

2012

Africa

Harriet O. Acheampong

Adejoke Babington-Ashaye

Horejah Bala-Gaye

Michael Becker

Susan Joy Bishai

See next page for additional authors

Recommended Citation

Harriet O. Acheampong et al., *Africa*, 46 INT'L L. 463 (2012)
<https://scholar.smu.edu/til/vol46/iss1/33>

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in International Lawyer by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

Africa

Authors

Harriet O. Acheampong, Adejoke Babington-Ashaye, Horejah Bala-Gaye, Michael Becker, Susan Joy Bishai, Kimberly Brown, Mark J. Calaguas, Nancy Ciakudia, Uche Ewelukwa Ofodile, Christina Holder, William Kosar, Ricardo Silva, Asmara Mebrahtu, Diony Monestime, Rosine Mukahirwa Baptiste, Aminta Ossom, Rina Shah, Mathew Snyder, Tafadzwa Pasipanodya, Marc Weitz, and Joyce Williams

Africa

HARRIET O. ACHEAMPONG, ADEJOKE BABINGTON-ASHAYE, HOREJAH BALA-GAYE, MICHAEL BECKER, SUSAN JOY BISHAI, KIMBERLY BROWN, MARK J. CALAGUAS, NANCY CIAKUDIA, UCHE EWELUKWA OFODILE, CHRISTINA HOLDER, WILLIAM KOSAR, RICARDO SILVA, ASMARA MEBRAHTU, DIONY MONESTIME, ROSINE MUKAHIRWA BAPTISTE, AMINTA OSSOM, RINA SHAH, MATHEW SNYDER, TAFADZWA PASIPANODYA, MARC WEITZ, AND JOYCE WILLIAMS*

This article reviews legal developments during 2011 in the nations of Egypt, Libya, Algeria, Morocco, Senegal, Ghana, Gambia, Côte d'Ivoire, São Tomé e Príncipe, Sierra Leone, Mauritania, Niger, Equatorial Guinea, Kenya, Ethiopia, Eritrea, South Sudan, Rwanda, Mauritius, Angola, Zambia, Mozambique, and South Africa. It also reviews developments during 2011 in the African Union, the African Commission on Human and Peoples' Rights, the African Development Bank, the African Export-Import Bank, the Common Market for Eastern and Southern Africa, the East African Community, the Economic Community of West African States, the Intergovernmental Authority on Development, and the Southern African Development Community.¹

I. North Africa

A. EGYPT

In 2011, the most significant legal developments stemmed from the civilian revolution against the regime of former president Hosni Mubarak. In January and February, millions of Egyptians staged uprisings against Mubarak's 30-year rule, protesting on-going violations of human rights, economic stagnation, and the 2010 renewal of the state of emer-

* An unabridged version of this article with the authors' biographies is available on the website for the Africa Committee of the ABA Section of International Law: <http://www.abanet.org/dch/committee.cfm?com=IC805000>.

1. For developments in Africa during 2010, see Adejoke Babington-Ashaye et al., *Africa*, 45 INT'L LAW. 435 (2011). For developments during 2009, see Ibrahim Sajalieu Bah et al., *Africa*, 44 INT'L LAW. 577 (2010).

gency law.² On February 11, Mubarak stepped down as president, and the military took over power on an interim basis.³

In March, an overwhelming majority of the Egyptian electorate voted in a referendum to amend the Egyptian Constitution to eliminate restrictions on Egyptians' political rights and to institute changes to parliamentary and presidential election procedures.⁴ In November, Egyptians protested against the ruling Egyptian military regime and its draft for the new Egyptian constitution.⁵ Objections to the draft included the degree of power it will confer upon the military, even following parliamentary and presidential elections.⁶

B. LIBYA

In February 2011, an anti-government demonstration in Benghazi began the chain of events that led to the Libyan Revolution or Civil War.⁷ On February 26, the United Nations Security Council passed a resolution freezing the assets of the Libyan leader, Colonel Gaddafi.⁸ On June 27, 2011, the International Criminal Court (ICC) issued an arrest warrant against Ghaddafi, his son, Saif al-Islam, and a top military intelligence chief for crimes against humanity in connection with violence against the anti-government protestors.⁹ The Court ruled that there were reasonable grounds to believe that the suspects had committed the crimes alleged and that their arrest appeared necessary to prevent the continuation of crimes against the Libyan population.¹⁰ On November 22, the case against Colonel Gaddafi was terminated following his capture and death on October 20.¹¹

The National Transitional Council (NTC), an interim governing body created by the opposition, was officially recognized by the United Nations as the legal representative of Libya in September.¹² The NTC issued a Constitutional declaration in which it set up a

2. Dina Shehata, *The Fall of the Pharaoh: How Hosni Mubarak's Regime Came to an End*, FOREIGN AFFAIRS (May–June 2011), <http://www.foreignaffairs.com/articles/67687/dina-shehata/the-fall-of-the-pharaoh>.

3. *World Reacts as Mubarak Steps Down*, AL JAZEERA (Feb. 11, 2011, 8:22 PM), <http://www.aljazeera.com/news/middleeast/2011/02/2011211162849852442.html>.

4. *Constitution Changes Pass in Egypt Referendum*, NATIONAL PUBLIC RADIO (Mar. 20, 2011), <http://www.npr.org/2011/03/21/134712143/constitution-changes-pass-in-egypt-referendum>.

5. Yolande Knell, *Egypt Protests: Deadly Clashes in Cairo and Alexandria*, BBC NEWS (Nov. 19, 2011, 8:55 PM), <http://www.bbc.co.uk/news/world-middle-east-15807441>.

6. *Id.*

7. *Libya — Revolution & Aftermath*, N.Y. TIMES (Feb. 9, 2012), <http://topics.nytimes.com/top/news/international/countriesandterritories/libya/index.html>.

8. Edward Wyatt, *Security Council Calls for War Crimes Inquiry in Libya*, N.Y. TIMES (Feb. 26, 2011), http://www.nytimes.com/2011/02/27/world/africa/27nations.html?_r=1&hp.

9. Colum Lynch, *International Court Issues Gaddafi Arrest Warrant*, WASH. POST (June 27, 2011), http://www.washingtonpost.com/national/national-security/international-court-issues-gaddafi-arrest-warrant/2011/06/27/AGIAZKnH_story.html.

10. *Id.*

11. See Press Release, Int'l Criminal Court, Pre-Trial Chamber I Orders the Termination of the Case Against Muammar Gaddafi, PR745 (Nov. 22, 2011), <http://icc-cpi.int/NR/exeres/0F93E236-CDD1-4085-ACB0-80627A038D40.htm>.

12. *Timeline — Libya Liberated Says NTC*, REUTERS (Oct. 23, 2011), <http://in.reuters.com/article/2011/10/23/idINIndia-60076520111023>.

roadmap for the country's transition to a constitutional democracy with an elected government.¹³

C. ALGERIA

In light of the regional political landscape, the Algerian government took a number of steps aimed at constitutional and legal reforms. In February, the government repealed the "state of emergency" decree, which was promulgated in 1992,¹⁴ after the Algerian military intervened in the face of a likely electoral victory by the Islamic Salvation Front.¹⁵ In April, the government announced a planned review and reform of the 1996 constitution.¹⁶ In September, the government announced a significant reform of the country's media law, ending a state monopoly on the broadcast sector and the imprisonment of journalists for libel.¹⁷ Other proposed reforms include legislation aimed at increasing the number of women serving in elected councils and legislation that would bolster the role of political parties in electoral monitoring.¹⁸

D. MOROCCO

In response to a wave of demonstrations in February 2011 and the emergence of the pro-democracy "February 20 Movement," King Mohammed VI announced plans in March to make broad revisions to Morocco's 1996 constitution.¹⁹ A commission of experts was appointed to develop a specific proposal for the devolution of some executive powers from the King.²⁰ On July 1, the proposed constitutional reform was approved in a national referendum by ninety-eight percent of voters (on a turnout of more than seventy-two percent).

