

2014

Africa

Harriet O. Acheampong

Oyesanmi Alonge

Diepiriye A. Anga

Uchechi Anyanwu

Anne Bodley

See next page for additional authors

Recommended Citation

Harriet O. Acheampong et al., *Africa*, 48 ABA/SIL YIR 517 (2014)
<https://scholar.smu.edu/til/vol48/iss4/36>

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, Oyesanmi Alonge, Diepiriye A. Anga, Uchechi Anyanwu, Anne Bodley, Kimberly Marie Brown, Mark J. Calaguas, Sapna Desai, Sara Frazao, Yvonne Fiadjoe, Ryan Lincoln, Shingira Masanzu, Marcellus A. McRae, Ricardo Silva, Mathew Snyder, Eteena J. Tadjioqueu, Matthew Weldon, and Mahja Zeon

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

Africa

HARRIET O. ACHEAMPONG, OYESANMI ALONGE, DIEPIRIYE ANGA,
UCHECHI ANYANWU, ANNE BODLEY, KIMBERLY MARIE BROWN, MARK J. CALAGUAS,
SAPNA DESAI, YVONNE FIADJOE, SARA FRAZÃO, RYAN LINCOLN, SHINGIRA MASANZU,
MARCELLUS A. McRAE, RICARDO SILVA, MATTHEW SNYDER,
ETEENA J. TADJIOGUEU, MATTHEW WELDON, AND MAHJA ZEON*

I. North Africa

A. LIBYA

1. *Family Law, Disabilities*

In 2013, Libya's General National Congress (GNC) approved the Family Bonus Law, which allocates a government stipend to each head of family for children less than eighteen years of age, to divorced women, and to unmarried females so long as the woman is not receiving income from another source.¹ The GNC also ratified the International Convention on the Rights of Persons with Disabilities to the extent it does not violate Islamic law.²

2. *Penal Code, Torture Law*

In April, the GNC passed Law No. 11/2013, amending the penal code and military procedures to cover jurisdictional concerns for criminal cases, assigning "jurisdiction to the military courts for all persons and uniformed military hostages, except if they commit crimes with civilians, in which case the jurisdiction is assigned to regular courts."³ On April 30, the GNC also approved Law No. 10/2013, Concerning the Criminalization of

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

1. EYE ON GNC, EYE ON CONGRESS: THE THIRD REPORT (Feb. 28, 2013), available at <http://www.ignc.net.ly/the-third-report/>.

2. EYE ON THE GNC, EYE ON THE GENERAL NATIONAL CONGRESS: FIFTH REPORT (Apr. 1, 2013), available at http://www.jadaliyya.com/pages/index/10945/eye-on-the-libyan-general-national-congress_fifth-.

3. EYE ON THE GNC, EYE ON THE CONGRESS: 9TH REPORT (May 26, 2013), available at <http://www.ignc.net.ly/the-ninth-report/>.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

518 THE YEAR IN REVIEW

Torture, Forced Abduction, and Discrimination,⁴ criminalizing restrictions of personal liberty whether forced, through physical or mental torture, or discriminatory acts.

3. *Political Isolation Law*

In May, the GNC passed the Political Isolation Law to “prevent all those who held high political office under the Qaddafi regime from holding any high positions in the post-Qaddafi era for ten years” in response to demands from Libyan youth and armed militias.⁵ In July, a law passed launching a commission to draft a new Libyan constitution; the commission will be composed of sixty members elected by popular vote who will be given 120 days to draft the charter.⁶ Six seats are to be reserved for women and another six for members of the Amazigh (Berber), Tibu, and Tuareg communities.⁷

II. West Africa

A. SENEGAL

1. *Hissène Habré Trial Chambers Established*

In February, the Extraordinary African Chambers within the Jurisdiction of Senegal for the Prosecution of International Crimes Committed in Chad between June 7, 1982, and December 1, 1990, (the Extraordinary Chambers) were established.⁸ Former Chadian president Hissène Habré “is accused of thousands of political killings and systematic torture” during his 1982–1990 presidency, following which he was deposed and fled to Senegal.⁹ Establishing the Extraordinary Chambers took more than twenty years, and Habré’s trial is expected to commence in 2014.¹⁰

4. *Libya: Law Criminalizing Torture, Abduction and Discrimination Passed*, LIBRARY OF CONGRESS (Apr. 30, 2013), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403578_text.

5. Sami Zaptia, *Political Isolation Law Passed Overwhelmingly*, LIBYA HERALD (May 5, 2013), www.libyaherald.com/2013/05/05/political-isolation-law-passed-overwhelmingly/#axzz2gNzHBhtj.

6. *Libya Moves a Step Closer to New Post-Qaddafi Constitution*, AL ARABIYA NEWS (July 16, 2013), <http://english.alarabiya.net/en/News/middle-east/2013/07/16/Libya-moves-a-step-closer-to-new-post-Qaddafi-constitution.html>.

7. *Id.*

8. *Contexte de Création: Chambres Africaines Extraordinaires [Context of Creation: Extraordinary African Chambers]*, CHAMBRES AFRICAINES EXTRAORDINAIRES (June 12, 2013), <http://www.chambresafricaines.org/index.php/presentation-des-chambres/contexte-de-creation.html>.

9. *Senegal: Hissène Habré in Police Custody*, HUMAN RIGHTS WATCH (June 30, 2013), <http://www.hrw.org/news/2013/06/30/senegal-hissene-habre-police-custody>.

10. See Anne Bodley & Sousena Kebede Tefera, *The Extraordinary Role of the Extraordinary African Chambers Convened to try former Chadian Leader Hissène Habré*, AFRICA LAW TODAY, Fall 2013 Edition, available at http://www.americanbar.org/content/dam/aba/un categorized/international_law/the_extraordinary_role_of_the_extraordinary_african_chambers_convened_to_try_former_chadian_leader_hissene_habre_anne_bodley_and_sousena_kebede_tefera.authcheckdam.pdf.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

AFRICA 519

B. BURKINA FASO AND NIGER

1. *Border Dispute*

On April 16, the International Court of Justice (ICJ) delivered judgment in the *Case Concerning the Frontier Dispute between Burkina Faso and Niger*.¹¹ The judgment resolved a centuries-old dispute as to the border delimitations of each country.

C. CAPE VERDE

1. *Criminal Law*

Law No. 27/VIII/2013 of January 21, 2013, amended the 2003 criminal code, approving new measures to prevent terrorism and terrorism financing. The amendment establishes “new criminal offences and penalties that range from heavy fines to imprisonment.”¹²

2. *Customs*

Law No. 20/VIII/2012 of December 14, 2012, adding new items and codes to the tariff schedule, and Law No. 22/VIII/2012, cutting customs duty rates as part of an ongoing phased rate reduction agreed with the World Trade Organization, became effective January 1, 2013.¹³

D. CÔTE D’IVOIRE

1. *International Criminal Court Statute*

On February 15, Côte d’Ivoire ratified the Rome Statute of the International Criminal Court (ICC). In ratifying the statute, Côte d’Ivoire affirmed its commitment to the rule of law and to ending impunity for perpetrators of crimes including genocide, crimes against humanity, and war crimes.¹⁴

2. *Post-election Prosecutions*

On April 29, Ivorian Minister of Justice Gnenema Coulibaly announced that the country’s courts were competent to try former First Lady Simone Gbagbo, who is wanted at the ICC for crimes against humanity related to the country’s 2010 – 2011 post-election

11. Frontier Dispute (Burkina Faso/Niger), Order, (July 12, 2013), available at <http://www.icj-cij.org/docket/files/149/17472.pdf>.

