



KTA
Regional
Business
Forum



DOING BUSINESS IN THE EAST AFRICAN COMMUNITY

NAVIGATING REGIONAL
BUSINESS OPPORTUNITIES
LAUNCHED 23RD JUNE 2022

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FOREWORD

Dear Reader,

KTA Advocates is proud to present the Doing Business in the region publication. This is an overview of the legal systems, processes and procedures that can be undertaken by anyone desirous of doing business in the EAC region.

We would like to also take this opportunity to thank all of you that participated in the KTA regional business forum that took place on the 8th June 2022. This publication is an outcome of the views gathered from the participants especially the need of a guide on navigating regional opportunities. Statistics about the region have been re-echoed time and again, future projections made but non empirical evidence suggests that the people in the region right from the grass root level extending to the corporate ladder still have an illusory image painted around the kind of opportunities that lay

ahead of regional integration and how they can be harnessed.

KTA Advocates the leading regional go to firm organised a regional business forum that attracted multi-stake holders such as politicians, policy makers, financial institutions, private companies among many others. This was a platform for regional dialogue with representatives from all over the region partaking in active engagement that would later set a new trajectory for the future of business in the EAC. It is from this forum that best practices for doing business in the region were highlighted, regional governments through their representatives made commitments to intensify regional integration, high level networks and partnerships were fostered and cross cutting action resolutions made. One may ask, What Next?

In order to monitor and ensure implementation, the firm has put together this publication on doing business in the region with a rapporteur's report as an impetus through which the outcome of the forum has been documented to enable stakeholders follow up on commitments and stimulate further action. Furthermore, rather than just be wise in words, the firm has been wise in deeds as espoused through the launch of the DRC Uganda Business Association (DUBA), an association registered both in DRC and Uganda acting as a conduit for the community in both states to interact formally, informally and gain business acumen as well as transact. It is notable that the Association has 20 businesses registered under it. In addition, the KTA Dependable Client Business to Business Forum was also launched by the firm in line with its one of its values "dependable" not only as a legal advisor but also adding value to clients through offering a platform where

they can interact in a business network and leverage regional opportunities.

We hope that as you look through this publication, a clear image will be unwrapped for you around harnessing regional opportunities by observance of the series of steps on doing business in the EAC region. From its wonderful reception, KTA undertakes to make the business forum an annual event that will be held around all 7 states in the EAC.

We thank all contributors for their efforts and commitment. May this publication be of significance to you as we imagine.

Kind Regards,



Asmahaney Saad
Managing Partner, KTA
Advocates, Corporate
Commercial & Projects





UTANGULIZI

Mpendwa Msomaji,

KTA Advocates inajivunia kuwasilisha Doing Business katika uchapishaji wa kanda. Huu ni muhtasari wa mifumo ya kisheria, taratibu na taratibu zinazoweza kufanywa na mtu yeyote anayetaka kufanya biashara katika eneo la EAC.

Tunapenda pia kuchukua fursa hii kuwashukuru ninyi nyote mlioshiriki katika kongamano la biashara la kanda la KTA lililofanyika tarehe 8 Juni 2022. Chapisho hili ni matokeo ya maoni yaliyokusanywa kutoka kwa washiriki hasa hitaji la mwongozo wa kuabiri. fursa za kikanda. Takwimu kuhusu eneo hilo zimekuwa zikirejelewa mara kwa mara, makadirio ya siku za usoni yamefanywa lakini ushahidi usio na hakiki unaonyesha kuwa watu katika eneo hilo kuanzia ngazi ya chini hadi ngazi ya ushirika bado wana taswira potofu iliyochorwa kuhusiana na aina ya fursa ambazo kuweka mbele ya ushirikiano wa kikanda na jinsi gani wanawe-

za kuunganishwa. KTA Advocates Kampuni inayoongoza ya kikanda iliandaa kongamano la biashara la kikanda ambalo lilivutia washikadau mbalimbali kama vile wanasiasa, watunga sera, taasisi za fedha, makampuni binafsi miongoni mwa wengine wengi. Hili lilikuwa jukwaa la mazungumzo ya kikanda na wawakilishi kutoka katika eneo lote wakishiriki katika ushirikishwaji wa dhati ambao baadaye ungeweka mwelekeo mpya wa mustakabali wa biashara katika EAC. Ni kutokana na kongamano hili ambapo mbinu bora za kufanya biashara katika kanda zilisisitizwa, serikali za mikoa kupitia wawakilishi wao zilitoa ahadi za kuimarisha ushirikiano wa kikanda, mitandao ya ngazi ya juu na ushirikiano ziliimarishwa na maazimio ya hatua mtambuka kufanywa. Mtu anaweza kuuliza, Je!

Ili kufuatilia na kuhakikisha utekelezaji, kampuni imeweka pamo-

ja chapisho hili la kufanya biashara katika eneo hili na ripoti ya ripota kama msukumo ambao matokeo ya kongamano yameandikwa ili kuwezesha wadau kufuatilia ahadi na kuchochea hatua zaidi. Zaidi ya hayo, badala ya kuwa na hekima kwa maneno tu, kampuni imekuwa na hekima katika vitendo kama ilivyopendekezwa kupitia uzinduzi wa Chama cha Biashara cha DRC Uganda (DUBA), chama kilichosajiliwa DRC na Uganda kikifanya kazi kama njia ya jumuiya katika majimbo yote mawili. kuingiliana rasmi, kwa njia isiyo rasmi na kupata ujuzi wa biashara na kufanya shughuli. Inafahamika kuwa Chama kina biashara 20 zilizosajiliwa chini yake. Kwa kuongezea, Jukwaa la Biashara kwa Wateja wa Kutegemewa wa KTA pia lilizinduliwa na kampuni hiyo kulingana na moja ya maadili yake “ya kutegemewa” sio tu kama mshauri wa kisheria lakini pia kuongeza thamani kwa wateja kupitia kutoa jukwaa ambapo wanaweza kuingiliana katika

mtandao wa biashara na kuongeza fursa za kikanda.

Tunatumai kuwa unapotazama katika chapisho hili, taswira wazi itatolewa kwako kuhusu kutumia fursa za kikanda kwa kuzingatia msururu wa hatua za kufanya biashara katika eneo la EAC. Kutokana na mapokezi yake mazuri, KTA inajitolea kufanya jukwaa la biashara kuwa tukio la kila mwaka ambalo litafanyika katika majimbo yote 7 ya EAC.

Tunawashukuru wachangiaji wote kwa juhudi na kujitolea kwao. Chapisho hili liwe la maana kwako kama tunavyowazia.

salamu nzuri,



Asmahaney Saad
Mshirika Msimamizi, KTA
Advocates Corporate
Commercial & Projects





PRÉFACE

Cher lecteur,

KTA Advocates est fier de présenter la publication *Doing Business in the region*. Il s'agit d'un aperçu des systèmes juridiques, des processus et des procédures qui peuvent être entrepris par toute personne désireuse de faire des affaires dans la région de l'EAC.

Nous aimerions également saisir cette occasion pour remercier tous ceux d'entre vous qui ont participé au forum régional des entreprises de KTA qui a eu lieu le 8 juin 2022. Cette publication est le résultat des points de vue recueillis auprès des participants, en particulier le besoin d'un guide sur la navigation opportunités régionales. Les statistiques sur la région ont été répétées à maintes reprises, des projections futures ont été faites, mais des preuves non empiriques suggèrent que les habitants de la région, depuis le niveau de la base jusqu'à l'échelle de l'entreprise, ont toujours une image illusoire

peinte autour du type d'opportunités qui précèdent l'intégration régionale et comment elles peuvent être exploitées.

KTA Advocates, la principale entreprise régionale de rendez-vous, a organisé un forum d'affaires régional qui a attiré plusieurs parties prenantes telles que des politiciens, des décideurs, des institutions financières, des entreprises privées, parmi beaucoup d'autres. Il s'agissait d'une plateforme de dialogue régional avec des représentants de toute la région participant à un engagement actif qui définirait plus tard une nouvelle trajectoire pour l'avenir des affaires dans la CAE. C'est à partir de ce forum que les meilleures pratiques pour faire des affaires dans la région ont été mises en évidence, que les gouvernements régionaux, par l'intermédiaire de leurs représentants, se sont engagés à intensifier l'in-

tégration régionale, que des réseaux et des partenariats de haut niveau ont été encouragés et que des résolutions d'action transversale ont été prises. On peut se demander, et ensuite ?

Afin de surveiller et d'assurer la mise en œuvre, l'entreprise a élaboré cette publication sur la conduite des affaires dans la région avec un rapport du rapporteur comme une impulsion à travers laquelle les résultats du forum ont été documentés pour permettre aux parties prenantes de suivre les engagements et de stimuler de nouvelles actions.

En outre, plutôt que d'être sage en paroles, l'entrepriseW a été sage en actes, comme l'a adopté le lancement de la DRC Uganda Business Association (DUBA), une association enregistrée à la fois en RDC et en Ouganda agissant comme un intermédiaire pour la communauté dans les deux États. pour interagir de manière formelle, informelle et acquérir un sens des affaires ainsi que pour effectuer des transactions. Il est à noter que l'Association compte 20 entreprises enregistrées auprès d'elle. En outre, le KTA Dependable Client Business to Business Forum a également été lancé par le cabinet conformément à l'une de ses valeurs « fiable » non seulement en tant que conseiller juridique, mais également en ajoutant de la valeur aux clients en offrant une plateforme où ils peuvent interagir

dans un réseau d'affaires et tirer parti des opportunités régionales. Nous espérons qu'en parcourant cette publication, une image claire sera dévoilée pour vous autour de l'exploitation des opportunités régionales en respectant la série d'étapes pour faire des affaires dans la région de l'EAC. Dès sa merveilleuse réception, KTA s'engage à faire du forum des entreprises un événement annuel qui se tiendra dans les 7 États de l'EAC. Nous remercions tous les contributeurs pour leurs efforts et leur engagement. Puisse cette publication être importante pour vous comme nous l'imaginons.

sincères amitiés,



Asmahaney Saad
Associé directeur, KTA
Advocates Entreprise
Commerciale & Projets



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HI-INNOVATORS PROGRAM OF NATIONAL SOCIAL SECURITY FUND (NSSF)

Hi- The Innovator program is a project of Uganda's National Social Security Fund (NSSF), which has established a start-up fund focused at finding and assisting small and emerging businesses with the potential to have a significant impact, be sustainable, and be profitable. The advantages include free professional and technical guidance throughout the process, capital to expand your business, and access to and exposure to investors that can help you build your business.

The fund is offering UGX 35 billion in support for local small and emerging enterprises in collaboration with the Master Card Foundation. Its goal is to create an ecosystem that brings together services such as company incubation, advising and business development, and financial partners. Employees of NSSF, Outbox, or partner entrepreneurship organisations participating in the Hi-Innovator program, design, production, execution, or distribution, as well as any such individual's immediate family or home, are ineligible to participate. Certain prerequisites must be met in order to be consid-

ered for participation. Your application must be submitted through the Hi-innovator website and concept management system; applications sent by email, WhatsApp, or in person will not be accepted. The company must have at least brought a product or service to market and gotten early customer feedback with some revenue (at least \$20 million in the previous two years), be legally and actively operating for at least two years, and not have raised more than UGX 1 billion in either grant, convertible grants, venture capital or private equity,

One's business should be fully registered with Uganda Registration Services Bureau, Uganda Revenue Authority and the National Social Security Fund. The Hi-Innovator program requires founder participation with full commitment to participate in at least 90% of the scheduled learning labs and mentorship sessions in the initiative. Furthermore all team members must be fully proficient in written and spoken English. One must also be a national OR non-national currently living and working in



line learning platform with applied exercises to enable one apply for skills relevant to the business. It seeks to support over 135,000 entrepreneurs over a period of 5 years. It is then followed by the accelerator phase which a 6 month business support process that seeks to fund up to 500 companies over a period of 5 years. The Hi-innovator will support businesses addressing the sustainable development goals, national development plan and NSSF's strategic business objectives with a focus on education, agriculture, health, energy, tourism and financial services.

Uganda with up-to-date work permits, non-Ugandans should not be running a business that includes a Ugandan in an ownership and decision making role.

More than 75,000 youth are the target market for this programme that will provide practical entrepreneurship training in order to enable the young people address gaps in their businesses. The ambitious goals of the programme are to support 500 businesses, train 50,000 entrepreneurs and create 130,000 work opportunities. The initial roll out of the Hi-innovator (Pre-Accelerator) is the first step and consists of a self-directed on-

An advertisement for the NSSF HI-Innovator Business Academy. It features a smiling woman in a yellow top in the foreground, with other people in a blurred office setting in the background. The text reads: "Level up! Take your business to the next level. Signup for the online NSSF HI-Innovator Business Academy, and upskill yourself now. Visit www.hi-innovatorbusinessacademy.nssfug.org *Terms and conditions apply."/>

Level up!
Take your business to the next level.
Signup for the online NSSF HI-Innovator Business Academy,
and upskill yourself now.
Visit www.hi-innovatorbusinessacademy.nssfug.org
*Terms and conditions apply.





10 Years of making wireless communication possible everywhere

KTA Advocates with pleasure congratulates ATC Uganda on 10 impactful years of leading the wireless infrastructure market in Uganda. Asante sana ATC!

SUMMARY OF THE RAPPORTEUR'S REPORT

- Opening remarks by Managing partner Asmahaney Saad
- Forum introductory remarks by Senior Partner Justus Karuhanga
- Forum partner remarks from EALS by Joy Impano, Gikera & Vadgama Advocates
- Remarks on doing business in Uganda, Hon Elly Karuhanga PSFU
- Forum partner remarks by Ms Phoenia Wall, president ULS & board member EABC Presentation on the EAC(past, present,future) by Rt Hon Alitwala Kadaga
- Key Note Address given by Mohammed Muigai High level round table discussion Moderator; Mr Ebele Ogbue

Our Panelists:

- Mr. Patrick Ayota, Deputy MD and Head of Strategy NSSF (Uganda)
- Mr. Mohammed Nyoaga, Chairman of the Board of Directors of



Begyira Donald Sharp
KTA Regional Forum
Business Rapporteur
Young Lawyer (UCU)

Central Bank of Kenya (Kenya)
His Excellency Dr. Aziz Mlima, High
Commissioner of the United Republic
of Tanzania to Uganda (Tanzania)

- Mr. Richard Mugisha (Esq),
President East Africa Law Society
Emeritus, Senior Partner Trust
Law Chambers, Kigali (Rwanda)

- His Excellency Hajji Farid Kalliisa, Ambassador Designate Uganda to Kinshasa (DRC)
 - The 2nd Secretary Embassy of the Republic of South Sudan to Uganda, Shadrack Chol Jal (South Sudan)
- PRESENTATION: Regional Wild Card by Oolapo Ogunmekan, Managing Director Platform Capital & Unicorn Incubation Hub

- LAUNCH OF THE DRC Uganda Business Association (DUBA)
- LAUNCH OF THE KTA Dependable Client Business to Business forum

Official closing by Mr. Kenneth Muhangi, partner at KTA Advocates.

By Begyira Donald Sharp



KTA Advocates Senior Partners Edgar Tabaro and Justus Karuhanga with some of the Delegates

RAPPORTEUR'S REPORT 2022 BACKGROUND AND CONTEXT

Group Photo of the KTA Advocates Partnership



A brief introduction to KTA Advocates

KTA Regional Business Forum under the theme “Navigating Regional Business Opportunities” was the first dialogue of its kind led by advocates i.e. KTA Advocates (formerly Karuhanga Tabaro & Associates) a specialized award winning IFLR recommended and WTR1000 top tier law firm in intellectual property, technology, corporate & commercial law and dispute resolution. It is also the regional go to firm with presence in the 7 jurisdictions of the East Africa Commu-

nity consisting of Kenya, Tanzania, Uganda, Rwanda, Burundi, South Sudan and Democratic Republic of Congo.

EAC is the fastest growing regional bloc in Africa with a total GDP (nominal) of USD 332.764 billion and a population of over 330 million people. However with the adverse effects of the Covid 19 pandemic and current economic situation, the formal entry of DRC into EAC created the need to rethink on building a collaborative capacity among the seven states using a multi-stake holder ap-

proach so as to cushion the region from future tragedy's and transform it into the most attractive trade investment destination in Africa. It was in this context that the KTA regional forum was birthed as a hotspot for gathering knowledge through dialogue between the private sector, governments, multi-lateral companies, financial institutions and other key institutions from which key cross cutting resolutions for action in all seven states were spurred. It had various interesting topics traversing all sectors discussed by officials and dignitaries from all seven states namely; Regional based financing, Trade Integration, Regional Infrastructure: Case Study EACOP (Oil and gas sector), Information Communications Technology, Entry of DRC into EAC; implications to Trade and Regional Cooperation,

Regional Tourism, Up-skilling the young regional task force. Objectives of the forum were: To address navigation of opportunities, challenges involved in carrying on multilateral business in East Africa, solutions and recommendations on how challenges can be overcome. To highlight best practices for governments and key stakeholders towards fostering regional business opportunities, Avail participants with information pertaining to the legal frameworks and policies that facilitate expansion within the region, create a platform through which existing multilateral companies shared experiences and lessons around operation in the region, Build collaborative capacity and togetherness among the different partner states. Identification of priority needs for partner states.



Rt. Hon. Rebecca Alitwala Kadaga poses for a photo with the Regional Business Forum Delegates

OPENING REMARKS

The forum was opened by the Managing Partner at KTA Advocates, Asmahaney Saad, welcoming all the participants, thanking partners and sponsors. She applauded the firm for taking the lead in convening a regional dialogue that was a result of interest taken by their clients and the general public on how business can be done inter-regionally.

The Managing Partner emphasized that the forum was a tool through which governments can make commitments and a platform for candid interactions on doing business in the EAC. She further revealed that the outcome of the forum would be a free online publication on doing business in all 7 states of the EAC region to be released on the 23rd of June 2022 in English, French and Swahili. She concluded by acknowledging that the firm's future plans are to make the KTA business forum an annual event that will be held in all the EAC states.



**Managing Partner
KTA Advocates,
Asmahaney Saad**



**Senior Partner
KTA Advocates
Justus Karuhanga.**

Forum Introductory remarks were given by Justus Karuhanga, a senior partner at KTA Advocates. He gave a brief background of KTA advocates, a firm that was established 14 years ago by him together with Edgar Tabaro and Edwin Tabaro with the commitment of being a regional go to firm that has since come to pass. He argued that EAC's economic growth of 5% cannot be compared to that of BRIC countries and therefore the conversation on navigating regional opportunities in the region has been one long overdue. He mentioned that the devastating effects Covid 19 pandemic and current war in Ukraine are an opportunity for serious entrepreneurs to make money but also urged participants to see opportunities through bad times by envisioning a strong intra-African trade. He revealed that imported meat from Brazil has been cheaper than that from the EAC region but with the current crisis, an opportunity has been paved for regional players in beef processing to beat the imported meat at price.

Mr. Justus Karuhanga acknowledged the KTA regional business forum as an event that has attracted people from all walks of life such as politicians, policy makers, entrepreneurs. He mentioned the need for lawyers in society as part and parcel of any transaction whether formal or informal and advised participants to always seek legal services beforehand and not after, with KTA Advocates as the leading regional to go to firm.

He reiterated on the doing business publication as an offer from KTA advocates to guide the regional community on the ease of doing business in all the 7 states. He hoped that other professional bodies can pick a leaf from KTA Advocates and interest themselves in organizing and partaking in regional interactions. Mr Justus drew attention to the earlier collapse of EAC through political tension and applauded the current politicians for maintaining good relations with other states.

**Remarks by Senior Partner
Mr. Justus Karuhanga
KTA Advocates**





Joy Impano of Gikera & Vadgama Advocates (Kenya) who was speaking on behalf of Bernard Oundo, the current President East Africa Law Society

Forum partner remarks from the East African Law Society were made by Joy Impano of Gikera & Vadgama Advocates (Kenya) who was speaking on behalf of Bernard Oundo, the current president EALS.

She outlined members of the East Africa Law Society namely; Kenya Law Society, Tanganyika Law Society, Uganda Law Society, Rwanda Bar Association, Burundi Bar Association and South Sudan Bar Association.

She emphasized the role of the East African Law Society as that of bringing together all law societies to foster integration of legal professionals within the different states. She mentioned strides that have been taken by EALS such as pushing for lawyers who qualified in Rwanda to be accepted to practice in Kenya since formally qualified lawyers from Rwanda and Burundi were not allowed to practice within Kenya without first sitting for the bar exam.



She revealed that membership in the East African Law society is automatic as long as one qualifies as a member of a parent law society in their respective states.

The speaker further stated that the East African Law Society works to promote good governance and Rule of law in East Africa and enjoys formal observer status in the EAC. She mentioned that EALS is a member of the International Coalition For the Responsibility to Protect (ICR2P) under which leaders of every state solemnly promise to protect the citizenry from genocide, war crimes, Ethnic cleansing and crimes against humanity.

**Remarks by Joy Impano
of Gikera & Vadgama**



**Kenneth Muhangi, KTA Partner
and Master of Ceremony**



**Hon. Elly Karuhanga,
Chairman Private
Sector Foundation
Uganda (PSFU)
Live Interview on
Youtube**

Remarks on Doing Business in Uganda (Private Sector overview) were made by Hon. Elly Karuhanga, Chairman Private Sector Foundation Uganda (PSFU).

He mentioned that the entry of DRC into EAC as of significance importance and that EAC now has the largest network of fresh water distribution through its regional water bodies and abundant natural resources. He argued that the citizens in the EAC have not been realising any benefits because resources were being plundered by outsiders and now more than ever

unity should be upheld to ensure regional development through optimal exploitation. Hon Elly applauded Equity Bank for leading the way through its penetration in all 7 states of EAC. He mentioned that Tanzania is now exporting goods worth 1 billion USD to Uganda and that Uganda also aims at exporting goods worth 1bn to DRC. He recounted that Lake Albert is shared by both Uganda and DRC however oil and gas exploration has only been commenced in Uganda and further revealed that DRC has a rough terrain and therefore if it starts exploration, it will have to make use of the already established pipeline in Uganda.

The speaker recounted the signing of the Final Investment Decision in Uganda on the 1st of February 2022 and revealed that as a result, Ugandans have signed contracts worth 9 million USD, international companies have signed contracts to work in Uganda worth 6 billion USD and are subcontracting Ugandans at 1 billion USD therefore Ugandans have seen total contracts of over 2 billion USD since February. He mentioned that PSFU is leading the way in bringing Ugandans together as it currently serves over 1 million businesses in Uganda, has over 1000 associations in its membership and is open for regional business.

Forum Partner remarks were also made by Ms Pheona Nabbasa Wall, the president of Uganda Law Society and a board member of the East African Business Council. She mentioned that EAC has 15000 lawyers meaning that each lawyer has access to a market of about 10,000 people in the region. She also noted that with Africa's total population of about 1.5 billion people, 70% is under 30 years and that EAC is one of the most entrepreneurial regions of the African continent but being let down by lack of formalisation and compliance.

She reminded the participants of increasing litigation in the economy which is worrying financiers and emphasized the cooperation between banks, businessmen and lawyers. She outlined drivers for regional opportunities namely; Infrastructural development, Agriculture and Food security, rural development, Industrialisation, Natural resources and environmental management, tourism and human capital development and called upon lawyers to interest themselves. She revealed that the penetration of legal services is very limited in the region.



**Ms. Pheona Nabbasa Wall
President of The Uganda
Law Society and board
member of the East
African Business Council.**

Ms Pheona reiterated the importance of lawyers but also mentioned that the Uganda Law Society is setting up trade centres to educate people free of charge on business and rallied other professionals such as accountants, tax experts to be part of the initiative. She presented on the East Africa Business Council (EABC) on behalf of Mr. Simon Kaheru, the Vice chairman of the EABC and informed the participants that the body had a delegation in Congo and also participated in protocol negotiations for the African Continental Free Trade Area (AfCFTA).

The speaker mentioned that the entry of DRC into EAC has doubled the area that was originally occupied by the community and that DRC houses 13% of the world's total stock of arable land and yet only 10% of this land has been cultivated. Furthermore she revealed that Uganda exports roses to Norway whereas Ghana imports roses from Norway and that a bouquet of roses in Uganda goes for about 2 to 3 dollars while in Ghana, it costs over 50 dollars and therefore DRC is a potential avenue for access to West Africa markets.

Senior Partner Edgar Tabaro KTA Advocates speaking with one of the delegates



PRESENTATION ON THE EAC (PAST, PRESENT AND FUTURE) BY GUEST OF HONOR

Rt. Hon. Rebecca Alitwala Kadaga, The First Deputy Prime Minister and Minister of East African Community



Rt. Hon. Rebecca Alitwala Kadaga, the first deputy prime minister & minister of East African Community Affairs made a presentation on the EAC. She recounted the history of the EAC and outlined strides taken namely; 7 EAC states, multi-lingual speaking bloc, EAC common passport. She mentioned that the East African Court of Justice does not deal with appeals from regional states as in the past and that it handles matters to do with the interpretation of the treaty, disputes between staff and the secretariat and recently has been extended

jurisdiction to cover with disputes under the customs union and common market protocol. She juxtaposed then EAC to the current one and revealed future plans for the region namely; setting up the EA monetary union starting with a monetary institute that is hoped to be located in Uganda to foster a common currency and a political federation, adopting a common language. She mentioned that the bloc has a common external tariff on goods from other parts of the world. She argued that the regional bloc seemingly looks to be united but

some actions show otherwise.

The Guest of Honour deliberated on the Common Market Protocol that has been in place since 2010 and outlined the freedoms guaranteed under it namely; freedom of movement of persons, goods, capital, labour and services; right of establishment and the right of

residence. She implored Ugandans to learn other languages other than English so as to make the integration process smooth and also mentioned that the regional manager of Equity Bank in DRC revealed that a 5 billion dollar fund has been put in place for the people of EAC.

KEYNOTE ADDRESS

By Mr. Mohammed Nyoaga, Chairman of the Board of Directors of Central Bank of Kenya



The key note address at the KTA Regional Business Forum was given by Mr. Mohammed Nyoaga, Chairman of the Board of Directors of Central Bank of Kenya and senior partner, Mohammed Mui-gai Advocates Kenya. He argued

that the deliberations at the forum would provide valuable input in as far as navigating regional opportunities and noted cultural cohesion, transcending values, technological & infrastructural developments are drivers for oppor-

tunities. The speaker emphasized the need to create bodies that can take decisions at a super-national level rather than local level.

He mentioned that countries with advanced economies have been greatly affected by inflation and yet the rate in EAC is still within single digit levels despite high pressure from international oil and food prices. He further revealed that EAC states reported strong recovery with an average economic growth rate of 4.1% in 2021 up from 0.4% in 2020.

Mr Mohammed presented data on DRC and its significance to investment but advised that peace building and security should be a priority in order to make the investment environment in the DRC conducive. He outlined sectors that participants should take interest in ; Infrastructure financing, investment technology, cross border trade, economic partnerships(EPS), tourism, investment in the equity market.

Remarks by Mr. Mohammed Nyoaga, Chairman of the Board of Directors of Central Bank of Kenya and senior partner Mohammed Muigai Advocates Kenya



HIGH LEVEL ROUND TABLE DISCUSSION



MODERATOR; Mr Ebele Ogbue- Regional CEO, United Bank of Africa

PANELLISTS

- Mr. Patrick Ayota, Deputy MD and Head of Strategy NSSF (Uganda)
 - Mr. Mohammed Nyoaga, Chairman of the Board of Directors of Central Bank of Kenya (Kenya)
 - His Excellency Dr. Aziz Mlima, High Commissioner of the United Republic of Tanzania to Uganda (Tanzania)
 - Mr. Richard Mugisha (Esq), President East Africa Law Society Emeritus, Senior Partner Trust Law Chambers, Kigali (Rwanda)
 - His Excellency Hajji Farid Kaliisa, Ambassador Designate Uganda to Kinshasa (DRC)
 - The 2nd Secretary Embassy of the Republic of South Sudan to Uganda, Shadrack Chol Jal (South Sudan)
- Mr Ebele Ogbue as the moderator opened the High level Round Table Discussion giving opening remarks and introducing panellists.

TOPIC 1:

Tapping into regional pension funds-Regional based financing: Case study NSSF Hi-innovator Incubation program by Mr. Patrick Ayota, Deputy MD and Head of Strategy NSSF



Mr. Patrick Ayota, Deputy MD and Head of Strategy National Social Security Fund (NSSF)

Mr. Patrick recounted the growth of NSSF, a local pension fund in Uganda which has since grown into a 5 billion USD fund since its inception with a growth rate of 19% in an economy with a projected growth rate of 5% and further noted that the fund is a regional investor. He also argued that Ugandans lack the element bridging political idealism and the need to create an institution that bridges the gap between the market and producers in a formal, systematic manner. He emphasized the need to develop capacities where NSSF has taken the lead through es-

tablishing the NSSF Hi-Innovator program with an aim of funding 500 start-ups and further noted that so far 27 start ups have benefited and in pursuit to scale the program, NSSF has partnered with East Africa Venture Capital Association based in Nairobi to organise an event where the 27 start-ups are to pitch before private equity providers.

He also mentioned that the next cohort of the NSSF Hi-innovator program in August will be an all-female due to the realisation that few females were participating in earlier cohorts.

TOPIC 2:

Trade Integration: The need for co-operation and peace building in the East African Region by Mr. Mohammed Nyoaga, Chairman of the Board of Directors of Central Bank of Kenya

Mr Mohammed stated that there is a clash between sovereignty and reality where each state desires to safeguard its own interests, he further noted the reality is that the type of integration needed is that whose intention is to drive peace, wealth and stability. He further acknowledged the fact that there are impediments that slow the movement of goods, services, people and ideas. He mentioned competitive excellence as a trait that should be adopted by states and the citizenry in the region. The panellist outlined enablers for integration namely;

- Political will; need for leaders to espouse the four I's of leadership (Impact, Inspire, Influence, Integrity)
- Rule of law; need for laws that are just and protect investment
- Good Governance; good policies, systems, processes & procedures to enable free flow of investment
- Driving a culture of Integration
- Market Intelligence; need for institutions providing reliable data

to enable business people to make prudent decisions

- Deliberate Execution; speed of implementation



**Mr. Mohammed
Nyoaga, Chairman
of the Board of
Directors of Central
Bank of Kenya**

TOPIC 3:

Regional Infrastructure: Leveraging cross border infrastructure projects to boost regional development: Case study EACOP (oil & gas sector) by His Excellency Dr. Aziz Mlima, High Commissioner of the United Republic of Tanzania to Uganda

Dr Aziz mentioned that the East African Crude Oil pipeline route traverses from Hoima, Uganda to Chongoleani peninsula near Tanga Port in Tanzania and he further recounted on the negotiations and agreements that took place between both states. He also recounted the signing of the final investment decision on 1st February 2022 at Kololo Independence grounds as a commitment from both the government and oil companies to undertake the project.

His Excellency argued that people spreading false information on the EACOP project being bad for the environment are misinformed and that any environmental issues arising from EACOP have been taken care of intergovernmental agencies such as NEMA in Uganda and NEMC, Tanzania. He also revealed that the Ugandan government has decided that instead of exporting all the crude oil and importing refined oil, to establish a refinery. Exported oil is estimated at 216,000 barrels per day but of that, 60,000 barrels will be pro-

cessed and refined in Uganda to be used around pump stations. The speaker noted that there is likely to be an increase of 60% in foreign direct investment arising from the project as well as creation of 58,000 jobs with about 11,000 being direct. He reminded the participants many benefits have accrued from the project such as better housing, trainings and skills transfer. In conclusion, he talked about the standard gauge railway being constructed in Tanzania and mentioned that so far part of the project from dar-es-salaam to morogoro has been completed. It was also noted that an office of Tanzania port authority has been opened in Uganda.



TOPIC 4:

Information and Communications Technology: A vehicle for regional transformation and a knowledge based economy by Mr. Richard Mugisha (Esq), President East Africa Law Society Emeritus, Senior Partner Trust Law Chambers, Kigali

Mr Richard mentioned that the impact of Covid 19 is an indicator as to why connectivity is a cornerstone of the economy. He recounted the role played by ICT in Rwanda as a cushion against the adverse effects of the pandemic. Furthermore it was noted that the EAC region ought to embrace ICT if it desires to fast track initiatives for integration.

A case study on leveraging ICT was made on the Africa Leadership University where Mr Richard serves as a board member. He noted that the University provides a world class online education at 12,000 USD for a 3 year degree that costs about 200,000 if the education is being pursued physically in America. An overview of positive benefits due to leveraging ICT in Rwanda was given; e-government services, paperless transactions (less corruption tendencies), paperless judiciary & court system, e-health services.

The speaker presented data on the median age of respective EAC states as follows;

- Kenya – 20.1yrs
- Rwanda – 19yrs
- Uganda – 16.7yrs
- Tanzania – 18yrs
- Burundi – 17.3yrs
- South Sudan – 19yrs
- DRC – 17yrs



**Mr. Richard Mugisha
President East Africa
Law Society Emeritus,
Senior Partner Trust
Law Chambers, Kigali**

TOPIC 5:

The entry of DRC into EAC: Implications to Trade and Regional Integration by His Excellency Hajji Farid Kaliisa, Ambassador Designate Uganda to Kinshasa

He deliberated on DRC's entry into EAC and outlined implications namely; free movement of people, capital, goods and services. He further noted that the key objective of this move was to widen and deepen political, economic, social and cultural integration so as to improve the quality of life of its population through increased competitive value added production, trade and investment.

His Excellency mentioned some barriers of regional integration; import duty taxes, previous closing of borders between Uganda and Rwanda, high standards for market access, delay in implementation of the EAC protocols. He revealed efforts taken by the government to increase penetration into DRC namely; embarking on a 1000km interlinkage through the Bunagana-Rutshuru-Goma Road, signing of the cooperation agreement named Aru-Arua Twinning Project with officials from Ituri, DRC. Acquiring of over 600 acres of land in the Kisoro area by Uganda Investment Authority.



**His Excellency
Hajji Farid Kaliisa,
Ambassador
Designate Uganda
to Kinshasa**

The Ambassador mentioned that DRC has 14 billion USD in exports most of which are minerals and imports of 15 billion USD. He pointed out opportunities in DRC such as; agricultural raw materials, solar energy, manufacturing and agricultural consumables, water distribution infrastructure, broad band connectivity, fin-tech and e-governance connectivity. Factors to put in mind when seeking opportunities in DRC were outlined as follows;

- Credibility; need for consistence in the ability to deliver
- Legalisation
- Financial consolidation



The Panelists for the High Level Round Table Discussion

TOPIC 6:

Up skilling the young regional work force: A solution to the critical need for skilled labour in the East African Business Community by the 2nd Secretary Embassy of the Republic of South Sudan to Uganda, Shadrack Chol Jal



Shadrack Chol Jal The 2nd Secretary Embassy of the Republic of South Sudan to Uganda,

Up skilling was defined to mean the process of alleviating an existing skill to the next level and that it occurs along a set of career paths. Mr Shadrack urged investors that require highly skilled labour to rather focus on training the local labour rather than bringing in external labour. He mentioned that the overall advantage of up skilling is that it keeps workforce adaptable and up-to-date with shifting industrial trends.