A notable change includes a shift of executive power from the king to the prime minister, who now presides over the Government Council, which is responsible for preparing policy proposals.²¹ In addition, the prime minister will be appointed from the party that wins the most seats in parliament.²² Under the old constitution, the scope of the parliament's legislative authority was restricted. The King retains exclusive authority over se-

13. Mark Hosenball, *U.S. Agents were in Libya Before Secret Obama Order*, REUTERS (Mar. 31, 2011), <http://www.reuters.com/article/2011/03/31/us-libya-usa-rebels-idUSTRE72U7NM20110331>.

14. Julia Zebbley, *Algeria Government Lifts 19-Year State of Emergency*, JURIST (Feb. 23, 2011), <http://jurist.org/paperchase/2011/02/algeria-government-lifts-19-year-state-of-emergency.php>.

15. *Algeria Ends 19-Year-Old State of Emergency*, BBC NEWS (Feb. 24, 2011), <http://www.bbc.co.uk/news/world-africa-12573659>.

16. *Algeria Leader Bouteflika Pledges Constitutional Reform*, BBC NEWS (Apr. 15, 2011), <http://www.bbc.co.uk/news/world-africa-13102157>.

17. Omar Ouali, *Algeria Ends State Monopoly of Broadcast Media*, HUFFINGTON POST (Sept. 13, 2011), http://www.huffingtonpost.com/2011/09/13/algeria-ends-state-monopoly_n_959673.html.

18. *Algeria: Timid Political Reforms*, ALLAFRICA.COM (Sept. 15, 2011), <http://allafrica.com/stories/201109151641.html>.

19. *Morocco's Monarchy: Reform or Fall*, THE ECONOMIST (Apr. 20, 2011), <http://www.economist.com/node/18587225>.

20. *98 Percent 'Yes' Vote for New Morocco Constitution: Minister*, MODERN GHANA (July 2, 2011), <http://www.modernghana.com/news/337715/1/98-percent-yes-vote-for-new-morocco-constitution-m.html>.

21. Nasos Mihalakas, *Constitutional Reform in Morocco and Jordan!*, FOREIGN POLICY BLOGS (Sept. 1, 2011), <http://foreignpolicyblogs.com/2011/09/01/constitutional-reforms-in-morocco-and-jordan/>.

22. *Id.*

curity, foreign policy, and religious matters.²³ Mechanisms will also be created to increase the number of women serving in parliament and on local councils.²⁴ Additionally, regional councils, which are directly elected by voters, will be given greater powers and resources.²⁵ Lastly, the Amazigh (Berber) language will be recognized as an official language of Morocco, in addition to Arabic.²⁶

II. West Africa

A. SENEGAL

Senegal agreed in April to comply with the November 2010 decision of the Economic Community of West African States (ECOWAS) Court that Hissène Habré could only receive a fair trial in Senegal before a special ad hoc tribunal specializing in international criminal law.²⁷

In anticipation of the February 2012 presidential elections, President Abdoulaye Wade proposed constitutional reforms that would have reduced by half the required threshold to win a first round presidential election and would have created a vice presidential post.²⁸ These reforms were dropped in June following widespread protests.²⁹ In July, President Wade announced his plans to run for a third term,³⁰ the legality of which would be determined by the Constitutional Council.³¹

In October 2011, Senegal and Belgium signed an air traffic agreement to end a bilateral dispute over access to commercial airline routes.³²

B. GHANA

In April 2011, the Ghanaian Parliament passed the Petroleum Revenue Management Act, 2011 (Act 815),³³ which provides a legal framework for the collection, allocation, and management of petroleum revenue.³⁴ The law establishes a Petroleum Holding Fund to

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. Christopher Tansey, *Bringing Hissène Habré to Justice: Senegal to Create a Special Tribunal in Compliance with ECOWAS Court Judgment*, THE HUMAN RIGHTS BRIEFS (Apr. 25, 2011), <http://hrbrief.org/2011/04/bringing-hissene-habre-to-justice-senegal-to-create-a-special-tribunal-in-compliance-with-ecowas-court-judgment>.

28. *See Senegal Cancels New Law Amid Violent Protest*, USA TODAY (June 26, 2011), http://www.usatoday.com/news/world/2011-06-23-Senegal-protests-elections-Africa_n.htm; *Senegal: Wade Drops Contested Electoral Reform*, ALLAFRICA.COM (June 23, 2011), <http://allafrica.com/stories/201106231204.html>.

29. *Senegal: Wade Drops Contested Electoral Reform*, *supra* note 28.

30. *See* Malick Rokhy Ba, *Mass Dakar Protest to Block Wade's Third Term*, MODERN GHANA (July 23, 2011), <http://www.modernghana.com/news/341476/1/mass-dakar-protest-to-block-wade-third-term.html>.

31. *Senegal Opposition Activist Sentenced to 2 Years*, CBS NEWS (Oct. 20, 2011), <http://www.cbsnews.com/stories/2011/10/20/ap/africa/main20123076.shtml>.

32. *Belgium, Senegal Reach Air Traffic Deal*, REUTERS (Oct. 17, 2011), <http://af.reuters.com/article/investingNews/idAFJOE79G0IS20111017>.

33. *See* Petroleum Revenue Management Act, 2011 (Ghana), *available at* <http://ghanaoilwatch.org/images/laws/petroleum-revenue-management-act815-2011-.pdf>.

34. *Id.* at Preamble.

receive and disburse petroleum revenue.³⁵ It also establishes two other funds: the Ghana Stabilization Fund and the Ghana Heritage Fund.³⁶ The objective of the former is to “cushion the impact on or sustain public expenditure capacity during periods of unanticipated revenue shortfalls.”³⁷ The Ghana Heritage Fund was created to provide an “endowment to support development for future generations when petroleum resources are depleted.”³⁸

C. GAMBIA

On April 7, the National Assembly of the Republic of the Gambia abolished the death penalty for drug-related offenses.³⁹ The law, passed in October 2010, was superseded by Gambia’s 1997 constitution, which prohibits the application of the death penalty to crimes other than premeditated or aggravated murder.⁴⁰

On June 22, the Gambian Parliament unanimously endorsed a Food Safety and Quality Bill to establish a centralized national system to overhaul the country’s food safety and quality regime.⁴¹ Supported by the World Trade Organization (WTO) and ECOWAS, Vice President Isatou Njie-Saidy informed Members of Parliament that the bill and the establishment of the Gambia Food Safety and Quality Authority met international standards and was in line with an ECOWAS regulation on the health and safety of plants, animals, and food in West Africa.⁴²

D. CÔTE D’IVOIRE

In 2011, Côte d’Ivoire emerged from a political crisis that had engulfed the country following the disputed presidential election of November 2010 between then-incumbent president Laurent Gbagbo and his opposition, Alassane Ouattara, the UN certified winner of the 2010 elections.⁴³ A civil war ensued and in January, the United Nations Security Council authorized the deployment of an additional 2000 peacekeepers to the country, supplementing the United Nations Operation in Côte d’Ivoire (UNOCI) personnel already on the ground.⁴⁴ In March, the Security Council approved targeted sanctions

35. *Id.* § 6.

36. *Id.* §§ 9–10.

37. *Id.* § 9(2).

38. *Id.* § 10(2)(a).

39. Drug Control (Amendment) Act of 2011, *amending* Drug Control Act of 2003, 3 LAWS OF GAMBIA 13 (2009). See also Hanibal Goitom, *Gambia: Death Penalty for Drug Offenses Abolished*, LIBRARY OF CONGRESS (Apr. 11, 2011), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402619_text.

40. CONST. OF THE REPUBLIC OF THE GAMBIA, Aug. 8, 1996, art. 18(2).

41. Musa Ndow & Aji Fatou Faal, *Assembly Approves Bill Seeking to Overhaul Food Safety, Quality Regime*, DAILY OBSERVER (June 24, 2011), <http://observer.gm/africa/gambia/article/assembly-approves-bill-seeking-to-overhaul-food-safety-quality-regime>.