12. *Cape Verde Legal News*, MIRANDA CORREIA AMENDOERIA & ASSOCIADOS, ¶ 3, at 2, (Nov. 2012-Jan. 2013), http://www.mirandalawfirm.com/uploadedfiles/20130312_aa28fb.pdf.

13. *Id.* ¶ 7, at 1.

14. Press Release, European Union, Statement by EU High Representative Catherine Ashton on the Ratification of the Rome Statute of the International Criminal Court by Côte d’Ivoire (Feb. 19, 2013), http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/135585.pdf.

SPRING 2014

PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

520 THE YEAR IN REVIEW

violence.¹⁵ In September, Côte d'Ivoire ministers dismissed the ICC's arrest warrant and released a statement that Simone Gbagbo would be tried locally.¹⁶

3. *Ivorian Civil War*

In July, former Special Court for Sierra Leone Chief of Investigations Alan White called on the ICC to investigate and prosecute leaders of the *Forces Nouvelles* over atrocities committed during the 2003 civil war.¹⁷ The ICC is preparing to prosecute former Ivorian president Laurent Gbagbo for war crimes relating to the civil war that occurred after he refused to accept the October 2010 presidential vote.¹⁸ Human rights groups have also accused supporters of current president Alassane Ouattara of committing human rights violations during the conflict, prompting White's call on the ICC to prosecute Ouattara supporters.¹⁹

4. *Nationality and Land Tenure Laws*

On August 26, Côte d'Ivoire's *Assemblée Nationale* adopted new laws on nationality and land tenure.²⁰ The newly adopted national law grants citizenship to foreign nationals born in Côte d'Ivoire between 1961 and 1973, to foreign-born residents living in Côte d'Ivoire since before its independence in 1960, and to foreigners who marry an Ivorian national. Descendants of each group also qualify for citizenship. The new law extends provisions of the 1998 land tenure law, giving landholders and new citizens ten years to prove legal claims to their properties.²¹

5. *International Statelessness Treaties*

On September 24, Côte d'Ivoire ratified two international treaties on stateless persons, the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.²² In recognizing rights to statehood, the ratification of these two instruments will benefit several hundred thousand undocumented people in Côte d'Ivoire.

15. Robbie Corey-Boulet, *Ivory Coast Minister: Local Courts Can Try Gbagbo*, VOICE OF AM. (Apr. 29, 2013), <http://www.voanews.com/content/ivory-coast-minister-coulibaly-icc-hague-gbagbo/1651163.html>.

16. *Ivory Coast Dismisses ICC Warrant for Simone Gbagbo*, BBC NEWS (Sept. 20, 2013), <http://www.bbc.co.uk/news/world-africa-24179992>.

17. Peter Clottey, *ICC Urged to Investigate Ivory Coast's Forces Nouvelles Leaders*, VOICE OF AM. (July 24, 2013), <http://www.voanews.com/content/icc-urged-to-investigate-ivory-coast-force-nouvelles-leaders/1709294.html>.

18. *Id.*

19. *Id.*

20. *New Land Tenure, Nationality Laws Major Steps Toward Reconciliation in Côte d'Ivoire—UN Expert*, UN NEWS CENTRE (Sept. 1, 2013), <http://www.un.org/apps/news/story.asp?NewsID=45729#.UkuGnT81KO4>.

21. *See id.*

22. Misha Hussein, *Ivory Coast Set to Ratify Statelessness Treaty, 400,000 Children to Benefit*, THOMSON REUTERS FOUND. (Sept. 18, 2013), <http://www.trust.org/item/20130918163519-uv1dn/>.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

AFRICA 521

E. GHANA

1. *Investment*

On July 18, Ghana's parliament adopted the Ghana Investment Promotion Centre Bill 2013.²³ The bill replaces the Ghana Investment Promotion Centre Act of 1994²⁴ and restricts foreigners from a range of economic activities in Ghana.²⁵ It requires Ghanaian citizens partnering with foreign investors to have at least 30 percent equity in joint enterprises, including in the mining and petroleum sectors;²⁶ imposes minimum capital requirements on foreign businesses of up to U.S. \$1 million;²⁷ and prohibits the transfer of equity participation to non-Ghanaians to prevent circumvention of higher capital requirements for foreign investors.²⁸

2. *Elections*

On August 29, the Ghana Supreme Court dismissed an opposition challenge to President John Mahama's victory in the 2012 presidential elections.²⁹ The challenge, brought by opposition candidate Nana Afuko-Addo and members of the New Patriotic Party, requested annulment of 4.67 million allegedly-fraudulent votes.³⁰ Although the court acknowledged irregularities, it determined that the errors were technical issues not rising to the level of fraud.³¹ The 5-to-4 decision confirmed Mahama's election with 50.7 percent of the vote.³²

F. NIGERIA

1. *Anti-Gay Marriage Bill*

On May 30, the Nigerian House of Representatives approved a bill criminalizing gay marriage and public displays of homosexual behaviour.³³ Under the proposed law, same-sex couples that marry face up to fourteen years' imprisonment. Witnesses or those abetting a gay marriage face up to ten years' imprisonment, as do individuals who display "public show[s]" of homosexual affection, advocate for gay rights, or who register with or

23. *Parliament Passes GIPC Bill*, GHANA BROADCASTING CORP. (July 20, 2013), <http://gbghana.com/index.php?id=1.1457361>.

24. *Ghana's Parliament Passes New Investment Bill*, GHANA BUS. NEWS (July 19, 2013), <http://www.ghanabusinessnews.com/2013/07/19/ghanas-parliament-passes-new-investment-bill>.

25. Press Release, Gov't of Ghana, Parliament Passes GIPC Bill (July 19, 2013), *available at* <http://www.ghana.gov.gh/index.php/2012-02-08-08-32-47/general-news/2008-parliament-passes-gipc-bill>.

26. *Id.*

27. *Id.* §§ 26–27.

28. *Id.*

29. Afuko-Addo et al. v. Mahama et al., No. J1/6/2013 (Ghana Sup. Ct., Aug. 29, 2013), *available at* <http://media.myjoyonline.com/docs/201307/ndc%20addresses%20to%20the%20supreme%20court.pdf>.

30. *Id.*

31. *Id.*

32. Chrispin Mwakideu, *Ghana's Supreme Court Upholds Election Results*, DEUTSCHE WELLE (Aug. 29, 2013), <http://www.dw.de/ghanas-supreme-court-upholds-election-result/a-17054771>.