The speaker identified benefits of up skilling; adapting to change in real time, saves time and resources, improves productivity, engagement and retention of employees. He further revealed that diplomats always advance in their states and foreign states, the South South Cooperation and North South dialogue which are vehicles for exchange and transfer of resources, technology and knowledge.



Rt. Hon Rebecca Alitwala Kadaga The First Deputy Prime Minister and Minister of East African Community

Q&A

Rt. Hon Rebecca Alitwala Kadaga mentioned that the Aliens registration act in South Sudan was an obstacle to Ugandans going there and wanted the panellist representing South Sudan to address the Aliens Registration Act. She commented that in the DRC cost of visas is 100 USD and there is an exit tax totalling 55 USD, she further tasked the ambassador designate Uganda to Kinshasa to address that since it is a barrier to free movement.

She questioned Mr. Patrick to give an example of the bridge between politics and the people.

Wadulu Mark Arnold from Uganda Broadcasting Corporation asked Mr Patrick Ayota on how opportunities the people at grass root level can be involved in the various sectors

Lubega Emmanuel, National liaisons officer for the East African Business Council in Uganda & South Sudan asked KTA advocates how the local population can be guided to understand the procedures of investing across the borders.

Frank Mugisha asked about local content in particular the need for laws to protect the domestic industry from foreign exploitation

RESPONSE

Mr Patrick Ayota responded that NSSF has a plan in the pipeline to create a company that has four mandates; identify and access markets, offer farmers fair pricing, become a hub for market intelligence, enforce standards and quality.

His Excellency Hajji Farid Kaliisa responded that engagements are on-going to ensure that the visa fee of DRC is scrapped off. He also commented on the exit tax of 55 USD as a painful charge to part with but is an exemption to Very Important Persons; he further noted that there is a discussion with the current government to remedy that situation since it is a tariff barrier.

Mr Shadrack Chol Jal responded that people going to South Sudan can now get visas on arrival but due to the influx of people from other EAC states doing business in South Sudan, the lack of work permit requirements necessitates application of the Aliens Registration Act to register the non-citizens.

His Excellency Dr Aziz Mlima responded on local content by introducing the four stages of independence namely; independence of mind, political independence, technological innovation independence and lastly economic and financial independence.



Mr Ebele Ogbue
Regional CEO,
United Bank of
Africa Group

PRESENTATION:

Regional Wild Card: 4th Industrial Revolution (4IR) Focused financing in technology as an enabler to navigate regional business opportunities by Oolapo Ogunmekan, Managing Director Platform Capital & Unicorn Incubation Hubs

1. Mr Oalopo made his presentation in a threefold manner; identified the need, market and the solutions. The need was investments focused on technology adoption across sectors such as energy, agriculture, manufacturing, financial services, education, Technology, media and Telecom (TMT)

2. He noted that the market is the EAC regional bloc population of about 330 million people and mentioned platform capital as being relevant to the solution. Platform Capital is a growth market focused sector agnostic investment and advisory firm committed to empowering early stage entrepreneurs to scale their businesses and has over the last 2-3 years, it has been the single largest investor in tech enabled businesses in the continent.

3. He mentioned solutions that have been provided by Platform Capital to the region as;

- Unicorn Incubation programs with cohorts that are 3 months programs for training and incubating ideas of young entrepreneurs.

- Africa Walk, an event bringing together foreign investors and portfolio companies to Africa for the first time and enabling stakeholders to have an African experience and better understanding of its business and investment landscape.



**Mr. Oolapo
Ogunmekan,
Managing Director
Platform Capital
and Unicorn
Incubation Hubs**

LAUNCH OF THE DRC UGANDA BUSINESS ASSOCIATION (DUBA)



The Regional Business Delegates Posing for a photo with The Service Charter

It was launched His Excellency Haji Farid Kaliisa, Mr Mohammed Nyaoga together with the partners at KTA Advocates. DUBA is an association registered both in DRC and Uganda that acts as a vehicle through which the community in both states can interact formally and informally to gain business acumen as well as transact. The Association has 20 businesses registered under it.



LAUNCH OF THE KTA DEPENDABLE CLIENT BUSINESS TO BUSINESS FORUM



It was launched by the partners at KTA Advocates in line with one of the firm's values "dependable" to allow the firm's clients gain access to a platform through which they can interact in a business network to build capacity and leverage regional opportunities.

Mr. Kenneth Muhangi, partner at KTA Advocates thanked all partner institutions and regional firms,

sponsors whose input sustained KTA in the planning and implementation of the forum. He further acknowledged the immense contributions of all participants towards the success of the event.



DISPUTE RESOLUTION MECHANISMS IN THE EAST AFRICAN COMMUNITY

DISPUTE RESOLUTION A GUIDE TO DOING BUSINESS IN THE EAC

In 2002, the Presidents of Uganda, Kenya signed what is known as the East African treaty which as appended to later the Presidents of Rwanda, Burundi, South Sudan and of recent the Democratic Republic of Congo. Several protocols have been signed and legislations from the East African Legislative Assembly (EALA) have since been passed to make the treaty operational. The treaty is now fairly operational and in force.

Going back in history, the proponents of the African integration on the eve of independence of many African countries in the 1950's, and 60's did aver that the continent would never be independent unless it was united as one block, an African state. Standing out were the seminal works of Prof Ali Mazrui who wrote in his seminal works Towards Pax Africana, a continent that was peaceful, without war but trade flourishing between nations



Edwin Tabaro
Senior Partner
KTA Advocates

independent of imperialists. The agitation for an African unity led to the formation of OAU which later metamorphosed into the African union that still pursues the agenda albeit with all the problems it went through.

The African Union currently recognizes eight, regional economic communities. These include Southern African Development Cooperation (SADC), Economic Community of West African States (ECOWAS), Economic Community of Central African States (ECCAS), Inter-Governmental Authority on Development (IGAD), Community of the Sahel-Saharan States (CEN-SAD). The Arab Maghreb Union (AMU) Common Market of Eastern and Southern Africa (COMESA), and the East African Community (EAC).

The AU resolved however to build an African state on the strength of the regional blocks, Today EAC is moving very fast and is reputed to be the “fastest” growing REC on the continent. With close to 300 million people, combined GDP of at least 275 Billion USD, prospects of trade, infrastructure development and business is immense.

Standing out after the implementation of the customs union is the common market protocol that provides for free movement of goods, labour, right of establishment in any East African country, capital and un hindered trade. With movement of businesses across nations comes the challenges of enforcement of contracts. This paper looks at the different mechanisms on the EAC treaty and the

laws made thereunder available for an aggrieved party.

THE EAST AFRICAN COURT OF JUSTICE (EACJ)

The EACJ is a regional court that is mandated to resolve disputes involving the East African Community and its Member States. The EACJ was established by article 9 of the Treaty for the Establishment of the East African Community (**EAC Treaty**) and is tasked with interpreting and enforcing the treaty.

The East African Court of Justice Rules of Procedure (**EACJ Rules**) govern its functioning while it seeks to ensure adherence to law in the interpretations and application of, and compliance with, the EAC Treaty.

The EACJ serves the East African Community (**EAC**). It has a First Instance Division and an Appellate Division. The former administers justice and applies relevant law, while the latter confirms, denies or changes decisions taken by the First Instance Division. Thus several references have been filed by residents of East Africa to enforce their rights that they believe were infringed by Partner States. The treaty also provides for the tribunal to constitute itself into an arbitration panel and can resolve matters to those that appoint it as an

arbitration tribunal.

NATIONAL COURTS OF PARTNER STATES

Every member state has national courts that administer justice and the law of the land. The EAC law, the treaty, Protocols and Acts of parliament might in some instances require enforcement by national courts. This more so with the East African Customs Act which is uniform throughout the partner states.

A good case to note Nairobi Java House Ltd v Mandela Auto Spares Ltd¹ where a court declined to grant exclusive rights to a plaintiff for a trademark whose use was claimed and registered by a Kenyan company that had just entered the Ugandan market. Court noted the territoriality principle of trademarks but declined to grant exclusive use as the east African community treaty to which both countries were signatories provided for free movement of goods among partner states without hindrances.

NEGOTIATIONS, MEDIATION AND DIALOGUE

Negotiation, Mediation and Pre-

1(Civil Appeal 13 of 2015) [2016] UG Comm 12 (09 February 2016)

ventive diplomacy, is a key component of the bloc's strategy to advance its peace and security agenda and trade. The EAC and technocrats in the relevant government authorities regularly engage to resolve trade conflicts between partner states. The ban on sale of maize and eggs from Uganda to Kenya are such disputes that have been resolved through this mechanism. Political disputes or community disputes like the frequent crossing of Masai and their cattle on the border of Kenya and Tanzania is another good example.

EAST AFRICAN COMMUNITY COMMITTEE ON TRADE REMEDIES

Article 24 of the Protocol on The Establishment of the East African Customs Union² establishes the East African Community Committee on Trade Remedies ("the Committee"). The Committee is inter alia mandated to settle disputes the East African Community Customs Union.

This is a special dispute settlement mechanism, solely for matters arising from the EAC Customs Union. The Committee may also handle matters that are referred to it by East African Council of Min-

2 2005

isters. At its inception, the Protocol had limited the Committee to nine members, three members from each Partner State. With the expansion of the EAC, an amendment was made (2014) to Article 24(2)(a) to enable all Partner States to nominate members to the committee.

Unfortunately, the amendment is yet to be fully ratified by all Partner States. This makes it harder to operationalize the EAC Elimination of Non-Tariff Barriers Act, 2017 especially whose Section 12 (2), (3) and (4) require the EAC Council of Ministers to refer matters on the elimination of NTBs to the EAC Committee on Trade Remedies.

The Committee ought to handle any disputes relating to Rules of Origin, Anti Dumping Measures, Subsidies and Countervailing Measures, and Safeguard Measures. Its non-existence makes dispute resolution under these sensitive areas burdensome and defeats the intentions of the Protocol.

In the meantime, East Africans have turned to other ways to settle Custom Union. These avenues include; The National and Regional Monitoring Committees of Non-Tariff Barriers, Bilateral Meetings between EAC Partner States, Sectoral Council, Council

of Ministers, Council or Summit of Heads of States) and Litigation through the East African Court of Justice. Many of the avenues are expensive, amorphous, uncertain, untimely among other hardships.

THE EAST AFRICAN COMMUNITY COMPETITION AUTHORITY

The Authority is established under the East African Community Competition Act.³ The Authority has a duty to implement and enforcement of the East African Community Competition Act. The Act is tailored to promote and protect fair competition, to provide for consumer welfare, and for related matters in the EAC. Though independent, the authority may be subject to judicial review by the EACJ as stipulated under Sections 44 and 46 of the EAC Competition Act.

While carrying out the above functions, the Authority is empowered to investigate and to compel evidence, including the search and seizure of documents; hold hearings; issue legally binding decisions; and impose sanctions and remedies. While exercising these powers, the Authority may refer any matters to the EACJ.

3 2006, S. 37(1).



Timothy Kajja
Associate
KTA Advocates

In essence, the authority is fully-fledged dispute resolution body in the EAC. But the authority is lowly utilized for several reasons. Some Partner States such as Uganda have no Competition/Anti-Trust legal regime at the moment. Other countries such as Kenya have domestic Competition Tribunals with Appeal mechanisms going up to the ordinary Courts.

The Authority is also not well known amongst business stakeholders in the region.

Written by; Edwin Tabaro and Timothy Kajja

CONCLUSION.

The above are the available means of dispute resolution in the region. The EACJ is arguably the best performing avenue. In any business community, alternative dispute resolution mechanism are always advantageous. They insulate business secrets and resolve disputes in a much faster, more flexible and efficient manner.

The Community should work towards operationalizing the committee on trade remedies. Leaving matters of dispute resolution to the political elite is never a good indicator of a favourable and attractive investment climate.

KTA Advocates is well versed and experienced in settling disputes across the region and easing the doing of business across East and Central Africa.

We are the “Getway” to doing business.



**DOING BUSINESS
IN UGANDA 2022**



DOING BUSINESS IN UGANDA

BY KTA ADVOCATES

A. COUNTRY OVERVIEW.

GOVERNMENT STRUCTURE

Executive: The president is both the chief of state and head of government. The president is directly elected by absolute majority popular vote, in two rounds if needed, for a five-year term with no limits to the number of subsequent terms. The prime minister is appointed by the president. The cabinet is appointed by the president.

Legislative: Uganda has a unicameral parliament.

Judicial: The highest court is the Supreme Court. The subordinate courts are the Court of Appeal (which also sits as the Constitutional Court), High Court (includes 12 High Court Circuits and eight High Court Divisions), Industrial Court, Chief Magistrate Grade One and Grade Two Courts throughout the country, Qadhi's courts, local council courts, and the family and children's courts. Next presidential and parliamentary elections: January 2026.



ECONOMIC DATA

Nominal GDP (USD billions):	37.37
GDP per capita (USD):	894.35
Inflation rate (% change):	4.9
Government revenue (% of GDP):	13.6
Government gross debt (% of GDP):	51.30

*Source: tradingeconomics.com (December 2021)



Uganda has substantial natural resources, including fertile soils, regular rainfall, substantial reserves of recoverable oil, and small deposits of copper, gold, and other minerals. One of the most important sectors of the economy is agriculture, which employs approximately 72% of the workforce.

Uganda has a small industrial sector that is dependent on imported inputs such as refined oil and heavy equipment.

Uganda's main export partners are the United Arab Emirates and Kenya. The main export commodities include coffee, milk, fish and fish products, tobacco, and gold. Uganda's main import partners are China, India, Kenya, the United Arab Emirates, and Japan. The main import commodities include packaged medicines, aircraft, delivery trucks, cars, and wheat.



RISK TAKING

Sovereign risk is B-rated.

The public debt stock is moderately large (at 52.8% of GDP), and a high debt-service ratio, of 23%, amid maturing obligations weighs on the rating. However, strong growth in foreign reserves (of 17.7% in the six months to September 2021), reflecting rising exports, mitigates repayment risks.

The currency risk rating is at BB. Recent exchange-rate stability supports the rating, but moderate real exchange-rate appreciation highlights currency risks from potentially widening exchange-rate misalignment. However, a robust foreign reserves buffer boosts the capacity of the Bank of Uganda (BoU, the central bank) to defend the shilling against excessive volatility.

The banking sector risk is B-rated.

The ratio of non-performing loans is below the central bank's 5% target (at 4.8% by end-June 2021). Adequate levels of credit growth and fairly sound financial supervision by the BoU further support the rating. However, the declining net foreign asset position of banks, reflecting an increase in foreign currency liabilities, poses a moderate risk.

Political risk is CCC-rated.

Pandemic-related risks are a moderate weight, owing to the declining spread of the fast-spreading Omicron variant in Uganda since December. The re-election of the president, Yoweri Museveni, in January was marked by violence, but election-linked risks have since abated.

Economic structure risk is at CCC,

reflecting a recent trend of export concentration, with precious metals accounting for 44% of total export earnings. Over-reliance on a single category of goods exposes the country to external price and demand shocks. Persistent and large fiscal and current-account deficits and low incomes constitute the main risk factors.

<http://country.eiu.com/article.aspx?articleid=1080925091&Country=Uganda&topic=Risk&subtopic=Credit+risk&subsubtopic=Overview>



B. INTERNATIONAL TREATIES AND MEMBERSHIPS

INTERNATIONAL AND REGIONAL ORGANIZATIONS AND CUSTOMS UNIONS

- African, Caribbean, and Pacific Group of States (ACP)
- African Development Bank Group (AfDB)
- African Union/United Nations Hybrid operation in Darfur (UN-AMID)
- African Union (AU)
- Common Market for Eastern and Southern Africa (COMESA)
- Commonwealth of Nations
- East African Community (EAC)
- East African Development Bank (EADB)
- Food and Agriculture Organization (FAO)
- Group of 77 (G77)
- Inter-Governmental Authority on Development (IGAD)
- International Atomic Energy Agency (IAEA)
- International Bank for Reconstruction and Development (IBRD)
- International Civil Aviation Organization (ICAO)

[Uganda receives preferential treatment under the agreements](#)

[listed here: s <http://ptadb.wto.org/Country.aspx?code=800>](http://ptadb.wto.org/Country.aspx?code=800)



BILATERAL INVESTMENT TREATIES

According to the United Nations Conference on Trade and Development, Uganda has bilateral investment treaties with Denmark, France, Germany, the Netherlands, Switzerland, and the United Kingdom.

Treaties have been signed with the Belgium-Luxembourg Economic Union, China, Cuba, Egypt, Eritrea, Nigeria, South Africa, the United Arab Emirates, and Zimbabwe but these have not yet entered into force

INVESTMENT- RELATED AGREEMENTS / INSTITUTIONS

African Growth and Opportunity Act

- Cotonou Agreement
- Multilateral Investment
- Guarantee Agency
- World Trade Organization

DISPUTE RESOLUTION.

Convention on the Settlement of Investment Disputes (ICSID Convention)

Permanent Court of Arbitration
United Nations Commission on International Trade Law (UNCTRAL)

United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Award (New York Convention)

INTELLECTUAL PROPERTY (“IP”) TREATIES

A comprehensive list of IP-related treaties signed by Uganda is available at: <http://www.wipo.int/wipolex/en/profile.jsp?code=UG>

See the trademarks section below for further detail.

C. LEGAL REGIME

APPLICABLE LEGAL

REGIME

Uganda’s legal system is primarily based on statute, supplemented by common law, doctrines of equity, customary law, and aspects of Islamic law. The Judicature Act (Cap.13) prescribes the laws applicable in Uganda as the written law, and in so far as not covered by written law, the common law and doctrines of equity, any established and current custom or usage. Where no express rule is applicable, the High Court may act in accordance with the principles of justice, equity, and good conscience.

DISPUTE RESOLUTION

Uganda’s Investment Code Act, 2019 lays out the procedure for the settlement of investment disputes through the following four channels:

- Direct negotiations for an amicable settlement in accordance with the Arbitration and Conciliation Act (Cap 4);
- The ICSID Convention, within the framework of bilateral or multilateral agreements on investor protection, to which both Uganda and the home country of the company are signatories;

An application to the High Court; or Any other international machinery. The Arbitration and Concilia-

tion Act allows international arbitration conventions to be applied to domestic and international trade disputes.

LAND ACQUISITION, PLANNING, AND USE

Foreign investors are only allowed to enter into long-term leases for a maximum period of 99 years. Advocates/solicitors and estate agents can assist in locating and leasing suitable and available land. An application can also be made to the Uganda Investment Authority (“UIA”) for the allocation of land for investment and purposes.

COMPETITION

There is currently no operational competition law in Uganda. There are, however, specific laws regulating competition in particular industries. Uganda is a member of the regional competition bodies, COMESA and the EAC. Activities in Uganda should be conducted with these regional competition bodies in mind.

EMPLOYMENT

Immigration

Foreign employees require a special pass or a work permit in order to be employed in Uganda. A special pass is a short-term work facility granted to foreign employees whose term of employment is for

a maximum aggregate period of five months, whereas a work permit is granted to foreign employees whose term of employment is for six months to three years. As a prerequisite for obtaining the work facilities, the company seeking to employ a foreign employee must go through a profiling process and obtain a code number from the Directorate of Citizenship and Immigration Control (“DCIC”). Thereafter, the company can submit the application for the respective work facility online, using the code number issued by the DCIC.

There are no restrictions on the number of work permits available to a company. In practice, the DCIC approves applications for work facilities as long as the employer provides the required documentation and pays the prescribed fees for the respective work facilities, and successfully demonstrates that expatriate staff will contribute skills and knowledge to the company’s business that are not readily available from local Ugandan employees.

The DCIC also sets out different specified requirements for the different sectors of employment.

Local Employment Versus Secondment

In terms of Uganda’s employment

legislation, an employee may be seconded to Uganda, as it is not a legal requirement for either local or foreign employees to be employed by a local entity.

However, in terms of Uganda's immigration legislation, employment by a local entity is a prerequisite for applying for a work permit.

Fixed-Term Contracts and Temporary Employment Services

Fixed-term contracts of employment that are either defined by time or purpose are allowed in terms of the Employment Act, 2006. The use of fixed-term contracts of employment should, however, be approached with circumspection as there are risks associated with such contracts. There is no specific regulation regarding the renewal of fixed-term contracts.

The use of temporary employment services (private employment agencies) is provided for, in as far as the agency is registered and licensed under the Employment Regulations, 2011.

Payment In Local Currency

It is not a legal requirement for remuneration to be paid in local currency.

Restraint Of Trade Agreements

Restraint of trade agreements is prima facie valid and enforceable in Uganda, subject to the requirement that they must be reasonable.

D. FOREIGN INVESTMENT REGIME

INVESTMENT REGIME

The Investment Code Act governs investment in Uganda.

The UIA serves as a one-stop center for business registration and licensing.

The Uganda Registration Services Bureau ("URSB") is mandated to register business entities in Uganda.

REGISTRATION / LICENSING REQUIREMENTS

Foreign companies intending to operate a business in Uganda must apply for an investment license, issued under the Investment Code Act, with the UIA.

Investors in the energy-generation, mining, banking, insurance, payment services, air-transport, pharmaceuticals production, education, health, telecommunications, and oil and gas industries must obtain a "primary license" from the ministry / department / agency regulating such industry, prior to applying for an investment license.

NON-INDUSTRY SPECIFIC REGISTRATIONS / LICENCES

The following general non-industry specific registrations / licenses may also be required:

Uganda Revenue Authority (“URA”)

All taxpayers (including company directors) must register with the URA and obtain a tax identification number (“TIN”), which is used for all types of taxes.

If an enterprise’s expected annual turnover exceeds the value-added tax (“VAT”) registration threshold (see ‘tax’ below), it should also specifically register for VAT purposes.

Ministry Of Trade, Industries and Cooperatives (“MITC”)

Prior to submitting an application for a trading license as set out below, foreign investors are required to obtain permission from, and register with, the MITC to trade in Uganda.

(Kampala Capital City Authority (“KCCA”))

Businesses operating in Uganda must hold a valid trading license from the relevant municipal licensing authority (in Kampala, the KCCA). A separate trading license is to be obtained in respect of each branch / store of an entity. National Social Security Fund (“NSSF”)

Every employer employing five or more employees must register with the NSSF within 21 days of becoming liable to register as a contributing employer.

In addition, each employee is required to have his/her own social security member number under which contributions are made.

INDUSTRY-SPECIFIC LICENCES

Industry-specific licenses may also be required.

INCENTIVES

Incentives include:

various incentives promoting farming activities; Tax holidays granted to industrial park or free zone developers or operators, depending on the amount of capital invested; and Incentives available within the EAC, including duty drawback schemes and no requirement for import or export licenses within the region.

EXCHANGE CONTROL REGULATION

Uganda does not impose any exchange control restrictions, however, in terms of the Foreign Exchange Act, 2004 every payment made in foreign currency to or from Uganda between residents and non-residents, or between non-residents, must be made through a commercial bank.

TYPES OF ENTITIES AVAILABLE FOR FOREIGN INVESTMENT

- Sole proprietorship;
- Public company (joint-stock company);
- Private limited liability company; company limited by guarantee;
- Joint venture;
- Public-private venture; and
- Registered branch of a foreign company.

E. PRIVATE LIMITED LIABILITY COMPANY

MINIMUM NUMBER OF SHAREHOLDERS

A minimum of two shareholders is required. Whilst the Companies Act, 2012 permits the establishment of single member companies, in practice this appears to be available only to individuals.

There is generally no requirement for local shareholding, but certain local content requirements exist in the petroleum industry.

MINIMUM SHARE CAPITAL

There are no minimum capital requirements in Uganda, except for financial institutions, insurance companies, payment service providers, and companies in the business of gaming, betting and lottery.

ies. However, the Investment Code Act provides that the Minister will determine the minimum capital requirements for a foreign investor, but this is yet to be [announced](#) [in](#) practice, a company limited by shares will generally only be registered if it has authorized share capital of at least UGX1-million.

DIRECTORS

A private company must have a minimum of one director. There is no requirement to have any Ugandan resident directors, except for financial institutions regulated by the Bank of Uganda and insurance companies.

COMPANY SECRETARY

Every company must appoint a company secretary (firm or individual), resident in Uganda.

The sole director of the company may not be the company secretary.

AUDITOR

A private company must appoint an auditor who is a member of the Institute of Certified Public Accountants of Uganda or one of the other professional bodies referred to in the Ugandan Accountants Act (Cap. 266).

REGISTERED ADDRESS

Every company must have a registered office and a postal

address in Uganda to which all communications and notices may be addressed and which must constitute the address for service of legal proceedings on the company.

A company may have its registered address at the offices of its company secretary, lawyers, accountants or a third party.

SHELF COMPANIES

There are no shelf companies available for purchase in Uganda.

REGISTRATION PROCESS

Companies are registered with the URSB and it takes approximately one week to complete registration once all of the required documents have been submitted.

F. TAX

TAX SYSTEM

Uganda has a residence-based tax system in terms of which residents are subject to tax on their worldwide income, whereas non-residents are subject to tax only on their Ugandan-sourced income.

CORPORATE RESIDENCE

A company is resident in Uganda if it:

- Is incorporated or formed under

the laws of Uganda;

- has management and control exercised in Uganda at any time during the year of income; or undertakes the majority of its operations in Uganda during the year of income.

CORPORATE TAX RATE

Resident companies and permanent establishments of foreign companies are subject to corporate income tax at the rate of 30%. Tax payable by small businesses (whose annual turnover or income does not exceed UGX150-million) is calculated with reference to turnover.



CAPITAL GAINS TAX ("CGT")

CAPITAL gains on the disposal of assets are included in ordinary taxable income and are subject to corporate income tax at the standard rate of 30%.

Payment to	WHT rate residents	Non- Residents
branch profitsW	N/A	15%
Dividends	0% (if at least 25% voting rights) 15%	15%
Interest	15% 10% / 20% (on Government Securities)	15% 10% / 20% (on Government Securities)
Royalties	N/A	15%
Management Consulting and Technical service fees	6% (unless listed as Exempt entity)	15%

* The withholding tax rate may be reduced in terms of a relevant double tax agreement.

DOUBLE TAX AGREEMENTS (“DTAs”)

DTAs are in force with Denmark, India, Italy, Mauritius, the Netherlands, Norway, South Africa, the United Kingdom and Zambia.

LOSSES

Losses may be carried forward indefinitely. Losses on foreign-source income cannot be set off against domestic income.

TRANSFER PRICING

In terms of Ugandan’s transfer pricing rules, transactions between associates (related parties) must be entered into on an arm’s length basis. Two persons are treated as associates of each other where

any person acts or is likely to act, in accordance with the directions, requests, suggestions, or wishes of another person, whether or not these are communicated to the first-mentioned person



A company is an associate of another person if that person, either alone or together with an associate or associates, controls 50% or more of the voting power in the company, either directly or through one or more interposed companies, partnerships or trusts.

LIMITATIONS ON INTEREST DEDUCTIBILITY

Interest in respect of all debts owed by a taxpayer who is a member of a group can be claimed as a deduction limited to 30% of the taxable earnings before interest, tax, depreciation and amortization (EBITDA). The restriction does not apply to financial institutions and insurance companies. A taxpayer whose interest exceeds the limit may carry forward the excess interest for not more than three years. The income tax rates applicable to resident individuals are:

Social security contributions

Annual chargeable income (UGX)	tax rate
Up to 2 820 000	0%
2 820 001 – 4 020 000	10%
4 020 001 – 4 920 000	20%
4 920 001 – 120 000 000	30%
above 120 000 000	40%

Both employees and employers employing five or more employees must make monthly social security contributions to the NSSF. The employer contribution rate is 10% of the employee’s monthly wage, whereas the employee contribution rate is 5%. Subject

to the approval of the NSSF, expatriates are not obliged to contribute to NSSF if they are not ordinarily resident in Uganda and are to be employed in Uganda for a continuous period of not more than three years or such longer period as is allowed by the NSSF.

Payroll taxes

There is no payroll tax in Uganda. However, all employees in gainful employment are liable to pay a local service tax ranging from UGX5 000 to UGX100 000 per year, depending on the monthly income earned by such employees.



Stamp duty

Stamp duty is levied under the Stamp Duty Act, 2014 on a wide range of instruments and documents, either ad valorem at rates ranging from 0.5% to 2% or at a flat rate of between UGX10 000 and

UGX100 000, depending on the nature of the instrument. Stamp duty at a rate of 1.5% is payable on the total value of the transfer of shares in a Ugandan company and immovable property. Value-added tax ("VAT")

Taxable supplies

VAT is levied on the supply of goods and services in Uganda and on the importation of goods and services. VAT rate 18%

Registration threshold

A person whose taxable turnover

during any period of three calendar months exceeds or is expected to exceed a quarter of the annual registration threshold of UGX150-million must register for VAT purposes.

Reverse VAT on imported services

Resident companies are required to account for output VAT in respect of imported services rendered by non-resident companies in terms of a reverse charge mechanism. Such VAT is generally not allowed as an input credit.



I. INTELLECTUAL PROPERTY(IP)

Intellectual Property in Uganda is recognized and protected. Uganda is also a member of the African Regional Intellectual Property Organization (ARIPO) which is an inter-governmental organization that facilitates cooperation among member states in intellectual property matters.

Uganda has a robust IP regime and the legislations applicable are:

- Trademarks Act, 2010 and The Trademarks Regulations, 2012;
- Copyright and Neighboring Rights Act, 2006 and The Copyright and Neighboring Rights Regulations, 2010;
- The Trade Secrets Act 2009;
- Industrial Property Act of 2014 and the Industrial Property Regulations, 2017;
- The Geographical Indications Act, 2013 and the Geographical Indications Regulations, 2018.
- The Traditional and Complementary Medicine Act, 2019

INTERNATIONAL CONVENTIONS, TREATIES AND ARRANGEMENTS GOVERNING

INTELLECTUAL PROPERTY:

These include;

- African Regional Intellectual Property Organization (Banjul Protocol on trademarks);
- The Harare Protocol on Patents, Designs and Utility Models;
- Agreement on Trade-Related Aspects of Intellectual Property Rights;
- Paris Convention;
- Nairobi Treaty;
- World Intellectual Property Organization;
- World Trade Organization;
- Kampala Protocol on Voluntary Registration of Copyright and Related Rights;
- Berne Convention on Audiovisual Performances.



TRADEMARKS

Trademarks extend protection to brand names and symbols adopted and used by a trademark proprietor to identify its products in the market. A trademark is a visual

representation attached to goods or services for the purpose of indicating their origin in trade.

INTERNATIONAL CONVENTIONS, TREATIES AND ARRANGEMENTS RELATING TO TRADEMARKS

- African Regional Intellectual Property Organization (Banjul Protocol)
- Agreement on Trade-Related Aspects of Intellectual Property Rights
- Paris Convention
- Nairobi Treaty
- World Intellectual Property Organization
- World Trade Organization

Note Although Uganda is a member of the Paris Convention, it is not a signatory to the Madrid Protocol, therefore there is no provision in Uganda's legislation relating to international arrangements for trademarks.

CLASSIFICATION

The International Classification of Goods and Services (Nice Classification) applies. A separate application is required for each class. The register is divided into part A (for trademarks which are distinctive)

and part B (trademarks that are capable of distinguishing), per legislation.

CATEGORIES OF TRADEMARKS

Provision is made for:

- Ordinary trademarks (goods and service marks);
- Certification marks;
- Defensive marks; and
- Series marks.

FILING REQUIREMENTS

- Signed form of authorization of registered trademark agent;
- At least four prints of the mark, except for word marks in ordinary type;
- Legal name of the intended trademark proprietor;
- Disclosed physical and postal address of the intended trademark proprietor;
- Depiction of the mark;
- Description of the good or services in the particular class;
- Any application associations or disclaimers;

PROCEDURE

Applications are examined as to inherent registrability and conflict with prior existing registrations/applications. On acceptance, a publication notice is issued and

applications are published for opposition purposes for a period of 60 days.

OPPOSITIONS

An opposition may be lodged within the 60 days following the date of publication of the trademark application. Extension of the opposition period is possible at the discretion of the registrar.

DURATION AND RENEWAL

A trademark registration is effective for an initial period of seven years

from the date of application and, thereafter, renewable for further periods of 10 years.

COPYRIGHT

Copyright refers to protection granted to authors, artists or other creators for their literary and or artistic creations. Copyright is a type of intellectual property that protects original works of authorship when they are fixed in a tangible form of expression.



PROCEDURE FOR REGISTRATION IN UGANDA

Procedure	(1) Search on the copyright register
	(2) Pay application fee
	(3) Apply for registration of a copyright to the Registrar of copyright. (Form 1 Schedule 2 Copyright and Neighboring Rights Regulations, 2010) Accompany the form with the following: Copies or records representing the work for which the registration is applied. Proof of payment of the non-refundable registration fee (UGX 50,000, Schedule 3 Copyright and Neighboring Rights Regulations, 2010)
	(4) Publication of application in the gazette. (Form 2 Schedule 2 Copyright and Neighboring Rights Regulations, 2010).
	(5) Wait 60 days from the date of the application.
	(6) If no objection is made within 60 days from date of publication of application, registrar enters the applicant's name in the register as owner/ author of the copyright.
	(7) Upon registration, owner/author is give certificate of registration.
Documents	(1) Application form (Form 1, Schedule 2) (2) Notice of application for registration of a copyright (Form 2, Schedule 2) Copyright and Neighboring Rights Regulations, 2010

Fees Payable	(1) Application Fee: UGX 50,000 (2) Gazette: UGX 300,000
Timeline	Publication in the gazette: 60 Days Duration of protection: Natural Persons: lifetime and 50 years after death Companies :50 years after 1st date of publication Computer program: 50 years after program becomes public

Her under, we have;

- a) Patents
- b) Utility Models
- c) Industrial Designs
- d) Technovations

PATENTS

A patent like a utility model, is an exclusive right granted by the Intellectual Property Registry for an invention. Protected inventions have to be novel, inventive and industrially applicable to warrant patent protection.



Step 1	Submit a filled patent application form; Attach a patent document having title, abstract, description, drawings and claims. Power or attorney (If application is by an agent) Attach proof of payment.
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<p>Step 2</p>	<p>URSB receives the document and accords it a filing date and patent application number.</p>
<p>Step 3</p>	<p>An application found to be in order is subjected to substantive examination to determine if the claimed invention fulfills all requirements of patentability.</p>
<p>Step 4</p>	<p>Applicant is notified on grant/ refusal of a patent. The applicant is then requested to pay the grant fees and hereafter issue a certificate of grant of patent.</p>

UTILITY MODEL

A utility mode is an exclusive right granted by the Intellectual Property Registry for an innovation which is either a product or process that offers a technical solution to a problem.