42. *Gambia: Parliament Passes Food Safety and Quality Bill*, WEST AFRICA DEMOCRACY RADIO (June 26, 2011), http://www.wadr.org/en/site/news_en/1198/Gambia-Parliament-passes-Food-Safety-and-Quality-Bill.htm.

43. For a thorough and detailed discussion of the post-election crisis, see NICOLAS COOK, CONG. RESEARCH SERV., RS 21989, CÔTE D’IVOIRE POST-GBAGBO: CRISIS RECOVERY (2011), available at http://assets.opencrs.com/rpts/RS21989_20110420.pdf.

44. S.C. Res. 1967, ¶ 1, U.N. Doc. S/RES/1967 (Jan. 19, 2011).

against Gbagbo and members of his inner circle.⁴⁵ On April 11, pro-Ouattara forces entered the presidential compound with support from French troops and UNOCI peacekeepers, taking Gbagbo and his family into custody.⁴⁶

These developments set the stage for a period of national reconciliation, economic recovery, and reestablishment of the rule of law. On May 1, President-elect Ouattara announced the establishment of the Dialogue, Truth and Reconciliation Commission.⁴⁷ The Prosecutor of the ICC was requested to conduct investigations to bring those bearing the greatest responsibility for the most serious crimes to justice.⁴⁸ On November 29, Laurent Koudou Gbagbo was surrendered to the ICC by the national authorities of Côte d'Ivoire following a warrant of arrest issued under seal by the judges of the Pre-Trial Chamber III on November 23, 2011.⁴⁹

In June, an international commission of inquiry appointed by the UN Human Rights Council confirmed that serious violations of international humanitarian and human rights law had taken place.⁵⁰ The report estimated that there had been over 3,000 killings, many of which were attributed to pro-Ouattara forces.⁵¹ Also in June, the Ouattara government announced the findings of an initial inquiry into allegations of corruption and the theft of State assets by the former Gbagbo government and indicated that the investigation may take another two years.⁵²

In July, the Ouattara government issued international arrest warrants for several former Gbagbo aides, and several other members of the Gbagbo government already in detention were charged with "inciting tribalism and xenophobia."⁵³ Later that month, President Ouattara signed a decree establishing another commission of inquiry into crimes committed during the post-election conflict, giving that commission six months to report its initial findings.⁵⁴

E. SÃO TOMÉ E PRÍNCIPE

Two laws enacted towards the end of 2010 that had an impact in 2011 are the Decree-Law No. 13/2010, of December 28, 2010, and Law No. 9/2010, of September 27, 2010. The former "creates and regulates the National Payments System, setting forth the principles and basic provisions governing the structure, functioning and management"

45. S.C. Res. 1975, ¶ 12, U.N. Doc. S/RES/1975 (Mar. 30, 2011). See also *id.* ¶ 6.

46. COOK, *supra* note 43, at 1.

47. U.N. Secretary-General, *Twenty-Eighth Report of the Secretary-General on the United Nations Operation in Côte d'Ivoire*, ¶¶ 16, 38, U.N. Security Council Doc. S/2011/387 (June 24, 2011) [hereinafter *Twenty-Eighth Report of the Secretary-General*].

48. *Id.* ¶ 38.

49. Press Release, Int'l Criminal Court, New Suspect in the ICC's Custody: Laurent Gbagbo Arrived at the Detention Centre, PR747 (Nov. 30, 2011), <http://www.icc-cpi.int/NR/exeres/4814FA54-AF2D-4EA3-8A89-9E809318D1D8.htm>.

50. *Twenty-Eighth Report of the Secretary-General*, *supra* note 47, ¶ 40.

51. *Id.*; see also COOK, *supra* note 43, at 6.

52. Tim Cocks, *Corruption Probe for I. Coast's Gbagbo May Last 2 Years*, REUTERS, (June 20, 2011), <http://af.reuters.com/article/topNews/idAFJ0E75L02M20110622>.

53. Zach Zagger, *Ivory Coast Issues International Arrest Warrants for Gbagbo Aides*, JURIST (July 1, 2011), <http://jurist.org/paperchase/2011/07/ivory-coast-issues-international-arrest-warrants-for-gbagbo-aides.php>.

54. *Id.*; Tim Cocks, *I. Coast's Ouattara Sets Up Inquiry Into War Crimes*, REUTERS (July 20, 2011), <http://www.reuters.com/article/2011/07/20/us-ivorycoast-inquiry-idUSTRE76J7E120110720>.

thereof.⁵⁵ “This is deemed as a structured systematic set of entities, services, payment instruments and procedures [to] facilitate the transfer of funds” and to increase the circulation of currency in the economy.⁵⁶

Law No. 9/2010, of September 27, 2010, amended the Law on Prevention and Repression of Money Laundering and Terrorism Financing, which aims to prevent and combat money laundering activities and economic and organized crimes.⁵⁷ For this purpose, the new set of rules establishes both preventive and repressive measures against financial institutions that conduct illegal activities, including offshore banks with registered offices in the Santomean territory.

F. SIERRA LEONE

In February and March 2011, the Special Court for Sierra Leone (SCSL) heard closing arguments in the Charles Taylor case in The Hague, signaling the closure of the Tribunal.⁵⁸

In May 2011, the Sierra Leone Parliament passed the Persons with Disabilities Act, which guarantees persons with disabilities free tertiary education, free public medical services, protection from discrimination, and access to public buildings and transportation.⁵⁹ The Act also establishes the National Development Fund for Persons with Disabilities and the National Commission for Persons with Disabilities to work in collaboration with the Ministry of Social Welfare, Gender, and Children’s Affairs.⁶⁰

Parliament approved the Local Courts Act, which is designed to regulate the administration of informal courts, which are relied upon by a vast majority of Sierra Leoneans living in rural districts.⁶¹ The Local Courts Act of 2011 repeals 1963 legislation of the same name, and, *inter alia*, transfers supervisory authority over local courts to the office of the Chief Justice from the Ministry of Local Government.⁶²

G. MAURITANIA

In January 2011, a Nouakchott court convicted a woman of child slavery under the 2007 anti-slavery law and gave her a six-month sentence. The decision proves significant in a nation where “almost 40% of the [3.1 million] Mauritanian population lives in a state of slavery or have relatives who are slaves.”⁶³

55. *São Tomé and Príncipe*, LEGAL NEWS (Miranda Correia Amendoeira & Associados, Lisbon, Port.), Oct.–Dec. 2011, <http://images.excentric.pt/documentos2/97/28/0002897.pdf>.

56. *Id.*

57. *Id.*

58. *The Prosecutor vs. Charles Ghankay Taylor*, THE SPECIAL COURT FOR SIERRA LEONE, <http://www.sc-sl.org/CASES/ProsecutorvsCharlesTaylor/tabid/107/Default.aspx> (last visited Feb. 8, 2011).

59. Persons With Disability Act, 2011 (Act No. 22), 142 SIERRA LEONE GAZETTE, available at <http://www.sierra-leone.org/Laws/2011-03.pdf>.

60. *Id.* §§ 2-8, 31-32.

61. Local Courts Act, 2011 (Act No. 10), 142 SIERRA LEONE GAZETTE.

62. *Id.*

63. Christophe Châtelot, *Anti-Slavery Campaigner Arrested in Mauritania*, THE GUARDIAN (Jan. 4, 2011), <http://www.guardian.co.uk/world/2011/jan/04/mauritania-slavery-campaigner-human-rights>.