33. Bashir Adigun & Jon Gambrell, *Nigeria Lawmakers Pass Anti-Gay Marriage Bill*, ASSOCIATED PRESS (May 30, 2013), <http://bigstory.ap.org/article/nigeria-lawmakers-pass-anti-gay-marriage-bill>.

SPRING 2014

**PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW**

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

522 THE YEAR IN REVIEW

participate in a homosexual club, society, or organization.³⁴ President Goodluck Jonathan must sign the bill to enact it into law.

2. *International Arbitration*

On July 12, the Nigerian Court of Appeal held that “nowhere in the Nigerian Arbitration and Conciliation Act . . . is a court empowered to stop arbitral proceedings through the issuance of an injunction,” overturning a lower court injunction on arbitration proceedings between the Nigerian National Petroleum Corporation and Statoil (Nigeria) and deciding that the lower court did not have jurisdiction to hear the case.³⁵ In doing so, the Court of Appeal narrowly interpreted Section 34 of the act, which states, “a court shall not intervene in any matter governed by this Act except where [so provided] in this Act,” and held that it provides for limited judicial assistance only in ways expressly provided for, including a stay of court proceedings, an arbitrator’s removal from a case for misconduct, and the setting aside of an award or its enforcement.

III. Central Africa

A. ANGOLA

1. *Banking*

In 2013, the National Bank of Angola issued orders on the following issues: corporate governance for authorized financial institutions and holding companies, consolidated supervision, independent audits for authorized financial institutions and holding companies, and requiring that bank-to-bank credit transfers made through a “credit document” utilize a “wired credit transfers subsystem” or “real time gross settlement subsystem.”³⁶

2. *Customs*

Executive Decree No. 19/13 of January 29, 2013, enacted a retroactive Strategic Customs Plan for 2013–2017.³⁷ The plan prioritizes approving and implementing a new customs tariff schedule and expanding customs offices. Additionally in 2013, the Angolan National Assembly passed an enabling act for the government to issue a new customs tariff schedule and other customs-related actions.³⁸

34. *Id.*

35. Davidson Iriekpen, *Appeal Court Halts NNPC’s Attempt to Stop Arbitration*, THIS DAY LIVE (Aug. 6, 2013), <http://www.thisdaylive.com/articles/appeal-court-halts.nnpc-s-attempt-to-stop-arbitration/155588>; John Austin Unachukwu, *NNPC Loses Arbitration Battle at Appeal Court*, THE NATION (Aug. 6, 2013), <http://thenationonlineng.net/new/nnpc-loses-arbitration-battle-at-appeal-court>.

36. *Banking*, ANGOLA: LEGAL NEWS (Fátima Freitas Advogados, Luanda, Angola), Mar.–Apr. 2013, *available at* http://www.mirandalawfirm.com/uploadedfiles/20130606_f76b0a.pdf.

37. *Customs*, ANGOLA: LEGAL NEWS (Fátima Freitas Advogados, Luanda, Angola), Jan.–Feb. 2013, *available at* http://www.mirandalawfirm.com/uploadedfiles/20130524_e52a00.pdf.

38. *Customs*, ANGOLA: LEGAL NEWS (Fátima Freitas Advogados, Luanda, Angola), May–June 2013, *available at* www.mirandalawfirm.com/uploadedfiles/20130801_7f7c56.pdf.

Presidential Decree No. 63/13 of June 11, 2013, lifted pre-shipment inspection requirements. Customs authorities will, however, inspect imported and domestic goods that are potentially hazardous to public health.³⁹

3. *Oil and Gas*

Pursuant to Executive Decree No. 83/13 of March 19, Angola divided the Congo Basin onshore area into ten oil blocks in order to grant future oil concessions.⁴⁰ An inter-ministerial commission was also created by presidential order to divide the Kwanza and Lower Congo Basin onshore areas into additional oil blocks.⁴¹ The licensing was further regulated by Law No. 10/13 of September 3, which authorized legislation on the framework for licensing oil blocks, and by Presidential Decree No. 8/13 of October 17, which approved the framework.⁴²

B. EQUATORIAL GUINEA

1. *Children's Parliament*

In 2013, Equatorial Guinea established a “children’s parliament” to provide better care and protection for Equatorial Guinean children. The parliament is open to children from ages eight to seventeen who represent their respective districts. Participants are appointed through school-level elections organized by the Ministry of Education and Science with the Human Rights Department and the National Committee for Children’s Rights. Proposals from the parliament are presented to the National Committee for Children’s Rights.⁴³

2. *Oil and Gas*

On September 23, the Equatorial Guinean Ministry of Mines, Industry, and Energy issued Order No. 4/2003 enacting the Petroleum Regulations to the 2006 Hydrocarbons Law. This new regime covers exploration and production issues including the award of production-sharing contracts, the export of hydrocarbons, and abandonment operations. The regulations contain provisions on tax, customs, labor, land access, competition, and local content.⁴⁴

39. *Id.*

40. *Oil and Gas*, ANGOLA: LEGAL NEWS (Fátima Freitas Advogados, Luanda, Angola), Mar.–Apr. 2013, available at www.mirandalawfirm.com/uploadedfiles/20130606_f76b0a.pdf.

41. *Id.*

42. *Id.*

43. “*Children’s Parliament*” Instituted, EQUATORIAL GUINEA: LEGAL NEWS (Miranda Correia Amendoeira & Associados, Lisbon, Portugal), Jan.–Mar. 2013, available at www.mirandalawfirm.com/uploadedfiles/20130605_9253dd.pdf.

44. *New Regulations for Equatorial Guinea’s Petroleum Sector*, PETROLEUM AFRICA (Sept. 26, 2013), www.petroleumafrica.com/new-regulations-for-equa-gs-petroleum-sector.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

524 THE YEAR IN REVIEW

C. GABON

1. *Arbitration*

Enacted by Decree No. 0604/PR of June 25, Law No. 003/2013 implemented provisions of the *Organisation pour l'Harmonisation en Afrique du Droit des Affaires* (OHADA, or Uniform Act on Arbitration). The law applies to arbitral matters under the national courts pursuant to the Act's remand mechanism and provides for the functions and competence of the arbitration courts and its judges.⁴⁵

2. *Escheat*

Ordinance No. 016/PR/2013, amended on February 21, completed and repealed statutory provisions, directing that unoccupied and ownerless assets revert to the State to be managed by the Gabonese Deposits and Consignments Fund. Where such assets are held by banks, credit institutions, insurance companies, or third parties, they must be transferred to the Fund promptly on request or be levied penalties.⁴⁶

D. DEMOCRATIC REPUBLIC OF CONGO (DRC)

1. *Tax*

New ordinances took effect on January 1, changing aspects of the DRC's tax legislation. Changes included a reduction in the standard business income tax rate, a new tax regime for smaller companies, an amended progressive employment tax schedule, new customs tariffs on imports and exports, and revisions to mining taxes.⁴⁷

2. *Regional Peace Framework Signed*

On February 24, the DRC, with ten other countries, signed the Peace, Security, and Cooperation Framework for the Democratic Republic of the Congo and Region.⁴⁸ Provisions consolidate state authority in the DRC, strengthen regional cooperation and respect for state sovereignty, further economic development, keep the U.N. Security Council engaged in the process of long-term regional stability, appoint a U.N. special envoy, and create a regional oversight mechanism.⁴⁹

45. *Implementation of the OHADA Uniform Act on Arbitration*, GABON: LEGAL NEWS (Miranda Correia Amendoira & Associados, Lisbon, Portugal), Sept. 2013, available at www.mirandalawfirm.com/uploadedfiles/20130930_ceed9.pdf.