The duration of a utility model protection is 10 years.

They provide protection for incremental improvements to products and is relevant to SMEs. Procedure for a utility model registration



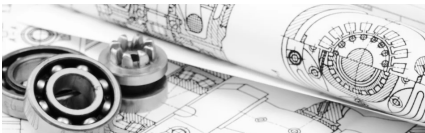
Procedure for a utility model registration	Should have: Novelty Industrial applicability Incremental improvements to products or processes)
	(2) File utility model application Attach the following: Description of the invention Abstract Drawings Claim Power or attorney (If application is by an agent)
	(3) The IP Registry receives the application and filing date is noted
	(4) Applicant is informed of decision of grant (or rejection of grant)
	(5) Payment of grant fees
	(6) Certificate of grant of utility model
Documents	Utility model application
Fees Payable	(Application for Registration: \$50 Foreigners UGX 30,000 Nationals
	Grant/ Certificate \$50 Foreigners UGX 50,000 Nationals
Timeline	Duration of protection: 10 years Maintenance fees have to be paid for each year subsequent to grant of certificate of a utility model.

TECHOVATIONS

Industrial property rights under the Industrial Property Regulations, 2017 include technovations and are included in the Register of Industrial Property Registry. Under Reg. 58, a technovator may apply to the Registrar for a technovation certificate registered. The Registrar shall record in the register the registration number of the technovation certificate, name and address of enterprise that issued the technovation, date of the request for registration, title, technical filed to which the technovation relates, any other information.

INDUSTRIAL DESIGNS

This is the aspect of a useful article which is ornamental or aesthetic that may consist of three-dimensional features like a shape or surface of an article or a three-dimensional feature such as patterns, line or colours. An industrial design is registrable if it is new. An application is made to the Registrar. This application is accompanied by a graphic representation of the article embodying the industrial design. Protection lasts for a period of five years and is subject to renewal.



H. TECHNOLOGY, MEDIA & TELECOMMUNICATIONS TECHNOLOGY AND THE 4IR. (FOURTH INDUSTRIAL REVOLUTION)

Technological innovations fusing the physical, digital and biological domains and labelled as the “Fourth Industrial Revolution” (“4IR”) have created opportunities that have fueled economic and social systems in a manner thought unattainable by previous industrial revolutions. The 4IR is characterized by the growing utilization of new technologies such as artificial intelligence, cloud computing, blockchain, robotics, 3D printing, the Internet of Things, and advanced wireless technologies; the use of legally enforceable property-like rights to encourage innovations of various kinds is perhaps the oldest institutional arrangement that has facilitated technological advancement. Intellectual Property (IP) is the mereological sum of inventions, literary and artistic works, designs and symbols, names and images used in commerce; Intellectual Property is to creations of the mind as technology is to the Fourth Industrial Revo-

lution (4IR).

The current status quo and development potential regarding the application of 4IR characteristics is leaning in a progressive direction, with the ripples of the 4IR reaching sectors of Agriculture, Finance and Health in Uganda.

ARTIFICIAL INTELLIGENCE

Artificial Intelligence (AI) is considered a discipline of computer science and concerns systems that can carry out tasks generally thought to require human intelligence. In common parlance, these systems or machines are taught to carry out specific tasks and learn through reason and deduction.

Presently, no country in the world has a law that comprehensively regulates the use of artificial intelligence. The regulation and legislation that does exist is fragmented due to the fact that it is difficult to pinpoint the regulatory subject matter of AI. An AI application is by its disposition protected as a computer program (software) under country specific Copyright law. Under Article 10 of The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), computer programs whether in source or object code, are protected as literary works under the Berne Convention (1971). This protection also extends to compilations of data or other material, whether in

machine readable or other form. Such compilations eligible for copyright protection are stored in electronic data banks and include data banks harvested by AI.

Inversely, Copyright law does not accord AI the right to create or own intellectual property by the machine.

IOT & BLOCKCHAIN TECHNOLOGY

A Blockchain is a continuously growing list of records, called blocks, which are linked and secured using cryptography. By design, Blockchains are inherently resistant to modification of the data. Once recorded, the data in any given block cannot be altered retroactively. Blockchain is currently viewed as the future of commerce due to the myriad of benefits it offers in property and real estate for example. This is premised on the nature of the technology that does not allow alteration of records once entered and it requires collusion from all network users.

The Internet of things (IoT) is the Internet- working of physical devices. Typically, the IoT is expected to offer advanced connectivity of devices, systems, and services that goes beyond machine-to-machine (M2M) communications and covers a variety of protocols, domains, and applications. The interconnection of these embedded devices is

expected to usher in automation in nearly all fields, while also enabling advanced applications like a smart grid, and expanding to areas such as smart cities. This includes a Tele Learning Centre, Virtual Reality Room and collaborative room that apply Virtual reality software to computation biology and big data analysis in bioinformatics training.

DRONE REGULATION

A drone is defined as an unmanned propulsion system and more formally known as unmanned aerial vehicles (UAVs) or unmanned aircraft systems (UAS).

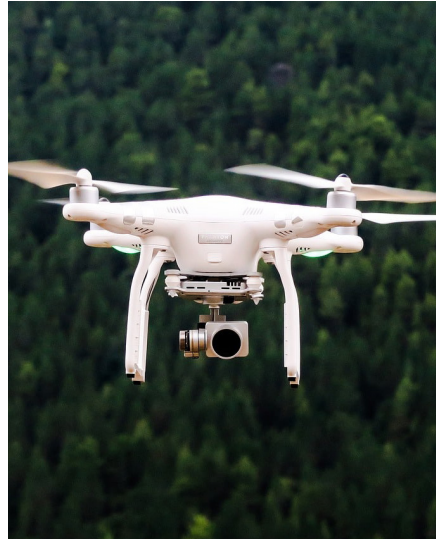
The applicable laws are firstly, the Civil Aviation Authority Act Cap 345 (as amended 2019). Under Section 2, it states that a remotely piloted aircraft system means an unmanned aircraft which is piloted from a remote pilot station with an exclusion of toy and model aircrafts. From this definition, drones are part of the remotely piloted aircraft system thus they should be regulated.

Section 2 defines an aircraft as any flying machine, aero planes, sea-planes among others designed to be lighter than air.

Section 6 gives the functions of the Uganda Civil Aviation Authority one of them being to license air transport and aerial drones are an

example of air transport.

Under the Civil Aviation (Aerodromes) Regulations, 2019, section 2 defines aerodromes as a defined area on land or water intended to be used either wholly or in part for arrival, departure and surface movement of aircraft licensed or certificated. Under the Uganda Communications Act, section 33 (b) provides that no person without a license shall deliver, distribute any article.



The Uganda Wildlife Act, 2019 also provides some form of regulation. Under Section 2, an aircraft is defined as a flying machine whether or not powered by an engine and controlled by human agency, and all ground effect machine. Section 33 of the Act gives the Minister mandate to make regulations

governing the conditions under which an aircraft may enter, travel through, reside or be in a wildlife conservation area.

Section 73 further provides that where a person is convicted for an offence under the Act and the court considers forfeiture as a necessary step, the court shall declare the aircraft used in connection with commission of the offence to be forfeited to the Authority.

BIG DATA & DATA PROTECTION

Big Data is a technical term for the possibility to process massive volumes of data from numerous sources and different formats and allow it to be done at terrific speeds. There are so many commercial purposes to which big data can be put to use and it is a powerful tool. With data processing, it is important to know whether it is protected and the limits on what you can do with that data. When it comes to Big Data, Uganda has embraced analytics, the use of Data Centers, provision of colocation services and cloud computing services. Uganda has also set up commercial network access points to provide cheaper content to local and regional customers through regulators like National Information and Technology Authority (NITA).

DATA PROTECTION AND REGISTRATION WITH THE PDPO OFFICE

In 2019, Uganda passed the Data Protection and Privacy Act and its corresponding Regulations were passed in 2020. This provides for the privacy of an individual and of personal data by regulating the collection and processing of personal information, the rights of the person whose data is collected and obligations of data collectors, data processors and data controllers and also regulates the use or disclosure of personal information.

Some of the key provisions include; establishment of the data protection office, appointment of a data protection officer, consent to collect or process personal data and sensitive data.

Consent is critical to data collection and processing. Under s.7, a person shall not collect or process personal data without the prior consent of the data subject. Personal data may be collected or processed where the collection or processing is authorized or required by law or where it is necessary for the proper performance of a public duty by a public body, for national security, prevention, detection, investigation, prosecution, punishment of an offence or

breach of law. In addition, personal data may be collected or processed for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract, for medical purposes or for compliance with a legal obligation to which the data controller is subject.

- Except for the above where a data subject objects to the collection or processing of personal data, the person who is collecting or processing the personal data shall stop the collection or processing of it.
- A data protection officer is designated by the head of an institution and is responsible for ensuring compliance with the Data Protection and Privacy Act.
- Personal Data Protection Office (PDPO) requires registration of data collectors, processors, and controllers to register on its website as in the manner prescribed. The Authority is mandated under s. 29 (1) of the Act to keep and maintain a data protection register.
- The Authority is required to register in the data protection register every person, institution or public body collecting or processing personal data and the purpose for which the personal

data is collected or processed.

Requirements for registration with the PDPO;

- Name of Applicant or organization as per certificate of incorporation/ relevant document.
- Category of data collected i.e.; Data controller, Processor and collector.
- Type of organization with the Company registration number as appears on certificate of incorporation
- Country of incorporation
Physical location of business.
- Organization telephone no. that is operational.
- Organization’s operational email address
- Nature of business: (whether financial services, insurance, legal, engineering) whether financial services; i.e.; insurance, legal and engineering.
- Details of the Designated data protection officer (DPO) (name, number, DPO email address, physical address);
- Other title/position of the DPO;
- Source of data such as whether from employees, Clients, Suppliers, Customers and contractors.
- Personal data collected or processed;
- Purpose and retention for data

handling which involves specifying the law applicable, services provided, legal obligations, purpose of data collection, period of data retention, HR management, contractor obligations, staff obligations for data retention.

- Total records of data collected with a numerical estimate;
- Annual growth of personal data collected (% based on recent year);
- Period of data retention and how long data is kept in your infrastructure;
- Whether the organization discloses any personal data to 3rd parties;
- Whether the organization transfers personal data outside Uganda;
- Security measures.

For an online business, the standard policies in place are the data privacy policy, information security policy, cookie policy, data retention and erasure policy and terms of use are critical for running an online platform. The provision of the Data Protection and Privacy Act, 2019 may be adequately captured in these standard policies.

DIGITAL TRADE AND OTHER FORMS

OF ELECTRONIC TRANSACTIONS

Digital trade refers to commerce enabled by electronic means – by telecommunications and/or ICT services – and covers trade in both goods and services. Uganda has over 28.01million mobile connections that increased by 1.1 million between January 2020 and January 2021²²; this number correlates to 60.3% of the total population. The devil is in the detail, or in this case the numbers as it is no surprise that Uganda’s Financial Technology (FinTech) sector as of 2016, had a transaction volume of USD 4.7 billion (17.6 trillion). Without mobile money, global remittance, and payment platforms (that are also key enablers for e-commerce and ride hailing), Uganda’s GDP would be less than its current USD 99.61Billion.

Electronic communications and transactions generally refer to businesses that interact over telecommunications networks. Electronic transactions mean the exchange of information or data, the sale or purchase of goods and services, between businesses, households, individuals, governments, and other public or private organizations, conducted over computed mediated networks.

The service providers are any public or private entity that provides

to the users of its service the ability to communicate by means of a computer system.

In Uganda, the object of the laws regulating electronic transactions is to; enable and facilitate electronic communications and transactions, remove and eliminate legal and operational barriers to electronic transactions and promote technology neutrality in applying legislation to electronic communications and transactions.

With financial inclusion and growth of internet use, there are now many more opportunities in electronic transactions. Under the Electronic Transactions Act, 2011, a “consumer” means a person who enters or intends to enter into an electronic transaction with a supplier as the end user of the goods or services offered by that supplier.

Part IV of the Electronic Transactions Act, 2011 provides for the protection of consumers where they enter or intend to enter into an electronic transaction with a supplier. Section 28 provides specifically that an agreement that excludes any of the consumer rights provided in the Act is considered void.

USE OF ELECTRONIC SIGNATURES

The Electronic Signatures Act,

2011 provides a regulatory framework for the use of electronic signatures. Under section 4(1), where a law requires a signature of a person, that requirement is met in relation to a data message if an electronic signature is used which is as reliable as was appropriate for the purpose for which the data message was generated or communication in the light of all the circumstances, including any relevant agreement. Electronic signatures can be used for the attribution of an offer or acceptance to a person in relation to an electronic transaction pursuant to Section 19 of the Electronic Transactions Act. An “electronic signature” is defined by the Act as data in electronic form affixed to or logically associated with a data message, which may be used to identify the signatory in relation to the data message and indicate the signatory’s approval of the information contained in the data message; and includes an advance electronic signature and the secure signature.

Importantly, to “forge a digital signature” means— (a) to create a digital signature without the authorization of the rightful holder of the private key; or (b) to create a digital signature verifiable by a certificate listing as subscriber a person who either does not exist or does not hold the private key

corresponding to the public key listed in the certificate. “Signature verification data” means unique data such as codes or public cryptographic keys, used for the purpose of verifying an electronic signature.

“Advanced electronic signature” means an electronic signature, which is— (a) uniquely linked to the signatory; (b) reliably capable of identifying the signatory; (c) created using secure signature creation device that the signatory can maintain; and (d) linked to the data to which it relates in such a manner that any subsequent change of the data or the connections between the data and the signature are detectable.

A “digital signature” means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer’s public key can accurately determine— (a) whether the transformation was created using the private key that corresponds to the signer’s public key; and (b) whether the message has been altered since the transformation was made.

I. CERTIFICATION WITH NATIONAL INFORMATION TECHNOLOGY

AUTHORITY

THE NATIONAL INFORMATION TECHNOLOGY AUTHORITY ACT, 2009;

It is established as a body under s. 3(1) of the NITA-U Act. The main objectives of the Authority are to promote standardization in the planning, implementation, delivery, support and maintenance of information technology equipment and services. The functions of the Authority include to, among others, coordinate, supervise and monitor the utilization of information technology in the public and private sectors, regulate and enforce public and private sectors, regulate and enforce standards for IT hardware and software equipment procurement in all government ministries, departments, agencies and parastatals;

CERTIFICATION OF PROVIDERS OF INFORMATION TECHNOLOGY PRODUCTS AND SERVICES REGULATIONS;

Under Regulation 3(1) of the National Information Technology Authority Uganda (Certification of providers of information technol-

ogy products and services) Regulations 2016, a person cannot provide information technology products or services unless the person is certified in accordance with the Act and Regulations.

- It is NITA-U responsible for such certification under Reg. 4(1).
- According to Reg. 5(1) a Registrar is established for the purposes of the certification procedure under the Regulations;
- The Registrar is responsible for receiving and processing applications for certification and registering certified providers.
- The request for application for registration must be accompanied by a description of the nature of the products or services for which the request for certification is made.
- The application fees will be calculated off the annual gross revenue as per the annual audited accounts according to Schedule 3.

J. OBTAINING UCC TYPE APPROVAL (WHERE APPLICABLE)

According to the UCC guidelines on type approval of telecommunications and radio communications

equipment in Uganda, the public radio and telecommunications networks have been designed primarily for the transmission of information between subscribers, sometimes via complex switching networks.

Any persons (individuals and business entities) intending to use radio communication and telecom equipment should first ensure that the equipment has been type approved for use in Uganda.

UCC maintains a database of all radio communication and telecom equipment that has been type approved for use in Uganda. Any individual, company or any kind of corporate body is free to apply to UCC for type approval for any piece of communication equipment, provided it has does not appear in the UCC database of type approved equipment. All importers or end-users of radio and telecommunication equipment in Uganda must first ensure that they seek and obtain type approval from UCC before importation of the equipment.

The process of type approval is intended to ensure that radio communication and telecommunication equipment complies with a set of national and international regulatory standards and requirements. Type approval of radio and telecommunications equipment in Uganda is defined as one of the

functions of the Uganda Communications Commission under the Communications Act, Cap 106 Laws of Uganda and the regulations made there under (specifically the UCC Regulations of 2005).

K. REGULATION OF PAYMENT SYSTEMS

Between January 2020 and January 2021, Uganda, in East Africa had 1.1 million new mobile connections translating to a total of 28.01million connections being 60.3% of her total population. In May 2022, Bank of Uganda released a survey representative of 22.8 million adults showing that 66.3% of that demographic used mobile money and 70.1% could send and withdraw money without help. The statistics show that East Africa has continued its upward trajectory, ahead of other parts of the world in electronic money transfers.

The purpose of the National Payment Systems Act, 2020 is to regulate payment systems. The scope of the Act is to provide for their safety and efficiency; to provide for functions of the Central Bank in relations to payment systems; to prescribe the rules governing the oversight and protection of payment systems; to provide for financial collateral arrangements

to regulate payment service providers; to regulate issuance of electronic money, to provide for oversight of payment instruments and for other related matters.

Electronic money means a monetary value represented by a claim on the issuer which is stored on an electronic device; issued upon receipt of funds in an amount not less in value than the monetary value received; accepted as a means of payment by undertakings other than the issuer and prepaid or redeemable in case.

The Act applies to 3 categories namely;

AN OPERATOR OF A PAYMENT SYSTEM

A payment system means a system used to effect a transaction through the transfer of monetary value and includes the institutions, payment instruments, person, rules, procedures, standards and technologies that make such a transfer possible.

A payment

system operator means an entity, alone or with other entities which is in charge of the operation of a payment system and may include a participant to the system, a settlement agent, a central counterparty or a cleaning house.

A PAYMENT SERVICE PROVIDER

A payment service provider is a person who is licensed to provide a payment service. A payment service means services enabling cash deposits or withdrawals; execution of payment transactions; issuance and acquisition of payment instrument or any other services incidental to the transfer of funds.

ISSUER OF A PAYMENT INSTRUMENT

A payment instrument means any device or set of procedures by which a payment instruction is issued for purposes of making payments or transferring money and includes Cheques, bills of exchange, direct debits, credit cards, and debit cards and any other instrument through which a person may make payments, with the exception of bank notes and coins. An issuer of a payment instrument is a person who issues a payment instrument.

CATEGORIES OF PAYMENT SYSTEMS

Those operated by the Central Bank which include the Real Time Gross Settlement system, the automated clearing house, the Central Securities Depository for government debt securities, cross border payments. Payment systems operated by another government entity or in partnership

with a government entity in public interest.

Payment systems operated by private entities and these include switches, electronic money systems, aggregators or interrogators, and other payment system licensed under the Act.

It is important to note that a person shall not operate a payment system, issue a payment instrument and offer payment services without a licence issued by the Central Bank. This does not extend to payment instruments, services or a payment system operated by the Central Bank. The penalty for contravention in the event of a conviction of an individual is a fine not exceeding 2,000 currency points (one currency point is UGX 20,000) or a term of imprisonment not exceeding four (4) years or both. In the event of a body corporate, a fine not exceeding 7,000 currency points. The effect of a conviction is ceasing to offer payment and disqualification from acquiring a licence.

L. TELECOMMUNICATIONS

A licence for telecommunications is obtained from Uganda Communications Commission (UCC).

MODE OF APPLICATION.

An application for a license ought to be made by way of an ordinary

letter addressed to the Executive director, Uganda Communications Commission (UCC). The letter should be signed by an authoritative person in the entity applying for the license such as the Chief executive officer or director. Depending on the type of license being applied for, the letter should demonstrate that the applicant meets the requirements as elaborated below

The categories of licenses are as below;

PUBLIC SERVICE PROVIDER LICENCE (PSP).

It has the following subcategories;

- a. Regional Public Service Provider (RPSP)
- b. National Public Service Provider (NPSP)

SCOPE

This licence covers the provision of Telecommunications Services across the designated area including Public Voice and Data and Capacity resale services. PSP-Voice and Data services allow the licensee to provide public Voice and Data including Cellular, Fixed telephony, Internet access, and inter-branch communication. A holder of this license may apply for leases for infrastructure from a licensed National Telecommu-

nications Operator (NTO) or any other licensed public infrastructure provider in the designated service area to provide telecommunication services to end users or third parties. PSP-Capacity Resale allows the licensee to resell the Telecommunication services of an NTO, PSP (voice and data) or capacity of a Public Infrastructure Provider (PIP).

Note:

A person cannot apply for or hold a Regional Service Provider License for more than two regions.

Duration: 5 years

PUBLIC INFRASTRUCTURE E- PROVIDER LICENCE (PIP).

The category of licence under this can either be;

- a. Regional Public Infrastructure Service Provider (RPIP)
- b. National Public Infrastructure Provider (NPIP)

The scope of this licence is that it will allow the license holder to establish, install and provide infrastructure services across the designated area of the country; Telecommunications Infrastructure, Nationwide (for the NPIP) or in the particular region (RPIP).

Infrastructure includes; last mile access network facilities and equipment, backhaul or transmis-

sion, facilities & equipment, core network or switching equipment, irrespective of technology.

A Public Infrastructure Provider licensee shall be entitled to provide infrastructure services to licensed National Telecom Operators, Public Infrastructure Provider and Public Service Providers, duly licensed to operate in the respective area as well as duly authorised Private Networks in Uganda. Holders of this license will not be allowed to provide communication services to final consumers, except where the operator also holds a PSP license.

Where a person holds a RPSP and RPIP in the same region, licence fees shall be paid only in respect of one licence. A person can only apply for or hold a Regional Infrastructure Provider License for not more than two regions in the country.

Licence duration: 15 years

National Telecommunications Operator (NTO).

The NTO license will allow the licensee holder to establish and provide both infrastructure and services across the entire country. An NTO license holder will be allowed to provide all telecommunications services, and Value-Added Services.

Licence duration: 20 years

Communal Access Operator

A communal access licensee shall be granted to a group of persons to collectively deploy, operate and administer shared telecommunication infrastructure to meet their own communication needs on a not-for-profit basis.

License Duration: 5 years



KUFANYA BIASHARA NCHINI UGANDA.

A. WASIFU WA NCHI YA UGANDA. SERIKALI

Uongozi: Nchi ya Uganda inaongozwa na Rais ambaye ni msimamizi mkuu wa serikali na kiongozi mkuu wa nchi. Rais wa Uganda huchaguliwa kila baada ya miaka mitano kwa kupigiwa kura na wananchi kidemokrasia. Nchi ya Uganda haina kikomo cha awamu ya uongozi wa Rais. Kiongozi anayeshinda wingi wa kura ndiye anayechukua madaraka ya kuongoza nchi kama Rais wa nchi. Waziri mkuu wa Uganda pamoja na barazala mawaziri huteuliwa naye Rais.

Bunge: Nchi ya Uganda ina bunge la pamoja.

Mahakama: nchi ya Uganda ina Mahakama kuu. Chini yake kuna Mahakama ya chini ya rufaa/rufani ambayo pia ni mahakama inayoshughulikia masuala ya kikatiba. Mahakama kuu (inajumlisha mahakama kuu za kimaeneo 8 na 12 za divisheni), mahakama ya viwanda inayoshughulikia maswala ya wafanyikazi kazini, Korti au mahakama ya majaji ya daraja la kwanza na pili mbayo inapatikana kote nchini, mahakama ya kadhi, mitaa, familia na Watoto. Uchaguzi ujao wa urais na wabunge utafanyika Januari, 2026.

DATA ZA KIUCHUMI/FEDHA

Jumla ya thamani ya bidhaa na huduma ya kitaifa-pato (GDP) (Bilioni ya dola za Marekani)	:37.37
Pato la kitaifa (GDP) kwa kila bidhaa (dola)	:894.35
Viwango vya bei (asilimia ya mabadiliko)	:4.9
Mapato ya serikali (Asilimia ya pato la kitaifa)	:13.6
Jumla ya deni la serikali (Asilimia ya pato la kitaifa)	:51.30

*Asili: *Tradingeconomics.com (Desemba, 2021)*

Nchi ya Uganda imebarikiwa kuwa na maliasili ya thamani inayojumliisha udongo wenye rotuba, mvua ya mara kwa mara, Akiba ya maliasili ya mafuta ya kuchimbwa, shaba, dhahabu na madini mengine mengi. Mojawapo ya sekta muhimu sana ya uchumi ni ukulima ambao unaajiri takriban wafanyakazi asilimia 72..

- Uganda ni nchi ambayo sekta yake ya viwanda ni ndogo sana na ambayo hutegemea sana pemba-jeo zinaagizwa kutoka nje kama vile mafuta na zana nzito za kuwezesha sekta hii.
- Bidhaa vya Uganda vingi huuzwa katika nchi ya United Arab Emirates (Saudi Arabia) na Kenya. Bidhaa kuu zinazouzwa katika nchi hizi na kwingineko ni Pamoja na kahawa, maziwa, Samaki na bidhaa zitokanazo na Samaki, tumbako na dhahabu.
- Uganda vilevile huagiza bithaa zake kutoka Uchina, India, Kenya, United Arab Emirates na Japani. Bidhaa kuu zinazoagizwa ni Pamoja na madawa, ndege, magari ya kubeba mizigo, magari na ngano.

MAKADIRIO YA HASARA/HATARI YA UEGEZAJI

Hatari kuu imekadiwa kuwa katika kiwango cha B.. Hisa ya deni la umma nchini ni wastani asilimia 52 (ya jumla ya pato la kitaifa), na viwango vya juu vya kulipa hudu-

ma za mkopo wa asilimia 23 ambavyo vimezingirwa na majukumu mazito ya ukadiriaji. Hata hivyo, kuna ukuaji mkubwa wa akiba ya fedha za kigeni ambao ni Asilimia (17.7). kwa mfano katika muda wa miezi sita kufikia septemba 2022) kuongezeka kwa viwango vya mauzo ya bidhaa nje ya nchi kumesaidia sana katika kupunguza hatari za kulipa mkopo.

Viwango vya makadirio ya sarafu, kiwango BB.

Kiwango cha ubadilishaji wa sarafu dhabiti cha hivi majuzi kimechangia pakubwa kupunguza kiwango cha hatari, lakini ongezeko wastani la kiwango cha ubadilishaji kinaonyesha hatari za sarafu. Hata hivyo akiba imara ya fedha za kigeni inazidi kuimarisha uwezo wa benki ya Uganda (Benki kuu) kulin-da shilingi yake dhidi ya hatari kubwa ambayo inaweza kutokea na kuadhiri viwango vya ubadilishanaji wa fedha.

Makadirio ya Hatari ya sekta ya benki, kiwango B.

Uwiano wa mikopo ambayo haijalipwa kwa muda mrefu upo chini ya matarajio ya benki kuu ya asilimia 5 (Asilimia 4.8 kufikia mwisho wa Juni 2021). Viwango vya kuto-sha vya ukuaji wa mikopo na usimamizi mzuri wa kifedha na benki kuu umechangia katika ukadiriaji huu. Hata hivyo, nafasi ya benki

kutokana na kupungua kwa mali ya kigeni, inayoonyesha ongezeko la madeni ya fedha za kigeni unaleta hatari ya wastani.

Hatari ya kisiasa ni CCC.

Hatari zinazohusiana na majanga yanakadiriwa kuwa wastani kutokana na kupungua kuenea kwa Kirusi cha Korona- 19 cha aina ya Omicron kuanzia Desemba mwaka 2021 nchini Uganda. Kuchaguliwa kwa Rais Yoweri Museveni kwa awamu nyingine Januari, kulikumbwa na ghasia lakini hatari zinazohusiana na uchaguzi zimepungua.

Makadirio ya Muundo wa Kiu-chumi imewekwa katika kiwan-go cha CCC,

ukizingatia taarifa za hivi maajuzi kuhusiana na uuzaji wa bidhaa nje ya nchi, ilibainisha kuwa Uganda hutegemea uuzaji wa aina moja ya bidhaa nje ya nchi. Uganda ili- iuza madini ya thamani ambayo ilichangia asilimia 44 ya pato la taifa. Hata hivyo utegemezi huu wa kuuza aina moja ya bidhaa nje ya nchi kupita kiasi huhatarisha bei na kupunguza soko la bidhaa nchini. Kutokana na utegemezi huu, Uganda imeendelea kupatwa na upungufu wa fedha katika hazina yake na kuendelea kupata mapato ya chini ya mauzo ambayo pamoja na masuala mengine inahatarisha uchumi wa nchi.

<http://country.eiu.com/article.aspx?articleid=1080925091&Country=Uganda&topic=Risk&subtopic=Credit+risk&subsubtopic=Overview>

B. MIKATABA NA UANACHAMA WA KIMATAIFA MASHIRIKA YA KIMATAIFA, KIMAENEO/KIKANDA NAUSHIRIKIANO WA FORODHA

- Mashirika na muungano wa mataifa ya Kiafrika, Caribbea, na Pacific inayotambulika kama African, Caribbean, and Pacific Group of States (ACP)
- Kundi la benki ya maendeleo ya Afrika la African Development Bank Group (AfDB)
- Shirika la Umoja wa mataifa ya Afrika/ ya shughuli za mesto ya umoja wa mataifa kule Darfur la African Union/United Nations Hybrid operation in Darfur (UNAMID)
- Umoja wa mataifa ya Afrika (AU)
- Muungano wa soko la pamoja la nchi za Afrika mashariki na kusini mwa Afrika linalotambulika kama Common Market for Eastern and Southern Africa (COMESA)
- Jumuiya ya mataifa ya madola linalotambulika kwa kiingereza kama Commonwealth of Nations
- Jumuiya ya muungano wa Afrika

Mashariki (EAC)

- Benki ya maendeleo ya Afrika Mashariki ya East African Development Bank (EADB)
- Shikika la chakula na kilimo duniani lijulikanalo kama Food and Agriculture Organization (FAO)
- Kundi la mataifa maarufu 77 la Group of 77 (G77)
- Shirika la mamlaka la maendeleo baina ya serikali la Inter-Governmental Authority on Development (IGAD)
- Shirika la kimataifa la nguvu za kiatomiki la International Atomic Energy Agency (IAEA)
- Shirika la maendeleo na ujenzi la International Bank for Reconstruction and Development (IBRD)
- Shirika la kimataifa la usafiri wa angani la International Civil Aviation Organization (ICAO)

Nchi ya Uganda imefanya mikataba ya ushirikiana na mashirika na jumuiya zilizoorodheshwa katika tuvuti <http://ptadb.wto.org/Country.aspx?code=800> kufanya shughuli zake bila viziuzi.

MIKATABA YA UWEKEZAJI BAINA YA NCHI

- Kwa mujibu wa kikao cha mkutano wa biashara na maendeleo, nchi ya Uganda ina mikataba ya kibiashara baina ya nchi za Denmark, Ufaransa, Ujerumani, Uholanzi, Uswizi na Uingereza.

Aidha, Uganda vile vile imefanya mikataba iliyotiwa saini na mataifa

ya Ubeljiji-Luxembourg, Uchina, Cuba, Misri, Eritrea, Nigeria, Afrika kusuni, the United Arab Emirates na Zimbabwe. Hata hivyo mikataba hii haijaanza kutekelezwa.

MIKATABA YA UWEKEZAJI/TAASISI

Sheria ya 'African Growth and Opportunity Act' inayohusu fursa za soko huru Marekani na ukuaji wa bara la Afrika kisiasa na kiuchumi.

- Mkataba baina ya nchi za ulaya na muungano wa mataifa ya Afrika, Caribea na Pacific inayotambulika kama mkataba wa Cotonou uliofanyika mwaka 2000, Mkataba huu ulianza kutekelezwa mwaka wa 2003 na baadaye kurekebishwa marambili ; mwaka wa 2005 na 2010. Mkataba huu ni wa kupunguza hali ya umaskni katika mataifa haya pamoja na kuweka mikataba ya kimaendeleo.

Wakala wa dhamana ya uwekezaji wa kimataifa wa Multilateral Investment Guarantee Agency ambalo hutoa hakikisho na usalama kwa wawekezaji na wakopeshaji madeni kuwekeza katika nchi zinazoendeleo kwa kuwapa bima na fedha za kuziba pengo la hasara ambayo inaaweza kutokea katika uwekezaji kwa sababu zinginezo na za kisiasa.

- Shirika la biashara la kimataifa

UTATUZI WA MIGOGORO

Uganda imefanya mkataba na:

- Makubaliano ya kusuluhisha migogoro ya uwekezaji (ICSID Convention)
- Mahakama ya kudumu ya kusuluhisha migogoro inayohusiana na uvunjaji wa mikataba
- Kamisheni ya umoja wa mataifa inayohusika na sheria za biashara za kimataifa inayojulikana na kama United Nations Commission on International Trade Law (UNCITRAL)
- Mkataba wa umoja wa mataifa wa New York wa utambuzi na utekelezaji wa kutoa suluhu kwa wawekezaji wa kigeni (New York Convention)

MIKATABA YA MALIAKILI (“IP”)

Orodha ya kina ya mikataba iliyotiwa Saini na nchi ya Uganda inayohusiana na mikataba ya maliakili inayotambulika kuwa intellectual property inapatikana katika: [tuvuti ya http://www.wipo.int/wipolex/en/profile.jsp?code=UG](http://www.wipo.int/wipolex/en/profile.jsp?code=UG)

Tazama sehemu ya alama za biashara hapa chini kwa maelezo Zaidi

C. UTAWALA WA KISHERIA

Mfumo wa sheria unaotenda kazi

- Kimsingi Uganda ina mfumo wa sheria zilizopitishwa kikatiba n bunge, vipengele vya sheria za ki-

jamii na sheria za kiislamu (Sharia law).

- Sheria ya mahakama (sura 13) inatambua tu sheria ambazo zimepitishwa kikatiba na bunge, sheria za mahakama ambazo zimepitishwa kutumika na mahakama, sheria zinazozingatia kanuni ya kutoa uamuzi bila mapendeleo, sheria ambazo hutokana na mienendo inayokubalika ya kijamii na iliyo na uhakikisho kimatumizi. Aidha, Kwa mujibu wa katiba, Pale ambapo hakuna kanuni mwafaka ya kuzingatiwa, Mahakama Kuu imepewa mamlaka ya kutenda kulingana na kanuni za haki, usawa na dhamiri njema bila mapendeleo.

UTATUZI WA MIGOGORO

- Nchi ya Uganda ina sheria inayofuatwa katika utatuzi wa migogoro ya uwekezaji. Kwa mujibu wa katiba ya Uganda, Kodi ya sheria ya mwaka 2019 ya Uganda, imeweka taratibu za kuzingatiwa katika utatuzi wa migogoro ya uwekezaji inayohusika. Taratibu hizo hupitia njia kuu nne ambazo ni: Mazungumzo ya upatanishi na maridhiano baina ya wanaozozana kwa ajili ya kuafikiana kwa mujibu wa sheria ya upatanishi (sura ya 4)

Mkataba wa pamojawa makubaliano ya kusuluhisha migogoro ya uwekezaji ya (ICSID convention) ya mfumo wa makubaliano baina ya nchi mbili au za kimataifa za kulin-

da wawekezaji, ambapo Uganda na nchi ya kampuni iliyowekeza wameweka saini ya makubaliano.