In late October, an agreement was reached between the government and the opposition on democratic reforms.⁶⁴ Substantive items included constitutional reforms that would restore parliamentary authority over the government, enshrine important human rights norms, and establish an independent commission for national elections.⁶⁵ Other areas subject to reform included the judiciary, the electoral code, the rotation of power, the status and the role of the national army, and the fight against terrorism.⁶⁶ In October, Parliament also passed a media reform law abolishing prison terms “for journalists in cases related to insulting the president, foreign heads of state and diplomatic entities in Mauritania.”⁶⁷

H. NIGER

In January 2011, Niger reinstated the National Assembly through legislative elections.⁶⁸ In May, the National Assembly approved a law that offers amnesty to members of the military ruling group that ousted former president Mamadou Tanja.⁶⁹ In October, the Nigerien President appointed the members of “La Haute Autorité de Lutte contre la Corruption et les Infractions Assimilées” to combat corruption.⁷⁰

III. Central Africa

A. EQUATORIAL GUINEA

By way of a Presidential order the legal regime for nation-wide affordable housing was created on January 24, 2011.⁷¹ The program is coordinated by the Ministry of Public Works and Infrastructure and a state-owned real estate company, *Empresa Nacional de Promoción Inmobiliaria de Guinea Ecuatorial* (ENPIGE).

Law 4/2011, of July 14, which created the Constitutional Court, “contains detailed rules on the jurisdiction of the court, appointment and removal of its judges, and conflicts of interests.”⁷² The Constitutional Court, *inter alia*, hears appeals regarding the constitu-

64. Jemal Oumar, *Mauritania National Dialogue Yields Agreement*, MAGHAREBIA (Oct. 27, 2011), http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/10/27/feature-03.

65. *Id.*

66. *Id.*

67. Jemal Oumar, *Mauritania Journalists Praise Media Law Reform*, MAGHAREBIA (Oct. 11, 2011), http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/10/11/feature-01.

68. *Background Note: Niger*, U.S. DEP'T OF STATE (Oct. 31, 2011), <http://www.state.gov/r/pa/ci/bgn/5474.htm>.

69. Constance Johnson, *Niger: Amnesty for Military Coup Participants*, LAW LIBRARY OF CONGRESS (May 26, 2011), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402686_text.

70. *Le Chef de l'Etat signe un décret portant nomination des membres de la Haute Autorité de Lutte contre la Corruption et les Infractions Assimilées* [The Head of State Signed a Decree Appointing the Members of the High Authority Against Corruption and Related Offenses], LE SAHEL (Oct. 11, 2011), http://www.lesahel.org/index.php?option=com_content&view=article&id=8568:le-chef-de-letat-signe-un-decret-portant-nomination-des-membres-de-la-haute-autorite-de-lutte-contre-la-corruption-et-les-infractions-assimilees&catid=34:actualites&Itemid=53.

71. *Equatorial Guinea*, LEGAL NEWS (Miranda Correia Amendoeira & Associados, Lisbon, Port.), Jan.-Mar. 2011, <http://images.excentric.pt/documentos2/45/31/0003145.pdf>.

72. *Equatorial Guinea*, LEGAL NEWS (Miranda Correia Amendoeira & Associados, Lisbon, Port.), July-Sept. 2011, <http://images.excentric.pt/documentos2/09/37/0003709.pdf>.

tionality of laws and protection of fundamental rights, rules on the constitutionality of international treaties, and settles conflicts of authority between state bodies.⁷³ “It has also been entrusted with the power to declare the President of the Republic or the Prime Minister physically or mentally unfit to perform their duties.”⁷⁴

Law 3/2011, of July 14, 2011, regulates “the acquisition and loss of Equatoguinean citizenship.”⁷⁵

Under the new Law, national citizenship is determined by the parents’ nationality rather than the place of birth. Naturalization is though possible for spouses of Equatoguineans or for those who are born and live in the country for a given number of consecutive years. Citizenship may also be granted by the President of the Republic to anyone who has rendered a service of particular relevance for the country.⁷⁶

IV. Eastern Africa

A. KENYA

In August, the Kenyan cabinet approved the Elections Bill 2011, which sets “the legal framework for elections procedures, registration of voters, conduct of elections, and recall of M.P.’s among others.”⁷⁷ Some Ministers of Parliament (MPs) have sought to amend or delete parts of the legislation such as the restrictions on electoral fundraising and the recall of MPs.⁷⁸ In addition, clause 47 of the bill has been challenged by MPs who wish to prevent the recall of non-performing legislators.⁷⁹ Nonetheless, others believe that the bill will have a positive impact in Kenya, ensuring free and fair elections in 2012.⁸⁰

B. ETHIOPIA

In 2011, the negative implications of the 2009 Anti-Terrorism Proclamation were demonstrated following numerous arrests of journalists and opposition leaders.⁸¹ In March 2011, 200 ethnic Oromo Ethiopians, supporters of the political opposition, were arrested.⁸² The law, which “provides for holding ‘terrorist suspects’ for up to four months without charge,”⁸³ contradicts a provision of Ethiopian law under which “an individual

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. Fred Indimuli, *Kenya: Cabinet Approves Elections Bill*, ALLAFRICA.COM (Aug. 18, 2011), <http://allafrica.com/stories/201108190163.html>.

78. Francis Mureithi, *Kenya: MPs Set to Butcher Elections Bill 2011*, ALLAFRICA.COM (Aug. 25, 2011), <http://allafrica.com/stories/201108251409.html>.

79. *Id.*

80. *Id.*

81. Argaw Ashine, *Ethiopian Media Hit by New Anti-Terrorism Law*, AFRICA REVIEW (Aug. 24, 2011), <http://www.africareview.com/Special+Reports/EthiopianMediaHitByNewAntiTerrorismLaw/-/979182/1224572/-/g23pccz/-/>.

82. *Ethiopia: Free Opposition Members*, HUMAN RIGHTS WATCH (Apr. 6, 2011), <http://www.hrw.org/news/2011/04/06/ethiopia-free-opposition-members>.

83. *Id.*

must be brought before a court of law within 48 hours of arrest, and [] detention on remand may be no longer than 14 days.”⁸⁴

C. ERITREA

On May 16, the Eritrean Ministry of Energy and Mines issued Proclamation 165, which authorizes the Eritrean Government to “acquire, without cost to itself, a participation interest of up to 10 percent of any mining investment.”⁸⁵ Proclamation 165 amends Proclamation 68 of 1995, which only allowed the Government thirty percent equity participation, including a ten percent or less participation interest.⁸⁶

In July, Eritrea sought to reactivate its membership in the Intergovernmental Authority for Development (IGAD),⁸⁷ which it had suspended in 2007 after member states voted to support Ethiopia’s intervention in the conflict in Somalia. After initially welcoming Eritrea’s request, in August, IGAD Executive Secretary Mahmoud Maalim stated that IGAD member states were still considering Eritrea’s membership.

D. THE REPUBLIC OF SOUTH SUDAN

On July 9, 2011, the Republic of South Sudan became Africa’s 54th independent nation.⁸⁸ It subsequently launched its own currency, the South Sudan Pound.⁸⁹ The Transitional Constitution of the Republic of South Sudan was adopted by the South Sudan Legislative Assembly and came into force on July 9.⁹⁰ The Assembly has passed laws on the national flag, nationality, badges and insignias, the national anthem, and the national seal. The Bank of South Sudan Provisional Order was also passed on August 22.⁹¹ Finally, sixteen provisional orders were passed, regulating, *inter alia*, the sale of goods, the prison service and the audit chamber.

84. Abigail Salisbury, *Ethiopia: The War on Terror and Human Rights in Ethiopia*, ETHIOGUARDIAN.COM (Aug. 3, 2011), <http://www.ethioguadian.com/news.php?extend=4510>.

85. *Proclamation No. 165/2011*, MINISTRY OF ENERGY & MINES (May 16, 2011) (Eritrea), http://www.moem.gov.er/index.php?option=com_content&task=view&id=49&Itemid=46.

86. *Proclamation No. 68/1995*, MINISTRY OF ENERGY AND MINES (Jan. 27, 2009) (Eritrea), http://www.moem.gov.er/index.php?option=com_content&task=view&id=99.