46. *Id.*

47. *Congo Enacted New Tax Measures*, INTAX INFO (Feb. 1, 2013), http://www.intax-info.com/index.php?option=Com_content&view=article&id=1606%3A2013-02-01-15-10-28&catid=2%3Anews&Itemid=32&lang=en.

48. Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, entered into Feb. 24, 2013, available at <http://www.peaceau.org/uploads/scanned-on-24022013-125543.pdf>.

49. Office of the Special Envoy of the Secretary-General for the Great Lakes Region of Africa, A Framework of Hope: the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, Feb. 24, 2013, available at <http://www.un.org/wcm/webdav/site/undpa/shared/undpa/pdf/SESG%20Great%20Lakes%20Framework%20of%20Hope.pdf>.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

AFRICA 525

3. *International Arbitration*

On June 26, 2013, the DRC acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) by passing Law No. 13/023, although it has not yet deposited its instrument of ratification.⁵⁰ One of four reservations to its accession is that the New York Convention will not apply to awards related to immovable property in the DRC, or to rights associated with that property, such as mining rights.⁵¹

4. *Arms Trade Treaty*

On September 25, the DRC signed the Arms Trade Treaty but has yet to ratify it.⁵²

IV. Eastern Africa

A. TANZANIA

1. *Constitutional Review; Statistics*

On June 7, the Tanzanian parliament passed the Constitutional Review (Amendment) Act of 2013,⁵³ which amends the Constitutional Review Act of 2011⁵⁴ and proposes procedures for appointing the country's 166-member Constituent Assembly. On June 7, the parliament also passed the Statistics Act to improve statistics collection and its usage in Tanzania.⁵⁵

2. *Prime Minister Pinda Lawsuit*

On July 31, 2013, the Legal and Human Rights Centre and the Tanganyika Law Society filed a petition against Tanzanian Prime Minister Mizengo Pinda, claiming that statements he made in parliament infringed on constitutionally protected human rights.⁵⁶ The

50. *Democratic Republic of the Congo to Accede to New York Convention, New York Arbitration Convention*, N.Y. ARB. CONVENTION (Jul. 14, 2013), <http://www.newyorkconvention.org/news/democratic-republic-of-the-congo-to-accede-to-new-york-convention>.

51. Allen & Overy, *Accession of the Democratic Republic of the Congo to the New York Convention on Arbitration*, THE LAWYER (Sept. 5, 2013), <http://www.thelawyer.com/briefings/accession-of-the-democratic-republic-of-congo-to-the-new-york-convention-on-arbitration/3009073.article>.

52. *Arms Trade Treaty, Status of Treaty*, UN OFFICE FOR DISARMAMENT AFFAIRS, <http://disarmament.un.org/treaties/t/att/deposit/asc> (last visited Jan. 31, 2014).

53. Constitutional Review (Amendment) Act, 2013, No. 3-2013, 0856-035X; see *Constitutional Review (Amendment) Act, 2013*, PARLIAMENTARY ON-LINE INFO. SYS., <http://bunge.parliament.go.tz/index.php?r=Billdetail/view&id=3-2013> (open "Abstract" tab) (last visited Feb. 3, 2014).

54. Ronald J. Allen et al., *Reforming the Law of Evidence of Tanzania (Part One): The Social and Legal Challenges*, 31 B.U. INT'L L.J. 217, 251 (2013).

55. The Statistics Act, 2013, The United Republic of Tanzania Bill Supplement No. 7 to the Gazette of the United Republic of Tanzania No. 23, Vol. 94, available at www.parliament.go.tz/assets/uploads/files/66fe8-Bill-No-7-2013.pdf.

56. Rosina John, *LHRC and Law Society File Case after Pinda Remarks*, THE CITIZEN (Aug. 1, 2013, 7:49 PM), <http://www.thecitizen.co.tz/News/LHRC+and+law+Societyfile+ase+after+Pinda+emarks/-/1840392/1934204/-/8pni0h/-/index.html>.

SPRING 2014

**PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW**

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

526 THE YEAR IN REVIEW

Prime Minister is alleged to have said that law enforcement officials should use force against civilians. Hearings for the case began on October 18, 2013.⁵⁷

B. KENYA

1. *Law Reform Commission*

On January 14, the Kenyan parliament passed the Kenya Law Reform Commission Act, which went into effect January 25.⁵⁸ The act replaces the 1982 law that established the Law Reform Commission to “keep under review all the law of Kenya to ensure its systematic development and reform.”⁵⁹ It establishes the Commission’s independence (the Commission was formerly a department within the Attorney General’s office) and expands its powers, placing emphasis on its role conforming and developing the law in accordance with the recently promulgated Kenyan Constitution.⁶⁰

2. *International Arbitration*

Passed on January 14, the Nairobi Centre for International Arbitration Act came into effect January 25.⁶¹ The Act establishes an arbitral court with exclusive original and appellate jurisdiction over disputes referred to it and gives the court final decision-making authority. It also establishes the Centre for International Arbitration, charged with administering domestic and international arbitration.⁶²

3. *Leadership Act Declared Constitutional*

On February 7, the Kenyan High Court upheld the constitutionality of the Leadership and Integrity Act that had been enacted by Parliament on August 27, 2012, against a lawsuit that claimed the act had weak enforcement provisions.⁶³

4. *Presidential Elections Upheld*

On April 16, the Kenyan Supreme Court ruled against the challenger in *Odinga v. Independent Electoral and Boundaries Commission*, finding the 2010 elections constitutional.⁶⁴ In its holding, the court ruled that it would not disturb the outcome of a presidential election

57. Faustine Kapama, *Tanzania: Civil Societies Push for Dismissal of AG Pinda Case Objection*, ALLAFRICA (Oct. 22, 2013), <http://allafrica.com/stories/201310220267.html>.

58. The Kenya Law Reform Commission Act, No. 19 (2013), KENYA GAZETTE SUPPLEMENT No. 31, available at <http://www.cickenya.org/index.php/legislation/item/178-kenya-law-reform-commission-bill-2012>.

59. The Kenya Law Reform Commission Act, (1982) Cap. 3 § 3, available at http://www.kenyalaw.org/kenyalaw/klr_app/frames.php (repealed by Act No. 19 of 2013).

60. *Id.* § 33.

61. Nairobi Centre for International Arbitration Act, No. 26 (2013), KENYA GAZETTE SUPPLEMENT No. 40, available at http://www.kenyalaw.org/kenyalaw/klr_app/frames.php.