- Maombi ya mahakama kuu kusuluhisha migogoro
 - Shirika lolote la kimataifa kuingilia kati kutatua mgogoro
- Sheria ya upatanisho na maridhiano inaruhusu mikataba ya kimataifa kuingilia kati kwa ajili ya kutatua migogoro ya biashara ya ndani ya nchi na kimataifa.

UNUNUZI, UPANGAJI NA MATUMIZI YA ARDHI

- Wawekezaji wa kigeni wanaruhusiwa tu kukodisha ardhi kwa muda usiozidi miaka 99.
- Mwakili na mawakala wanaweza kusaidia katika kutafuta na kukodisha ardhi ambayo ipo/halali na inayofaa.
- Pia mwekezaji anaweza kutoa maombi kwa shirika linalohusika na uwekezaji nchini la Uganda investimate policy (UIA) kuomba ardhi kwa ajili ya manufaa hitajika

MASHINDANO YA KIBIASHARA

- Kwa sasa hakuna sheria ya iliyowekwa kuhusiana na mashindano ya uendeshaji wa viwanda nchini Uganda.
- Aidha, kuna sheria mahususi zinazodhibiti ushindani katika tasnina nyingine.
- Nchi ya Uganda ni mwanachama wa mashirika ya ushindani

ya kikanda/kimaeneo kama vile, soko la pamoja la mataifa ya afrika mashariki na kusini mwa afrika COMESA na Afrika masoko ya Jumuiya ya Mashariki. Shughuli za nchi ya Uganda zinapaswa kendelezwa kwa kuzingatia kanuni za kuendesha biashara ya mashirika haya ya ushindani wa kimaeneo/kikanda.

AJIRA

Uhamiaji

- Wafanyakazi wa kigeni wanahitaji kibali maalumu cha kazi ili waweze kuajiriwa nchini Uganda.
- Kibali maalumu cha kazi hutoa ruhusa ya muda mfupi kwa wafanyakazi wa kigeni ambao kipindi chao cha kuajiriwa hakizidi muda wa miezi mitano, ilhali kibali cha kazi kinatolewa kwa wafanyakazi wa kigeni ambao kipindi chao cha kuajiriwa ni kati ya miezi sita hadi miaka mitatu.
- Kama ilivyo katika masharti ya kupata ruhusa ya kufanya kazi nchini, kampuni inayotaka kuajiri mfanyakazi wa kigeni lazima ipitie mchakato wa kuorodhesha wasifu wa mhusika ili kupata nambari ya msimbo kutoka kwa kurugenzi ya uraia na uhamiaji (“DCIC”). Baada ya hapo, kampuni inakubaliwa kutuma ombi hilo kwa kituo husika cha kazi mtandaoni kwa kutumia nambari ya msimbo iliyotolewa

na kurugenzi ya uraia na uhamiaji (DCIC).

- Kwa mujibu wa sheria, akuna kizuizi kulichowekwa kwa idadi ya vibali vya kazi ambavyo kampuni inastahili kupewa.

- Kiutendaji, kurugenzi ikiridhishwa, maombi ya kampuni kuajiri mfanyakazi wa kigeni inaidhinisha mradi tu mwajiri awe na hati zinazostahili pamoja na hakikisho la malipo ya ada ya maombi. Maombi ya kampuni huidhinishwa tu kwa masharti kuwa mgeni anayeajiriwa ni mfanyikazi mwenye kudhihirisha uzoefu wa kuchangia katika ujuzi na maarifa ya biashara ya kampuni, ambayo haipatikani kwa urahisi kwa wafanyakazi na wananchi wa Uganda.

- Pia, Kurugenzi ya uraia na uhamiaji (DCIC) huweka mahitaji maalumu ya kuajiri wafanyakazi wa kigeni kulingana na sekta mbalimbali kuajiri wafanyikazi wa kigeni.

Ajira ya ndani ya nchi na mapendekezo ya kuajiri ya wafanyakazi

- Kwa mujibu wa sheria ya uajiri ya nchi ya Uganda, si hitaji la kishe-ria kwa wafanyakazi wa ndani ya nchi au wa kigeni kuajiriwa katika mashirika ya ndani ya nchi.

- Hata hivyo, kwa mujibu wa masharti ya kurugezi ya uhamiaji nchini Uganda, kuajiriwa na shirika la ndani ya nchi kunategemea mahitaji ya kampuni ambayo hutuma ombi la kibali cha kufanya kazi.

Mikataba kandarasi ya muda

maalumu na huduma za ajira ya muda

- Mikataba kandarasi ya muda maalum ya ajira ambayo ama inafanuliwa kulingana na wakati au lengo linaruhusiwa kwa mujibu wa sera ya ajira 2006. Matumizi ya mikataba ya muda maalum wa ajira unapaswa, hata hivyo ni muhimu ushughulikiwe kwa uangalifu kwa sababu kuna hatari zinazohusiana na mikataba hiyo. Hakuna taratibu maalum inayoelekeza kuhusu kuongezewa mkataba kandarasi ya muda maalumu.

- Matumizi ya huduma za makampuni/wakala za kibinafsi katika kuajiri wafanyakazi kwa niaba ya kampuni zimeruhusiwa mradi tu kampuni ya wakala ya kuajiri wafanyakazi imesajiliwa na kupewa kibali au leseni kwa mjibu wa sheria/masharti ya kuajiri ya mwaka wa 2011.



Malipo kwa kutumia sarafu/fedha Uganda Si hitaji la kisheria kwa mshahara kulipwa kwa fedha/sarafu za nchi ya Uganda. Vizuizi vya mikataba ya biashara Mikataba ya kibiashara ni jambo la msingi na linaweza kutekelezeka nchini Uganda, kwa kuzingatia mahitaji kwamba ni lazima liwe la kuridhisha kama sivyo mikataba isiyo ya kuridhishwa hairuhusiwi.

D. UTAWALA WA UWEKEZAJI WA NJE YA NCHI

USIMAMIZI WA UWEKEZAJI

Wawekezaji huongozwa na Sheria ya kanuni ya uwekezaji kwa mujibu wa katiba ya Uganda. Mamlaka ya uwekezaji ya Uganda (UIA) hutumika kama kituo cha usajili wa biashara na utoaji leseni.

Ofisi ya kutoa huduma za usajili ya Uganda (“URSB”) imepewa mamlaka ya kusajili mashirika ya biashara nchini Uganda.

MAHITAJI YA USAJILI/UTOAJI LESENI

Mashirika ya kigeni yanayonua kuendesha biashara nchini Uganda lazima ya itume ombi la kupewa leseni ya uwekezaji, inayotolewa chini ya sera ya uwekezaji na Uganda Investment Authority Wawekezaji katika sekta ya kuzalisha nguvu za umeme, uchimbaji madini, benki, bima, huduma za

kutoa malipo, usafiri wa angani, viwanda vya dawa, elimu, afya, mawasiliano ya simu na viwanda vya mafuta na gesi lazima vipate leseni maalum kutoka kwa wizara/idara/wakala inayodhibiti tasnia hizi, kabla ya kutuma ombi la kupata leseni ya uwekezaji.

MAHITAJI MAALUM YA USAJILI/UTOAJI LESENI KWA TASNIA ZA KIJUMLA

Usajili/ utoaji leseni maalum kwa tasnia za kijumla unaweza kuhitajika kama ifuatavyo:

Shirika la mamlaka ya kutoza ushuru la Uganda (“URA”)

Walipa ushuru wote (Pamoja na wakurugenzi wa kampuni) lazima wajisajili na shirika la kutoza ushuru la Uganda (URA) na kupata kitambulisho cha kulipa ushuru (TIN) ambacho kinatumika katika kulipa kodi zote. Iwapo biashara ilitarajia mauzo ya mwaka yazidi ushuru ulioongezwa thamani(VAT) (tazama jedwali la’ushuru’ hapa chini), inapaswa pia kujisajili hasa kwa madhumini ya ushuru ulioogezewa thamani

Wizara ya biashara, viwanda na mashirika (“MITC”)

Kabla ya kuwasilisha ombi la kupata leseni ya biashara kama ilivyonyeshwa hapa chini, wawekezaji wa kigeni wanahitajika kupata

kibali kutoka kwa msajili na wizara ya biashara, viwanda na mashirika ili kufanya biashara nchini Uganda.

Mamlaka ya mji mkuu wa Kampala. (“KCCA”)

Biashara zinazoendelezwa nchini Uganda lazima ziwe na leseni kutoka kwa mamlaka ya manispaa husika. Leseni tofauti ya biashara inafaa kuchukuliwa kwa kila tawi/duka husika. Biashara zinazoendeshwa katika mji mkuu wa Kampala lazima upate leseni kutoka kwa malaka ya jiji kuu la Kampala.

Hazina ya taifa ya hifadhi ya jamii ya “National Social Security Fund”. Kila anayeajiri wafanyakazi watano au zaidi ni lazima ajisajili na tume ya hazina ya taifa ya hifadhi ya jamii ndani ya siku 21 baada ya kuwajibika kama mwajiri anayechangia katika hazina hiyo. Pia, kila mfanyakazi anahitajika kuwa na nambari yake ya uanachama wa hazina ya hifadhi ya jamii ambayo mchango wake unatolewa

LESENI MAALUM YA KILA TASNIA

Pia, leseni mahususi za kila tasnia zinaweza kuhitajika wakati wa kutaka kufungua biashara.

VICHOCHEO/MOTISHA

Vichochoes/motisha vinahusisha inchuni Uganda ni pamoja na:

- Kuna vichocheo mbalimbali vina- vyokuza shughuli za kilimo.
- Kuna likizo za kulipa kodi kwa wawekezaji katika viwanda vya aina mbalimbali kutegemea, kutegemea kiasi cha mtaji cha fedha za uwekezaji.

Vichocheo vinavyopatikana ndani ya muungano wa jumuiya ya Afrika Mashariki, Pamoja na miradi ya kutolipa ushuru na kutohitaji leseni za kuuza na kununua bidhaa miongoni mwa jumuiya ya Afrika Mashariki.

KANUNI ZA UDHIBITI WA KUBADILISHA PESA ZA KIGENI

Nchi ya Uganda haijaweka vikwazo vyovyote vya udhibiti wa kubadilisha pesa. Hata hivyo katika sera ya kubadilisha fedha/fedha za kigeni ya mwaka 2004, malipo yote yanayofanywa kwa kutumia fedha za kigeni kutoka nchi ya Uganda kati ya wakaazi na wasio wakaazi wa Uganda, au kati ya wasio wakaazi wa Uganda lazima yafanywe kupitia benki ya biashara.

AINA YA BIASHARA ZA UWEKEZAJI KWA KIGENI

Umiliki wa biashara ya mtu binafsi

- Kampuni za umma
- Kampuni ndoog ndogo za kibinafsi
- Kampuni za kibinafsi isiyo na wa-

nahisa

- Biashara za ushirika inayofanywa kwa Pamoja na watu tofauti kwa makubaliano.
- Biashara za ushirika wa serikali na watu binafsi.
- Tawi la kampuni ya kigeni lililosajiliwa.

E. KAMPUNI BINAFSI ZA BIASHARA NDOGO NDOGO

IDADI YA WANAHISA

Idadi ya wanahisa wanaohitajika kuanza biashara ni wawili. Ingawa sera ya makampuni ya 2012 inaruhusu kuanzishwa kwa makampuni inayomilikiwa na mtu mmoja, kiutendaji sera hii inapatikana tu kwa watu binafsi

- Kwa jumla hakuna mahitaji ya umiliki wa hisa wa ndani ya nchi, lakini baadhi ya mahitaji ya bidhaa nyingine za ndani ya nchi yanapatikana katika tasnia ya mafuta.

KIWANGO CHA CHINI CHA UMILIKI WA MTAJI

Hakuna kiwango cha chini cha mahitaji ya kumiliki mtaji nchini Uganda, isipokuwa kwa taasisi za fedha, kampuni za bima, watoa huduma za malipo, kampuni zilizo katika biashara ya michezo, kamari na michezo ya bahati nasibu.

- Hata hivyo, sera ya kanuni za uwekezaji inaeleza kuwa Waziri ataamua kiwango cha chini cha

mtaji kwa mwekezaji wa kigeni, lakini hili bado halijatangazwa.

- Kiutendaji, kwa jumla kampuni iliyoyo na ukomo wa hisa itasajiliwa tu iwapo imeidhinisha mtaji wa angalau milioni moja, pesa za Uganda.

WAKURUGENZI

Kampuni ya kibinafsi lazima iwe na angalau mkurugenzi mmoja. Hakuna sharti la kuwa na wakurugenzi wakazi ama raia wa nchi ya Uganda. Ni taasisi za za fedha abazo zimedhibitiwa kwa masharti na Banki kuu ya Uganda na makampuni ya bima kuwa na Mkurugenzi ambaye ni raiaya wa Uganda.

KATIBU WA KAMPUNI

- Kila kampunini lazima imwajiri katibu wake (kampuni au mtu binafsi) ambaye ni mkazi na raia wa nchi ya Uganda.

Aidha, Mkurugenzi mkuu wa kampuni anaweza kutoteuliew kuwa katibu wa kampuni inayohusika.

MKAGUZI

Kampuniyakibinafsilazimaimwajiri mkaguzi ambaye ni mwanachama wa taasisi ya mahasibu wa umma ya Uganda au kutoka mojawapo ya mashirika mengine ya kitaaluma yanayorejelewa katika sera ya wahasibu ya (sura 266).

ANWANI ILIYOSAJILIWA

- Kila kampuni lazima iwe na ofisi iliyosajiliwa na anwani ya

posta nchini Uganda ambapo mawasiliano yote na taarifa zote zinaweza kushughulikiwa. Aidha, anwani hiyo lazima iwe na anwani ya huduma ya iliyozingatia tarati-bu za kisheria za kampuni.

- Kampuni inaweza kuwa na anwani yake iliyosajiliwa katika ofisi za katibu wake, wanasheria, waha-sibu au wahusika wengine.

KAMPUNI ZILIZOANZISHWA KISHERIA LAKINI HAZITOI HUDU

MA(Kampuni za rafu)

Hakuna kampuni za rafu zinazopatikana kwa ununuzi na wawekezaji nchini Uganda.

MCHAKATO WA USAJILI

Kampuni zinasajiliwa na shirika la usajili wa makampuni incini Uganda. Machakato wa usajili huchukua juma moja kusajiliwa ikiwa mahitaji yote yanatekelezwa na kuwasilishwa kwa shirika.

F. USHURU MFUMO WA USHURU

Nchi ya Uganda ina mfumo wa kuwatoza ushuru raia wake kutokana na mapato yao ya ndani na nje ya nchi ilhali wasio wakaazi wa Uganda wanatozwa ushuru kutokana na mapato yao waliopata nchini Uganda.

KAMPUNI ZA UGANDA Kampuni inaweza kutambuliwa kuwa kampuni au shirika la Uganda iwapo:

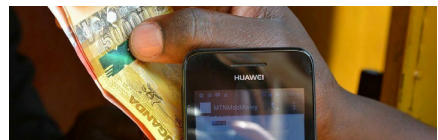
- mejumuishwa au kuundwa chini ya sheria za Uganda
- Ina usimamizi na udhibiti unotekelezwa nchini Uganda wakati wowote katika mwaka wa mapato au
- Huendesha shughuli zake nyingi nchini Uganda kwa angalau mwaka mmoja wa mapato

KIWANGO CHA KUTOZA KAMPUNI USHURU

- Kampuni za Uganda na kampuni za kudumu zilizoanzishwa na wawekezaji wageni hutozwa ushuru wa mapato kwa kiwango cha asilimia 30.
- Ushuru unaolipwa na wafanya-biashara wadogo wadodo (ambao mauzo yao ya kila mwaka au mapato yao hayazidi pesa za Uganda milioni 150) hutozwa ushuru unaohesabiwa kuzingatia mauzo yao.

USHURU KUTOKANA NA FAIDA YA MAUZO YA MALI AU HISA

- Uganda ina ushuru unaotozwa kwa Faida ya jumla ya mauzo ya mali ya kampuni au hisa. Kampuni ikiwa inauza mali au hisa yake, ushuru wa asilimia 30 wa faida ya mali au hisa inayouzwa hutozwa kama ilivyo kawaida ya ushuru wa biashara.



Malipo kwa	Asilimia ya Kiwango cha Ushuru Wakaazi wa Uganda	Wasio wakaazi wa Uganda
Faida za tawi	Haitozwi	15%
Mgao wa wanahisa	Asilimia sifuri (ikiwa angalau una asilimia 25 ya haki za kupiga kura) hutozwa kama sivyo unatozwa ushuru wa asilimia 15	Hutozwa asilimia 15
Riba	Asilimia 15 / 10 / 20 (kwa dhamana ya serikali)	Hutozwa Asilimia 15 / 10 / 20 (kwa dhamana ya serikali)
Ada ya matumizi ya mali ya akili	Haipo	15%
Usimamizi, ushauri na ada za huduma za kiufundi	Asilimia 6 (isipokuwa inapoorodheshwa kama huluki isiyoruhusiwa) hutozwa	Hutozwa Asilimia 15

Kiwango cha ushuru kilichotolewa kwa mapato fulani kinaweza kupunguza kulingana na makubaliano ya pande mbili husika ikiwa utoshaji ushuru mara mbili unaweza kudhihirika

USHURU UNAOTOZWA MARA MBILI KWENYE CHANZO KIMOJA CHA MAPATO

Ushuru unaotozwa mara mbili kwenye kiwango kimoja cha mapato unatekelezwa kwa nchi za Denmark, India, Italia, Mauritius, Uholanzi, Norway, Afrika Kusini, Uingereza na Zambia.

HASARA

Hasara zinaweza kusongezwa

mbele kwa muda usiojulikana. Hasara kwa mapato ya kigeni haiwezi kupangwa dhidi ya mapato ya ndani ya nchi.

BEI AMBAYO KITENGO KIMOJA CHA KAMPUNI HUTOZA KITENGO KINGINE.

Kulingana na sheria za Uganda kuhusu vitengo vya kampuni kutozana kwa huduma zinazotolewa, miamala baina ya mashirika (vya-

ma husika) lazima ziendelezwa bila kuathiriana.

Watu wawili wanachukuliwa kama washirika endapo mtu yeyote anatenda au anaweza kutenda kulingana na maagizo, maombi, mapendekezo au matakwa ya mtu mwingine, haya yawe yamewasilishwa au hayajawasilishwa kwa mshirika mwingine. Kampuni ni shirika la mtu mwingine ikiwa mtu huyo, peke yake au Pamoja na shirika au mashirika, anadhibiti asilimia 50 au Zaidi ya uwezo wa kupiga kura katika kampuni, moja kwa moja au kupitia kampuni moja au Zaidi zilizoingiana, ubia au amana.

MIPAKA JUU YA KUPUNGUZWA KWA RIBA

Riba kulingana na madeni yote yanayodaiwa na mlipa ushuru ambaye ni mwanachama wa kikundi inaweza kudaiwa kama iliyopunguzwa na ambayo ina mipaka ya asilimia 30 ya mapato yanayotozwa ushuru kabla ya riba, kushuka kwa thamana na kupunguza hatua kwa hatua gharama ya awali kwa mali. Kizuizi hiki hakitumiki kwa taasisi za fedha na kampuni za bima. Mlipa ushuru ambaye riba yake inazidi kiwango anaweza kusongeza mbele riba ya ziada kwa muda usiozidi miaka mitatu.

Ushuru kwa wafanyakazi Viwango vya ushuru wa mapato vinavyotumika kwa wakaazi ni:

Mapato yanayotozwa kila mwaka (UGX)	Asilimia ya Viwango vya ushuru
hadi to 2 820 000	0%
2 820 001 – 4 020 000	10%
4 020 001 – 4 920 000	20%
4 920 001 – 120 000 000	30%
Zaidi ya 120 000 000	40%

Waajiriwa na waajiri wanaowaajiri watu watano au Zaidi lazima watoe michango kwa hizina ya taifa ya hifadhi ya jamii. Mwajiriwa anastihili kuchangia Kiwango cha asilimia kumi ya mshahara wa mfanyakazi kila mwezi. Mfanyakazi anastahili kuchangi asilimia tano.

Kwa mujibu wa idhini ya shirika la hifadhi ya kitaifa ya jamii, wafanyakazi ambao ni wahamiaji nchi Uganda hawalazimiki kutoa mchango kwa mfuko huu wa hifadhi ya kitaifa kwa jamii kama wao sio wakaazi wa kawaida wa nchi ya Uganda. Wafanyakazi hawa watafanya kazi nchini Uganda kwa iaka isiyopngua miaka mitatu. Aidha wakiwa watakuwa wanafanya kazi kwa zaidi ya miaka mitatu, au muda mrefu Zaidi, wanastahili kupata idhini ya kutolipa kutoka kwa shirika la mfuko wa hifadhi wa hazina ya kijamii.

Ushuru unaotozwa kwa mishahara.

Nchi ya Uganda haitozi ushuru kwa mishahara. Hata hivyo, wafanyakazi wote walioajiriwa wanawajibika kulipa ushuru wa huduma za ndani ya nchi kuanzia shilingi 5 000 hadi 100 000 pesa za Uganda kila mwaka, kulingana na mapato yao ya kila mwezi.

Ushuru unaotozwa kwa hati za kisheru

Aina hii ya Ushuru unatozwa kwa mujibu wa kodi ya kisheru ya mwaka wa 2014. Ushuru huu hutozwa kwa aina mbalimbali ya vyombo/vifaa na hati tofauti au kwa kiwango cha asilimia fulani iliyokubalika kutegemea thamani ya bidhaa au huduma kuanzia asilimia 0.5 hadi 2 au kwa viwango sawia kati ya elfu 10 000 na 100 000 ya pesa za Uganda, kutegemea aina ya chombo au stakabadhi husika.

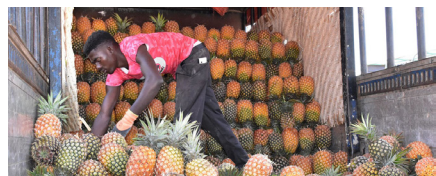
Ushuru kwa hati za kisheru wa kiwango cha asilimia 1.5 hulipwa kutegemea thamani ya ubadilishanaji/uhamisho wa hisa/mali au bidhaa katika kampuni nchini Uganda.

Ushuru kwa ongezeko la thamani ("VAT")

Bidhaa vinanyotozwa thamani ya ushuru. Ushuru kwa ongezeko la thamani ya bidhaa hutozwa kwa biidhaa na huduma zinazoagizwa na kunuliwa kutoka nje ya Uganda.

Viwango vya ushuru wa thamani kwa huduma na bidhaa Asilimila 18 Kuzidishwa kwa Kiwango cha fedha kilichosajiliwa kwa ushuru wa kuongezeka kwa thamani Mtu ambaye mauzo yake yanayotozwa ushuru yanazidi au yanatarajiwa kuzidi robo ya thamani ya shilingi 150, 000 ya fedha zinazoshtahili kutozwa ushuru katika kipindi cha miezi mitatu ya kalenda, anastahili kujisajili tena kwa madhumuni ya kutozwa ushuru wa thamani kwa huduma au bidhaa inayozidi kiwango cha fasha kilichosajiliwa.

Kuongeza Ushuru wa ongezeko la thamani kutokana na ununuzi wa bidhaa na huduma zilizoagizwa kutoka nje ya nchi Kampuni za wakaazi wa Uganda zinatarajiwa kuwajibika kufanya hisabati ya pato kuhusiana na huduma zilizoagizwa kutoka nje ya nchi na zinazotolewa na kampuni zisizo za wakaazi kwa mujibu wa utaratibu wa malipo ya ushuru wa thamani kwa wasio wakaazi wa nchi. Kwa jumla, ushuru wa ongezeko la thamani huwa hairuhusiwi kuongezwa kwenye fedha za thamani za biashara ambazo hutozwa ushuru wa ongezeko la thamani.



BIASHARA

MIKUTANO YA KIMATAIFA, MIKATABA NA MIPANGO YA NEMBO ZA BIASHARA

- Shirika za haki miliki za maeneo ya Afrika (Itifaki ya Banjul)
 - iMkataba inayohusiana na biashara ya haki za haki miliki
 - Kongamano la Paris
 - Mkataba wa Nairobi
 - Shirika la haki miliki duniani
 - Shirika la biashara duniani
- * Inafaa ikumbukwe kuwa , ingawa nchi ya Uganda ni mwana-chama wa makubaliano ya Paris, haipo chini ya itifaki za Madrid (Madrid protocol), kwa hivyo haku-na kipengele katika sheria ya nchi ya Uganda kinachohusiana na mipangilio ya kimataifa ya sera za nembo za kibiashara (trademarks) kuonyesha makubaliano yaliy-owekwa kutokana na uamuzi wa kongamano la Parisi. Hata hivyo, shirika la usajili katika utekelezaji wake huzingatia maamuzi ya kongamano hili ingawa hakuna ukweli uliowekwa wazi kuhusiana na madaia haya.

UAINISHAJI

- Uainishaji wa bidhaa na huduma za kimataifa (Uainishaji bora) unakubalika
- Maombi ya kipekee ya kupata nembo yanakubalika katika kila kiwango.
- Fomu ya usajili imegawanywa katika sehemu A (ya nembo za bi-

ashara zilizo bainifu) na sehemu B (ya nembo za biashara zinazoweza kutofautiana), kulingana na sheria.

AINA ZA NEMBO ZA BIASHARA

- Nembo zimeainishwa kutolewa kwa kuzingatia:
- Nembo za kawaida za biashara (alama ya nembo ya bidhaa na huduma);
- Cheti cha Alama za uthibitisho wa nembo ;
- Alama za nembo za kujikinga dhidi ya wizi na
- Alama za Nembo ambazo zina-tofautiana kidogo na ambazo haziwezi kuathiri utambulisho.

MAHITAJI YA KUFUNGUA BIASHARA

Mamlaka ya mwanasheria mkuu; Angalau chapa nne za alama ya nembo za biashara, isipokuwa nembo za biashara ya kawaida Kwa alama ya nembo ya vifaa, Chapa 12 na kifaa cha kuchapisha nembo Hati muhimu zinazohitajika (kama zinakubaliwa kwa mujibu wa shirika la usajili) na tafsiri yake kwa kiingereza kiliidhinishwa.

UTARATIBU WA USAJILI/ MCHAKATO

Maombi yanatumwa na kisha yanakaguliwa na shirika ili kudhibitisha usajili kwa ajili ya kuepuka na mizozo na mashirika au kampuni ambazo zilisajiliwa hapo

awali. Baada ya kukaguliwa, tangazo linatolewa na maombi kutangazwa kwa muda wa siku 60

UPINZANI

Upinzani unaweza kuwasilishwa ndani ya siku 60 kufuatia tarehe ya matangazo ya sera za biashara. Kuongezewa kwa muda wa kupinga kutumika kwa nembo kunaweza kuamuliwa kwa hiari na afisa msajili anayehusika.

MUDA NA KUWEKA UPYA SERA ZA BIASHARA

Usajili wa nembo za biashara unatumika kwa kipindi cha mwanzo cha miaka saba kuanzia tarehe ya kutuma ombi. Baada ya miaka saba, kampuni inastahili kuomba na kusajili upya nembo ambayo pia hutumika kwa muda wa miaka kumi.

A. BIASHARA ZA MTANDAONI NA ULINZI WA DATA

Mawasiliano ya kielektroniki na miama ni biashara zinazoendeshwa kupitia mitandao ya mawasiliano. Miama ya kielektroniki ina maana ya ubadilishaji wa taarifa na data, uuzaji au ununuzi wa bidhaa na huduma, kati ya biashara, familia, watu binafsi, serikali, na mashirika mengine ya umma au kibinafsi, inayoendelezwa kupitia mtandaoni.

Watoa wanaohusika katika bisaha-

ra hizi ni taasisi yoyote ya umma au kibinafsi ambayo huwezesha mawasiliano baina ya watumiaji wa huduma kwa mfumo wa tarakilishi.

Nchini Uganda, lengo la sheria zinazodhibiti miama ya kielektroniki ni; kufanikisha na kuwezesha mawasiliano na miama ya kielektroniki, kuondoa vizuizi vya kisheria na kiutendaji kwa miama ya kielektroniki, kukuza uswa katika matumizi ya sheria ya mawasiliano na miama ya kielektroniki.

Kutokana na kukua kwa matumizi ya shughuli za mtandao katika masuala ya kifedha, sasa kuna nafasi nyingi Zaidi katika miama ya kielektroniki. Uuzaji na ununuzi wa bidhaa na huduma kupitia mtandao na kuunda miundo mipya ya biashara.

MFUMO WA KISHERIA

Sheria ya Kandarasi, 2010;

Huu ndio msingi wa sheria ya miama ya kielektroniki inayofanua kandarasi kama makubaliano yenye athari na wajibu wa kisheria. Sheria ya Kandarasi, 2010 pia hueleza kwamba ujumbe wa data ya kielektroniki unaweza kuzingatiwa pia kama kandarasi kwa mfumo wa maandashi. Kwa mujibu wa sheria hii, kandarasi zinaweza kuhitimishwa mtandaoni kama miama kwa vifaa vya kielektroniki. Kandarasi inaweza

kuwa katika mfumo wa kielektroniki na kutoa uhakika wa kisheria na Imani ya umma katika matumizi ya mawasiliano na miamala ya kielektroniki.

Sheria ya miamala ya kielektroniki, 2011:

Ni muhimu kutambua kuwa nchini Uganda, kumbukumbu za kielektroniki, Habari hazitanyimwa kumendeshwa kisheria, uhalali au utekelezaji kwa msingi ya kuwa kikamilifu au sehemu katika mfumo wa ujumbe wa data. Hii imetolewa chini ya sehemu ya tano ya Sheria. Malengo ya sheria hii ni kuwezesha na kurahisisha mawasiliano na miamala ya kielektroniki, kuondoa vikwazo vya kisheria na kiutendaji vya miamala ya kielektroniki, kukuza usawa wa matumizi ya teknolojia katika kutumikiza sheria, uhakika na Imani ya umma katika matumizi ya mawasiliano ya kielektroniki, kukuza huduma za kielektroniki baina ya serikalini, kuhakikisha miamala ya kielektroniki nchini Uganda, kuhimiza uwekezaji unaendana na mazoea bora, kukuza mazingira salama na yenye ufanisi kwa watumiaji, biashara na serikali kutenda na kutumia miamala ya kielektroniki Pia, iwapo hati miliki haijatiwa Saini na inatimiza mahitaji ya sera za miamala ya kielektroniki, mbinu ya teknolojia inaweza kutumika. Usahihi wa ujumbe wa data kati-

ka mahitaji ya sheria unatimizwa na ujumbe wa data ya uadilifu wa ujumbe kutoka wakati ulipotolewa kwa mara ya kwanza ukiwa na ujumbe kamilifu na wa mwisho kama ulivyotolewa katika fomu ya data au vinginevyo umepita kiwango cha tathimini kinachohitajika.

UTHIBITISHO NA MAMLAKA YA TAIFA YA TEKNOLOJIA YA HABARI

Sheria ya mamlaka ya kitaifa ya teknolojia ya habari, 2009;

Umepitishwa chini ya sheria 3(1) ya shirika la kitaifa la mamlaka ya teknolojia na habari la Uganada (NITA-Uganda).

- Malengo makuu ya mamlaka hii ya NITA-Uganda ni kukuza viwango katika upangaji, utekelezaji, utoaji, usaidizi na utunzaji wa vifaa na huduma za teknolojia ya Habari.
- Kazi ya mamlaka inajumuisha kuratibu, kusimamia, na kufuatilia matumizi ya teknolojia ya Habari katika sekta za umma na binafsi;
- Kudhibiti na kutekeleza sekta ya umma na binafsi;
- Kudhibiti na kutekeleza viwango vya vifaa na programu za teknolojia ya habari vinazonunuliwa katika wizara, idara, wakala, na mashirika yote ya serikali;
- Kuweka, kufuatilia, na kudhibiti viwango vya upangaji wa teknolojia ya Habari, upatikanaji, utekelezaji, utoaji, usaidizi, ulinzi wa

data, usalama na kutoa msaada wa mipango ya mashirika yanayoweza kutokea.

Uthibitishaji wa watoaji wa huduma na bidhaa za Habari ya teknolojia.;

Kwa mujibu wa seria 3(1) ya mwaka wa 2016 ya uidhinishaji wa utoaji wa huduma na bidhaa za teknolojia ya Habari, mtu hawezi kuwasilisha bidhaa au huduma za teknolojia ya Habari iwapo hajaidhinishwa kwa mujibu wa sheria husika. Shirika la NITA-Uganda ndilo linalowajibika katika kutoa vyeti vya watoaji wa huduma na bidhaa za Habari ya teknolojia kwa mujibu wa sheri 4(1).

- Kwa mujibu wa sheria iliyosajiliwa ya 5(1) usajilii huanzishwa kwa madhumuni ya kuzingatia Mchakato wa usajili kwa mujibu wa masharti ya sheria;
- Msajili ana jukumu la kupokea na kushughulikia maombi ya uidhinishaji na kusajili watoa huduma walioidhinishwa.
- Ombi la usajili lazima liambatane na maelezo ya aina ya bidhaa au huduma ambazo zinafaa kuidhinishwa.
- Ada ya kutuma maombi itakotolewa kutoka kwa mapato ya jumla ya mwaka kulingana na hesabu za mwaka zilizokaguliwa kulingana na utaratibu nambari 3.

KUSAJILIWA NA OFISI

YA ULINZI WA DATA ZA KIBINAFSI

Mnamo mwaka wa 2019, Uganda ilipitisha sheria ya ulinzi wa data na faragha na kanuni husika zikapitishwa mwaka wa 2020. Hii inatoa ufaragha wa data ya mtu ya kibinafsi kwa kudhibiti ukusanyaji na uchanganuzi wa Habari za kibinafsi, kutoa haki za mtu ambaye anakusanya data yake na kwa wale wanaokusanya data kuhifadhi siri na kulinda data iliyokusanywa bila kuitoa nje bira ruhusa.. Ofisi ya Ulinzi wa data za kibinafsi (PDPO) inahitaji usajili wa wakusanyaji data, wachanganuzi, na wadhibiti kwenye tovuti yake kama ilivyoelezwa. Mamlaka hayo yamedokezwa kwa mujibu wa sheria sehemu ya 29 (1) ya sheria ya kuweka na kulinda data iliyoandikishwa. Katika sajili ya ulinzi wa data, shirika la mamlaka linatakiwa kusajili kila mtu, taasisi, au shirika la umma linalokusanya au kuchanganua data ya kibinafsi na sababu za data hio kukusanywa au kuchanganuliwa.

Mahitaji;

Jina la anayetuma ombi au shirika kulingana na cheti cha kujumuishwa/ hati husika.