87. Aaron Maasho, *Eritrea Rejoins East African Bloc IGAD*, REUTERS (July 28, 2011), <http://af.reuters.com/article/commoditiesNews/idAFL6E7IS17A20110728>.

88. *South Sudan Admitted to African Union as 54th Member*, CNN (July 29, 2011), http://articles.cnn.com/2011-07-29/world/south.sudan.au_1_south-sudan-african-union-newest-nation?_s=PM:WORLD.

89. *South Sudan’s New Currency Launched Amidst Concerns over Omission of Date*, SUDAN TRIBUNE (July 19, 2011), <http://www.sudantribune.com/South-Sudan-s-new-currency,39565>.

90. *The Transitional Constitution of the Republic of South Sudan, 2011*, UNHCR, <http://www.unhcr.org/refworld/type,LEGISLATION,,,4e269a3e2,0.html> (last updated Feb. 3, 2012).

91. Clement Kuot, *South Sudan: The NLA Passes Provisional Order of Bank of Nation*, ALLAFRICA (Aug. 22, 2011), <http://allafrica.com/stories/201108231761.html>.

E. RWANDA

A new immigration law was introduced on March 21, 2011.⁹² The law introduced a national migration policy to align with the Common Market Protocol on the free movement of people, labour and services, as agreed by the five Partner States. This new law, inter alia, permits citizens of the East African Community countries to visit Rwanda for a period up to six months without a visa. Furthermore, to facilitate movement of Rwandans, a collective *Laissez-Passer* can be issued to people travelling as a group mainly for social activities.⁹³ The maximum duration of an entry visa has been extended from fifteen to thirty days, multiple entries are permitted, and the visa fee has been reduced.⁹⁴ Rwandans who lost their citizenship due to the acquisition of other nationalities and were ineligible for dual citizenship can now receive a permanent residence card.⁹⁵ Finally, to assist foreigners seeking work or residency in Rwanda, the respective permits have been combined.⁹⁶ A resident permit holder will also now have the right to work within the country.⁹⁷

F. MAURITIUS

The Mauritian Mediation Division began hearing cases in January 2011, pursuant to a 2009 amendment, granting the Supreme Court jurisdiction to mediate civil cases.⁹⁸ The goal of the Mediation Division, as stated by Prime Minister Navinchandra Ramgoolam, is to hear “most if not all” commercial cases prior to trial.⁹⁹

The Divorce and Mutual Separation Act became law in April 2011.¹⁰⁰ Under the new law, a spouse may request a divorce if the couple has lived separately for three years instead of five and allows for divorce by mutual consent.¹⁰¹ The judge may refuse to grant the divorce if it would adversely affect the children or a spouse.¹⁰²

On May 13, the Mauritian President assented to the Asset Recovery Act, which permits the Enforcement Authority to request an order from the courts to confiscate or prevent the disposal of assets used in or gained from criminal or terrorist activity, in conjunction

92. Law No. 04/2011 on Immigration and Emigration in Rwanda; see *New Immigration Law Introduced*, RWANDA DIRECTORATE GEN. OF IMMIGRATION AND EMIGRATION, <http://www.migration.gov.rw/Announcement.html> (last visited Feb. 2, 2012).

93. RWANDA DIRECTORATE GEN. OF IMMIGRATION AND EMIGRATION, *supra* note 92.

94. *Id.*

95. *Id.*

96. *Id.*

97. Eric Kabeera, *Rwanda: New Immigration Law to Boost Economy – Kalibata*, ALLAFRICA (June 23, 2011), <http://allafrica.com/stories/201106230689.html>.

98. *Mediation Division of the Supreme Court Inaugurated in Presence of PM*, GOV'T OF MAURITIUS (June 14, 2011), http://www.gov.mu/portal/site/Mainhomepage/menuitem.a42b24128104d9845dabdd154508a0c/?content_id=81ad8f3dccc80310VgnVCM1000000a04a8c0RCRD.

99. Navinchandra Ramgoolam, Prime Minister, Republic of Mauritius, Speech at the Inauguration Ceremony of the Mediation Division of the Supreme Court, REPUBLIC OF MAURITIUS (June 13, 2011), <http://www.gov.mu/portal/goc/pm/file/SpeechMediation2011.pdf>.

100. Divorce and Judicial Separation (Miscellaneous Provisions) Act 2011 (Act No. 2 of 2011) (Mauritius), available at <http://www.gov.mu/scourt/publegislation/showDocActReg.do?id=21698>.

101. *Id.* § 2(b).

102. *Id.* § 3.

with a criminal case.¹⁰³ In the absence of a criminal case, the Enforcement Authority may receive similar orders if it can persuade the court that the subject illegally obtained the assets.¹⁰⁴ The Act applies to any prohibited activity committed abroad and provides for international cooperation.¹⁰⁵

V. Southern Africa

A. ANGOLA

1. *Banking and Finance*

Presidential Decree No. 28/11, of February 2, 2011, enacted the Regulations on Micro-Credit Companies, which sets forth, *inter alia*, the scope of the micro-credit activity, the responsibility for supervision of the activity, and penalties and fines.¹⁰⁶

2. *Energy*

The new legal framework of the Ministry of Petroleum was enacted by the President of the Angolan Republic by means of Presidential Decree No. 33/11, of February 14, 2011.¹⁰⁷ Presidential Decree No. 48/11, of March 9, 2011, created the Petroleum Fund for the purpose of promoting investment in the development of local and international projects relating to the water and energy sectors, as well as other strategic sectors.¹⁰⁸ In connection, Presidential Decree No. 58/11, of March 30, 2011, approved the Regulations on the Petroleum Information System, which set forth, *inter alia*, the deadlines for the submission of information concerning petroleum production.¹⁰⁹

3. *Environment*

Presidential Decree No. 194/11, of July 7, 2011, enacted the Environmental Damage Regulations, which are applicable to all sectors of activity and businesses, including the petroleum and mining industries.¹¹⁰ This new statute establishes the “polluter pays” principle and a strict liability regime for environmental damages and threats.¹¹¹ Offenders of the Regulations face heavy penalties, including fines up to USD 100 million and cancellation of environmental licenses.

103. Asset Recovery Act No. 9 (2011) (Mauritius), <http://www.gov.mu/portal/goc/assemblysite/file/act0911.pdf>.

104. *Id.* § 27.

105. *Id.* §§ 3, 53.

106. Miranda Correia Amendoeira & Associados & Fatima Freitas Advogados, *Angola*, LEGALNEWS (Jan.–Mar. 2011), <http://images.excentric.pt/documentos2/47/31/0003147.pdf>.

107. *Id.* (under “Petroleum Ministry Framework Law” heading).

108. *Id.* (under “Petroleum Fund Created” heading).

109. *Id.* (under “New Information System on Petroleum Production and Exportation” heading).

110. Miranda Correia Amendoeira & Associados & Fatima Freitas Advogados, *Angola*, LEGALNEWS (Apr.–July 2011), <http://images.excentric.pt/documentos2/01/36/0003601.pdf>.

111. *Id.* (under “Environmental Damage Regulations Enacted” heading).

