and Sub-Saharan Africa. Andrew Carey, a partner in the Debt Capital Markets practice and Co-Head of Impact Financing, will participate on the 'Ask the Experts' panel at the session.

For further information please contact Eleanor Thomas at eleanor.thomas@hoganlovells.com.

Germany Africa Day

Thursday 18 June 2020 | Time: TBC

Hogan Lovells Frankfurt office

Join us for the 2nd annual Africa Day hosted by our Frankfurt office.

For further information please contact Camilla Froehlich at camilla.froehlich@hoganlovells.com.

Africa Energy Forum

30 June – 3 July 2020 | All day

Barcelona, Spain

Description: Hogan Lovells is delighted to be a key sponsor of the renowned Africa Energy Forum≈(AEF) as it celebrates its 22nd year as the global investment meeting for Africa's power, energy, infrastructure and industrial sectors. With the theme 'Investment and Impact', our delegation of sector specialists from the UK, US, Asia and Europe will all be in attendance to answer questions and discuss opportunities.

The Forum brings together decision-makers in Africa's energy sector to form partnerships, identify opportunities and collectively move the industry forward. The AEF has a loyal following of credible players working in the power space, and a track record of delivering a valuable networking experience.

If you would like to arrange a meeting with any member of our team, please contact Georgia Savvidi at georgia.savvidi@hoganlovells.com.

Africa Forum – Save the Date

Wednesday 8 July | All day

Merchant Taylors' Hall, Threadneedle Street, London

Please save the date for the 7th instalment of Hogan Lovells Africa Forum. The theme this year is Africa: Growth and Sustainability, focusing on the global green agenda.

An event not to be missed.

This event is invitation only. If you would like learn more and to register your interest, please contact Sima Labane at sima.labane@hoganlovells.com.

Andrew Skipper
Partner, Head of Africa practice
T +44 20 7296 2923
andrew.skipper@hoganlovells.com

Alison Diarra
Lawyer – Africa Network Manager
T +44 20 7296 2845
alison.diarra@hoganlovells.com

Abena Poku
Senior Marketing & Business Development Manager – Africa
T +44 20 7296 5538
abena.poku@hoganlovells.com

Recent work

Assisting USA-based cargo carrier, FedEx Express Corporation, with its application for a foreign operator's licence to conduct its first scheduled air service in Africa. We assisted with the interpretation issues arising out of the bilateral treaty, compiled the application in respect of 97 aircrafts and facilitated extensive consultations with the South African Department of Transport and South African Civil Aviation Agency to ensure compliance with all regulatory requirements. The team also provided support in respect of ancillary applications to the Airports Company South Africa and Air Traffic and Navigation Services in anticipation of the scheduled air services.

Advising a major university on engagement of consultants in Lesotho and Ivory Coast under US government-funded HIV/AIDS projects.

Advising a major U.S. hospital on contractual relationships with hospitals in Zambia and South Africa, for public health clinical training opportunities for students and residents.

Advising AFC on the US390 million financing for the redevelopment and modernisation of the Port of Nouakchott; the first PPP in Mauritania to be completely privately financed. The works consist of the construction of a 250,000 TEU container terminal, with a possibility to expand to 600,000 TEU. The first phase of the project will be funded via a US160 million limited recourse debt financing provided by the AFC, alongside equity contributions from the Sponsors for the remaining amounts.

Advising an African trade and development financial institution on its innovative non-payment insurance (NPI) supported financing of an Airbus 350 aircraft for an East African airline.

Advising an American global manufacturer and marketer of consumer and professional products for recruiting in line with B-BBEE legislation in South Africa.

Advising a major mining house with the drafting and negotiation of a US$2 billion material supply agreement.

Advising a Middle Eastern National Oil Company on its acquisition of two oil and gas blocks in the Orange Basin in the Republic of Namibia.

Representing CPC as the majority shareholder and operator of a joint venture company in relation to the exploration and operation of an oil field in the Republic of Chad.

Advising a telemedicine company in a potential agreement for the distribution by a third party of the telemedicine companies medical devices in South Africa and a number of African countries.

Andrew Skipper
Partner, Head of Africa practice
T +44 20 7296 2923
andrew.skipper@hoganlovells.com

Alison Diarra
Lawyer – Africa Network Manager
T +44 20 7296 2845
alison.diarra@hoganlovells.com

Abena Poku
Senior Marketing & Business
Development Manager – Africa
T +44 20 7296 5538
abena.poku@hoganlovells.com

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