- Kitengo cha data iliyokusanywa k.v; kidhibiti cha data, matumizi ya data (uchanganuzi) na mkusanyaji.
- Aina ya shirika lililo na nambari

ya usajili wa kampuni kama ilivyo katika cheti cha shirika au kampuni.

- Nchi inayohusishwa au kuhusika katika shirika
 - Eneo halisi la biashara.
 - Nambari ya simu inayotumika na shirika.
 - Anwani ya barua pepe inayotumika na shirika
 - Aina ya biashara: iwe ni huduma za kifedha k.v bima, sheria na uhandisi.
 - Maelezo ya afisa mteule wa uhifadhi wa data (DPO) (jina, nambari, anwani ya barua pepe ya DPO, anwani halisi);
 - Cheo/nafasi nyingine ya afisa mlinda data (DPO);
- Chanzo cha data kutoka kwa aidha wafanyakazi, wateja, wasambazaji, wanunuzi na wanakandarasi.
- Data ya kibinafsi iliyokusanywa au kuchanganuliwa; (inahusisha vitambulishi kama vile jina, nambari n.k., data ya eneo la kijiografia, taarifa binafsi za kibiashara kama vile historia ya fedha, mazoea ya ununuzi n.k., data ya hisia kama vile kifaa cha kupima sura na tabia za watu (biometriki), sauti na picha kutoka kwa kamera za nyumbani, Habari za elimu kama vile kufuzu kitaaluma, Habari za taaluma/zinazohusiana na ajira k.v zilizokusanywa na wahusika wa rasilimali watu na Habari kuhusu uanachama na mashirika ya kitaaluma kama vile shirika la wahasi-

bu (ACCA), data maalum kama vile Habari za kifedha, ushirika wa wafanyakazi, biometriki, maumbile, dini, jinsia, ushirikiano wa kisiasa, Habari za matibabu n.k., na data ya makisio inayotolewa kwa data nyingine ya kibinafsi kama vile mapendeleo, utabiri, mawazo, uwezo, tabia, mitazamo/mielekeo, n.k.)

- Madhumuni na uhifadhi na utunzaji wa data unaohusisha kubainisha sheria inayotumika, huduma zinazotolewa, wajibu wa kisheria, madhumuni ya kukusanya data, muda wa kuhifadhi data, usimamizi wa rasilimali watu, wajibu wa mwanakandarasi na wajibu wa wafanyakazi katika uhifadhi wa data.
- Jumla ya kumbukumbu za data iliyokusanywa kwa makadirio ya nambari;
- Ukuaji wa data ya kibinafsi iliyokusanywa kila mwaka (asilimia kulingana na mwaka wa hivi kari-buni);
- Kipindi cha kuhifadhi data na muda wa kuitunza katika miundomisingi yako.
- Iwapo shirika litafichua data yoyote ya kibinafsi kwa wahusika wengine.
- Iwapo shirika linahamisha data ya kibinafsi nje ya nchi ya Uganda
- Hatua za usalama

I. Hakimiliki

Kwanza hakimiliki inatambulika

na kulindwa nchini Uganda. Pia, nchi ya Uganda ni mwanachama wa shirika linalohusika na haki-miliki maeneo ya Afrika (ARIPO). ARIPO ni shirika baina ya serikali linaloweza ushirikiano kati ya nchi husika katika masuala ya mali inayotokana na ubunifu wa akili. Taratibu tofauti za hakimiliki zin-alindwa chini ya sheria ya biashara ya mwaka 2010, hakimiliki, haki za ujirani 2006 ili kulinda mali ya kifasihi, kisayansi na kisanii, haki za ujirani na sera ya mali ya viwanda 2014 inayokuza shughuli za uvumbuzi na ubunifu. Pia sera hii inaweza kupatikana kwa teknolojia kupitia ruzuku na udhibiti wa hatimiliki, mbinu katika matumizi, miundo ya viwanda na ubunifu wa teknolojia.

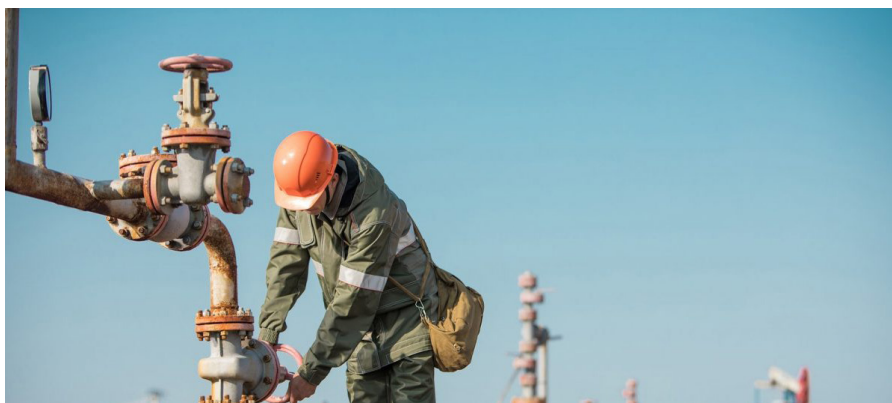
MAKUBALIANO, MIKATABA NA MIPANGO YA KIMATAIFA

Shirika la hatimiliki linalopatikana katika maeneo ya Kiafrika (Banjul

Protocol)

- Utaratibu wa Harare wa hati miliki, miundo na miundo matumizi.
- Utaratibu wa Swakopmund wa kulinda maarifa ya jadi na usemi wa ngano.
- Makubaliono ya masuala yanayohusiana na biashara ya haki za mali ya akili
- Makubaliano ya Paris
- Mkataba wa Nairobi
- Shirika la hatimiliki duniani.
- Shirika la biashara duniani.

*kumbuka, ingawa nchi ya Uganda ni mwanachama wa makubaliano ya Paris, haipo chini ya itifaki za Madrid (Madrid protocol), kwa hivyo hakuna kipengele katika sheria ya nchi ya Uganda inayohusiana na mipangilio ya kimataifa ya alama za nembo za kibiashara. Kwa hivyo haiwezi kupewa kipa-umbele hata ingawa kiutendaji ofisi ya usajili huwa inatumia mkataba huu kwa kuwa hauna uhakika wa kukubaliwa ama kukataliwa.



FAIRE DES AFFAIRES EN OUGANDA

A. APERÇU DU PAYS.

STRUCTURE GOUVERNEMENTALE

Exécutif: Le président est à la fois le chef de l'État et le chef du gouvernement. Le président est directement élu au suffrage universel à la majorité absolue, en deux tours si nécessaire, pour une durée de cinq ans sans limitation du nombre de mandats suivants. Le premier ministre est nommé par le président. Le cabinet est nommé par le Président.

Législatif:

L'Ouganda a un parlement monocaméral.

Judiciaire: La plus haute juridiction est la Cour Suprême. Les juridictions inférieures sont la Cour d'appel (qui siège également en tant que Cour constitutionnelle), la High Court (comprend 12 circuits de la High Court et huit divisions de la Haute Cour), Court, Chief Magistrate Grade I et Grade Two Courts dans tout le pays, les tribunaux de Qadhi, les tribunaux des conseils locaux et les tribunaux de la famille et des enfants tribunaux. Prochaines élections présidentielles et parlementaires : Janvier 2026.

ECONOMIC DATA

PIB nominal (milliards USD) :	37,37
PIB par habitant (USD) :	894,35
Taux d'inflation (variation en %) :	4,9
Recettes publiques (% du PIB) :	13,6
Dette publique brute (% du PIB) :	51,30

*Source : tradingeconomics.com (décembre 2021)

L'Ouganda possède d'importantes ressources naturelles, notamment des sols fertiles, des précipitations régulières, d'importantes réserves de pétrole récupérable et de petits gisements de cuivre, d'or et d'autres minéraux. L'un des secteurs les plus importants de l'économie est l'agriculture, qui emploie environ 72 % de la main-d'œuvre.

L'Ouganda a un petit secteur industriel qui dépend des intrants importés tels que le pétrole raffiné et l'équipement lourd. Les principaux partenaires à l'exportation de l'Ouganda sont les Émirats arabes unis et le Kenya. Les principaux produits d'exportation sont le café, le lait, le poisson et les produits de la pêche, le tabac et l'or.

Les principaux partenaires d'importation de l'Ouganda sont la Chine, l'Inde, le Kenya, les Émirats arabes unis et le Japon. Les principaux produits d'importation sont les médicaments emballés, les avions, les camions de livraison, les voitures et le blé.

ÉVALUATION DES RISQUES

Le risque souverain est noté B. L'encours de la dette publique est modérément important (à 52,8 % du PIB) et un ratio élevé du service de la dette, de 23 %, au milieu d'obligations arrivant à échéance

pèse sur la notation. Cependant, la forte croissance des réserves de change (de 17,7 % au cours des six mois se terminant en septembre 2021), reflétant la hausse des exportations, atténue les risques de remboursement.

La notation du risque de change est de BB. La stabilité récente des taux de change soutient la notation, mais une appréciation modérée du taux de change réel met en évidence les risques de change liés à un éventuel désalignement des taux de change. Cependant, un solide coussin de réserves de change renforce la capacité de la Banque d'Ouganda (BoU, la Banque Centrale) à défendre le shilling contre une volatilité excessive.

Le risque secteur bancaire est noté B. Le ratio des prêts non performants est inférieur à l'objectif de 5 % de la Banque Centrale (à 4,8 % à fin juin 2021). Des niveaux adéquats de croissance du crédit et une surveillance financière relativement solide par la BoU renforcent encore la notation. Toutefois, la baisse de la position extérieure nette des banques, reflétant une augmentation des engagements en devises, présente un risque modéré.

Le risque politique est noté CCC. Les risques liés à la pandémie

ont un poids modéré, en raison de la baisse de la propagation de la variante Omicron à propagation rapide en Ouganda depuis décembre. La réélection du président Yoweri Museveni en janvier a été marquée par la violence, mais les risques liés aux élections se sont depuis atténués.

Le risque de structure économique est au CCC, reflétant une tendance récente de concentration des exportations, les métaux précieux représentant 44% des recettes d'exportation totales. Une dépendance excessive à l'égard d'une seule catégorie de biens expose le pays à des chocs extérieurs sur les prix et la demande. Des déficits budgétaires et courant persistants et importants et des revenus faibles constituent les principaux facteurs de risque.

<http://country.eiu.com/article.aspx?articleid=1080925091&Country=Uganda&topic=Risk&subtopic=Credit+risk&subsubtopic=Overview>

B. TRAITÉS INTERNATIONAUX ET MEMBRES

ORGANISATIONS INTERNATIONALES ET RÉGIONALES ET UNIONS

DOUANIÈRES

- Groupe des États d'Afrique, des Caraïbes et du Pacifique (ACP)
- Groupe de la Banque africaine de développement (BAD)
- Opération hybride Union africaine/Nations Unies au Darfour
- Union africaine (UA)
- Marché commun de l'Afrique orientale et australe (COMESA)
- Communauté des Nations
- Communauté de l'Afrique de l'Est (EAC)
- Banque de développement de l'Afrique de l'Est
- Organisation des Nations Unies pour l'alimentation et l'agriculture (FAO)
- Groupe des 77 (G77)
- Autorité intergouvernementale pour le développement
- Agence internationale de l'énergie atomique (AIEA)
- Banque internationale pour la reconstruction et le développement (BIRD)
- Organisation de l'aviation civile internationale

L'Ouganda bénéficie d'un traitement préférentiel dans le cadre des accords énumérés ici : s <http://ptadb.wto.org/Country.aspx?code=800>

TRAITÉS BILATÉRAUX D'INVESTISSEMENT

Selon la Conférence des Nations Unies sur le commerce et le dével-

oppement, l'Ouganda a conclu des traités bilatéraux d'investissement avec le Danemark, la France, l'Allemagne, la Pays-Bas, Suisse, et le Royaume Uni. Des traités ont été signés avec l'Union économique belgo-luxembourgeoise, Chine, Cuba, Egypte, Erythrée, Nigeria, Afrique du Sud, Emirats Arabes Unis, et Zimbabwe mais ceux-ci ne sont pas encore entrés en vigueur.

ACCORDS / INSTITUTIONS LIÉS À L'INVESTISSEMENT

- Loi sur la croissance et les opportunités en Afrique
- Accord de Cotonou
- Agence multilatérale de garantie des investissements
- L'organisation mondiale de commerce

RÈGLEMENT DES LITIGES.

Convention pour le règlement des différends relatifs aux investissements (Convention CIRDI) Cour permanente d'arbitrage

Commission des Nations Unies pour le droit commercial international (CNUDCI)

Convention des Nations Unies pour la reconnaissance et l'exécution des sentences arbitrales étrangères (Convention de New York)

TRAITÉS DE PROPRIÉTÉ

INTELLECTUELLE (« PI »)

Une liste complète des traités relatifs à la propriété intellectuelle signés par l'Ouganda est disponible à l'adresse:

<http://www.wipo.int/wipolex/en/profile.jsp?code=UG>

Voir la marque de commerce section ci-dessous pour plus loin détail.

C. REGIME JURIDIQUE

REGIME JURIDIQUE APPLICABLE

Le système juridique ougandais est principalement fondé sur la loi, complétée par la common law, les doctrines de l'équité, le droit coutumier et certains aspects de la loi islamique.

La loi sur l'organisation judiciaire (Cap.13) prescrit les lois applicables en Ouganda en tant que loi écrite et, dans la mesure où elles ne sont pas couvertes par la loi écrite, la common law et les doctrines d'équité, toute coutume ou usage établi et actuel. Lorsqu'aucune règle expresse n'est applicable, la Haute Cour peut agir conformément aux principes de justice, d'équité et de bonne conscience.

RÈGLEMENT DES

DIFFÉRENDS

La loi de 2019 sur le code des investissements ougandais définit la procédure de règlement d'investissement des disputes à travers les quatre canaux suivant :

- négociations directes en vue d'un règlement à l'amiable conformément au Arbitrage et Conciliation Loi (Cap 4);
- la Convention CIRDI, dans le cadre d'accords bilatéraux ou multilatéraux accords sur la protection des investisseurs, auxquels l'Ouganda et le pays d'origine de la compagnie sont signataires ; une application à la Haute Court; ou
- N'importe quel autre mécanisme international.

La loi sur l'arbitrage et la conciliation autorise conventions internationales d'arbitrage à être appliqué au niveau des disputes commerciales nationales et internationales.

ACQUISITION, PLANIFICATION ET UTILISATION DES TERRES

Les investisseurs étrangers ne sont autorisés à conclure des baux à long terme que pour une période maximum de 99 années.

Avocats/avocats et agents immobiliers peuvent aider dans la localisation et la location propice terrains disponibles.

Une demande peut également être faite auprès de l'Uganda In-

vestment Authority (" UIA ") pour l'attribution de terrain pour investissements et finalités.

CONCURRENCE

Il n'existe actuellement aucune loi sur la concurrence opérationnelle en Ouganda.

Il existe cependant des lois spécifiques réglementant la concurrence dans des secteurs particuliers.

L'Ouganda est membre des organismes régionaux de concurrence, du COMESA et de l'EAC. Les activités en Ouganda devraient être menées en tenant compte de ces organismes régionaux de concurrence.

EMPLOI

Immigration

Les employés étrangers ont besoin d'un laissez-passer spécial ou d'un permis de travail pour être employé en Ouganda.

Un laissez-passer spécial est une facilité de travail à court terme accordée aux employés étrangers dont la durée d'emploi est d'une durée totale maximale de cinq mois, considérant qu'un permis de travail est accordé aux salariés étrangers dont la durée emploi est pour six mois à trois ans.

Comme condition préalable à l'obtention des facilités de travail, l'entreprise souhaitant employer

un employé étranger doit passer par un processus de profilage et obtenir un numéro de code de la Direction du contrôle de la citoyenneté et de l'immigration (Directorate of Citizenship and Immigration Control « DCIC »). Par la suite, l'entreprise peut soumettre en ligne la demande relative à la facilité de travail, en utilisant la code Numéro Publié par la DCIC.

Il n'existe aucune restriction sur le nombre de permis de travail disponibles à une compagnie. En pratique, la DCIC approuve les demandes d'aménagements de travail dès lors que l'employeur fournit les documents requis et paie les frais prescrits pour les installations de travail respectives, et démontre avec succès que les expatriés apporteront aux activités de l'entreprise des compétences et des connaissances qui ne sont pas facilement disponibles auprès des employés ougandais. La DCIC met aussi en place des différentes conditions spécifiées pour les différents secteurs d'emploi.

Local Emploi versus détachement

Aux termes de la législation ougandaise du travail, un employé peut être détaché en Ouganda. En effet ce n'est pas une exigence légale pour un employé

de nationalité ougandaise ou étrangère d'être employé par une entreprise locale. Cependant, aux termes de la législation ougandaise sur l'immigration, l'emploi par une entité est un prérequis pour appliquer pour un permis de travail.

Contrats à durée déterminée et Prestations temporaires de service

Les contrats de travail à durée déterminée qui sont soit définis par le temps ou la tâche sont autorisés en vertu de la loi sur l'emploi de 2006. L'utilisation de contrats à durée déterminée doit, cependant, être abordée avec circonspection car il existe des risques associés à de tels contrats. Il n'y a pas de régulation spécifique en ce qui concerne le renouvellement du CDD.

Le recours aux services d'emploi temporaire (agences d'emploi privées) est prévu, dans la mesure où l'agence est enregistrée et agréée en vertu de la réglementation sur l'Emploi, 2011.

Paiement en monnaie locale

Le paiement en monnaie locale n'est pas une exigence légale.

Prise en compte des accords

d'échanges

La prise en compte des accords commerciaux est *prima facie* valide et exécutoire en Ouganda, à condition que les obligations y soient raisonnables.

D. RÉGIME DES INVESTISSEMENTS ÉTRANGERS

RÉGIME D'INVESTISSEMENT

La loi sur le code des investissements régit les investissements en Ouganda.

L'UIA sert de guichet unique pour l'enregistrement et l'octroi de licences aux entreprises.

Le Bureau des services d'enregistrement de l'Ouganda (« Uganda Registration Services Bureau/URSB ») est mandaté pour enregistrer les entités commerciales en Ouganda.

EXIGENCES D'INSCRIPTION / DE LICENCE

Les sociétés étrangères ayant l'intention d'exploiter une entreprise en Ouganda doivent demander une licence d'investissement, délivrée en vertu de la Loi sur le code des investissements, auprès de l'UIA.

Les investisseurs dans les secteurs de la production d'énergie, de l'exploitation minière, de la ban-

que, de l'assurance, des services de paiement, du transport aérien, de la production pharmaceutique, de l'éducation, de la santé, des télécommunications et du pétrole et du gaz doivent obtenir une « licence principale » auprès du ministère/département/agence réglementant ces secteurs avant de demander une licence d'investissement.

ENREGISTREMENTS/ LICENCES NON SPÉCIFIQUES À L'INDUSTRIE

Les enregistrements/licences générales suivants et non spécifiques à l'industrie peuvent également être nécessaires :

Autorité fiscale ougandaise (Uganda Revenue Authority "URA")

Tous les contribuables (y compris les chefs d'entreprise) doivent s'inscrire auprès de l'URA et obtenir un numéro d'identification fiscale (« TIN »), qui est utilisé pour tous les types d'impôts.

Si le chiffre d'affaires annuel prévu d'une entreprise dépasse le seuil d'enregistrement de la taxe sur la valeur ajoutée (« TVA ») (voir la section « taxe » ci-dessous), elle doit également s'enregistrer spécifiquement aux fins de la TVA. Ministère du Commerce, des Industries et des Coopératives (Ministry Of Trade, Industries and Co-

operatives « MITC »)

- Avant de soumettre une demande de licence commerciale comme indiqué ci-dessous, les investisseurs étrangers sont tenus d'obtenir l'autorisation du MITC et de s'inscrire auprès de celui-ci pour commercer en Ouganda.

(Autorité de la capitale de Kampala (Kampala Capital City Authority « KCCA »)

- Les entreprises opérant en Ouganda doivent détenir une licence commerciale valide délivrée par l'autorité municipale compétente (à Kampala, la KCCA). Une licence commerciale distincte doit être obtenue pour chaque succursale/magasin d'une entité. Caisse nationale de sécurité sociale (« CNSS »)/ National Social Security Fund ("NSSF")

- Tout employeur employant cinq salariés ou plus doit s'inscrire auprès de la NSSF dans les 21 jours suivant la date à laquelle il devient susceptible de s'inscrire en tant qu'employeur cotisant.

- De plus, chaque employé est tenu d'avoir son propre numéro d'affilié à la sécurité sociale sous lequel les cotisations sont versées.

LICENCES SPÉCIFIQUES AU SECTEUR D'ACTIVITE

Des licences spécifiques à l'industrie peuvent également être requises.

DES INCITATIONS

Les incitations comprennent :

- diverses incitations favorisant les activités agricoles ;
- des exonérations fiscales accordées aux promoteurs ou exploitants de parcs industriels ou de zones franches, en fonction du montant des capitaux investis ; et
- Incitations disponibles au sein de la EAC, y compris les systèmes de ristourne de droits et aucune exigence de licences d'importation ou d'exportation dans la région.

RÈGLEMENT DE CONTRÔLE DES CHANGES

L'Ouganda n'impose aucune restriction de contrôle des changes, cependant, aux termes de la loi de 2004 sur les changes, tout paiement effectué en devises étrangères vers ou depuis l'Ouganda entre résidents et non-résidents, ou entre non-résidents, doit être effectué par l'intermédiaire d'une banque commerciale.

TYPES D'ENTITÉS DISPONIBLES POUR L'INVESTISSEMENT ÉTRANGER

- Entreprise individuelle ; société publique (société par actions);
- société privée à responsabilité limitée;

- société à responsabilité limitée par garantie ;
- coentreprise ;
- entreprise publique-privée; et
- Succursale enregistrée d'une société étrangère.

E. SOCIÉTÉ PRIVÉE À RESPONSABILITÉ LIMITÉE

NOMBRE MINIMUM D'ACTIONNAIRES

Un minimum de deux actionnaires est requis. Alors que la loi de 2012 sur les sociétés autorise la création de sociétés unipersonnelles, dans la pratique, cela semble n'être disponible que pour les particuliers. Il n'y a généralement pas d'exigence d'actionariat local, mais certaines exigences de contenu local existent dans l'industrie pétrolière.

CAPITAL SOCIAL MINIMAL

Il n'y a pas d'exigences de capital minimum en Ouganda, sauf pour les institutions financières, les compagnies d'assurance, les prestataires de services de paiement et les entreprises de jeux, de paris et de loteries.

Cependant, la loi sur le code des investissements prévoit que le ministre déterminera les exigences minimales en matière

de capital pour un investisseur étranger, mais cela n'a pas encore été annoncé. En pratique, une société à responsabilité limitée par actions ne sera généralement enregistrée que si elle dispose d'un capital social autorisé d'au moins 1 million d'UGX.

ADMINISTRATEURS

Une société privée doit avoir au moins un administrateur. Il n'y a pas d'obligation d'avoir des administrateurs résidents ougandais, à l'exception des établissements réglementé par le Banque de l'Ouganda et les entreprises d'assurance.

SECRÉTAIRE GENERALE

Toute compagnie doit nommer un secrétaire général (personne morale ou physique), résident en Ouganda.

L'Unique administrateur de la compagnie peut ne pas être le secrétaire général.

AUDITEUR

Une entreprise privée doit nommer un commissaire aux comptes qui est membre de l'Institut de Certified Public Accountants of Uganda ou l'un des autres organismes professionnels mentionné dans la loi comptable Ougandaise (Cap. 266).

ADRESSE ENREGISTRÉE

Chaque entreprise doit avoir un siège social et une adresse postale en Ouganda à laquelle toutes les communications et notifications peuvent être adressées et qui doivent constituer l'adresse pour notification de poursuites judiciaires contre la compagnie.

Une entreprise peut enregistrer son adresse aux bureaux de son secrétaire général, avocats, comptables ou un tiers.

ENTREPRISES INTERMÉDIAIRES

En Ouganda, il n'existe pas d'entreprises intermédiaires uniquement disponibles pour achat.

PROCEDURE D'ENREGISTREMENT

Les entreprises sont inscrites avec l'URSB et cela prend approximativement une semaine pour terminer l'inscription, une fois que tous les documents requis ont été soumis.

F. IMPÔT

IMPÔT SYSTÈME

L'Ouganda a un système fiscal basé sur la résidence en vertu duquel les résidents sont assujettis à l'impôt sur leurs revenus mondiaux, tandis que les non-résidents sont assujettis à l'impôt seulement sur leur revenu d'origine ougandaise.

ENTREPRISE RÉSIDENCE

Une compagnie est résidente en Ouganda si elle :

- est incorporée ou formée en vertu de la loi de l'Ouganda;
- a sa gestion et son contrôle exercés de l'Ouganda à tout moment au cours de l'an du revenu considéré ; ou
- entreprend la majorité de ses opérations en Ouganda durant l'an du revenu considéré.

TAUX IMPÔT SUR LES SOCIÉTÉS

Les sociétés résidentes et les établissements stables de sociétés étrangères sont assujettis à l'impôt sur le revenu des entreprises au taux de 30 %.

Impôt dû par les petites entreprises (dont le chiffre d'affaires annuel ou les revenus ne dépassent UGX150 millions) est calculé avec référence au chiffre d'affaires.

L'IMPÔT SUR LES GAINS EN CAPITAL (« CGT »)

Les gains en CAPITAL sur la cession d'actifs sont inclus dans le revenu imposable ordinaire et sont assujettis à l'impôt sur le revenu de l'entreprise impôt au taux de standard de 30 %.

TAUX DE LA TAXE SUR LES BÉNÉFICES ("WHT")

Paiement à Tarif WHT	Non résidents	Résidents
bénéfices de la succursale	N/A	15%
Dividendes	0% (si au moins 25 % des droits de vote) 15%	15%
Intérêt	15% 10% / 20% (sur des Titres du Gouvernement)	15% 10% / 20% (sur des Titres du Gouvernement)
Redevance	N/A	15%
La gestion Conseil et Frais de service technique	6 % (sauf si répertorié comme Entité exemptée)	15%

** Le taux de l'impôt sur le bénéfice peut être réduit dans le cas d'une double imposition émanant d'un accord pertinent.*

ACCORD DE DOUBLE IMPOSITION (DOUBLE TAX AGREEMENTS "DTAS ")

Des DTAs sont en vigueur avec le Danemark, l'Inde, l'Italie, Maurice, les Pays-Bas, Norvège, Afrique du Sud, le Royaume- Uni et Zambie.

PERTES

Les pertes peuvent être reportées indéfiniment.

La perte sur le revenu émanant d'une source étrangère ne peut

être déclenchée contre le revenu local.

PRIX de TRANSFERT

En termes de règles ougandaises en matière de prix de transfert, les transactions entre associés doivent être passées sans lien de dépendance. Deux personnes sont traitées comme des associés l'une de l'autre lorsqu'une personne agit ou est susceptible d'agir, conformément aux instructions, demandes, suggestions ou la volonté d'une autre personne, qu'elle soit communiquée ou non

à la première personne Une société est associée à une autre personne si cette personne, seule ou avec un associé ou des associés, contrôle 50 % ou plus des droits de vote pouvoir dans l'entreprise, soit directement, soit par l'intermédiaire d'un ou plusieurs entreprises, partenariats ou fonds.

LIMITATIONS À LA DÉDUCTIBILITÉ DES INTÉRÊTS

Les intérêts relatifs à toutes les dettes dues par un contribuable membre d'un groupe peuvent être réclamés sous forme de déduction limitée à 30 % du bénéfice imposable avant intérêts, impôts et amortissements (EBIT-DA). La restriction ne s'applique pas aux institutions financières et

aux compagnies d'assurance. Un contribuable dont les intérêts dépassent la limite peut reporter l'excédent d'intérêts sur une période maximale de trois ans. les impôts des salariés Les taux d'impôt sur le revenu applicables aux personnes physiques résidentes sont les suivants :el

Revenu imposable annuel (UGX)	taux d'imposition
Jusqu'à 2 820 000	0%
2 820 001 – 4 020 000	10%
4 020 001 – 4 920 000	20%
4 920 001 – 120 000 000	30%
au dessus 120 000 000	40%



contributions à la Sécurité sociale

- Tant les employés que les employeurs qui emploient cinq employés ou plus doivent faire des cotisations mensuelles à la Sécurité sociale (NSSF).
- La contribution de l'employeur est au taux de 10% du salaire mensuel de l'employés, tandis que l'employé contribue 5 %.
- Sous réserve de l'approbation de la CNSS, les expatriés ne sont pas obligés de cotiser à la NSSF s'ils ne résident pas habituellement en Ouganda et doivent être employés en Ouganda pour une période continue ne dépassant pas trois années ou une période plus longue autorisée par la NSSF.

Impôts sur la paie

Il n'existe pas d'impôts sur la paie en Ouganda. Toutefois, tous les salariés exerçant une activité lucrative sont redevables d'une taxe locale sur le service allant de 5 000 UGX à 100 000 UGX par an, selon le revenu mensuel de chaque employé.

Droit de timbre

Le droit de timbre est perçu en vertu de la loi de 2014 sur le droit de timbre sur un large éventail d'instruments et documents, soit ad valorem à des taux allant de 0,5% à 2 % ou à un taux forfaitaire compris entre 10 000 UGX et

100 000 UGX, selon la nature de l'instrument. Un droit de timbre au taux de 1,5 % est exigible sur la valeur totale du transfert d'actions dans une entreprise ougandaise et propriété immobilière.

Taxe sur la valeur ajoutée (« TVA »)

Provisions imposables

La TVA est prélevée sur la fourniture de biens et de services en Ouganda et sur l'importation des biens et prestations de service. Le taux de la T.V.A. est 18%

Le seuil d'enregistrement

Une personne dont le chiffre d'affaires imposable au cours d'une période quelconque de trois mois civils dépasse ou devrait dépasser le quart du seuil de l'inscription annuelle de 150 millions d'UGX doit s'inscrire pour la TVA.

La TVA inversée sur l'importation de prestations de service

Les sociétés résidentes sont tenues de comptabiliser la TVA en aval en ce qui concerne des services importés rendus par des sociétés non-résidentes en termes de charge mécanisme. Une telle TVA n'est généralement pas autorisée en tant que crédit

G. MARQUES COMMERCIALES

CONVENTIONS, TRAITES ET ARRANGEMENTS INTERNATIONAUX

- Organisation régionale africaine de la propriété intellectuelle (Protocole de Banjul)
- Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce
- Congrès de Paris
- Traité de Nairobi
- Organisation mondiale de la propriété intellectuelle
- L'organisation mondiale de commerce

*Remarque Bien que l'Ouganda soit membre de la Convention de Paris, elle n'est pas signataire du Protocole de Madrid, il n'y a donc aucune disposition dans la législation ougandaise relative aux arrangements internationaux pour les marques. En tant que tel, il ne devrait pas être possible de revendiquer la priorité conventionnelle. Cependant, le registre accepte dans la pratique les revendications de priorité bien que l'efficacité et la validité d'une revendication de priorité ne soient pas claires.

CLASSIFICATION

La classification internationale des biens et services (classification de Nice) s'applique.

Une demande distincte est requise pour chaque classe.

Le registre est divisé en partie A (pour les marques qui sont distinctives) et en partie B (pour les marques qui sont capables de distinguer), selon la législation.

CATÉGORIES DE MARQUES COMMERCIALES

Il est prévu :

- marques ordinaires (marques de produits et de services);
- marques de certification;
- marques défensives; et
- marques de série.

EXIGENCES DE SOUMISSION

Procuration simplement signée ; au moins quatre empreintes de la marque, à l'exception des marques verbales en caractères ordinaires ; pour les marques figuratives, 12 empreintes et un bloc d'impression des marques de commerce ; et

document de priorité (le cas échéant), avec traduction anglaise vérifiée.



EXCISE TAX

PROCÉDURE

Les demandes sont examinées quant à l'enregistrabilité inhérente et aux conflits avec les enregistrements/demandes existants antérieurs. Lors de l'acceptation, un avis de publication est émis et les candidatures sont publiées pendant une période de 60 jours.

OPPOSITIONS

Une opposition peut être formée dans les 60 jours suivant la date d'annonce de la demande de marque. L'extension du délai d'opposition est possible à la discrétion de l'officier responsable de l'enregistrement.

DURÉE ET RENOUVELLEMENT

Un enregistrement de marque est effectif pour une période initiale de sept ans à compter de la date de la demande et, par la suite, renouvelable pour des périodes supplémentaires de 10 ans.

H. ENTREPRISES DE COMMERCE ÉLECTRONIQUE & PROTECTION DES DONNÉES

Les communications et les transactions électroniques désignent

les entreprises qui interagissent sur les réseaux de télécommunications. Les transactions électroniques désignent l'échange d'informations ou de données, la vente ou l'achat de biens et de services, entre entreprises, ménages, particuliers, gouvernements et autres organisations publiques ou privées, effectués sur des réseaux informatiques.

Les prestataires de services sont toute entité publique ou privée qui offre aux utilisateurs de son service la possibilité de communiquer au moyen d'un système informatique.

En Ouganda, l'objet des lois réglementant les transactions électroniques est de ; permettre et faciliter les communications et transactions électroniques, supprimer et éliminer les obstacles juridiques et opérationnels aux transactions électroniques, promouvoir la neutralité technologique dans l'application de la législation aux communications et transactions électroniques.

Avec l'inclusion financière et la croissance de l'utilisation d'Internet, il existe désormais de nombreuses opportunités dans les transactions électroniques. La vente et l'achat de biens et de services sur Internet, créant ainsi de nouveaux modèles commerciaux.

CADRE JURIDIQUE CLÉ

Loi sur les contrats, 2010 ; Il s'agit de la loi primaire pour les transactions électroniques et prévoit la définition d'un contrat comme des accords ayant un effet juridique et des obligations. La loi de 2010 sur les contrats prévoit également que les messages de données électroniques peuvent également être considérés comme des contrats sous forme écrite.

Selon la loi, les contrats peuvent être conclus par voie électronique en tant que transactions électroniques avec des appareils électroniques. Le contrat peut être sous forme électronique et assurer la sécurité juridique et la confiance du public dans l'utilisation des communications et des transactions électroniques.

Loi de 2011 sur les transactions électroniques : il est important de noter qu'en Ouganda, l'effet juridique des enregistrements électroniques se rapportant à l'information ne doit pas être refusé au seul motif qu'il est entièrement ou partiellement sous la forme d'un message de données. Cela est prévu à l'art. 5 de la Loi.

Les objets de la loi permettent et facilitent les communications et les transactions électroniques, suppriment et éliminent les obstacles juridiques et opérationnels aux transactions électroniques,

favorisent la neutralité technologique dans l'application de la législation, la certitude et la confiance du public dans l'utilisation des communications électroniques, favorisent les services gouvernementaux en ligne, s'en suivent transactions électroniques en Ouganda, encourager les investissements à se conformer aux meilleures pratiques, développer un environnement efficace sûr et sécurisé pour que le consommateur, les entreprises et le gouvernement puissent effectuer et utiliser des transactions électroniques.