4. *Labor*

New Regulations on the Legal Regime on Foreigners have been enacted through Presidential Decree No. 108/11, of May 25, 2011, which regulates the Visa Law.¹¹²

5. *Public*

In January, the Angolan Law on Public-Private Partnerships was passed.¹¹³ It establishes general rules for the state's role in monitoring public-private partnerships and covers, inter alia, the definition of public partners, the identification of the contracts for implementation of public-private partnerships, and recourse to arbitration in the case of disputes arising in respect of such partnerships.¹¹⁴ The New Private Investment Law (NPIL) was also enacted by means of Law 20/11, of May 20, 2011.¹¹⁵ The NPIL repealed the former Private Investment Law (Law 11/03, of May 13, 2003),¹¹⁶ as well as the provisions of the Law on Tax and Customs Incentives for Private Investment (Law 17/03, of July 25, 2003),¹¹⁷ which contradicts the NPIL. Under the NPIL, investments below USD one million shall not enjoy the benefits and privileges set forth therein,¹¹⁸ such as the right to repatriate profits or dividends, and are not eligible for tax and customs incentives.¹¹⁹

6. *Telecommunications*

Law No. 23/11, of June 20, 2011, sets up a new general regime regulating telecommunications, electronic communications, e-Government, and the protection of privacy and personal data in the telecommunications sector. Breaches of the provisions of this law are punishable by fines.¹²⁰

B. ZAMBIA

1. *Constitutional Review*

On March 29, 2011, Zambia's eight-year constitutional review process collapsed when the Constitutional Amendment Bill failed to garner the necessary two-thirds vote of the National Assembly.¹²¹ The draft constitution had been widely criticized by civil society

112. Act No. 2/07, de 31 de Augusto de 2007, National Assembly (Series I), available at http://www.ecoi.net/file_upload/1504_1216731101_law-no-2-07-act-on-the-legal-regime-of-foreign-citizens.pdf.

113. See Miranda Correia Amendoeira & Associados & Fatima Freitas Advogados, *supra* note 106 (under "Public-Private Partnerships Now on the Law" heading).

114. *Id.*

115. Miranda Correia Amendoeira & Associados & Fátima Freitas Advogados, *supra* note 110.

116. For a full-text English translation of the former Private Investment Law, see Lei No. 11/03, de 13 de maio de 2003 – Sobre as Bases Para Investimento Privado (Angola), available at http://www.botschaftangola.de/wirtschaft/beschluesse_gesetze/private_investitionen/investitions-gesetz-2003.pdf.

117. For a full-text English translation of the Law on Tax and Customs Incentives for Private Investment, see Lei No. 17/03, de 25 de julho de 2003, – Sobre Incentivos Fiscais e Aduaneiros ao Investimento Privado (Angola), available at http://www.angolaembassy.org.rs/file_download/6/engTaxIncentivesLaw.pdf.

118. *Id.*

119. *Id.*

120. *Id.*

121. *Constitution Bill Fails, 1996 Constitution to Remain in Place*, LUSAKATIMES.COM (Mar. 29, 2011), <http://www.lusakatimes.com/2011/03/29/constitution-bill-fails-1996-constitution-remain-place>.

groups for, among other things, failing to include economic, social, and cultural rights in the bill of rights and inadequately protecting the rights of women.¹²²

2. Presidential Election

On September 23, 2011, opposition leader Michael Chilufya Sata was sworn in as the fifth president of the Republic of Zambia, ending twenty years of rule by the Movement for Multiparty Democracy (MMD), which had governed the country since multiparty democracy was established in 1991.¹²³ A joint team of fifty-two observers from Africa described the tripartite elections as “credible and held in conformity with international and regional laws, norms and standards,” though “isolated incidents of violence” reportedly occurred.¹²⁴

C. MOZAMBIQUE

1. Foreign Exchange

Through Decree No. 83/2010, of December 31, 2010, the Council of Ministers approved a new set of Foreign Exchange (Forex) Regulations aimed at liberalizing “payments associated with regular goods and services transactions between Mozambican and foreign companies.”¹²⁵ Unlike capital transactions, these transactions will “no longer [be] subject to prior approval from the Central Bank, but must be registered with the Central Bank.”¹²⁶

2. Mining

Through Decree No. 20/2011, the Council of Ministers enacted new Regulations for the Marketing of Mineral Products.¹²⁷ Under the new Regulations, the Ministry of Mineral Resources shall be responsible for the award of three different categories of marketing licenses for renewable periods of five years.¹²⁸

122. Ephraim Nsingo, *Zambia: Constitutional Baby Out With the Bathwater*, ALLAFRICA (Apr. 9, 2011), <http://allafrica.com/stories/201104100012.html>.

123. Andrew England, *Opposition Leader Wins Zambian Presidency*, FINANCIAL TIMES (Sept. 23, 2011), <http://www.ft.com/cms/s/0/512d9c8c-e57c-11e0-852e-00144feabdc0.html#axzz1flubjEbc>.

124. *COMESA Commends Zambia for Peaceful Elections*, E-COMESA NEWSLETTER (COMESA, Lusaka, Zambia), Sept. 2011, at 1.

125. See Pimenta, Dionísio e Associados & Miranda Correia Amendoeira & Associados, *Mozambique, LEGALNEWS* (Feb.–Apr. 2011), <http://images.excentric.pt/documentos2/91/32/0003291.pdf> [hereinafter *Mozambique LegalNews* Feb.–Apr. 2011]. For a full-text version of Decree 83/2010, see Decreto No. 83/2010, de 31 dezembro de 2010 – a Lei Exchange Estrangeira (Mozambique), available at <http://www.acismoz.com/lib/services/translations/Decree%2083-2010%20Foreign%20Exchange%20Regulation.pdf>.

126. *Mozambique LegalNews* Feb.–Apr. 2011, *supra* note 125.

127. See Pimenta, Dionísio e Associados & Miranda Correia Amendoeira & Associados, *Mozambique, LEGALNEWS* (May–July 2011), <http://images.excentric.pt/documentos2/05/36/0003605.pdf>.

128. *Id.*

3. *Real Estate*

By means of Ministerial Statute No. 158/2011, of June 15, 2011, the Ministers of Agriculture and of State Administration have adopted a set of specific procedures for the mandatory consultation of local communities regarding the awarding of land use and exploitation rights relating thereto.¹²⁹

4. *Oil & Gas*

Decree No. 56/2010, of November 22, 2010, enacted The Environmental Regulations for Petroleum Operations, which “set forth the specific rules, procedures and content guidelines applicable to environmental impact assessments in respect of petroleum operations.”¹³⁰ The environmental licenses granted for petroleum operations are valid for a period of five years, being renewable for additional five-year period.

D. SOUTH AFRICA

In September 2011, President Jacob Zuma appointed Justice Mogoeng Mogoeng as the chief justice of South Africa’s Constitutional Court.¹³¹ Members of the legal community have expressed concern, citing Mogoeng’s apparent inability to articulate a constitutional vision.¹³²

The Tax Administration Bill of 2011 was proposed on June 23 to consolidate existing Tax Acts, increase transparency, and make necessary adjustments to the Income Tax Act of 1962.¹³³ Commentators note that the new law is vulnerable to constitutional criticisms because of the scope of powers given to the South African Revenue Service and the detrimental impact on taxpayers’ rights on matters including international travel, trade, and search and seizure.¹³⁴

VI. African Institutions

A. AFRICAN UNION

The 16th African Union (AU) Summit took place on January 24–31, 2011 in Addis Ababa under the banner, “Towards Greater Unity and Integration Through Shared Values”¹³⁵ and the leadership of Teodoro Obiang, president of Equatorial Guinea.¹³⁶ While

129. *Id.* For a full-text version, see Diploma Ministerial No. 158/2011, de 25 de juno de 2011 (Mozambique), available at <http://faolex.fao.org/docs/pdf/moz104298.pdf>.

130. Mozambique LegalNews Feb.–Apr. 2011, *supra* note 125.

131. See Robyn Dixon, *South Africa’s Zuma Names Controversial New Chief Justice*, LOS ANGELES TIMES (Sept. 9, 2011), <http://articles.latimes.com/2011/sep/09/world/la-fg-south-africa-jurist-20110909>.

132. *See id.*

133. *See Legal and Policy: Tax Administration Bill, 2011*, SOUTH AFRICAN REVENUE SERVICE (SARS), <http://www.sars.gov.za/home.asp?pid=52833> (last visited Feb. 4, 2012).

134. *See* Bowman Gilfillan Attorneys, *New Tax Administration Bill Impacts Taxpayers’ Rights*, LEGAL 500 (Oct. 2011), <http://www.legal500.com/c/south-africa/developments/15774>.