62. *Id.*

63. Press Release, Court Declines to Declare the Leadership and Integrity Act Unconstitutional, Comm’n for the Implementation of the Constitution (Mar. 27, 2013), available at <http://www.cickenya.org/index.php/public-notices/item/303-court-declines-to-declare-the-leadership-and-integrity-act-unconstitutional>.

64. Raila Odinga & 5 Others v. Independent Electoral and Boundaries Commission & Others, (2013) eKLR, available at http://kenyalaw.org/CaseSearch/view_preview1.php?link=20777454192853290196196.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

AFRICA 527

unless “the [p]etitioner clearly and decisively show[s] the conduct of the election to have been so devoid of merits, and so distorted, as not to reflect the expression of the people’s electoral intent.”⁶⁵

5. *Taxes*

In June, the Kenyan parliament passed its first Division of Revenue Act, sharing national government revenue among national and county governments.⁶⁶ The Revenue Bill is an annual requirement of the new constitution.⁶⁷

6. *International Criminal Court Cases*

In September, the ICC began the trial of Kenyan Deputy President William Ruto for crimes against humanity alleged in the 2007 post-election violence.⁶⁸ Kenyan President Uhuru Kenyatta, also charged with crimes against humanity in relation to the post-election uprisings, was to begin trial in November.⁶⁹

C. UGANDA

1. *Public Order Management Bill*

In August, the Ugandan parliament passed the Public Order Management Bill.⁷⁰ The bill mandates public assemblies to obtain advance police permission and permits the police to use force to break up unauthorized gatherings.⁷¹ The bill has encountered opposition with protestors arguing that it infringes upon constitutional freedoms⁷² and with U.N. experts calling on the Ugandan government for its repeal.⁷³ Notwithstanding the dissent, on September 12, President Yoweri Museveni signed the Public Order Management Act into law, looking to address some of the bill’s shortcomings.⁷⁴

65. *Id.* ¶ 304.

66. The Division of Revenue Bill, No. 1 (2013), KENYA GAZETTE SUPPLEMENT No. 63, available at http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2013/Division_of_Revenue_Bill_2013.PDF.

67. CONSTITUTION, art. 218 (2010) (Kenya), available at <http://www.kenyaembassy.com/pdfs/The%20Constitution%20of%20Kenya.pdf>; but see, Kethi Kilonzo, *President Uhuru Kenyatta was Wrong to Sign Division of Revenue Act*, STANDARD DIGITAL MEDIA (June 23, 2013), <http://www.standardmedia.co.ke/?articleID=2000086567>.

68. Anna Holligan, *Kenya’s William Ruto Formed an Army for War, ICC Hears*, BBC NEWS (Sept. 10, 2013, 11:16 AM), <http://www.bbc.co.uk/news/world-africa-24028714>.

69. See, e.g., *ICC reverses Uhuru Kenyatta Attendance Ruling*, BBC NEWS (Nov. 26, 2013, 12:46 PM), <http://www.bbc.co.uk/news/world-africa-25112006>.

70. *Police State: New Uganda Law Threatens Public Gatherings, Further Squeezes Dissent*, INT’L BUS. TIMES (Aug. 22, 2013, 9:24 AM), <http://www.ibtimes.com/police-state-new-uganda-law-threatens-public-gatherings-further-squeezes-dissent-1395463>.

71. *Uganda Passes New Law Against Public Protests*, TOWNHALL.COM (Aug. 6, 2013, 9:50 AM), <http://townhall.com/news/politics-elections/2013/08/06/uganda-passes-new-law-against-public-protests-n1657441>.

72. *Uganda: Civic Action Launched Against Contentious Public Order Law in Uganda*, ALLAFRICA (Aug. 21, 2013), <http://allafrica.com/stories/201308221033.html>.

73. *UN Experts Call on Uganda to Repeal Law That Restricts Assembly*, SUDAN TRIBUNE (Aug. 12, 2013), <http://www.sudantribune.com/spip.php?article47619>.

74. *Uganda: Public Order Management Act*, ARTICLE 19 (Nov. 1, 2013), <http://www.article19.org/resources.php/resource/37331/en/uganda-public-order-management-act>.

SPRING 2014

PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

528 THE YEAR IN REVIEW

2. *Sexual Minorities Suit*

On August 14, a federal judge in the United States denied a motion to dismiss suit brought by Sexual Minorities Uganda, an organization advocating for lesbian, gay, bisexual, transgender, and intersex people (LGBTI), against Scott Lively, a U.S. pastor who spoke against homosexuality in Uganda.⁷⁵ The court found that the organization had standing to bring suit, as Lively's activities occurred in both the United States and Uganda, holding that his actions went beyond speech qualifying as deliberate attempts to deny rights to LGBTI people.⁷⁶

D. RWANDA

1. *Access to Information Law*

On March 11, Rwanda adopted Law No. 02/2013, relating to the access of information. The law determines the types of information that may be accessed by journalists and the public and establishes procedures for requesting and disseminating such information.⁷⁷

E. SOMALIA

1. *Investment*

Following the swearing in of a new federal government and adoption of a provisional constitution in late 2012, Somalia made progress in 2013. In July 2013, its parliament reviewed a foreign investment law as a framework for foreign investment, the rights of foreign investors, and a "favourable trade environment based on a free market economy."⁷⁸

2. *Coastal Protection Contract*

In July, Somalia's Minister of Defence signed a landmark coastal protection contract with the Atlantic Marine and Offshore Group to develop an "effective and sustainable Coast Guard in Somalia" that will be instrumental in establishing and enforcing the rule of law within Somali waters and the Exclusive Economic Zone (EEZ).⁷⁹

75. Crystal Sheppard, *Pastor Who Helped Create "Kill the Gays" Bill Charged with Crimes Against Humanity*, CARE2.COM (Aug. 21, 2013, 4:00 PM), <http://www.care2.com/causes/virulent-anti-gay-pastor-to-face-trial-for-crimes-against-humanity.html>.

76. *Sexual Minorities Uganda v. Scott Lively*, No. 12-cv-30051-MAP, 2013 U.S. Dist. LEXIS 114754, at *45-46 (D. Mass. Aug. 14, 2013).

77. Article 19, *Rwanda Adopts Access to Information Law*, IFEX (Mar. 13, 2013), http://www.ifex.org/rwanda/2013/03/13/rwanda_progressive_access.

78. Dahir Jibril, *Somali Foreign Investment Bill Brings Hope of Jobs, Development*, SABAHI (July 30, 2013), http://sabahionline.com/en_GB/articles/hoa/articles/features/2013/07/30/feature-01.

79. *Somali Government Signs Landmark Coastal Protection Contract*, AMISOM DAILY MEDIA MONITORING (July 31, 2013), <http://somaliamediamonitoring.org/july-31-2013-daily-monitoring-report/>.