Il permet également l'utilisation de signatures électroniques lorsqu'un document n'est pas signé et cette exigence est remplie si une signature électronique est utilisée.

L'authenticité du message de données dans l'exigence légale est remplie par un message de données de l'intégrité de l'information à partir du moment où il a été généré pour la première fois sous sa forme finale en tant que message de données ou a réussi l'évaluation.



CERTIFICATION AUPRÈS DE L'AUTORITÉ NATIONALE DES TECHNOLOGIES DE L'INFORMATION

La loi de 2009 sur l'Autorité nationale des technologies de l'information ;

- Il est établi en tant qu'organisme en vertu de l'art. 3(1) de la Loi NITA-U.
- Les principaux objectifs de l'Autorité sont de promouvoir la normalisation dans la planification, la mise en œuvre, la livraison, le support et la maintenance des équipements et services de technologie de l'information.
- Les fonctions de l'Autorité comprennent la coordination, la supervision et le suivi de l'utilisation des technologies de l'information dans les secteurs public et privé ;
- Réglementer et faire respecter les secteurs public et privé ;
- Réglementer et faire respecter les normes d'approvisionnement en matériel informatique et en logiciels dans tous les ministères, départements, agences et organismes parapublics ;
- Établir, surveiller et réglementer les normes de planification, d'acquisition, de mise en œuvre, de livraison, d'assistance, de protection des données, de sécurité et de planification d'urgence des technologies de l'information.

Règlement sur la certification

des fournisseurs de produits et services de technologie de l'information;

En vertu du Règlement 3(1) du Règlement de 2016 de l'Autorité nationale des technologies de l'information de l'Ouganda (Certification des fournisseurs de produits et services de technologie de l'information), une personne ne peut pas fournir de produits ou de services de technologie de l'information à moins d'être certifiée conformément à la Loi et au Règlement.

C'est la NITA-U qui est responsable de cette certification en vertu du Reg. 4(1).

- Selon le Règl. 5(1) un officier responsable de l'enregistrement est établi aux fins de la procédure de certification en vertu du Règlement ;
- L'officier responsable de l'enregistrement est chargé de recevoir et de traiter les demandes de certification et d'enregistrer les fournisseurs certifiés.
- La demande d'enregistrement doit être accompagnée d'une description de la nature des produits ou services pour lesquels la demande de certification est faite.
- Les frais de candidature seront calculés sur les revenus bruts annuels selon les comptes annuels audités conformément à l'annexe 3.

INSCRIPTION AU BUREAU PDPO

En 2019, l'Ouganda a adopté la loi sur la protection des données et la confidentialité et ses réglementations correspondantes ont été adoptées en 2020. Celle-ci garantit la confidentialité d'un individu et des données personnelles en réglementant la collecte et le traitement des informations personnelles, afin de garantir les droits de la personne. dont les données sont collectées et les obligations des collecteurs de données, des processeurs de données et des contrôleurs de données, pour réglementer l'utilisation ou la divulgation des informations personnelles.

Le Bureau de protection des données personnelles (Personal Data Protection Office / PDPO) exige l'enregistrement des collecteurs de données, des processeurs et des contrôleurs sur son site Web de la manière prescrite. L'Autorité est mandatée en vertu de l'art. 29 (1) de la Loi sur la tenue et la tenue d'un registre de protection des données.

L'Autorité est tenue d'inscrire au registre de la protection des données toute personne, institution ou organisme public qui collecte ou traite des données à caractère personnel ainsi que la

finalité pour laquelle les données à caractère personnel sont collectées ou traitées.

Conditions;

- Nom du demandeur ou de l'organisation selon le certificat de constitution/document pertinent.
- Catégorie de données collectées c'est-à-dire ; Responsable du traitement, sous-traitant et collecteur.
- Type d'organisation avec le numéro d'enregistrement de la société tel qu'il apparaît sur le certificat de constitution
- Pays de constitution
- Emplacement physique de l'entreprise.
- N° de téléphone de l'organisation qui est opérationnel.
- Adresse e-mail opérationnelle de l'organisation
- Nature de l'activité : (qu'il s'agisse de services financiers, d'assurance, juridiques, d'ingénierie) ou de services financiers ; c'est à dire; assurance, juridique et ingénierie.
- Coordonnées du Délégué à la protection des données (data protection officer/DPO) désigné (nom, numéro, adresse e-mail du DPO, adresse physique) ;
- Autre titre/poste du DPO ;
- source de données telles que les employés, les clients, les fournisseurs, les clients et les sous-traitants.
- Données personnelles collectées

ou traitées ; (ceci inclut les identifiants tels que le nom, le numéro, etc., les données de géolocalisation, les informations commerciales individuelles telles que l'historique financier, les habitudes d'achat, etc., les données sensorielles telles que la biométrie, l'audio et l'image de CCTV, les informations sur l'éducation telles que les diplômes universitaires, des informations liées à l'emploi telles que celles que les RH collectent et des informations concernant l'adhésion à des organismes professionnels, par exemple l'ACCA, des données spéciales telles que des informations financières, syndicales, biométriques, génétiques, religieuses, sexe/genre, affiliations politiques, informations médicales, etc., et des données pouvant être tirées d'autres données personnelles telles que les préférences, les prédispositions, l'intelligence, les capacités, le comportement, les attitudes, les aptitudes, etc.)

- Finalité et conservation pour le traitement des données qui implique de préciser la loi applicable, les services fournis, les obligations légales, la finalité de la collecte des données, la durée de conservation des données, la gestion des RH, les obligations du sous-traitant, les obligations du personnel pour la conservation des données.
- Nombre total d'enregistrements

de données collectées avec une estimation numérique;

- Croissance annuelle des données personnelles collectées (% basé sur l'année récente) ;
- Période de conservation des données et durée de conservation des données dans votre infrastructure
- Si l'organisation divulgue des données personnelles à des tiers.
- Si l'organisation transfère des données personnelles en dehors de l'Ouganda.
- Mesures de sécurité.

I. PROPRIÉTÉ INTELLECTUELLE (IP)

Premièrement, la propriété intellectuelle en Ouganda est reconnue et protégée. L'Ouganda est également membre de l'Organisation régionale africaine de la propriété intellectuelle (African Regional Intellectual Property Organization/ARIPO), une organisation intergouvernementale qui facilite la coopération entre les États membres en matière de propriété intellectuelle. Les différents régimes de propriété intellectuelle sont protégés par la loi de 2010 sur les marques et ses règlements d'application, la loi de 2006 sur le droit d'auteur et les droits voisins pour assurer la protection des œuvres intellectuelles littéraires, scien-

tifiques et artistiques et de leurs droits voisins. La loi de 2013 sur les indications géographiques et la loi de 2014 sur la propriété industrielle qui prévoient la promotion d'œuvres inventives et innovantes et facilitent l'acquisition de technologies par l'octroi et la réglementation de brevets, de modèles d'utilité, de dessins et modèles industriels et de technovations.

CONVENTIONS, TRAITÉS ET ARRANGEMENTS INTERNATIONAUX

Organisation régionale africaine de la propriété intellectuelle (Protocole de Banjul)

- Le Protocole de Harare sur les brevets, dessins et modèles d'utilité.
- Protocole de Swakopmund sur la protection des savoirs traditionnels et des expressions du folklore

- Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce
- Congrès de Paris
- Traité de Nairobi
- Organisation mondiale de la propriété intellectuelle
- L'organisation mondiale du commerce

*Remarque Bien que l'Ouganda soit membre de la Convention de Paris, il n'est pas signataire du Protocole de Madrid, il n'y a donc aucune disposition dans la législation ougandaise relative aux arrangements internationaux pour les marques. En tant que tel, il ne devrait pas être possible de revendiquer la priorité conventionnelle. Cependant, le registre accepte, dans la pratique, les revendications de priorité bien que l'efficacité et la validité d'une revendication de priorité ne soient pas claires.



DOING BUSINESS
IN KENYA 2022



DOING BUSINESS IN KENYA

BY GIKERA & VADGAMA ADVOCATES

SETTING UP BUSINESSES

The most common business vehicles in Kenya are:

- Companies limited by shares (private or public) established under the Companies Act 2015.
- Limited liability partnerships (LLPs) established under the Limited Liability Partnership Act 2011.

a) Companies

i. Private Limited Liability Company

- Must have at least 1 director (natural person) and at least 1 shareholder (natural person or company).
 - No requirement to have a local director. However, a local director may be necessary for operational purposes such as initial tax compliance and for bank account opening.
 - No requirement for local shareholding except in specific industries such as insurance, banking, telecommunications, and financial advisory services.
 - No minimum share capital requirement except for companies in regulated industries such as banking, insurance, and employment.
- Private companies with paid-up share capital of above USD 50,000 must appoint a company secretary.

Documents/Information required for registration

- At least 3 names but up to 5 proposed names listed in order of priority.
- Primary and secondary activities the company intends to engage in.
- The capital structure and division at incorporation.
- Registration documents for a corporation, identification documents for individuals such as national IDs for citizens, valid passports and foreigner certificates for resident foreign nationals and valid passports for non-resident foreign nationals), postal and residential address, passport photos, contact details (cell phone and email) of directors, shareholders, and beneficial owners.
- Proposed company secretaries, where applicable.

Process, timelines, and costs

- Process of name reservation and registration of the company is done simultaneously.
- Application for registration is done through the Business Registration Service on the e-Citizen

Portal <https://www.ecitizen.go.ke/>.

- Cost of incorporation starts from about USD 250 and the process is completed within 1-5 days.

ii. Subsidiary of a Foreign Company

A subsidiary is a separate legal entity from the parent corporation, although owned by the parent corporation.

A company may form a subsidiary either by purchasing a controlling interest in an existing company or creating the company itself.

iii. Branch of a Foreign Company

A branch is the registration of the foreign entity in Kenya.

To obtain the certificate of compliance (of a foreign company in Kenya), the requirements are:

- Certified copies (notarized) of the parent company's registration documents and by laws/memorandum and articles.

List of the directors of the parent company, their identification documents and contact details.

- Name(s) and contact details of one or more people resident in Kenya authorized to receive documents on behalf of the company.
- Physical address of the branch.

b) Partnerships

i. General Partnerships

- Each partner has unlimited

liability.

- The partners have general responsibility for the partnership.

- The partners trade in the name of the registered business although the partnership is not a corporate entity.

ii. Limited Partnerships

- At least one general partner with unlimited liability and one partner with limited liability.

- A general partner is liable for all debts and obligations of the partnership while the limited partner is liable for the debts or obligations of the partnership to the extent of the amount contributed to the partnership at the time of joining the partnership.

- The partners trade in the name of the registered business although the partnership is not a corporate entity.

iii. Limited Liability Partnerships (LLPs)

- This is a corporate entity.

- Must have at least 2 partners and at least 1 manager who is a natural person over 18 years old and resident in Kenya.

- Has a manager whose consent to act in that capacity is lodged with the Registrar of LLPs.

- The LLP makes annual declarations of solvency.

Documents/Information required

for registration

- Tax PINs of the manager(s) and partner(s).
- Partnership deed detailing arrangement of partners, contributions, the business, signing mandate for bank accounts and transactions, dissolution, addition and exit of partners.
- National IDs or passports of the manager(s) and partner (s).

Process, timelines and costs

- Application for registration is done through the Business Registration Service on the e-citizen Portal <https://www.ecitizen.go.ke/>

- Name reservation: 3 names are provided in order of priority.

The cost is from USD 250 and the process is completed in 3-5 days.

LICENSES AND PERMITS

The type of business permit to be issued is subject to the geographical location of the business, number of employees, type and activities of the business. There are generic and sector specific permits and licenses.

a) Unified Business Permit

This permit consolidates all the licenses required for running a business including trading license, fire clearance certificate, advertising signage, health certificate, and food hygiene license.

The license is issued by county au-

thorities where the business will operate.

b) Environmental Impact Assessment (EIA) License

This license is required where the commercial activity may impact the environment such as construction, noise, effluent discharge, manufacturing, and processing industries. The license is issued by National Environmental Management Authority (**NEMA**).

Sector specific licenses include:

- Petroleum, electricity and renewable energy licenses and permits issued by the Energy Regulatory Commission.
- Drugs and pharmaceuticals import permit issued by the Pharmacy and Poisons Board to importers of drugs and pharmaceuticals.
- Telecommunication companies licenses and permits are issued by the Communications Authority.
- Banks and some financial services are regulated by the Central Bank of Kenya.
- Insurance companies are regulated by the Insurance Regulatory Authority.
- Capital markets are regulated by the Capital Markets Authority.

GOVERNANCE AND JUDICATURE

The Kenyan Constitution provides

the governance, legislative and judicial structure. Kenya has a national Government and 47 County Governments. The national Government has a maximum of 22 Ministries led by Cabinet Secretaries, all nominated by the President. County Governments are led by a Governor who is the Chief Executive of the County Government and the head of the County Executive Committee.

The two levels of government work collaboratively and complementarily. Both adhere to the Public Finance Management Act to ensure that revenue, expenditure, assets, and liabilities are managed efficiently and effectively to facilitate transparent, accountable, and sound financial management of public institutions. Kenya's judiciary is the independent custodian of justice in Kenya. The Judiciary is led by the Chief Justice who is also the President of the Supreme Court. The courts are comprised of superior and subordinate courts.

IP PROTECTION IN KENYA

Kenya is a member of the World Trade Organisation (WTO), the World Intellectual Property Organization (WIPO) and a signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Kenya is a member of the African Regional Industrial

Property Organization (ARIPO). There are several national laws dealing with various aspects of intellectual property in Kenya. These are:

- The Constitution of Kenya
- Industrial Property Act
- Trademarks Act
- Copyright Act
- Anti-Counterfeit Act
- Seeds and Plant Varieties Act
- Protection of Traditional Knowledge and Cultural Expressions Act

The Constitution of Kenya

The Constitution guarantees the right to property and requires the state to support, promote and protect intellectual property rights.

Industrial Property Act

Enacted to promote innovation through the grant and regulation of patents, utility models, technologies and industrial designs. The Act established:

- a) The Kenya Industrial Property Institute (KIPI) which considers applications for grant of industrial property rights, screening technology transfer agreements and licenses, providing industrial property information for technological and economic development to the public, and promotion of inventiveness and innovativeness in Kenya.

b) The Industrial Property Tribunal that adjudicates disputes relating to infringement of patent, utility model and design infringement.

Copyright Act

Provides a framework for protection of copyright in literary, musical and artistic works, audio-visual works, sound recordings, and broadcasts. Established the Kenya Copyright Board which is responsible for the implementation of the Act and international treaties and conventions relating to copyright which Kenya is party to.

Anti-Counterfeit Act

Established the Anti-Counterfeit Authority (ACA) to combat counterfeiting in Kenya through seizure and destruction of counterfeit goods. The Act allows for imposition of criminal sanctions and penalties against offenders.

Seeds and Plant Varieties Act

Provides for regulation of transactions in seeds, including testing and certification of seeds, establishment of an index of names of plant varieties, imposition of restriction on the introduction of new varieties, control on importation of seeds, and granting of proprietary rights to persons breeding or discovering new varieties.

Protection of Traditional

Knowledge and Cultural Expressions Act

Provides a framework for the protection and promotion of traditional knowledge and cultural expressions. The Act mandates County Governments to register, preserve and conserve traditional knowledge and cultural expressions within the counties. The national Government is mandated to establish and maintain a Repository of traditional knowledge and cultural expressions at the Kenya Copyright Board and protection of traditional knowledge and cultural expressions from misuse and misappropriation.

FOREIGN DIRECT INVESTMENT (FDI)

The primary legislations governing FDI in Kenya are the Constitution of Kenya, Investment Promotion Act, Public Private Partnership Act, Foreign Investment Protection Act, and Companies Act 2015.

Investment Incentives

The Investment Promotion Act established the Kenya Investment Authority (KenInvest) to promote investments in Kenya. KenInvest is responsible for facilitating the implementation of new investment projects, providing after care services for new and existing investments, as well as organizing investment promotion activ-

ities locally and internationally. The Kenya Trade Network Agency (KenTrade) set up the National Electronic Single Window System (KenyaTradeNet System) to facilitate trade. The system is an online platform that serves as a single-entry point for parties involved in international trade and transport logistics to lodge documents electronically, for processing, approvals and to make payments electronically for fees, levies, duties and taxes due to the Government, on goods imported to or exported from the country.

The Business Registration Services (BRS) Act established the Business Registration Service, which is a corporation dealing with incorporation, registration, operation, and management, of companies, partnerships, and firms. BRS is hosted on a government e-services platform known as “e -Citizen”. The Ministry of Lands, in collaboration with the National Land Commission established a national land information management system known as “Ardhisasa” which enables access to credible, reliable, and efficient data on land and provides land-based services.

The platform allows the presentation of applications for various services offered by the Ministry and the Commission. The government’s efforts to promote regional

and international integration have complimented the legislative and policy reforms aimed at creating a conducive investment environment. Kenya is an active player in the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA) and African Continental Free Trade Area (AfCFTA), which is the largest free trade area in the world.

Restrictions on FDI

Mining Act restricts foreign participation in the mining sector by requiring 60% of the shareholding in mineral dealerships and mining companies be held by Kenyan citizens.

- The Private Security Regulations Act restricts foreign participation in the private security sector by requiring at least 25% Kenyan ownership of private security firms.
- The National Construction Authority Act requires 30% local contractors.

EMPLOYMENT AND IMMIGRATION

a) Employment- Mandatory Rules of Law

Employment is governed by:

- The Constitution of Kenya
- Employment Act
- Labour Institutions Act
- Labour Relations Act

- Occupational Safety and Health Act
- Work Injury Benefits Act 2007
- Kenya Citizenship and Immigration Act
- The National Social Security Fund
- The National Hospital Insurance Fund

b) Contract of Employment

Employers must provide written contracts for employees. The contract must set out the:

- Name, age, permanent address and gender of the employee.
- Details of the employer.
- Job description.
- Date of commencement.
- Form and duration of employment.
- Place and hours of work.
- Remuneration.
- Entitlement to annual leave.
- Termination.

c) Foreign Workers in Kenya Law and Regulations

Kenya Citizenship and Immigration Act Provides for matters relating to citizenship, travel documents and immigration.

- Immigration Act and the Kenya Citizenship and Immigration Regulations
- Regulation of work permits and visas.
- The Citizenship and Immigration Regulations Govern the issuance

of passes, permits that allow for work in Kenya.

- Work Permits

Types of Permits in Kenya:

Class A: anyone entering the prospecting and mining industries.

Class B: individuals interested in agriculture or animal husbandry.

Class C: anyone who is a member of a prescribed profession who will practice it alone or in a partnership in Kenya.

Class D: people offered specific employment with an employer, the Kenyan government, any authority under the Kenyan government, the United Nations (U.N.), or approved agency. Anyone applying for a class D Kenya work permit must have skills and qualifications not available in the country.

Class F: people who want to engage in specific manufacturing activities.

Class G: anyone who wants to enter a certain trade, business, consultancy role, or profession

Class I: individuals undertaking religious or charitable activities.

Class K: ordinary residents at least 35 years old with an annual income of a certain amount from sources other than employment.

Class M: permit is for anyone granted refugee status in the country. Recommendation letter from the **UNHCR** and Department

of Refugee Affairs.

d) Statutory Deductions

Taxation rates in Kenya differ depending on the tax residency of an individual.

Some of the statutory deductions include:

i. Income Tax (Pay As You Earn (PAYE))

It is the employer's obligation to deduct and remit the PAYE tax to the Kenya Revenue Authority (KRA) by the 9th day of the subsequent month. The amount of PAYE tax that is payable is based on a graduated scale ranging from 10% to 30% of gross income. All employees must have a tax Personal Identification Number (PIN) issued by KRA. Employees must file an annual tax return on or before 30th June in the year following the year of the income.

ii. National Hospital Insurance (NHIF)

Every employer must deduct and remit monthly contributions to the NHIF from the employee's salary depending on their salary range.

iii. National Social Security (NSSF)

All employers who employ one or more people register with the NSSF as a contributing employer and register employees as members of

NSSF. The Act makes it mandatory for an employer to make a direct contribution of 6% of the employee's monthly pensionable earnings and deduct from the employee's remuneration and contribute on the employee's behalf 6% of the employee's pensionable earnings.

COMPETITION LAW REGIME IN KENYA

Kenya has legislation governing competitive behavior of businesses to safeguard consumers.

a) Regulation of Competition

The Competition Act established the Competition Authority as the regulatory body. The Competition Authority has the power to investigate complaints, educate consumers, institute investigations on its own motion, and advise the government on matters relating to competition and consumer welfare. It has powers to adjudicate on mergers, establish timelines for the processing of mergers, impose sanctions, provide exemptions for certain mergers, conduct investigations, and order searches and seizures.

b) Key Areas of Competition Law in Kenya

i. Restrictive Trade Practices

The Act prohibits restrictive trade practices. This generally includes

agreements between undertakings, decisions by associations of undertakings, decisions by undertakings, or concerted practices by undertakings that have as their object or effect the prevention, distortion, or lessening of competition in trade in any goods or services in Kenya, or a part of Kenya. One may apply to the Competition Authority to be exempted from applying provisions relating to certain restrictive practices.

ii. Abuse of Dominance

Abuse of dominance typically involves actions taken by firms with market dominance that are more than mere exploitation of existing market power. The Act prohibits abuse of dominant position. An entity is considered to be in a dominant position where it produces, supplies distributes or otherwise controls not less than 50% of the total goods or services of any description which are produced, rendered supplied, or distributed in Kenya.

iii. Mergers and Acquisitions

The Competition Authority must receive advance written notice of an intention to merge, where a merger falls within the Competition Act, and mergers must be approved or excluded in advance by the Competition Authority. The Competition Authority has been

given the power to set a threshold for mergers and may exempt a merger from the Act.

iv. Consumer Welfare

The Act introduces offences such as false or misleading representation, unconscionable conduct of trade, supply of unsafe or defective goods, and failure to comply with prescribed product information standards. Protection of consumers begins with the Constitution of Kenya with substantive provisions in the Consumer Protection Act.

Why should business entities be vigilant about Competition law in Kenya?

The Competition Authority has imposed hefty sanctions on entities that violated the provisions of competition law in Kenya.



DISPUTE RESOLUTION

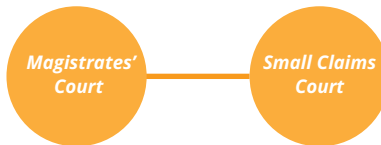
a) Court Structure

Superior Courts:



Family Court, Commercial and Admiralty Court, Constitutional and Judicial Review Court, Criminal Court, Employment & Labour Relations Court (ELRC) and Environment & Land Court (ELC) are divisions of the High Court. The ELRC and ELC have exclusive jurisdiction to deal with labour and land disputes respectively.

Subordinate Courts



b) Recognition of Foreign Judgments

The Foreign Judgments (Reciprocal Enforcement) Act makes a provision for the enforcement of foreign judgments. The process of enforcing a foreign judgment is by an application to the High Court, with notice to the respondent, for registration of the foreign judgment within 6 years of issuance of the judgment. If the judgment is not against public policy it will be registered and enforced.

c) Alternative Dispute Resolution

i. Court Annexed Mediation

This is court mandated mediation. Kenyan courts refer employment claims, family disputes as well as commercial disputes to mediation after screening of cases by the Mediation Deputy Registrar (MDR) to determine suitability of the cases for the process. Mediation proceedings are concluded within 60 days from the date they are re-

ferred to mediation.

If an agreement is reached during mediation, a mediation agreement should be signed and filed with the MDR within 10 days. If no agreement is reached, the mediator will notify the MDR after which the case will return to court.

ii. Arbitration

Arbitration is governed by the Arbitration Act and the Nairobi Centre for International Arbitration Act. The Arbitration Act applies to both domestic and international arbitration. Kenya is party to the New York and ICSID conventions and it also has bilateral investment treaties (BITs) with many countries.

TAX REGIME IN KENYA

Kenya has a source-based tax system in which both residents and non-residents are subject to tax on income earned from a source in Kenya. Double Taxation Agreements are in force with some countries including Canada, Denmark, France, Germany, India, Iran, Korea, Norway, Qatar, South Africa, Sweden, the United Arab Emirates, the United Kingdom, and Zambia.

a) Individual Income Tax

This is tax charged for each year of income on all the income of a person, whether resident or non-resident, which accrued in or was derived from Kenya. The amount of

tax payable is based on a graduated scale ranging from 10% to 30% of gross income.

b) Corporate Tax

A company is resident in the Kenya if it is incorporated in Kenya, the management and control of its affairs are exercised in Kenya, or the Cabinet Secretary in charge of the National Treasury declares the company to be tax resident in Kenya. Resident companies are subject to income tax at the rate of 30%. Permanent establishments of foreign companies are subject to corporate income tax at the rate of 37.5%.

c) Capital Gains Tax (CGT)

CGT is levied on transfer of land and buildings situated in Kenya and marketable securities at the rate of 5% on the net gain. **CGT** is a final tax and cannot be offset against other income taxes.

d) Value Added Tax (VAT)

In Kenya, VAT is levied on the supply of taxable goods or services made or provided in Kenya and on importation to Kenya of taxable goods or services at a rate of 16%. Any person, company or partnership that has supplied or is expected to supply taxable goods or services of USD 50,000 and above within 12 months must register for VAT. Any importer of imported

services enterprise. If an enterprise's VAT registration status is liable to pay VAT on the imported service.

e) Stamp Duty

Kenya levies stamp duties under the Stamp Duty Act on various instruments and transactions. The applicable rate varies from 0.05% to 4% depending on the nature of the instruments, transactions or the types of property involved.

f) Withholding Tax

Withholding tax is deducted from certain payments made to residents and non-residents such as royalties, dividends, rent, interest, management, and professional fees ranging from 2.5% to 25%.

g) Digital Services Tax (DST)

DST is payable on income derived or accrued in Kenya by a non-resident from services offered through a digital marketplace, which enables direct interaction between buyers and sellers of goods and services through electronic means. The amount of tax payable is 1.5% of the gross transaction value.

h) Transfer Pricing

Under Kenya's transfer pricing rules, transactions between related enterprises must be made on an arm's length basis. An enterprise will be related to another if it participates directly or indirectly in the management, "control" or capital of the other enterprise, or a third person participates directly or indirectly in the management, control, or capital of



KUFANYA BIASHARA KENYA

KUANZISHA BASHARA KENYA

Aina za Biashara zinazoendeshwa nchini Kenya ni pamoja na na:

- Companies limited by shares (private or public) established under the Companies Act 2015.
- Limited liability partnerships (LLPs) established under the Limited Liability Partnership Act 2011.
- Kampuni zinazodhibitiwa na hisa (za kibinafsi au za umma) zinazoanzishwa kwa mujibu wa Sheria ya Makampuni ya 2015.
- Ubia wa dhima ndogo unaoanzishwa kwa mujibu wa Sheria ya Ushirikiano wa Dhima ndogo ya 2011.

A) KAMPUNI/SHIRIKA

i. Kampuni za Kibinafsi zenye ndogo

- Lazima kuwepo na Mkurugenzi mmoja (mtu binafsi) na mbia mmoja (Mtu binafsi au shirika).
- Sio lazime kuwepo kwa Mkurugenzi ambaye ni mkaazi wa Kenya. Ila Mkuugenzi atahitajika hasa katika shughuli za kampuni ulipaji wa Kodi za kuanzisha biashara na katika ufunguzi wa akaunti ya kampuni benkini.
- Hakuna mahitaji ya kuwa na mwanahisa wa ndani (kutoka Ken-

ya) kuanzisha Kampuni ispokuwa katika baadhi ya sekta maalumu kama vile kampuni za bima, benki, kampuni za kutoa huduma za uchukuzi wa mawasiliano (simu na mtandao), kampuni za huduma za ushauri za Kifedha.

- Hakuna masharti ya kiwango cha mtaji wa hisa kinahitajika isipokuwa kwa makampuni katika tasnia zinazodhibitiwa kama vile benki, bima, na ajira.
- Kampuni za kibinafsi zilizo na mtaji wa hisa unaolipwa wa zaidi ya dola 50,000 fedha za Marekani lazima ziteue au kumwajiri katibu wa kuendesha kampuni.

Stakabadhi/taarifa zinazohitajika kwa usajili wa kampuni/shirika

- Angalau majina matatu au hata matano ambayo yameorodheshwa kuonyesha kiwango cha mgao/dhima au hisa na nafasi zao.
- Orodhesha Shughuli za kimsingi na ziada/sekondari za kampuni au shirika
- Onyesha muundo wa mtaji na mi-gao ya hisa wa kampuni au shirika.
- stakabadhi za usajili wa shirika/kampuni, hati za utambulisho wa watu binafsi kama vile vitambulisho vya utaifa, pasipoti halali na vyeti vya wageni wanaoishi Kenya na pasipoti halali kwa raia wa kige-

ni wasio wakaaji), anwani ya posta na makaa makuu ya shirika/kampuni, picha za pasipoti, mawasiliano (nambari ya simu na barua pepe) ya wakurugenzi, wanahisa, na wamiliki wa faida.

- Orodha ya makatibu pendekezwa pale inapohitajika. Mchakato, muda na gharama
- Mchakato wa kuhifadhi jina la kampuni na usajili hufanywa kwa pamoja
- Ombi la usajili hufanywa kupitia Huduma ya Usajili wa Biashara kwenye Tovuti ya E-Citizen ya <https://www.ecitizen.go.ke/>.
- Gharama za kusajili kampuni huanzia kwa takribani Dola 250 fedha za marekani na mchakato unakamilika ndani ya siku 1-5.

ii. Matawi ya Makampuni ya Kigeni

Tawi la Kampuni ni kampuni ambayo licha ya kuwa inamilikiwa na Kampuni kuu, ni kampuni inayojitegemea kama kampuni kamili kisheria

Kampuni ya aina hii inaweza kuundwa kwa kununua riba au hisa ya kudhibitiwa kutoka kwa kampuni iliyo katika operesheni ama kuunda kampuni ya kibinafsi tofauti na kampuni kuu.

iii Tawi la Kampuni ya Kigeni

Tawi ni usajili wa Kampuni ya Kigeni nchini Kenya.

Kupata Cheti cha uzingatifu (Cha

kufungua tawi la kampuni ya Kigeni nchini Kenya) Anastahili kuwa na mahitaji yafuatayo:

- Nakala za vyeti vya usajili za Kampuni kuu zilizoidhinishwa na katiba au sheria za kampuni.
- Orodha ya wakurugenzi wa kampuni kuu (mama), hati zao za utambulisho na maelezo ya anwani zao.
- Majina na maelezo ya anwani ya mtu mmoja au zaidi wanaoishi nchini Kenya walioidhinishwa kupokea hati kwa niaba ya kampuni.
- Anwan ya tawi la Kampuni itakayofunguliwa

B) BIASHARA ZA USHIRIKIANO

i. Ushirikiano wa Jumla

Hii nia aina ya biashara za ushirikiano ambapo kila mdau/mshirika wa ana hisa/dhima isiyo kikomo.

- Washirika wote wana majukumu sawa katika biashara husika.
- Washirika hufanya biashara kwa kutumia jina la biashara sajiliwa ingawa ubia sio wa shirika.

ii. Ushirikiano mdogo

- Huu ni ushirika wa biashara ambapo mshirika mmoja wa jumla ambaya ana hisa zisizo na kikomo na mwingine akiwa na hisa ndogo za kikimo
- Mshirika wa jumla anawajibika kwa madeni na wajibu wote

wa ubia huku mshirika mdogo akiwajibika kwa madeni au wajiibu wa ubia kutegemea kiasi cha mchango wake kilichochangiwa kwenye ubia wakati wa kujiunga na kampuni ya ushirika/ubia.

- Washirika wa ubia hufanya biashara kwa kutumia jina la biashara iliyosajiliwa ingawa ubia sio wa shirika.
- Ushirika wa dhima/hisa ndogo
- Hii ni biashara ya ushirika.
- Lazima iwe na washirika angalau wawili na meneja ambaye ni mtu binafsi au halisi aliye na miaka 18 mkaaazi wa Kenya
- Ina meneja ambaye anakubaliwa kutekeleza shughuli za shirika kwa mujibu wa usajili wa kampuni ya ushirika kwa msajili wa makampuni za dhima ndogo nchini Kenya
- Kampuni au shirika hili lazima liwasilishe ripoti ya kila mwaka kuhusu ushirikiano baina ya washirika wake.

Stakabadhi/Taarifa za usajili

- Ankara (nambari ya kulipa ushuru) ya mameneja na washirika ya kulipa ushuru
- Hati ya ubia inayotoa taarifa za kina mpangilio wa washirika, mchango ya ubia, biashara, mam-laka ya kutia saini kwa akaunti za benki na miamala ya kufutwa kwa miamala, kuongezwa na kuondoka kwa washirika.
- Vitambulisho na pasipoti za mameneja na washirika wa kampuni Mchakato Muda na gharama

- Ombi la usajili hufanywa kupitia Huduma ya Usajili wa Biashara kwenye Tovuti ya E-Citizen ya <https://www.ecitizen.go.ke/>.

- Mchakato wa kuhifadhi jina la kampuni. Majina matatu hupendekezwa kwa mfuatano wa jina la kwanza hadi la tatu kutegemea maoni ya shirika.

- Gharama za kusajili kampuni huanzia kwa takribani Dola 250 fedha za marekani na mchakato unakamilika ndani ya siku 3 hadi 5.

LESENI NA VIBALI

Nchini Kenya, kuna aina ya vibali vya biashara vitakavyotolewa kutegemea eneo la kijiografia la biashara, idadi ya wafanyakazi, aina na shughuli za biashara. Kuna vibali na leseni maalum za kisekta na za jumla.

a) Kibali cha Jumla cha biashara/ biashara moja

Kibali hiki kinajumuisha leseni zote zinazohitajika kwa ajili ya kuendesha biashara ikiwa ni pamoja na leseni ya biashara, cheti cha kibali cha moto, alama za matangazo, cheti cha afya, na leseni ya usafi wa chakula.

Kibali/leseni hii hutolewa na mam-laka za kaunti mahali ambapo biashara itafanyika.

b) Leseni ya uchunguzi wa athari za mazingira

Leseni hii inahitajika ambapo

shughuli za kibiashara zinaweza kuathiri mazingira kama vile ujenzi, kelele, utiririshaji wa uchafu, utengenezaji na usindikaji wa viwanda. Leseni hiyo imetolewa na Mamlaka ya Kitaifa ya Usimamizi wa Mazingira (NEMA).