135. Press Release, African Union, African Union Summit to Discuss Unity, Integration and Shared Values (Jan. 21, 2011), www.au.int/en/summit/16thsummit/content/african-union-summit-discuss-unity-integration-and-shared-values.

the electoral standoff in the Ivory Coast commanded much attention at the summit,¹³⁷ AU leaders also weighed in on Kenya's request to delay the trial of six Kenyan public figures indicted by the ICC on charges of fomenting post-election violence during 2007–2008.¹³⁸ The AU's endorsement of Kenya's position topped off an intense lobbying effort by Kenya to try the suspects locally under a new constitutional framework forged after the recent political unrest.¹³⁹ The AU reiterated its contention that the principle of universal jurisdiction was being used to disproportionately target African states before the ICC, and again called for prosecutors to suspend proceedings against President Omar al-Bashir of Sudan.¹⁴⁰

After initially criticizing the NATO campaign during the ultimately successful Libyan uprising and a failed attempt to broker a ceasefire between rebel leaders and the Gaddafi regime,¹⁴¹ the AU eventually recognized Libya's new transitional government on September 20 following a period of cautious observation.¹⁴²

The 17th AU Summit, held from June 23 to July 1 in Malabo, Equatorial Guinea, and officially dedicated to the theme "Youth Empowerment for Sustainable Development,"¹⁴³ was preceded by mass arrests allegedly intended to stave off pro-democracy protests in the West African capital.¹⁴⁴ The assembly of AU heads of state welcomed the Republic of Southern Sudan as the newest member of the AU and expressed approval of the democratic political reforms initiated in Egypt and Tunisia that followed popular uprisings in those nations.¹⁴⁵ The assembly also renewed a call to have Hissene Habre tried either in Senegal, where the former leader of Chad has been residing for over two decades, or

136. See Elissa Jobson, *Shared Values and Mixed Messages at the African Union Summit*, THE GUARDIAN (Feb. 7, 2011), <http://www.guardian.co.uk/global-development/2011/feb/07/african-union-summit-shared-values-despots?INTCMP=SRCH>; *Short of Cash and Teeth*, THE ECONOMIST (Jan. 27, 2011), <http://www.economist.com/node/18014076>.

137. See Jobson, *supra* note 136.

138. See *African Union Backs Kenya Call to Delay ICC Case*, BBC NEWS AFRICA (Feb. 1, 2011), <http://www.bbc.co.uk/news/world-africa-12332563>.

139. *Id.*

140. Press Release, African Union, Summit Ends with Strong Decisions and Declarations by AU Heads of States on Crucial and Topical Issues on the Continent (Jan. 31, 2011), <http://www.au.int/en/summit/16thsummit>.

141. See Kareem Fahim, *Truce Plan for Libya is Rejected by Rebels*, N.Y. TIMES (Apr. 11, 2011), <http://www.nytimes.com/2011/04/12/world/africa/12libya.html>; Hadeel Al-Shalchi & Sebastian Abbot, *African Union Says Libya OKs Cease-Fire Plan*, CHI. SUN-TIMES, <http://www.suntimes.com/photos/galleries/4770676-417/african-union-says-libya-oks-cease-fire-plan.html> (last visited Feb. 13, 2011).

142. Isabella Bennett, *AU Failure in Libya? Maybe Not*, THE INTERNATIONALIST (Oct. 21, 2011), <http://blogs.cfr.org/patrick/2011/10/21/au-failure-in-libya-maybe-not/> (describing the period before recognition of the transitional government); Matthew Tostevin, *Has the African Union Got Libya Wrong?*, REUTERS (Aug. 31, 2011), <http://blogs.reuters.com/africanews/2011/08/31/has-the-african-union-got-libya-wrong/> (explaining the AU's reluctance to recognize the transitional government); *African Union Recognizes Libya's Transitional Gov't*, VOA NEWS (Sept. 20, 2011), <http://www.voanews.com/english/news/africa/African-Union-Recognizes-Libya's-Transitional-Govt-130215588.html> (reporting the decision to recognize the transitional government).

143. *17th Summit*, AFRICAN UNION, <http://www.au.int/en/summit/17thsummit> (last visited Feb. 6, 2011).

144. *Equatorial Guinea Makes "Mass Arrests" Before AU Summit*, BBC NEWS AFRICA (June 20, 2011), <http://www.bbc.co.uk/news/13848424>.

145. See Press Release, African Union, Decisions Adopted During the 17th African Union Summit (July 1, 2011), http://www.au.int/en/summit/sites/default/files/17th%20SUMMIT_-_DECISIONS_DECLARATIONS_and_RESOLUTIONS_-_eng%20FINAL.pdf.

extradited to another jurisdiction, such as Belgium, to face charges stemming from the torture of political opponents during his dictatorship.¹⁴⁶

B. AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

On March 3, 2011, the African Commission on Human and Peoples' Rights instituted proceedings against Libya before the African Court of Human and Peoples' Rights for "serious and massive violations of human rights guaranteed under the African Charter on Human and Peoples' Rights."¹⁴⁷ This case, *African Commission on Human and Peoples' Rights v. Great Socialist People's Libyan Arab Jamahiriya*, represents the first time that the Commission has instituted proceedings against a state. Without the Commission's intervention, the Court would have lacked jurisdiction to decide the merits of the claims lodged by Egyptian Initiative for Personal Rights, INTERIGHTS, and Human Rights Watch.¹⁴⁸

C. AFRICAN DEVELOPMENT BANK

Key 2011 projects of the African Development Bank (AfDB) include: an agreement to lend Egypt USD 550 million to help finance a steam electric generator in Suez (Egypt);¹⁴⁹ USD 500 million set aside for debt forgiveness (Zimbabwe);¹⁵⁰ approval of USD 200 million for Kenyan projects (Kenya);¹⁵¹ a USD 45 million loan for a power plant (Cameroon);¹⁵² and approval of USD 700 million to support the growth of Small and Medium Enterprises (SMEs) (Nigeria).¹⁵³ On December 6, 2010, AfDB approved a loan of over EUR 28 million and a grant of EUR 4.5 million to Niger to support its poverty reduction program;¹⁵⁴ on the same day, in Cancun, Mexico, the AfDB joined representatives from other multilateral development banks (MDB) in a joint event on "Scaling-up International

146. *Id.*

147. African Commission on Human and People's Rights v. Great Socialist People's Libyan Arab Jamahiriya, Provisional Measures, Order of the Court, Afr. Ct. Human & People's Rights, App. No. 004/2011, 2 (Mar. 25, 2011), available at http://www.african-court.org/fileadmin/documents/Court/Cases/Order_for_Provisinal_Measures_against_Libya.pdf.

148. See *id.* ¶¶ 14–19; *Libya—Africa's Human Rights Body Should Act Now*, INTERIGHTS (Feb. 24, 2011), <http://www.interights.org/news/11/index.html>.

149. Mourad Haroutunian, *African Development Bank Lends Egypt \$550 Million, Mena Says*, BLOOMBERG (Aug. 8, 2011), <http://www.bloomberg.com/news/2011-08-08/african-development-bank-lends-egypt-550-million-mena-says.html>.

150. Brian Latham, *AfDB Sets Aside \$500 Million to Clear Zimbabwe Debt, Herald Says*, BLOOMBERG (Aug. 3, 2011), <http://www.bloomberg.com/news/2011-08-03/afdb-sets-aside-500-million-to-clear-zimbabwe-debt-herald-says.html>.

151. Eric Ombok, *African Development Bank Approves \$200 Million Kenyan Projects*, BLOOMBERG (Aug. 4, 2011), <http://www.bloomberg.com/news/2011-08-04/african-development-bank-approves-200-million-of-loans-for-kenya-projects.html>.

152. *AfDB Agrees Euro 45 Million Loan for Cameroon Power Plant*, AFRICAN DEVELOPMENT BANK GROUP (July 15, 2011), <http://www.afdb.org/en/news-and-events/article/afdb-agrees-euro-45-million-loan-for-cameroon-power-plant-8283/>.