3. *Media Law Criticized*

In July 2013, Somalia's Council of Ministers passed a draft media law that the National Union of Somali Journalists and the U.N. criticized for deviating from international standards of freedom of expression, potentially restricting the media, and undermining editorial independence.⁸⁰

4. *Truth and Reconciliation Commission, Constitution*

A formal communiqué from the September 2013 Vision 2016 conference in Mogadishu set out the Somali government's ambition to establish a truth and reconciliation commission within six months, appoint a constitutional review commission within sixty days, establish a constitutional court within ninety days, and pass a political party law within one year.⁸¹ The provisional constitution is to become permanent pursuant to a referendum to be held before the end of this parliament's term in 2016.⁸² On September 16, the European Union (EU) and Somalia co-sponsored a Brussels conference named "A New Deal for Somalia" where a "New Deal Compact" was signed. The compact garners international support to address Somalia's political, social, and economic priorities through peace-building and state-building goals, with a special arrangement for Somaliland.⁸³

V. Southern Africa

A. ZIMBABWE

1. *Constitution*

On March 16, 2013, a national referendum approved a new constitution for Zimbabwe.⁸⁴ Almost 95 percent of nearly three million voters (out of approximately six million eligible voters) voted in favor of its adoption.⁸⁵ Adopting a new constitution was a key requirement of the Global Political Agreement,⁸⁶ a power-sharing transition agreement entered into by ZANU-PF, the ruling party, and MDC-T and MDC-M, the opposition parties, after the disputed and violent 2008 elections.⁸⁷ The 2013 Constitution replaces Zimbabwe's 1979 Constitution, adopted as part of independence.

80. See, e.g., *Somalia's Draft Media Law Would Give Government More Control Over Press*, IFEX, (July 15, 2013), http://www.ifex.org/somalia/2013/07/15/draft_media.

81. *Somali National Conference Ends with Call for Constitutional Review*, SABAHI (Sept. 8, 2013), http://sabahionline.com/en_GB/articles/hoa/articles/newsbriefs/2013/09/08/newsbrief-02.

82. The Somali Compact, Som.-EU, Sept. 16, 2013, available at <http://www.pbsdialogue.org/The%20Somali%20Compact.pdf>.

83. *Id.*

84. *Zimbabwe Approves New Constitution*, BBC News (Mar. 19, 2013, 12:27 PM), <http://www.bbc.co.uk/news/world-africa-21845444>.

85. *Id.*

86. Agreement Between the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the Two Movement for Democratic Change (MDC) Formations, on Resolving the Challenges Facing Zimbabwe, Sept. 15, 2008, available at <http://www.kubatana.net/html/archive/demgg/080915agreement.asp>.

87. *Id.*

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

530 THE YEAR IN REVIEW

B. MOZAMBIQUE

1. *Banking and Finance*

In March, the Mozambique Council of Ministers approved a statutory regime on treasury bonds pursuant to which treasury bonds will be traded only at the Mozambique Stock Exchange by operators licenced through the Minister of Finance. A “Certificate of Specialized Operators in Treasury Bonds (OEOT) has been approved along with the relevant application procedure.”⁸⁸

2. *Credit Institutions*

In June, the Bank of Mozambique approved the Contingency Plan for Credit Institutions (Notice No. 2/GBM/2013) with measures aimed at preventing or minimizing financial crises in the banking system and in deposit-taking credit institutions.⁸⁹

3. *Competition Law*

In April, the Mozambican parliament approved the country’s first statutory regime on competition, aimed at eliminating restrictive competition practices and establishing rules of conduct on market access. The statute also creates the Competition Regulatory Authority.⁹⁰

C. SOUTH AFRICA

1. *Criminal Defamation Conviction*

In June, former journalist Cecil Motsepe was convicted of criminal defamation and given a suspended sentence of ten months imprisonment or a R 10,000 fine (about U.S. \$993).⁹¹ Motsepe is appealing his conviction, arguing that the crime of criminal defamation may be unconstitutional particularly when applied to the media.⁹²

2. *Intelligence Laws Amendment*

On July 25, South African President Jakob Zuma signed into law the General Intelligence Laws Amendment Act No. 11, 2013.⁹³ The Act, referred to as the “Spy Bill,” “pro-

88. *Banking and Finance*, MOZAMBIQUE: LEGAL NEWS (Pimenta, Dionísio e Associados, Maputo, Mozambique), Feb.–Apr. 2013, available at http://www.mirandalawfirm.com/uploadedfiles/20130606_f63873.pdf.

89. *Banking*, MOZAMBIQUE: LEGAL NEWS (Pimenta, Dionísio e Associados, Maputo, Mozambique), May–July 2013, available at http://www.mirandalawfirm.com/uploadedfiles/20130830_43a8f4.pdf.

90. *Competition*, MOZAMBIQUE: LEGAL NEWS (Pimenta, Dionísio e Associados, Maputo, Mozambique), Feb.–Apr. 2013, available at http://www.mirandalawfirm.com/uploadedfiles/20130606_f63873.pdf.

91. Adriana Stuijt, *The Sowetan Ex-Journalist Cecil Motsepe Convicted of Criminal Defamation of Magistrate Marius Serfontein in Series of Articles*, CENSORBUGBEAR (Aug. 12, 2013), <http://www.censorbugbear.org/genocide/the-sowetan-ex-journalist-cecil-motsepe-convicted-of-criminal-defamation-of-magistrate-marius-serfontein-in-series-of-articles>.

92. *Id.*

93. Mac Maharaj, *Zuma Signs Five Bills Into Law: The Presidency*, POLITICSWEB (July 25, 2013), <http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71654?oid=394003&sn=Detail&pid=71616>.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

AFRICA 531

vides the legal framework for the consolidation of South Africa's intelligence services into one state security agency."⁹⁴

3. *Torture Act*

On July 25, the President Zuma signed the Prevention and Combating of Torture of Persons Act No. 15, 2013.⁹⁵ The law gives effect to South Africa's obligations as a party to international instruments on human trafficking by making domestic laws consistent with international standards, in particular, the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons. The act sets out enforcement measures, provides for the prosecution of wrongdoers, and provides for assistance to victims.⁹⁶

4. *Superior Courts Bill*

On August 12, President Zuma signed the Superior Courts Bill 2013 into law.⁹⁷ The bill reorganizes the Constitutional Court, the Supreme Court of Appeal, and the High Court of South Africa to administer the judicial functions of all courts.⁹⁸ The law seeks to establish a single high court of South Africa.

VI. African Institutions

A. AFRICAN UNION (AU)

1. *African Union Summits*

The 20th and 21st AU summits were held in Addis Ababa, Ethiopia in 2013.⁹⁹ The 20th summit in January established a Pan-African Intellectual Property Organization and tasked the AU Commission on International Law with reviewing proposals for an international constitutional court.¹⁰⁰ A Memorandum of Understanding was signed with then-U.S. Secretary of State Hillary Clinton, strengthening the partnership between the United States and the AU in key areas.¹⁰¹ A U.N.-backed plan to bolster peacekeeping in the DRC was called off after the Southern African Development Community (SADC)

94. Gaye Davis, 'Spy Bill' Signed Into Law, EYE WITNESS NEWS (Sept. 10, 2013), <http://ewn.co.za/2013/07/24/Spy-bill-signed-into-law>.

95. Maharaj, *supra* note 93.

96. *Id.*

97. See Superior Courts Act 10 of 2013 (S. Afr.), available at http://us-cdn.creamermedia.co.za/assets/articles/attachments/45735_act_10.pdf.