Leseni maalumu za Sekta ni pamoja na:

- Leseni za mafuta ya petroli, umeme na nishati mbadala na vibali vilivyotolewa na Tume ya Kudhibiti Nishati.
- Kibali cha kuagiza dawa na dawa kilichotolewa na Bodi ya Famasia na Sumu kwa waagizaji wa dawa na dawa.
- Leseni na vibali vya kampuni za huduma ya mawasiliano ya simu hutolewa na Mamlaka ya Mawasiliano.
- Leseni za Benki na baadhi ya huduma za kifedha zinadhibitiwa na Benki Kuu ya Kenya.
- Makampuni ya bima yanadhibitiwa na Mamlaka ya Udhibiti wa Bima.
- Masoko ya hisa yanadhibitiwa na Mamlaka ya Masoko ya hisa

UTAWALA NA SHERIA

● Kenya ni nchi ya katiba ambayo inaamini utawala unayotii katiba ya sheria na mahakama kuu. Nchi hii ina Serikali ya kitaifa na Serikali 47 za Kaunti. Serikali ya kitaifa ina Wizara zisizozidi 22 zikiongozwa na Makatibu wa Baraza la Mawa-

ziri ambao wote wanapendekezwa na na Rais.

Serikali za Kaunti zinaongozwa na Gavana ambaye ndiye Mtendaji Mkuu wa Serikali ya Kaunti na mkuu wa Halmashauri Kuu ya Kaunti.

Ngazi hizi zote mbili hufanya kazi kwa pamoja na kwa ushirikiano. Aidha, serikali hizi zote hufuata Sheria ya Usimamizi na matumizi ya Fedha za Umma. Huhakikisha kuwa mapato yote, matumizi ya fedha, mali na madeni yanasimamiwa kwa kuzingatia taratibu za sheria hii kwa ufanisi ili kuwezesha usimamizi wa fedha wa uwazi, uwajibikaji na uthabiti wa taasisi za umma.

Mahakama ya Kenya ndiyo mlinzi mkuu wa haki za wananchi wa Kenya. Mahakama hii inaongozwa na Jaji Mkuu ambaye pia ni Rais wa Mahakama ya Juu (kuu).

Mahakama hizo zinajumuisha mahakama za juu na mahakama zaidizi ambazo ni mahakama za chini.

ULINZI WA HAKIMILIKI NCHINI KENYA

Kenya ni nchi mwanachama wa shirika la biashara duniani World Trade Organisation (WTO), Shirika la hakimiliki ya mali duniani la the World Intellectual Property Organization (WIPO) na imeweka mikataba na makubaliano ya kulinda haki za umiliki wa mali (hakimiliki) na mashirika ya kibiashara na ma-

suala mengineyo yanayohusiana na hakimiliki.

Aidha, Kenya ni mwanachama wa Shirika la Mali ya Viwanda la Kikanda la Afrika la 'The African Regional Industrial Property Organization (ARIPO).

Kenya imeweka sheria kadhaa za kitaifa zinazohusika na vipengele mbalimbali vya hakimiliki nchini Kenya. Sheria hizi ni:

- Katiba ya Kenya
- Sheria ya Mali ya Viwanda
- Sheria ya Alama za Biashara
- Sheria ya Hakimiliki
- Sheria ya Kupambana na Bidhaa Bandia
- Sheria ya Mbegu na Aina za Mimea
- Sheria ya Ulinzi wa Maarifa ya Jadi na masuala ya Kitamaduni

KATIBA YA KENYA

Katiba ya Kenya imeweka hakikisho la kulinda haki ya umiliki wa mali na inahimiza serikali kuunga mkono, kukuza na kulinda haki miliki.

Sheria ya Mali ya Viwanda

Imeidhinishwa ili kukuza uvumbuzi kupitia ruzuku na udhibiti wa hataza, miundo ya matumizi, teknolojia na miundo ya viwanda. Sheria ilianzisha:

a) Taasisi ya Kenya ya kulinda Mali ya Viwandani ya 'The Kenya Industrial Property Institute (KIPI)

ambayo hupokea maombi ya mtu kupewa haki za kumiliki mali ya viwanda, kukagua mikataba na leseni za uhamisho wa teknolojia, kutoa taarifa za mali ya viwanda kwa maendeleo ya teknolojia na uchungu kwa umma, na kukuza uvumbuzi na ubunifu nchini Kenya.

b) Mahakama ya Umiliki wa Viwanda ya 'The Industrial Property Tribunal' ambayo hutatua mizozo inayohusiana na ukiukaji wa hataza, muundo wa matumizi na ukiukaji wa haki za mitindo ya bidhaa.

Sheria ya hakimiliki

Hutoa mfumo wa ulinzi wa hakimiliki katika kazi za fasihi, muziki na kisanii, muziki na sanaa oni, Sauti na video na rekodi za matangazo. Imeanzisha Bodi ya Hakimiliki ya Kenya ambayo inawajibika kwa utekelezaji wa Sheria na mikataba ya ndani mwa taifa na ya kimataifa inayohusiana na hakimiliki ambayo Kenya ni mwanachama na mshiriki.

Sheria ya Kupambana na Bidhaa Bandia

Kenya imeanzisha Mamlaka ya Kupambana na Bidhaa Bandia ya Anti-Counterfeit Authority (ACA). Mamlaka hii inawajibika na jukumu la kukabiliana na biashara ghushi nchini Kenya kupitia kwa asasi yake ya kunasa na kuharibu bidhaa ghushi. Sheria hii inaruhusu kuweka vikwazo vya uhalifu

na adhabu dhidi ya wahalifu wa bidhaa bandia.

Sheria ya ulinzi wa aina za Mbegu na Mimea Seeds and Plant Varieties Act

Sheria hii imiweka utaratibu na kanuni ya uthibitisho wa kibiashara wa mbegu kwa mujibu wa sheria, upimaji wa mbegu kwenye maabara, utoaji wa vyeti kuhusiana na mbegu na kupeana majina na kuweka orodha ya majina ya aina za mimea, kuweka vizuizi wa mfumko wa mbegu mpya za mimea, kughibiti uagizaji wa mbegu na kutoa ruhusa na haki kwa baadhi ya watu kupanda/kuzalisha mbegu mpya au kuvumbua aina za mbegu za mimea.

Sheria ya Ulinzi wa Maarifa ya jadi na Destruri za jamii

Sheria hii inatoa mfumo wa kuzingatiwa katika ulinzi na ukuzaji wa maarifa ya jadi na desturi za jamii. Sheria hii inaziamuru Serikali za Kaunti kusajili, kulinda na kuhifadhi maarifa ya kitamaduni na na desturi za jamii katika kaunti. Serikali ya kitaifa ina jukumu la kuanzisha na kudumisha Hifadhi ya maarifa ya kitamaduni na desturi za kijamii katika makao ya Bodi ya Hakimiliki ya Kenya na kutoa ulinzi wa maarifa ya kitamaduni na destruri za kijamii dhidi ya matumizi mabaya na ukiukaji katika matumizi ya utamadunii na maarifa

ya jamii ya mila na desturi za jamii.

SHERIA ZA KULINDA UWEKEZAJI WA WAGENI

Sheria za msingi zinazosimamia wawekezaji wageni ya Foreign Direct Investment (FDI) ni katiba ya Kenya, Sheria ya kumotisha na kuendeleza uwekezaji, Sheria ya Ubia kati ya Sekta ya Umma na Sekta Binafsi, Sheria ya Kulinda Uwekezaji wa Kigeni na Sheria ya Makampuni ya mwaka 2015.

Vivutio vya uwekezaji

Sheria ya Kukuza na kuendeleza Uwekezaji ilianzisha Mamlaka ya Uwekezaji ya Kenya (KenInvest) ili kukuza uwekezaji nchini Kenya. KenInvest ina jukumu la kuwezesha utekelezaji wa miradi mipya ya uwekezaji, kutoa huduma za baada ya matunzo kwa uwekezaji mpya na uliopo, pamoja na kuanadaa shughuli za kukuza uwekezaji ndani na nje ya nchi.

Wakala wa Mtandao wa Biashara wa Kenya (KenTrade) ulianzisha Mfumo wa Kitaifa wa Dirisha Moja la Kielektroniki (KenyaTradeNet System) ili kuwezesha biashara. Mfumo huu ni jukwaa la mtandao ambalo hutumika kama kiingio kimoja kwa wahusika wanaohusika na biashara ya kimataifa na usafirishaji wa bidhaa kutuma stakabadhi zao kwa njia ya kielektroniki, kwa usindikaji, idhini na kufanya malipo kwa njia ya kielek-

troniki kwa ada, ushuru, ushuru na ushuru unaostahili Serikali; juu ya bidhaa zinazolingizwa au kusafirishwa kutoka nchini.

Sheria ya Huduma za Usajili wa Biashara ya The Business Registration Services (BRS) ilianzisha Huduma ya Usajili wa Biashara, ambalo ni shirika linaloshughulika, usajili wa mashirika/kampuni, uendeshaji na usimamizi wa shughuli za mashirika, makampuni, ubia na makampuni. Shirika hili la BRS linapatikana katika jukwaa la serikali la huduma za kielektroniki linalojulikana kama “e - Citizen”.

Wizara ya Ardhi, kwa kushirikiana na Tume ya Kitaifa ya Ardhi ilianzisha mfumo wa kitaifa wa usimamizi wa taarifa za ardhi unaojulikana kama “Ardhisasa” ambao unawezesha upatikanaji wa data zinazoaminika, zinazotegemewa na zinazofaa kuhusu ardhi na kutoa huduma za ardhi. Jukwaa linaurusu uwasilishaji wa maombi ya huduma mbalimbali zinazotolewa na Wizara na Tume kuhusiana na masuala ya ardhi

Juhudi za serikali za kukuza utangamano wa kikanda na kimataifa zimesababisha ongezeko la mageuzi ya sheria na sera zinazolenega kuweka mazingira mazuri ya uwekezaji. Kenya ni mshiriki hai katika Jumuiya ya Afrika Mashariki (EAC), Soko la Pamoja la Mashariki

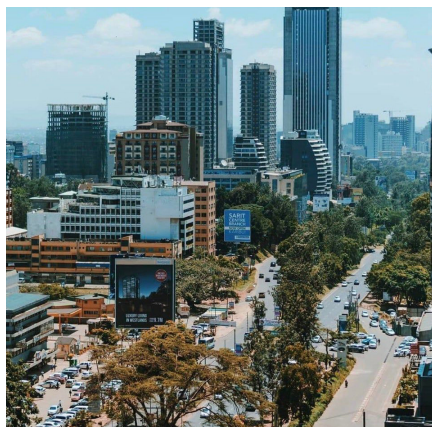
na Kusini mwa Afrika (COMESA) na Afrika na mwanachama wa Eneo Huria la Biashara la Bara (AfCFTA), ambalo ndilo eneo kubwa zaidi la biashara huria duniani.

Vikwazo kwa wawekezaji wa Kigeni wa moja kwa moja

Sheria ya Madini nchini Kenya inazuia ushiriki wa kigeni katika sekta ya madini. Mwananchi wa Kenya huhitaji kumiliki asilimia 60 ya hisa katika biashara ya madini na makampuni ya uchimbaji kumilikiwa na raia wa Kenya sio wawekezaji wa Kigeni

Sheria ya Kanuni za Usalama wa Kibinafsi inazuia wageni kuwekeza katika sekta ya usalama wa kibinafsi. Mwananchi wa Kenya anahitaji kuwa na angalau asilimia 25 ya umiliki wa makampuni ya usalama ya kibinafsi.

Sheria ya Mamlaka ya Kitaifa ya Ujenzi inahitaji asilimia 30 ya wanakandarasi wa ndani ya nchi.



AJIRA NA UHAMIAJI

a) Ajira- Sheria za Lazima

Ajira nchini Kenya hutawaliwa na:

- Katiba ya Kenya
- Sheria ya Ajira
- Sheria ya Taasisi za Kazi
- Sheria ya Mahusiano Kazini
- Sheria ya Usalama na Afya Kazini
- Sheria ya fidia ya majeraha kazini ya 2007
- Sheria ya Uraia na Uhamiaji wa Kenya
- Sheria ya hazina ya kitaifaya malipo ya uzeeni
- Mfuko wa Bima ya Hospitali ya Taifa

b) Mikataba ya Ajira

Wajiri nchini Kenya lazima watoe mikataba iliyoandikwa kwa wafanyikazi. Mikataba lazima ueleze taarifa zifuatazo:

- Jina, umri, anwani ya kudumu na jinsia ya mfanyakazi.
- Maelezo ya mwajiri.
- Maelezo ya kazi.
- Tarehe ya kuanza.
- Fomu na muda wa ajira.
- Mahali na saa za kazi.
- Malipo.
- Haki ya likizo ya mwaka.
- Kusitishwa kwa mkataba.

c) Wafanyikazi wa Kigeni Nchini Kenya

Sheria na kanuni

- Sheria ya Uraia na Uhamiaji wa

Kenya; Hutoa maswala yanayohusiana na uraia, hati za kusafiria na uhamiaji.

- Sheria ya Uhamiaji na Kanuni za Uraia na Uhamiaji wa Kenya. Hudhibiti masuala ya vibali vya kuruhusu mgeni kufanya kazi na visa.
- Kanuni za Uraia na Uhamiaji; Husimamia utoaji wa pasipoti na vibali vinavyoruhusu mgeni kufanya kazi nchini Kenya.

Vibali vya Kazi

Aina za Vibali nchini Kenya:

Daraja A: Mtu yeyote anayeingia katika tasnia ya utafutaji na uchimbaji madini.

Daraja B: Watu binafsi wanaopenenda kilimo au ufugaji.

Daraja C: Mtu yeyote ambaye ni mwanachama wa taaluma iliyoagizwa ambaye ataifanya peke yake au kwa ushirikiano nchini Kenya.

Daraja D: Watu waliopewa kazi maalum na mwajiri, serikali ya Kenya, yoyote aliyeruhusiwa kwa mamlaka ambayo inafanya kazi chini ya serikali ya Kenya, Umoja wa Mataifa (U.N.), au wakala aliyeidhinishwa. Yeyote anayeomba kibali cha kufanya kazi cha darasa la D Kenya lazima awe na ujuzi na sifa ambazo hazipatikani nchini.

Darasa F: Watu wanaotaka kujihusisha na shughuli maalum za utengenezaji

Daraja G: Mtu yeyote anayetaka

kuingia katika biashara fulani, biashara, jukumu la ushauri, au taluma

Darasa la I: watu binafsi wanaofanya shughuli za kidini au za hisani. Darasa la K: Wakazi wa kawaida wasiopungua umri wa miaka 35 na mapato ya kila mwaka ya kiasi fulani kutoka kwa vyanzo vingine isipokuwa ajira.

Daraja M: Kibali ni cha mtu yeyote aliyepewa hadhi ya mkimbizi nchini. Barua ya mapendekezo kutoka kwa UNHCR na Idara ya Masuala ya Wakimbizi.

d) makato ya adakisheria

Viwango vya ushuru nchini Kenya vinatofautiana kulingana na Uraia wa mtu binafsi.

Baadhi ya makato ya ada kwa mujibu wa kisheria ni pamoja na:

i. Kodi ya Mapato (kulipa unapopata (PAYE))

Ni sharti Mwajiri (Makampuni na Ubia) kukata kodi kulingana na viwango vya kodi vilivyopo kutoka kwa mshahara wa mfanuakazi wao kwa kila siku ya malipo ya mwezi mmoja na kutuma sawa kwa KRA mnamo au kabla ya tarehe 9 ya mwezi unaofuata.

Kiasi cha ushuru wa mapato (PAYE) kinacholipwa kinatokana na kiwango cha mapato kuanzia asilimia 10 hadi 30 ya mapato ya jumla. Wafanyakazi wote lazima wawe na Nambari ya Kitambulisho

cha Kibinafsi (PIN) ya kodi iliyotolewa na KRA. Wafanyikazi lazima wawasilishe ripoti ya ushuru ya kila mwaka mnamo au kabla ya tarehe 30 Juni mwaka unaofuata mwaka wa mapato.

ii. Bima ya Hospitali ya Taifa

Kila mwajiri lazima apunguze na kutuma michango ya kila mwezi kwa National Hospital Insurance (NHIF) kutoka kwa mshahara wa mfanyakazi kulingana na safu ya mishahara yao.



iii. Mfuko wa Taifa wa usalama wa kijamii (mfuko wa uzeeni)

Waajiri wote wanaoajiri mtu mmoja au zaidi lazima wajiandikishe na shirika la mpango wa hifadhi la taifa la jamii (NSSF) kama mwajiri anayechangia na kusajili wafanyakazi kuwa wanachama wa NSSF. Sheria inalazimisha mwajiri kukata asilimia 6 kutoka kwa malipo ya mfanyakazi na kuchangia asilimia 6 ya mshahara wa mfanyakazi na kulipa niaba ya mfanyakazi asilimia 6 ya mapato ya pensheni ya mfanyakazi.

UTAWALA WA SHERIA YA USHINDANI NCHINI KENYA

Nchi ya Kenya imeweka sheria ambayo inadhibiti tabia ya ushindani wa biashara ili kuwalinda wateja walio raia wake.

a) Sheria za udhibiti ushindani

Sheria ya Ushindani ilianzisha Mamlaka ya Ushindani kama chombo cha udhibiti wa biashara na kulinda raia nchini. Mamlaka ya Ushindani ina uwezo wa kuchunguza malalamiko, kuelimisha watumiaji wa bidhaa, kuanzisha uchunguzi kutegema jinsi inavyoona hali ya biashara ya kampuni na kuishauri serikali kuhusu masuala yanayohusiana na ushindani na ustawi wa watumiaji. Mamlaka hii ina jukumu la kutoa uamuzi wa makampuni kukubaliana kufanya kazi kwa pamoja, kuweka ratiba za uchakataji wa muungano au ushirikiano, kuweka vikwazo, kutoa misamaha ya wa makampuni fulani yaliyokubaliana kufanya kazi pamoja, kufanya uchunguzi, kuagiza upekuzi na hata kufunga kampuni inayokwenda kinyume na kaida ya ushindani katika biashara.

b) vifungu vya Muhimu vya Sheria vya Ushindani nchini Kenya

i. Mazoea ya Biashara yenye Vizuizi

ii) Sheria ya ushindani inakataza mazoea ya kibiashara yenye vik

wazo. Hii kwa ujumla inahusisha mikataba ya kufudia, maamuzi ya mashirika/kampuni ya kuathiri biashara, au mazoea ya kiushirikiano zenye lengo au athari ya kuzuia, kupotosha, au kupunguza ushindani katika biashara ya bidhaa au huduma yoyote nchini Kenya, au sehemu ya Kenya.

Mtu anaweza kutuma maombi kwa Mamlaka ya Ushindani ili aruhusiwe kutumia masharti yanayohusiana na mazoea fulani ya vikwazo katika mikataba yake na shughuli zake ili asipatwe na hatia ya kuvunja sheria

ii. Matumizi mabaya ya utawala wa soko

Matumizi mabaya ya utawala wa soko kwa kawaida huhusisha hatua zinazochukuliwa na makampuni yenye soko kubwa ambayo badala ya kuendesha shughuli kuzingatia taratibu zinaendeleza unyonyaji tu wa soko lililopo Sheria inakataza matumizi mabaya ya nafasi ya soko kubwa. Huluki inachukuliwa kuwa katika nafasi kubwa ambapo inazalisha, kusambaza au kudhibiti vinginevyo si chini ya asilimia 50 ya jumla ya bidhaa au huduma za maelezo yoyote ambayo yanatolewa, kutolewa, au kusambazwa nchini Kenya.

iii. Upataji na Ujenzi wa Kampuni ya ushiriika

Mamlaka ya Ushindani lazima ipokee ilani ya maandishi mapema ya nia ya kutaka kujenga kampuni ya ushirika, hasa pale ambapo ushirika au muunganiko wa makampuni unaangukia ndani ya Sheria ya Ushindani, na miunganisho lazima iidhinishwe au kutengwa mapema na Mamlaka ya Ushindani. Mamlaka ya Ushindani imepewa mamlaka ya kuweka kizingiti cha ujenzi wa kampuni au shirika la muunganiko na inaweza kukubali au kusitishwa kwa muungano kwa mujibu wa sheria ya ushindani.

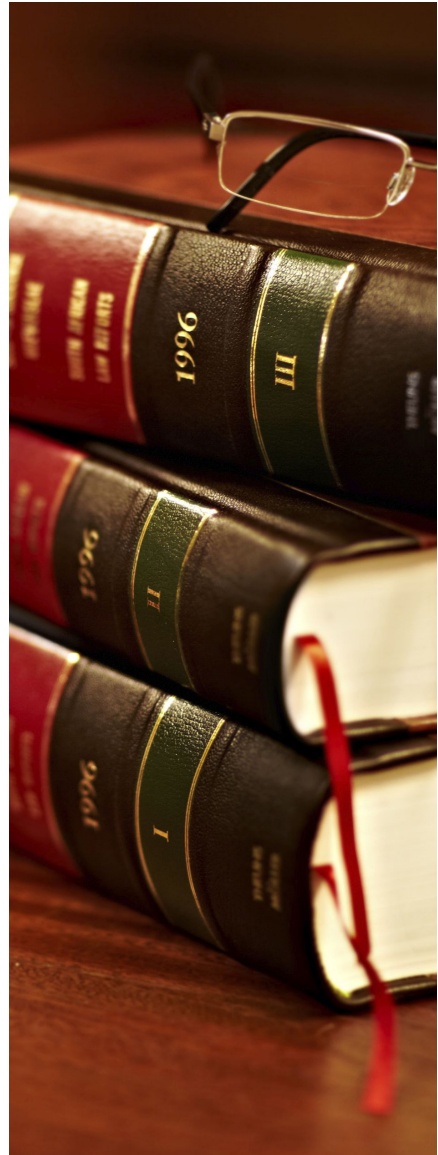
iv. Ustawi wa wateja/watumiaji bidhaa

Sheria hii inatanguliza uvunjaji wa sheria kama vile udanganyifu au utoaji wa taarifa zinzopotocha, mwenendo usiofaa na usioaminika wa biashara, usambazaji wa bidhaa zisizo salama au zenye kasoro, na kushindwa kutii viwango vya habari vya bidhaa vilivyowekwa. Ulinzi wa watumiaji wa bidhaa huanza na Katiba ya Kenya na vifungu muhimu katika Sheria ya Kulinda Mtumiaji wa bidhaa.

Kwa nini mashirika ya biashara nchini Kenya inapaswa kuwa macho kuhusu sheria?

Hii ni kwa sababu; Mamlaka ya

Ushindani imeweka vikwazo vikali kwa mashirika ambayo yamekiuka masharti ya sheria ya ushindani nchini Kenya.



UTATUZI WA MIGOGORO

Utatuzi wa migogoro nchini Kenya huzingatia ngazi kuu tatu za kima-hakama.

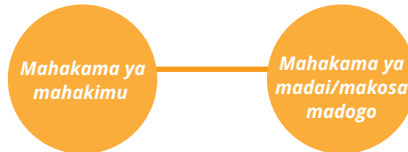
a) Miundo ya mahakama

Mahakama ya Juu:



Mahakama ya Familia, Mahakama ya Biashara na majini (baharia), Mahakama ya Kikatiba na Mahakama ya ukarabati wa sheria, Mahakama ya Jinai, Mahakama ya Ajira na Mahusiano ya Kazi ya Employment & Labour Relations Court (ELRC) na Mahakama ya Mazingira na Ardhi ya and Environment & Land Court (ELC) ni vitengo vya Mahakama Kuu. ELRC na ELC wana mamlaka ya kipekee ya kushughulikia migogoro ya kazi na ardhi mtawalia.

Mhakama ya chini:



b) Sheria ya Hukumu za Kigeni

Kenya inaruhusu ombi la utekelezaji wa hukumu za kigeni kwa masharti. Mchakato wa kutekeleza hukumu ya kigeni hutokana na ombi la aliyethirika kwa Mahakama Kuu, pamoja na notisi kwa mlalamikiwa, kwa kusajili wa hu-

kumu ya kigeni ambayo lazima itekelezwa ndani ya miaka 6 kutoka wakati wa kutolewa kwa hukumu. Hata hivyo hukumu hiyo inaweza tu kusajiliwa na utekelezwaji hufanywa ikiwa hukumu haipingani na sera ya umma ya Nchi ya Kenya.

c) Njia mbadala ya Kusuluhisha migogoro

i) Upatanshi ulioidhinishwa na Mahakama

Huu ni upatanishi ulioidhinishwa na mahakama. Mahakama za Kenya huelekeza madai ya ajira, mizozo ya kifamilia pamoja na migogoro ya kibiashara kwenye upatanishi baada ya kuchunguzwa kwa kesi na Naibu Msajili wa Upatanishi (MDR) ili kubaini ufaafu wa kesi hizo kupitia mchakato rasmi. Kesi za upatanishi huhitimishwa ndani ya siku 60 tangu tarehe ya kupelekwa kwenye upatanishi.

Iwapo makubaliano yatafikiwa, makubaliano ya upatanishi na maridhiano yanapaswa kutiwa saini na kuwasilishwa kwa MDR ndani ya siku 10. Ikiwa makubaliano yatakosa kufikiwa, mpatanishi ataijulisha MDR na kisha kesi itarudi mahakamani.

i. Makubaliano na maridhiano
Makubaliano na maridhiano katika utatuzi wa mizozo nchini Kenya hutawaliwa na Sheria ya upatanishi na makubaliano ambayo inapatikana katika Kituo cha Sheria cha utatuzi wa migogoro Nairobi Kenya na ambacho hushughulikia utatuzi wa mizozo ya ndani na za Kimataifa. Hii inatokana na kuwa Kenya ni nchi ambayo imeshiriki na kuweka mikataba kama vile mikataba ya New York na ICSID na pia ile ya uwekezaji baina ya nchi

mbili (BITs) na nchi nyingi.

UTARATIBU WA USHURU NCHINI KENYA

Nchi ya Kenya ni nchi ambayo hutawaliwa mfumo wa ushuru unao-tegemea vyanzo ambapo wakaazi na wasio wakaazi wanatozwa ushuru kwa mapato yanayopatikana kutoka shughuli zao nchini Kenya. Mikataba ya Ushuru Maradufu inatumika na baadhi ya nchi zikiwemo Kanada, Denmark, Ufaransa, Ujerumani, India, Iran, Korea, Norway, Qatar, Afrika Kusini, Uswizi, Falme za Kiarabu, Uingereza, na Zambia.

a) Kodi ya mapato ya mtu binafsi

Huu ni ushuru unaotowza kila mwaka kutoka kwa mapato yote ya mtu, awe mkazi au asiye mkazi, ambayo yalipatikana au yalitolewa kutoka Kenya. Kiasi cha ushuru kinacholipwa kinatokana na kiwango cha mapato kuanzia asilimia 10 hadi 30 ya mapato ya jumla.

b) Kodi ya shirika

Hii ni aina ya Kodi ya Mapato ambayo inatozwa kwa mashirika ya kibiashara kama vile Makampuni yenye Ukomo, Dhamana na Vyama vya Ushirika, kwa mapato yao ya kila mwaka. Kampuni ambazo ziko nje ya Kenya lakini zinafanya kazi nchini Kenya au zenye tawi nchini Kenya hulipa Ushuru wa Shirika kwa mapato yanayopatika-

na nchini Kenya pekee.

Kampuni ya Kenya ni ile ambayo imesajiliwa nchini Kenya, usimamizi na udhibiti wa mambo yake unatekelezwa nchini Kenya, au Katibu wa Baraza la Mawaziri anayesimamia Hazina ya Kitaifa ametangaza kuwa kampuni husika ni kampuni ya Kenya

Makampuni ya wakaazi yanatozwa ushuru wa mapato kwa kiwango cha asilimia 30. Mashirika ya kudu mu ya makampuni ya kigeni yanatozwa kodi ya mapato ya shirika kwa kiwango cha asilimia 37.

c) Kodi ya Mapato ya Gharma

Huu ni ushuru unaotozwa kwa faida yote inayopatikana kwa kampuni au mtu binafsi baada ya kuhamisha mali kama vile uhamisho wa ardhi na majengo yaliyo nchini Kenya na dhamana zinazouzwa kwa kiwango cha asilimia 5 kwa faida halisi. CGT ni ushuru wa mwisho na hauwezi kulipwa dhidi ya ushuru mwingine wa mapato.

d) Kodi ya Ongezeko la Thamani

Nchini Kenya, ushuru huu wa Value Added Tax (VAT) hutozwa kwa bidhaa vinavyozambazwa au huduma zinazotozwa ushuru zinazotengenezwa au zinazotolewa nchini Kenya na bidhaa au huduma zinazoagizwa. Bidhaa hizi na huduma hutozwa ushuru wa kiwango cha asilimia 16.

Mtu yeyote, kampuni au ubia ambao umetoa au unatarajiwa kusambaza bidhaa au huduma zinazotozwa kodi na ambazo gharama yake ya dola 50,000 fedha za Marekani au zaidi ndani ya miezi 12 lazima ajisajili kwa ajili ya kulipa ushuru huu wa VAT.

Mwagizaji yeyote wa bidhaa au huduma zilizoagizwa hata ingawa wamejisajilisha kulipa ushuru huu atalazimika pia kulipa ushuru wa VAT kwenye huduma iliyoagizwa kutoka nje.

e) Ushuru wa chapa (stempu)

Ushuru wa Chapa au stempu ni ushuru ambao upo chini ya sheria kwa vyombo na miamala mbalimbali.

Kiwango cha kulipa ushuru huu kinatofautiana na huanzia asilimia 0.05 hadi 4 kulingana na asili ya zana, miamala au aina ya mali inayohusika.

f) Ushuru kwa Malipo

Huu ni ushuru ambao hutozwa kutoka kwa malipo mbalimbali yanayotolewa kwa mkaazi na asiyemkaazi wa Kenya. Ushuru huu unahusishwa malipo kwa mrabaha, migao ya hisa, kodi, faida, usimamizi na pesa za kitaaluma. Ushuru huu huanzai kati ya asilimia 2.5 hadi 25.

g) Kodi ya huduma ya Digitali

Kodi ya Huduma ya Dijitali ya

Digital Service Tax (DST) Kodi ya Huduma Dijitali (DST) ni ushuru unaolipwa kwa mapato yanayopatikana au kukusanywa nchini Kenya na mtu ambaye si mkazi kutokana na huduma zinazotolewa kupitia soko la kidijitali, ambalo huwezesha mwingiliano wa moja kwa moja kati ya wanunuzi na wauzaji wa bidhaa na huduma kupitia njia za kielektroniki. Kiasi cha kodi inayolipwa ni 1.5% ya thamani ya jumla ya ununuzi/miamala.

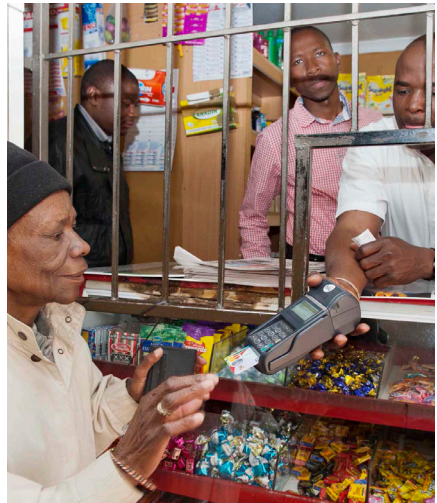
Kodi hii inadaiwa wakati wa kuhamisha malipo ya huduma kwa mtoa huduma. Kwa wakaazi na kampuni zilizo na Uanzishwaji wa Kudumu (PE) nchini Kenya, DST itakuwa ushuru wa mapema utakaotzwa dhidi ya ushuru wa mapato unaopaswa kulipwa katika kipindi cha mwaka wa fedha. Kwa watu wasio wakazi na makampuni yasiyo na Uanzishwaji wa Kudumu nchini, Kodi ya Huduma za Dijitali itakuwa kodi ya mwisho.

h) Bei ya Uhamisho

Bei ya uhamishaji inarejelea mpangilio wa bei za miamala inayofanyika kati ya huluki husika. Ni jambo la kawaida na utandawazi na ukuaji wa biashara ya kimataifa. Udanganyifu wa bei ya uhamishaji huongeza hatari ya kukimbia kwa mtaji na kuhamisha faida na biashara za kimataifa. Kenya imeweka hatua za kulinda wigo wake wa

kodi dhidi ya hatari za uhamishaji wa bei zinazotokana na miamala ya kuvuka mipaka kati ya mashirika husika, kupitia kutunga sheria na kuimarisha sheria na usimamizi wa kodi.

Kwa mujibu wa sheria za bei za uhamishaji za Kenya, mpangilio wa bei za miamala kati ya biashara zinazohusiana (kati ya huluki) lazima ifanywe kwa makubaliano baina ya mahuluki. Aidha, bei ya uhamisho itafanywa pale ambapo Biashara itahusishwa na nyingine ikiwa inashiriki moja kwa moja au isiyo ya moja kwa moja katika usimamizi, "udhibiti" au mtaji wa biashara nyingine, au mtu wa tatu anayeshiriki moja kwa moja au kwa njia isiyo ya moja kwa moja katika usimamizi, udhibiti, au mtaji wa makampuni yote mawili.



FAIRE DES AFFAIRES AU KENYA

CRÉATION D'ENTREPRISES

Les véhicules commerciaux les plus courants au Kenya sont :

- Sociétés à responsabilité limitée par actions (privées ou publiques) établies en vertu de la Loi sur les sociétés de 2015.
- Sociétés à responsabilité limitée (LLP) établies en vertu de la loi de 2011 sur les sociétés à responsabilité limitée.

a) Entreprises

i. Société privée à responsabilité limitée

- Doit avoir au moins 1 administrateur (personne physique) et au moins 1 actionnaire (personne physique ou société).
- Aucune obligation d'avoir un directeur local. Cependant, un directeur local peut être nécessaire à des fins opérationnelles telles que la conformité fiscale initiale et pour l'ouverture d'un compte bancaire.
- Aucune exigence d'actionnariat local, sauf dans des secteurs spécifiques tels que l'assurance, la banque, les télécommunications et les services de conseil financier.
- Aucune exigence de capital social minimum, sauf pour les entreprises

des secteurs réglementés tels que la banque, l'assurance et l'emploi.

- Les sociétés privées dont le capital social libéré est supérieur à 50 000 USD doivent nommer un secrétaire général.

Documents/Informations nécessaires à l'inscription

- Au moins 3 noms mais jusqu'à 5 noms proposés listés par ordre de priorité.
- Activités primaires et secondaires dans lesquelles l'entreprise a l'intention de s'engager.
- La structure du capital et la division lors de la constitution.
- Documents

d'enregistrement d'une société, documents d'identification pour les particuliers tels que cartes d'identité nationales pour les citoyens, passeports valides et certificats d'étranger pour les ressortissants étrangers résidents et passeports valides pour les ressortissants étrangers non résidents), adresse postale et résidentielle, photos d'identité, coordonnées (téléphone portable et e-mail) des administrateurs, des actionnaires et des bénéficiaires effectifs.

- Secrétaires généraux proposés, le cas échéant.

Processus, délais et coûts

- Le processus de réservation de nom et d'enregistrement de la société se fait simultanément.
- La demande d'enregistrement se fait via le service d'enregistrement des entreprises sur le portail e-Citizen

<https://www.ecitizen.go.ke/>.