153. James Emejo, *Nigeria: AfDB okays U.S. \$700 million to boost SMEs*, ALLAFRICA (Aug. 25, 2011), <http://allafrica.com/stories/201108250969.html>.

154. *Niger: AfDB Approves \$33 Million for Poverty Reduction Program*, AFR. DEV. BANK GROUP (Dec. 20, 2010), <http://www.afdb.org/en/news-and-events/article/niger-afdb-approves-eur33-million-for-poverty-reduction-program-7615>.

Climate Finance” during the ongoing COP16 Climate Conference.¹⁵⁵ “It was an opportunity to share with stakeholders how MDBs are collaborating to expand access to international financing and bolster investments in climate change mitigation and adaptation.”¹⁵⁶

D. AFRICAN EXPORT-IMPORT BANK

On May 9, 2011 the African Export-Import Bank (Afreximbank) announced the creation of a USD 100 million fund to recapitalize Zimbabwean companies that can be accessed through four institutions: TN Bank, FBC Bank, BancABC and NMB Bank.¹⁵⁷ On August 1, 2011, the bank announced it would disburse up to USD 620 million in emergency one-year funding to Ivory Coast’s main oil refinery on Monday to enable it to buy crude.¹⁵⁸ The 80,000 barrel per day (bpd) SIR refinery, one of the biggest in sub-Saharan Africa, supplies fuel domestically and exports to West African countries; however, it has suffered crippling financial problems.¹⁵⁹

E. COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA (COMESA)

On June 10, 2011 COMESA-EAC-SADC held their second tripartite summit and on June 12 leaders signed a historical declaration launching negotiations for the establishment of the COMESA-SADC-EAC Tripartite Free Trade Area.¹⁶⁰ The purpose of the Tripartite Free Trade Area is to “bolster intra-regional trade by creating a wider market, increasing investment flows, enhancing competitiveness and developing cross-regional infrastructure.”¹⁶¹ In June 2011, COMESA signed an MOU with the Corporate Council on Africa (CCA) to assist African firms become familiar with the requirements of the U.S. market and to meet the regulatory requirements in the United States.¹⁶²

F. EAST AFRICAN COMMUNITY (EAC)

On June 12, at the second COMESA-EAC-SADC tripartite summit, the EAC agreed to start negotiations for a Grand Free Trade Area among the three blocks.¹⁶³ The EAC

155. *AfDB Collaborates with MDBs on Climate Finance Innovation*, AFR. DEV. BANK GROUP (Dec. 10, 2010), <http://www.afdb.org/en/news-and-events/article/afdb-collaborates-with-mdb-on-climate-finance-innovation-7588>.

156. *Id.*

157. Tom Minney, *Afreximbank has \$100 Mln to Boost Zimbabwe Businesses*, AFR. CAPITAL Mkts. NEWS (May 9, 2011), <http://www.africancapitalmarketsnews.com/1055/afreximbank-has-100-mln-to-boost-zimbabwe-businesses>.

158. Ange Aboa, *Afreximbank Lends \$620 Mln for Ivorian Refiner to Buy Oil*, REUTERS AFRICA (Aug. 1, 2011), <http://af.reuters.com/article/investingNews/idAFJOE7700D820110801>.

159. *Id.*

160. *EAC Prepares Ground for Tripartite Free Trade Area Negotiations*, EAC (Sept. 30, 2011), <http://www.eac.int/about-eac/eacnews/799-eac-prepares-ground-for-tripartite-fta-negotiations.html>.

161. *COMESA, EAC, SADC, Start Merger Negotiations*, TRADEMARK EAST AFRICA (June 20, 2011), <http://www.trademarka.com/site/default.asp?000=1&001=23&003=news&004=111>.

162. *COMESA and US Private Sector Partner for Business Progress*, E-COMESA NEWSLETTER (COMESA, Lusaka, Zambia) (June 24, 2011), at 2, available at http://comesa3.comesa.int/attachments/article/58/comesa_newsletter_300.pdf.

163. History of the EAC - Milestones in the EAC Integration Process, <http://www.eac.int/about-eac/eac-history.html?start=1>

and AfDB met on August 2, 2011, to deepen collaboration and to address “the need to update and enrich the existing cooperation agreement between the Secretariat and the AfDB Group that was signed on 23 July 1998.”¹⁶⁴

G. ECONOMIC ORGANISATION OF WEST AFRICAN STATES (ECOWAS)

On August 23, 2011, the Economic Community of West African States (ECOWAS) adopted the proposal of the Nigeria Export-Import Bank (NEXIM) to establish a Sea Trade Link system to deepen trade and to promote economic integration in the West African sub-region.¹⁶⁵ The USD 60 million private-sector project is intended “to promote the free flow of goods as well as movement of people in line with the ECOWAS Commission vision of enhancing private sector growth in the region.”¹⁶⁶ On the same day, ECOWAS proposed a two-phased approach road map to address the post-conflict challenges faced by Cote d’Ivoire.¹⁶⁷

H. INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)

On August 3, 2011 the Intergovernmental Authority on Development (IGAD)¹⁶⁸ and the Embassy of the Republic of Finland signed a three-component cooperation agreement.¹⁶⁹ The agreement includes the establishment of a Project Preparation and Management Unit for infrastructure projects and contributions to IGAD capacity building.

I. SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

On May 20, 2011, at the Extraordinary Summit of Heads of State and Government of SADC, Member States decided not to reappoint or replace members of the Tribunal whose terms of office had expired or were about to expire.¹⁷⁰ Furthermore, the Summit “mandated the Ministers of Justice/Attorneys General to initiate the process aimed at amending the relevant SADC legal instruments” and reiterated the moratorium on the Tribunal receiving new cases until the review of the SADC Protocol on the Tribunal.¹⁷¹ The Summit effectively suspended the Tribunal until August of the following year.¹⁷² The decision of the Summit goes against the recommendations of an independent study

164. *EAC-AfDB Group to Deepen Collaboration*, EAC (Aug. 2, 2011), <http://www.eac.int/about-eac/eacnews/721-eac-afdb-group-to-deepen-collaboration.html>.

165. Bassey Udo, *ECOWAS Adopts Proposal for Regional Sea-Link Project*, NEXT (Aug. 23, 2011), http://234next.com/csp/cms/sites/Next/Money/Business/5739510-146/ecowas_adopts_proposal_for_regional_sea-link.csp.

166. *Id.*

167. Press Release, ECOWAS proposes road map for resolution of post-conflict challenges in Cote d’Ivoire, Aug. 25, 2011, available at <http://news.ecowas.int/presseshow.php?nb=161&lang=en&annee=2011>.

168. Intergovernmental Authority on Development, <http://igad.int> (last visited Feb. 13, 2012).

169. *ES Signs Cooperation Agreement with the Government of Finland*, IGAD.INT (Aug. 3, 2011), http://igad.int/index.php?option=com_content&view=article&id=341:es-sign-cooperation-agreement-with-government-of-finland&catid=46:executive-secretary&Itemid=123.

170. Communiqué Extraordinary Summit Heads of State and Government of the Southern Africa Development Community ¶ 7 (May 20, 2011), available at <http://www.swradioafrica.com/Documents/SADCSummit240511.pdf>.

171. *Id.* ¶¶ 7–8.

172. *See id.* ¶ 7.

into the Tribunal that SADC had commissioned and against the recommendations of the Committee of Ministers of Justice and Attorneys General on the review of the Role, Responsibilities and Terms of Reference of the SADC Tribunal. The former Tribunal judges, including former president of the Tribunal, Chief Justice Ariranga Pillay, denounced the summit's decision as illegal and an affront to the rule of law.¹⁷³

173. Sean Christie, *SADC Leaders Slammed Over Tribunal Shutdown*, MAIL & GUARDIAN ONLINE (July 1, 2011), <http://mg.co.za/article/2011-07-01-sadc-leaders-slammed-over-tribunal-shutdown>.