98. SA: Statement by the Presidency, President Jacob Zuma Signs Superior Courts Bill into Law (13/08/2013), POLITY (Aug. 13, 2013), <http://www.polity.org.za/article/sa-statement-by-the-presidency-president-jacob-zuma-signs-superior-courts-bill-into-law-13082013-2013-08-13>.

99. Press Release No. 20/20th AU Summit, Afr. Union, Summit Ends with Strong Decisions and Declarations by AU Heads of States on Crucial and Topical Issues on the Continent (Jan. 28, 2013), <http://summits.au.int/en/sites/default/files/PR%20N%2020%20CLOSING%20OF%2020TH%20AU%20SUMMIT%2028%2001%2013%20f.pdf>.

100. *Id.*

101. Press Release, U.S. Mission to the Afr. Union, U.S.-Afr. Union Sign MOU to Strengthen P'ship (Jan. 30, 2013), available at http://www.usau.usmission.gov/pr_7.html.

SPRING 2014

**PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW**

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

532 THE YEAR IN REVIEW

complained it had not been consulted, notwithstanding its own efforts to forge a peace deal.¹⁰²

The May summit received wider attention, as it marked the 50th anniversary of pan-African integration, a process commencing in 1963 with the founding of the AU predecessor, the Organization of African Unity. At the 21st summit, AU leaders ratified a South African proposal to establish the African Capacity for Immediate Response to Crises,¹⁰³ and the AU Commission announced renewed efforts to draw the bulk of its finances from member states, reducing dependencies on foreign sources of income.¹⁰⁴ International media seized on comments by summit chairman, Hailemariam Desalegn, accusing the ICC of selectively prosecuting African defendants,¹⁰⁵ a sentiment echoed by formal resolution calling on the ICC to transfer the trials of President Uhuru Kenyatta and Vice President William Ruto to Kenyan domestic courts.¹⁰⁶ When the Kenyan legislature rejected ICC jurisdiction in September, AU leaders called for a conference to discuss its members withdrawing en masse from the ICC.¹⁰⁷

2. *Memberships Suspended*

In March, the Seleka rebel group forced Central African Republic (CAR) President, François Bozize, from power. The AU responded by suspending the country's membership and imposing sanctions on the insurgent government in Bangui.¹⁰⁸ The rebel administration stopped cooperating with AU forces in the CAR, stalling international efforts to apprehend fugitive Ugandan warlord Joseph Kony.¹⁰⁹ Regime change in Egypt also resulted in AU suspension, following the ouster of President Mohammed Morsi in July.¹¹⁰

B. AFRICAN EXPORT-IMPORT BANK

1. *U.S. \$500 Million Bond*

In May 2013, the Cairo-based African Export-Import Bank announced plans to issue a U.S. \$500 million bond, its third after a U.S. \$300 million bond in 2009 and a U.S. \$500

102. *AU Talks Break Down Over DR Congo Crisis*, AL JAZEERA (Jan. 28, 2013, 7:00 PM) <http://www.aljazeera.com/news/africa/2013/01/201312862023401459.html>.

103. *AU Adopts SA Plan for New Military Force*, MAIL & GUARDIAN (May 28, 2013, 3:58 PM), <http://mg.co.za/article/2013-05-28-au-adopts-sa-plan-for-new-military-force>.

104. *African Union Seeks Financial Independence*, AL JAZEERA (May 24, 2013, 12:36 PM), <http://www.aljazeera.com/news/africa/2013/05/201352412928567270.html>.

105. *African Leaders Accuse ICC of 'Race Hunt'*, AL JAZEERA (May 28, 2013, 4:53 AM), <http://www.aljazeera.com/news/africa/2013/05/201352722331270466.html>.

106. *AU Urges ICC to Transfer Kenyatta Case to Kenya*, MAIL & GUARDIAN (May 28, 2013, 12:00 AM), <http://mg.co.za/article/2013-05-28-es-icc-to-transfer-kenyatta-case-to-kenya>.

107. *AU to Discuss ICC Trials of Kenyan Leaders*, AL JAZEERA (Sept. 20, 2013, 11:56 AM), <http://www.aljazeera.com/news/africa/2013/09/20139209543865471.html>.

108. *AU Suspends CAR After Rebels Oust the President*, MAIL & GUARDIAN (Mar. 25, 2013, 2:00 PM), <http://mg.co.za/article/2013-03-25-au-suspends-central-african-republic-after-rebels-oust-the-president>.

109. *Central African Republic Hunt for Kony Suspended*, GUARDIAN (Apr. 3, 2013, 8:12 AM), <http://www.theguardian.com/world/2013/apr/03/central-african-republic-troops-suspend-hunt-kony>.

110. Solomon Dersso, *The African Union Versus Egypt*, AL JAZEERA (Aug. 9, 2013, 11:29 AM), <http://www.aljazeera.com/indepth/opinion/2013/08/201388125435183276.html>.

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

AFRICA 533

million bond in 2011.¹¹¹ Established in 1993, the bank approved over U.S. \$1.2 billion in credit facilities in 2012.¹¹²

2. *Anniversary; Accession*

In June 2013, the bank celebrated its 20th anniversary.¹¹³ In August, the Republic of Congo signed its accession instrument,¹¹⁴ pending ratification of the 1993 Abidjan Agreement on the bank's establishment, Congo will become the bank's thirty-fifth member.¹¹⁵

C. AFRICAN DEVELOPMENT BANK

1. *Sanctions Regime Updated*

On August 12, 2013, the African Development Bank (AfDB) updated its sanctions regime.¹¹⁶ The two-tier regime provides a process to be followed when sanctionable practices concerning AfDB-financed operations are alleged, including corruption, fraud, collusion, coercion, and obstruction.

2. *Infrastructure Fund Created*

In September, the AfDB and the Made in Africa Foundation partnered to create Africa50, a U.S. \$500 million infrastructure fund. The initiative aims to fund large infrastructure projects across the sub-Saharan region. The AfDB has invested over U.S. \$5.4 billion in infrastructure projects in Africa in the last five years through private sector and public-private partnership financing.¹¹⁷

3. *Red Cross MOU*

On October 3, the International Federation of Red Cross and Red Crescent Societies and the AfDB signed a Memorandum of Understanding to increase collaboration between the two organizations in climate change, health care, food security, disaster risk reduction, youth development, water, and sanitation. The AfDB confirmed its commitment by do-

111. Obi Emekekwe, *Afreximbank's 500 Million-Dollar Bond Enjoys High Subscription*, AFR. EXPORT-IMPORT BANK (May 31, 2013), <http://afreximbank.com/afrexim/en/NewsEvents/PressReleases/Afreximbanks500milliondollarbondenjoyshigh.aspx>.

112. *Id.*

113. *Afreximbank Celebrates 20th Anniversary in Addis Ababa*, BUS. DAY (Apr. 18, 2013), <http://businessdayonline.com/2013/04/afreximbank-celebrates-20th-anniversary-in-addis-ababa/>.

114. *Republic of Congo Signs Afreximbank's Accession Instrument*, AFR. EXPORT-IMPORT BANK (Aug. 1, 2013), <http://afreximbank.com/afrexim/en/NewsEvents/News/RepublicofCongoaccessionAfreximbanksin.aspx>.

115. *Congo to Join Afrexim*, TRADE FINANCE, Aug. 2013, at 12.

116. See generally SANCTIONS PROCEDURES OF THE AFRICAN DEVELOPMENT BANK GROUP, AFRICAN DEVELOPMENT BANK (Aug. 12, 2013), available at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/The%20Sanctions%20Procedures%20of%20the%20AfDB.pdf>.

117. Press Release, Afr. Dev. Bank Grp., AfDB and Made in Afr. Found. Launch Fundraising for Africat50 Infrastructure Fund (Sept. 27, 2013), available at <http://www.afdb.org/en/news-and-events/article/afdb-and-made-in-africa-foundation-launch-fundraising-for-africa50-infrastructure-fund-12313>.

SPRING 2014

**PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW**

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

534 THE YEAR IN REVIEW

nating U.S. \$1 million to assist the Comoros Red Crescent Society in combating flash flood effects from 2012.¹¹⁸

D. ECONOMIC COMMISSION FOR AFRICA (ECA)

In February 2013, the U.N. ECA Committee on Governance and Popular Participation discussed ways to improve governance and public administration capacity.¹¹⁹ The ECA's 2013 *Economic Report on Africa* focused on commodity-based industrialization to foster growth, create jobs, and bring about economic transformation.¹²⁰

In conjunction with the fifth BRICS Summit held in South Africa in March 2013, the ECA produced *Africa-BRICS Cooperation: Implications for Growth, Employment and Structural Transformation in Africa*.¹²¹ The study examines foreign direct investment, trade, and development assistance. The ECA estimates that Africa's trade with BRICS nations has grown faster than with any other region of the world, doubling to U.S. \$340 billion in 2012 and projected to reach U.S. \$500 billion by 2015.¹²²

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

1. *Free Trade Agreement*

Negotiations for a free trade agreement between the twenty-six COMESA countries, the East African Community (EAC), and the SADC continued in 2013.¹²³ Discussions are to continue in 2014 with a launch of the free trade area in 2016.¹²⁴

2. *Indian MOU*

In 2013, the Federation of Indian Chamber of Commerce and Industry and the COMESA Business Council concluded a Memorandum of Understanding to encourage

118. Press Release, Afr. Dev. Bank, Red Cross Red Crescent and AfDB Enter Pan-Afr. P'ship on Food Sec. and Disaster Risk Reduction (Oct. 3, 2013), *available at* <http://www.afdb.org/en/news-and-events/article/red-cross-red-crescent-and-afdb-enter-pan-african-partnership-on-food-security-and-disaster-risk-reduction-12330/>.

119. Press Release, U.N. Econ. Comm'n for Afr., Preparations Underway for Third Meeting of the Comm. on Governance and Popular Participation (Feb. 19, 2013), *available at* <http://www1.uneca.org/ArticleDetail/tabid/3018/ArticleId/2494/Preparations-underway-for-third-Meeting-of-the-Committee-on-Governance-and-Popular-Participation.aspx>.

120. *See generally* U.N. Econ. Comm'n for Afr. & Afr. Union, *Economic Report on Africa 2013, Making the Most of Africa's Commodities: Industrializing for Growth, Jobs and Economic Transformation*, 2013, *available at* http://www.uneca.org/sites/default/files/publications/unera_report_eng_final_web.pdf.

121. *See generally* U.N. Econ. Comm'n for Afr., *Africa-BRICS Cooperation: Implications for Growth, Employment and Structural Transformation in Africa*, 2013, *available at* http://www.uneca.org/sites/default/files/publications/africa-brics_cooperation_eng.pdf; *see also* *Fifth BRICS Summit*, BRICS (Mar. 27, 2013), <http://www.brics5.co.za/about-brics/summit-declaration/fifth-summit/>.

122. Press Release, U.N. Econ. Comm'n for Afr., ECA Backs the Afr.-BRICS Dialogue Initiative (Mar. 28, 2013), *available at* <http://www.uneca.org/media-centre/stories/eca-backs-africa-brics-dialogue-initiative#.UpmjdiNQ3IU>.

123. Kizito Sikuka, *Towards a Tripartite Free Trade Area*, COMMON MARKET FOR E.AND S. AFR., http://www.comesa.int/index.php?option=Com_content&view=article&id=873:towards-a-tripartite-free-trade-area&catid=5:latest-news&Itemid=41 (last visited Feb. 3, 2014).

124. *Id.*

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

AFRICA 535

business communities in India and in COMESA member countries to collaborate on private sector investment projects.¹²⁵

F. ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

1. *Ghana Single-Currency Meeting*

In July 2013, regional experts held a two-day meeting in Accra, Ghana to review plans for a single currency in the ECOWAS region. The plan requires six member states—Gambia, Ghana, Guinea, Liberia, Nigeria, and Sierra Leone—to create a second currency, the Eco, by 2015. The Eco will be used with national currencies prior to its sole use in the region by 2020.¹²⁶

2. *Telecommunications Cost Reduction*

In September, ECOWAS ministers agreed to work with regional operators to implement a 50 percent reduction in the cost of telecommunications. The ministers hope to have the proposal implemented by May 2014.¹²⁷

3. *Millennium Development Goals*

In October, ECOWAS set up a regional food and agriculture agency in Lomé, Togo. The ministers of agriculture and representatives of other member states present adopted a regional program to support market regulation in West Africa, to support national social security in West Africa, and to support agricultural intensification in West Africa.¹²⁸

125. *COMESA Business Council Signs MoU with India Chamber*, COMMON MARKET FOR E.AND S. AFR., http://www.comesa.int/index.php?option=Com_content&view=article&id=690:comesa-business-council-signs-mou-with-india-chamber-&catid=5:latest-news&Itemid=41 (last visited Feb. 3, 2014).

126. Press Release, Econ. Community of W. Afr. Sts., Experts Review Roadmap for ECOWAS Single Currency (July 31, 2013), *available at* <http://news.ecowas.int/presseshow.php?nb=229&lang=en&annee=2013>.

127. Press Release, Econ. Community of W. Afr. Sts., Telecomm. Ministers Approve Proposal to Half the Tariff for Servs. in the Region (Sept. 30, 2013), *available at* <http://news.ecowas.int/presseshow.php?nb=279&lang=en&annee=2013>.

128. Press Release, Econ. Community of W. Afr. Sts., La CEDEAO Lance l'Agence Régionale pour l'Agriculture et l'Alimentation à Lomé, [ECOWAS Launches Reg'l Agency for Food and Agric. in Lomé] (Oct. 2, 2013), *available at* <http://news.ecowas.int/presseshow.php?nb=283&lang=fr&annee=2013>.

SPRING 2014

**PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW**

THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

PUBLISHED IN COOPERATION WITH
SMU DEDMAN SCHOOL OF LAW