- Le coût de la constitution commence à environ 250 USD et le processus est terminé en 1 à 5 jours.

ii. Filiale d'une société étrangère

Une filiale est une entité juridique distincte de la société mère, bien que détenue par la société mère.

Une société peut constituer une filiale soit en achetant une participation majoritaire dans une société existante, soit en créant elle-même la société.

iii. Succursale d'une société étrangère

Une succursale est l'enregistrement de l'entité étrangère au Kenya.

Pour obtenir le certificat de conformité (d'une société étrangère au Kenya), les exigences sont :

Copies certifiées conformes (notariées) des documents d'enregistrement de la société mère et des lois/mémoires et articles.

- Liste des administrateurs de la société mère, leurs pièces d'identité et leurs coordonnées.

- Nom(s) et coordonnées d'une ou plusieurs personnes résidant au Kenya autorisées à recevoir des documents au nom de la société.

- Adresse physique de la succursale.

b) Partenariats

i. Sociétés en nom collectif

- Chaque associé a une responsabilité illimitée.

- Les associés ont la responsabilité générale du partenariat.

- Les associés négocient au nom de l'entreprise enregistrée bien que la société de personnes ne soit pas une personne morale.

ii. Sociétés en commandite

- Au moins un associé commandité à responsabilité illimitée et un associé à responsabilité limitée.

- Un commandité est responsable de toutes les dettes et obligations de la société de personnes tandis que le commanditaire est responsable des dettes ou obligations de la société de personnes dans la mesure du montant apporté à la société de personnes au moment de son adhésion à la société de personnes.

- Les associés négocient au nom de l'entreprise enregistrée bien que la société de personnes ne soit pas une personne morale.

iii. Sociétés à responsabilité limitée (LLP)

- Il s'agit d'une personne morale.
- Doit avoir au moins 2 associés et au moins 1 gestionnaire qui est une personne physique de plus de 18 ans et résidant au Kenya.
- A un gestionnaire dont le consentement à agir en cette qualité est déposé auprès du registraire des LLP.
- La LLP fait des déclarations annuelles de solvabilité.

Documents/Informations nécessaires à l'inscription

- Codes PIN fiscaux du (des) gestionnaire(s) et du (des) partenaire(s). partenariat détaillant l'arrangement des partenaires, les apports, l'entreprise, le mandat de signature pour les comptes bancaires et les transactions, la dissolution, l'ajout et la sortie des partenaires.
- Pièces d'identité nationales ou passeports du ou des gérant(s) et partenaire(s).

Processus, délais et coûts

- La demande d'enregistrement se fait via le service d'enregistrement des entreprises sur le portail e-citoyen <https://www.ecitizen.go.ke/>
- Réservation de nom : 3 noms sont fournis par ordre de priorité. Le coût est de 250 USD et le

processus est terminé en 3 à 5 jours.

LICENCES ET PERMIS

Le type d'autorisation d'établissement à délivrer dépend de la situation géographique de l'entreprise, du nombre d'employés, du type et des activités de l'entreprise. Il existe des permis et des licences génériques et spécifiques à un secteur.

a) Permis d'affaires unifié

Ce permis regroupe toutes les licences requises pour exploiter une entreprise, y compris la licence commerciale, le certificat de feu, la signalisation publicitaire, le certificat sanitaire et la licence d'hygiène alimentaire. La licence est délivrée par les autorités du comité où l'entreprise opérera.

b) Licence d'évaluation de l'impact sur l'environnement (EIE)

Cette licence est requise lorsque l'activité commerciale peut avoir un impact sur l'environnement, comme la construction, le bruit, le rejet d'effluents, la fabrication et les industries de transformation. La licence est délivrée par l'Autorité nationale de gestion de l'environnement (**NEMA**).

Les licences spécifiques au secteur comprennent :

- Licences et permis pour le pétrole, l'électricité et les énergies renouvelables délivrés par la Commission de régulation de l'énergie.
- Permis d'importation de médicaments et de produits pharmaceutiques délivré par le Pharmacy and Poisons Board aux importateurs de médicaments et de produits pharmaceutiques.
- Les licences et permis des entreprises de télécommunications sont délivrés par l'Autorité des communications.
- Les banques et certains services financiers sont réglementés par la Banque centrale du Kenya. Les compagnies d'assurance sont réglementées par l'Autorité de réglementation des assurances.
- Les marchés de capitaux sont réglementés par l'Autorité des marchés de capitaux.

GOVERNANCE ET JUDICATURE

La Constitution kenyane fournit la gouvernance, la structure législative et judiciaire. Le Kenya a un gouvernement national et 47 gouvernements de comté. Le gouvernement national compte un maximum de 22 ministères dirigés par des secrétaires de cabinet, tous nommés par le président. Les gouvernements de comté sont dirigés par un gouverneur qui est le chef de l'exécutif du

gouvernement du comté et le chef du comité exécutif du comté. Les deux ordres de gouvernement travaillent en collaboration et en complémentarité. Tous deux adhèrent à la loi sur la gestion des finances publiques pour garantir que les recettes, les dépenses, les actifs et les passifs sont gérés de manière efficace et efficiente afin de faciliter une gestion financière transparente, responsable et saine des institutions publiques.

Le pouvoir judiciaire du Kenya est le gardien indépendant de la justice au Kenya. Le pouvoir judiciaire est dirigé par le juge en chef qui est également le président de la Cour suprême. Les tribunaux sont composés de cours supérieures et inférieures.

PROTECTION DE LA PI AU KENYA

Le Kenya est membre de l'Organisation mondiale du commerce (OMC), de l'Organisation mondiale de la propriété intellectuelle (OMPI) et signataire de l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (ADPIC).

Le Kenya est membre de l'Organisation régionale africaine de la propriété industrielle (ARIPO). Il existe plusieurs lois nationales

traitant de divers aspects de la propriété intellectuelle au Kenya. Ceux-ci sont:

- La Constitution du Kenya
- Loi sur la propriété industrielle
- Loi sur les marques de commerce
- Loi sur le droit d'auteur
- Loi anti-contrefaçon
- Loi sur les semences et les variétés végétales
- Loi sur la protection des savoirs traditionnels et des expressions culturelles

La Constitution du Kenya

La Constitution garantit le droit de propriété et exige de l'État qu'il soutienne, promeuve et protège les droits de propriété intellectuelle. Loi sur la propriété industrielle Adopté pour promouvoir l'innovation par l'octroi et la réglementation des brevets, des modèles d'utilité, des technovations et des dessins industriels . La loi établit :

a) L'Institut kenyan de la propriété industrielle (KIPI), qui examine les demandes d'octroi de droits de propriété industrielle, examine les accords et licences de transfert de technologie, fournit au public des informations sur la propriété industrielle pour le développement technologique et économique et promeut l'inventivité et l'innovation au Kenya.

b) Le Tribunal de la Propriété Industrielle qui statue sur les litiges relatifs à la contrefaçon de brevet, de modèle d'utilité et de modèle . Loi sur le droit d'auteur Fournit un cadre pour la protection des droit d'auteur sur les oeuvres littéraires , musicales et artistiques , les oeuvres audiovisuelles , les enregistrements sonores et les émissions . Création du Kenya Copyright Board, qui est responsable de la mise en œuvre de la loi et des traités et conventions internationaux relatifs au droit d'auteur auxquels le Kenya est partie.

Loi anti-contrefaçon

Création de l'Autorité anti-contrefaçon (ACA) pour lutter contre la contrefaçon au Kenya par la saisie et la destruction des produits contrefaits. La loi permet d'imposer des sanctions pénales et des pénalités aux contrevenants.

Loi sur les semences et les variétés végétales

Prévoit la réglementation des transactions de semences, y compris les essais et la certification des semences, l'établissement d'un index des noms des variétés végétales, l'imposition de restrictions sur l'introduction de nouvelles variétés, le contrôle de l'importation de semences et l'octroi de droits de propriété aux per-

sonnes qui élèvent ou découvrent de nouvelles variétés.

Loi sur la protection des savoirs traditionnels et des expressions culturelles

Fournir un cadre pour la protection et la promotion des savoirs traditionnels et des expressions culturelles. La loi oblige les gouvernements des comtés à enregistrer, préserver et conserver les savoirs traditionnels et les expressions culturelles au sein des comtés. Le gouvernement national est chargé d'établir et de maintenir un référentiel des savoirs traditionnels et des expressions culturelles au sein du Conseil du droit d'auteur du Kenya et de protéger les savoirs traditionnels et les expressions culturelles contre l'utilisation abusive et l'appropriation illicite.

INVESTISSEMENT DIRECT ÉTRANGER (IDE)

Les principales législations régissant les IDE au Kenya sont la Constitution du Kenya, la loi sur la promotion des investissements, la loi sur les partenariats public-privé, la loi sur la protection des investissements étrangers et la loi de 2015 sur les sociétés. Incitations à l'investissement

La loi sur la promotion des investissements a créé la Kenya Investment Authority (KenInvest) pour promouvoir les investissements

au Kenya. KenInvest est chargé de faciliter la mise en œuvre de nouveaux projets d'investissement, de fournir des services après-vente pour les investissements nouveaux et existants, ainsi que d'organiser des activités de promotion des investissements au niveau local et international.

La Kenya Trade Network Agency (KenTrade) a mis en place le système national de guichet électronique unique (KenyaTradeNet System) pour faciliter le commerce. Le système est une plate-forme en ligne qui sert de point d'entrée unique aux parties impliquées dans le commerce international et la logistique des transports pour déposer des documents par voie électronique, pour le traitement, les approbations et pour effectuer des paiements par voie électronique pour les frais, prélèvements, droits et taxes dus au gouvernement, sur les marchandises importées ou exportées du pays.

La loi sur les services d'enregistrement des entreprises (BRS) a créé le service d'enregistrement des entreprises, qui est une société chargée de la constitution, de l'enregistrement, de l'exploitation et de la gestion des sociétés, des partenariats et des entreprises. BRS est hébergé sur une plate-forme gouvernementale de services électroniques appelée « e-Cit-

izen ». Le ministère des Terres, en collaboration avec la Commission foncière nationale, a mis en place un système national de gestion de l'information foncière connu sous le nom de « Ardhisasa » qui permet d'accéder à des données foncières crédibles, fiables et efficaces et fournit des services basés sur la terre. La plateforme permet la présentation des candidatures aux différents services offerts par le Ministère et la Commission.

Les efforts du gouvernement pour promouvoir l'intégration régionale et internationale ont complété les réformes législatives et politiques visant à créer un environnement propice à l'investissement. Le Kenya est un acteur actif de la Communauté de l'Afrique de l'Est (EAC), du Marché commun de l'Afrique orientale et australe (COMESA) et de l'Afrique Zone de libre-échange continentale (AFCFTA), qui est la plus grande zone de libre-échange au monde.

RESTRICTIONS SUR LES FDI

- La loi sur les mines restreint la participation étrangère dans le secteur minier en exigeant que 60 % des actions des concessionnaires de minerais et des sociétés minières soient détenues par des citoyens kenyans.
- La loi sur la réglementation de la sécurité privée restreint la

participation étrangère dans le secteur de la sécurité privée en exigeant qu'au moins 25 % des entreprises de sécurité privées soient détenues par des Kenyans.

- La loi sur l'Autorité nationale de la construction exige 30 % d'entrepreneurs locaux.

EMPLOI ET IMMIGRATION

a) Emploi - Règles de droit obligatoires

L'emploi est régi par :

- La Constitution du Kenya
- Loi sur l'emploi
- Loi sur les institutions du travail
- Loi sur les relations de travail
- Loi sur la sécurité et la santé au travail
- Loi de 2007 sur les prestations en cas d'accident du travail
- Loi sur la citoyenneté et l'immigration au Kenya
- La Caisse Nationale de Sécurité Sociale
- La Caisse Nationale d'Assurance Hospitalière

b) Contrat d'embauche

Les employeurs doivent fournir des contrats écrits aux employés. Le contrat doit préciser :

- Nom, âge, adresse permanente et sexe de l'employé.
- Coordonnées de l'employeur.
- Description de l'emploi.
- Date de démarrage.
- Forme et durée de l'emploi.

- Lieu et heures de travail.
- Rémunération.
- Droit au congé annuel.
- Résiliation.

c) Travailleurs étrangers au Kenya

Loi et règlements

- La loi kényane sur la citoyenneté et l'immigration

Règle les questions relatives à la citoyenneté, aux documents de voyage et à l'immigration.

- Loi sur l'immigration et Règlement sur la citoyenneté et l'immigration au Kenya

Réglementation des permis de travail et des visas.

- Le Règlement sur la citoyenneté et l'immigration

Régissent la délivrance de laissez-passer, permis qui permettent de travailler au Kenya.

Permis de travail

Types de permis au Kenya :

Classe A : toute personne entrant dans les industries de la prospection et de l'exploitation minière.

Classe B : personnes intéressées par l'agriculture ou l'élevage.

Classe C : toute personne membre d'une profession prescrite qui l'exercera seule ou en partenariat au Kenya.

Classe D : personnes se voyant proposer un emploi spécifique

après d'un employeur, le gouvernement kenyan, sous l'autorité du gouvernement kenyan, des Nations Unies (ONU) ou d'une agence agréée. Toute personne qui demande un permis de travail de classe D au Kenya doit avoir des compétences et des qualifications non disponibles dans le pays.

Classe F : personnes qui souhaitent s'engager dans des activités manufacturières spécifiques.

Classe G : toute personne souhaitant entrer dans un certain métier, une entreprise, un rôle de conseil ou une profession

Classe I : individus entreprenant des activités religieuses ou caritatives.

Classe K : résidents ordinaires âgés d'au moins 35 ans et disposant d'un revenu annuel d'un certain montant provenant de sources autres que l'emploi.

Classe M : le permis est destiné à toute personne bénéficiant du statut de réfugié dans le pays. Lettre de recommandation du HCR et du Département des affaires des réfugiés.

d) Déductions statutaires

Les taux d'imposition au Kenya diffèrent en fonction de la résidence fiscale d'un individu.

Certaines des déductions légales comprennent:

i. Impôt sur le revenu (Pay As You Earn (PAYE))

L'employeur a l'obligation de déduire et de remettre la taxe PAYE à l'Autorité fiscale du Kenya (Kenya Revenue Authority KRA) avant le 9^e jour du mois suivant. Le montant de la taxe PAYE à payer est basé sur une échelle graduée allant de 10% à 30% du revenu brut. Tous les employés doivent avoir un numéro d'identification personnel (PIN) délivré par KRA. Les employés doivent déposer une déclaration de revenus annuelle au plus tard le 30 juin de l'année suivant l'année du revenu.

ii. Assurance-hospitalisation nationale

Chaque employeur doit déduire et verser les cotisations mensuelles au NHIF du salaire de l'employé en fonction de sa fourchette de salaire.

iii. Sécurité Sociale Nationale

Tous les employeurs qui emploient une ou plusieurs personnes s'inscrivent auprès de la Sécurité Sociale Nationale en tant qu'employeur cotisant et enregistrent les employés en tant que membres de la Sécurité Sociale Nationale. La Loi oblige l'employeur à verser une cotisation directe de 6 % des gains mensuels ouvrant droit à pension de l'employé et à déduire

de la rémunération de l'employé et à cotiser en son nom 6 % des gains ouvrant droit à pension de l'employé.

RÉGIME DU DROIT DE LA CONCURRENCE AU KENYA

Le Kenya a une législation régissant le comportement concurrentiel des entreprises pour protéger les consommateurs.

a) Règlement de la concurrence

La loi sur la concurrence a institué l'Autorité de la concurrence en tant qu'organisme de réglementation. L'Autorité de la concurrence a le pouvoir d'enquêter sur les plaintes, d'éduquer les consommateurs, d'ouvrir des enquêtes de sa propre initiative et de conseiller le gouvernement sur les questions relatives à la concurrence et au bien-être des consommateurs. Il a le pouvoir de statuer sur les fusions, d'établir des délais pour le traitement des fusions, d'imposer des sanctions, d'accorder des exemptions pour certaines fusions, de mener des enquêtes et d'ordonner des perquisitions et des saisies.



b) Principaux domaines du droit de la concurrence au Kenya

i. Pratiques commerciales restrictives

La loi interdit les pratiques commerciales restrictives. Il s'agit généralement d'accords entre entreprises, de décisions d'associations d'entreprises, de décisions d'entreprises ou de pratiques concertées d'entreprises qui ont pour objet ou pour effet d'empêcher, de fausser ou de diminuer la concurrence dans le commerce de tout bien ou service au Kenya, ou une partie du Kenya. On peut demander à l'Autorité de la concurrence d'être exempté de l'application des dispositions relatives à certaines pratiques restrictives.

ii. Abus de position dominante

L'abus de position dominante implique généralement des actions prises par des entreprises en position dominante sur le marché qui sont plus qu'une simple exploitation de leur pouvoir sur le marché. La loi interdit l'abus de position dominante. Une entité est considérée comme étant en position dominante lorsqu'elle produit, fournit, distribue ou contrôle autrement au moins 50 % du total des biens ou services de toute description qui sont produits, rendus fournis ou distribués au Kenya.

iii. Fusions et acquisitions

L'Autorité de la concurrence doit recevoir un avis écrit préalable d'une intention de fusionner, lorsqu'une fusion relève de la loi sur la concurrence, et les fusions doivent être approuvées ou exclues au préalable par l'Autorité de la concurrence. L'Autorité de la concurrence a reçu le pouvoir de fixer un seuil pour les fusions et peut exempter une fusion de l'application de la loi.

iv. Bien-être des consommateurs

La loi introduit des infractions telles que les représentations fausses ou trompeuses, les pratiques commerciales déraisonnables, la fourniture de marchandises dangereuses ou défectueuses et le non-respect des normes d'information sur les produits prescrites. La protection des consommateurs commence par la Constitution du Kenya avec des dispositions de fond dans la loi sur la protection des consommateurs.

Pourquoi les entités commerciales devraient-elles être vigilantes sur le droit de la concurrence au Kenya ?

L'Autorité de la concurrence a imposé de lourdes sanctions aux entités qui ont violé les dispositions du droit de la concurrence au Kenya.

RÈGLEMENT DES DIFFÉRENDS

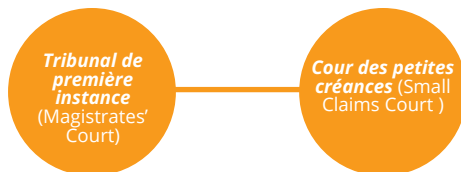
a) Structure judiciaire

Tribunaux Supérieurs :



Le tribunal de la famille, le tribunal de commerce et d’amirauté (Admiralty Court), le tribunal de révision constitutionnelle et judiciaire, le tribunal pénal, le tribunal de l’emploi et des relations de travail (Employment & Labour Relations Court - ELRC) et le tribunal de l’environnement et des terres (Environment & Land Court - ELC) sont des divisions de la High Court. L’ELRC et l’ELC ont compétence exclusive pour traiter respectivement les conflits du travail et les conflits fonciers.

Tribunaux inférieurs :



b) Reconnaissance des jugements étrangers

La loi sur les jugements étrangers (exécution réciproque) prévoit l’exécution des jugements étrangers. Le processus d’exécution d’un jugement étranger se fait par une

Cour, avec notification au défendeur, pour l’enregistrement du jugement étranger dans les 6 ans suivant la délivrance du jugement. Si le jugement n’est pas contraire à l’ordre public, il sera enregistré et exécuté.

demande auprès de la Haute

c) Règlement extrajudiciaire des différends

i. Médiation annexée au tribunal

Il s'agit d'une médiation judiciaire. Les tribunaux kényans soumettent les réclamations en matière d'emploi, les différends familiaux ainsi que les différends commerciaux à la médiation après examen des cas par le greffier adjoint de la médiation (Mediation Deputy Registrar-MDR) afin de déterminer la pertinence des cas pour le processus. Les procédures de médiation sont conclues dans un délai de 60 jours à compter de la date à laquelle elles ont été renvoyées à la médiation.

Si un accord est conclu pendant la médiation, un accord de médiation doit être signé et déposé auprès du MDR dans les 10 jours. Si aucun accord n'est trouvé, le médiateur avisera le MDR après quoi l'affaire reviendra devant le tribunal.

ii. Arbitrage

L'arbitrage est régi par la loi sur l'arbitrage et la loi sur le Centre d'arbitrage international de Nairobi. La loi sur l'arbitrage s'applique à la fois à l'arbitrage national et international. Le Kenya est partie aux conventions de New York et du CIRDI et il a également conclu des traités bilatéraux d'investissement

(TBI) avec de nombreux pays.

RÉGIME FISCAL AU KENYA

Le Kenya a un système fiscal fondé sur la source dans lequel les résidents et les non-résidents sont assujettis à l'impôt sur les revenus tirés d'une source au Kenya. Des conventions de double imposition sont en vigueur avec certains pays, dont le Canada, le Danemark, la France, l'Allemagne, l'Inde, l'Iran, la Corée, la Norvège, le Qatar, l'Afrique du Sud, la Suède, les Émirats arabes unis, le Royaume-Uni et la Zambie.

a) Impôt sur le revenu des particuliers

Il s'agit d'un impôt perçu pour chaque année de revenu sur tous les revenus d'une personne, qu'elle soit résidente ou non-résidente, accumulés ou provenant du Kenya. Le montant de l'impôt à payer est basé sur un barème progressif allant de 10% à 30% du revenu brut.

b) Impôt sur les sociétés

Une société est résidente au Kenya si elle est constituée au Kenya, si la gestion et le contrôle de ses affaires sont exercés au Kenya, ou si le secrétaire du Cabinet chargé du Trésor national déclare la société résidente fiscale au Kenya. Les sociétés résidentes sont assujetties à l'impôt sur le revenu

au taux de 30 %. Les établissements stables des sociétés étrangères sont soumis à l'impôt sur les sociétés au taux de 37,5 %.

c) Impôt sur les plus-values (Capital Gains Tax - CGT)

La CGT est prélevée sur le transfert de terrains et de bâtiments situés au Kenya et de titres négociables au taux de 5% sur le gain net.

La CGT est un impôt définitif et ne peut être compensée par d'autres impôts sur le revenu.

d) Taxe sur la valeur ajoutée (TVA)

Au Kenya, la TVA est prélevée sur la fourniture de biens ou de services imposables effectuée ou fournie au Kenya et sur l'importation au Kenya de biens ou de services imposables au taux de 16 %.

Toute personne, entreprise ou société de personnes qui a fourni ou devrait fournir des biens ou services taxables d'un montant égal ou supérieur à 50 000 USD dans les 12 mois doit s'inscrire à la TVA. Tout importateur de services importés, quel que soit son statut d'immatriculation à la TVA, est tenu de payer la TVA sur le service importé.

e) Droit de timbre

Le Kenya perçoit des droits de timbre en vertu de la loi sur les droits de timbre sur divers

instruments et transactions.

Le taux applicable varie de 0,05% à 4% selon la nature des instruments, des transactions ou des types de biens concernés.



f) La retenue d'impôt

Une retenue à la source est prélevée sur certains paiements versés aux résidents et aux non-résidents tels que les redevances, les dividendes, les loyers, les intérêts, les frais de gestion et les honoraires professionnels allant de 2,5 % à 25 %.

g) Taxe sur les services numériques (Digital Services Tax- DST)

La DST est due sur les revenus tirés

ou accumulés au Kenya par un non-résident à partir de services offerts via un marché numérique, qui permet une interaction directe entre les acheteurs et les vendeurs de biens et de services par des moyens électroniques.

Le montant de l'impôt à payer est de 1,5 % de la valeur brute de la transaction.

h) Prix de transfert

En vertu des règles du Kenya en

matière de prix de transfert, les transactions entre entreprises liées doivent être effectuées dans des conditions de pleine concurrence.

Une entreprise sera liée à une autre si elle participe directement ou indirectement à la gestion, au « contrôle » ou au capital de l'autre entreprise, ou si un tiers participe directement ou indirectement à la gestion, au contrôle ou au capital des deux entreprises.





**DOING BUSINESS
IN TANZANIA 2022**



DOING BUSINESS IN TANZANIA

BY MAWALLA ADVOCATES

OVERVIEW

Tanzania at a glance

More than 120 different ethnic groups live together peacefully in this beautiful country. Tanzania enjoys abundance of natural wealth, which offers tremendous investment opportunities for investors. These include an excellent geographical location as a number of locked countries depend on Tanzania's ports as their entry and exit ports. Arable land, world renowned tourist attractions, natural resources, a sizeable domestic and sub regional market, a wide local raw materials supply base, abundant and inexpensive skills, assurance of personal safety, warm friendly people and a suitable market policy orientation add to the suitability of Tanzania as an investment destination.

The Tanzanian legal system

The United Republic of Tanzania is a unitary state between Tanganyika and Zanzibar. Mainland Tanzania and Zanzibar each has its own judicial system. However both systems are subordinate to the Court of Appeal of Tanzania. The

Tanzanian legal system is largely based on common law but also accommodates Islamic and customary laws. The latter sources of law being called upon in personal or family matters. In Zanzibar, the legal system has evolved from both English common law and Islamic law. The legal framework in Tanzania comprises of Legislation in the form of statutes or Acts of Parliament and By-Laws, Case laws, Customary law, International laws, The Constitution is the fundamental law prevailing over all other legislation and includes the Bill of Rights.

FORMS OF DOING BUSINESS IN TANZANIA

The Business Registration and Licensing Agency (BRELA) is the organization that deals with all the incorporation of various business entities in Tanzania Mainland and the Zanzibar Business and Property Registration Agency (BPRA) in Tanzania Zanzibar. Any person wishing to open a business in Tanzania can visit www.brela.go.tz or www.bp.ra.go.tz to find out

all the necessary details required. This is not as simple as it seems as this can be a tedious and lengthy process if one does not know their way around it.

Companies

Limited liability companies are the most popular form of business, and investment vehicle. For the purpose of incorporating a company, one must do the following:

- Conduct a Name Search and securing the company name.
- Registration is done online through the BRELA's Online Registration System (ORS) by uploading different documents including the Memorandum & Articles of Association.
- In respect of foreign branches; name search is also conducted before submitting certified copies of the Memorandum & Articles of Association of the parent company, Notice of the location of the registered office in the country of domicile, list of directors and names of the representatives in the country.
- To set up a limited liability company, the general requirement is a minimum of two shareholders and two directors. A limited liability company can either be private or public.

- A Shareholders' agreement is advisable to complement constitutive documents and to further govern relations between shareholders.

- Companies limited by guarantee are an appropriate business vehicle for promotion of commerce, investment and trade.

- There are generally no minimum share capital requirements. However, there are prescribed capital adequacy requirements for certain sectors such as banks, gaming and insurance.

- Company management structure and key liabilities

The Companies Act has set out key considerations for the management structure of companies as follows:

Company directors:

A company must have a minimum of two directors. The minimum age for a director is 18 years. A foreign resident director must have valid residence and work permits or certificate of exemption.

Company secretary

Every company must have a secretary with the requisite knowledge. There specific requirements for public companies.

The entire process of registration/ incorporation of a Comonay may take up to 7 days.

Other forms of business vehicles include sole proprietorship, partnership, co-operative society.

POST REGISTRATION REQUIREMENTS

- Obtaining a Tax Identification Number (TIN),
- Obtaining a Business License,
- VAT Registration,
- Register for the workmen's compensation insurance,
- Register with the Occupational Safety and Health Authority (OSHA), and
- Obtain Social Security Registration Number.

REPORTING REQUIREMENTS

Companies are required to file the following with the Business Registration and Licensing Authority (BRELA), the Tanzania Revenue Authority and the Labour Commissioner:

- Annual returns, not more than 18 months after the date of incorporation and on that anniversary thereafter, with BRELA;
- tax returns, audited accounts with the Tanzania Revenue Au-

thority; statement of audited accounts for a branch company; notifications with respect to any changes that take place (e.g. appointments, changes and termination of directors and secretaries; increases in share capital; alterations of the MEMARTS; changes to the registered address), with BRELA; charges when mortgaging the company's assets (with BRELA); and returns on employment of non-citizens (to the Labour Commissioner).

REQUISITE LICENSES

The type and number of required licenses in undertaking business in Tanzania differs from one sector to another depending on the regulatory requirements and compliance of that sector.

Apart from fulfilling the sectoral requirements, one must obtain a general business license in accordance with the Business Licensing Act. Most of the sectoral licenses are granted after payment of specified fees. In other occasions, a business license or permit is issued after a physical verification of the company's offices is done.

It is generally advisable to seek legal advice on the required licenses in a particular sector to

ensure full compliance.

INVESTMENT INCENTIVES AVAILABLE TO INVESTORS

The Tanzania Investment Centre, a One Stop Investment Facilitation Centre, provides for various fiscal benefits upon obtaining the Certificate of Incentives. To enjoy the incentives an investor must meet specified capital threshold.

A holder of a Certificate of Incentives enjoys tax and other benefits applicable to the enterprise. Some of the available fiscal incentives include deduction of import duty on deemed capital goods, reduced import duty on hotel equipment, for semi-processed/semi-finished goods, import duty drawback, VAT deferment granted on project capital goods such as plant and machinery, capital allowances for plants and machinery used in specified manufacturing processes, the right to repatriate 100% of foreign exchange earned profits and capital, among others.

There are also capital requirements and additional, negotiated benefits for Strategic Investors and Special Strategic Investors.

ECONOMIC ZONES

The Export Processing Zones Authority (EPZA) in Tanzania

oversees the Export Processing Zones (EPZ) and Special Economic Zones (SEZ). The Authority's main aim is to oversee investment in the SEZ and EPZ by creating a suitable business environment through the development of world-class industrial and commercial infrastructure, the provision of competitive investment incentives and efficient investor facilitation services in manufacturing sector to boost export. The EPZ scheme promotes investment in export-oriented manufacturing activities, while the SEZ is broader and more inclusive and promotes sector-specific investment with an emphasis on agriculture, trade, tourism, mining and forestry.

In Zanzibar, Free Economic Zones (FEZ) have been purposely established to attract foreign direct investment, specifically targeting labour intensive projects and increasing exports in trade, tourism, forestry, mining and agriculture sectors. Companies that invest in the economic zones enjoy simplified customs and other administrative procedures and must procure requisite licenses.

Eligibility criteria for an EPZ license

- New Investment
- Minimum annual export turnover of US\$ 100,000 for local investors and 500,000 for foreign

investors

- At least 80% of goods produced must be exported

Eligibility criteria for and SEZ license:

- New investment
- Minimum capital of US\$ 100,000 for Local investors and 500,000 for foreign investors
- The investment must be located within the Special Economic Zones parks

LAND OWNERSHIP LAND TENURE AND OWNERSHIP

All land belongs to the public. It is vested in the President as trustee for and on behalf of all the citizens of Tanzania. A person/citizen can enjoy a legal right to own land under a Granted Right of Occupancy or Granted Customary Right of Occupancy for terms of 33, 66 or 99 years. There is prohibition of foreign ownership of land unless it is for investment purposes granted under the Tanzania Investment Act. Land Acquisition if NOT allotted for the first time from the Government;

- Obtain an official search at the Land Registry to ascertain and confirm land ownership details/status as well as encumbrances registered over the property, if any,

- Ensure land rent is paid and is up to date,
- Engagement of a qualified surveyor to survey and confirm the size of the land as well as to ensure the existence of the beacons,
- Execution of the transaction documents (Sale Agreement, Land Forms and other relevant documents),
- Engagement of a qualified valuer who shall carry out valuation of the land and prepare acceptable valuation reports to be used for computation of taxes,
- Obtaining approval from the Commissioner of Lands for the acquisition of the land. At this stage, TIC would also be involved in case of foreign ownership,
- Obtaining capital gains tax assessment and subsequently capital gains tax certificate from the Tanzania Revenue Authority, and
- Obtaining approval from the Registrar of Titles for registration of the new owner on the Title Deed or Derivative Rights (for foreign ownership).

2.0 EMPLOYMENT CONSIDERATIONS

Nature of Contracts

It can be either a contract for an unspecified period of time, a contract for a specified period of time for professionals and managerial cadre or a contract for a specific

task. It is important to obtain legal advice before issuing employment contracts to employees as each circumstance of employment may determine the nature of the employment contract to be issued and the terms to be included to avoid or manage potential disputes.

WORK AND RESIDENCE PERMITS

- Expatriates working in Tanzania must hold a valid work permit issued by the Commissioner for Labour and a residence permit issued by the Director of Immigration Services, or a valid certificate of exemption.
- Every business enterprise granted a Certificate of Incentives is entitled to an initial automatic quota of up to 10 expatriates. Additional permits must be applied for and the TIC makes a determination after consultation with the immigration department taking into consideration the availability of qualified Tanzanians, the complexity of the technology employed by the business enterprise and agreements reached with the investors. Employers of non-citizens must submit a workable succession plan.

Cessation of employment relationships. Legal advice is advisable on

deciding a safer and cost effective mode of terminating employment contracts. Unfair termination do create unnecessary challenges and costly disputes or decisions like re-instatement of the employee without loss of remuneration during the period of unfair termination, re-engagement of the employee on any terms or compensation of not less than twelve months' remuneration to the employee.

ENERGY

Tanzania has abundant and yet to be utilized energy resources such as hydropower, natural gas, coal, uranium, wind, geothermal, biomass, solar, tidal, and waves. There are a wide range of fuel resources and current plans by the Government expressing the desire to diversify generation sources as part of expanding rural access and attracting private sector investment.

PROTECTION OF INTELLECTUAL PROPERTY (IP)

Tanzania has ratified a number of conventions relating to IP rights and as such, has legislation that endeavors to protect such rights. The country is also a member of various international organizations dealing with IP, for example the World

Intellectual Property Organization and the African Regional Intellectual Property Organization.

The rights protected include:

Copyrights and copyrights related rights:- under the Copyright and Neighbouring Rights Act 7 of 1999

- Trade and service marks service: are protected under the Trade and Service Marks Act, Cap 326 R. E 2002, the Merchandise Marks Act, Fair Competition Act, 2003 (No. 8 of 2003) and the Common Law tort of passing off.

- Patents and Industrial designs: are protected in the Patents Registration Act, Cap 217 R. E 2002 and International Conventions. Business names: are protected in the Business Names (Registration) Act, Cap. 213 R. E 2002.

- Domain Names:- protected under the common law.

Plant Breeders Rights: - are protected under the Plant Breeders' Rights Act of 2012.

- Image Rights:- protected under the common law Right to own Image.

BANKING

The growth of credit to the private sector is expected to continue to maintain an upward trend towards the target of 10.6 per cent set for 2021/22, supported by the implementation of policy measures recently rolled out by the Central Bank to foster credit growth and lowering of lending rates, the continued recovery of the global economy and sustained accommodative monetary policy.



eligible to make application to the Bank of Tanzania for credit reference bureau license.

3.0 TAX MATTERS

Income Tax in Tanzania

Residents in Tanzania pay taxes on worldwide income. This means income sourced from within Tanzania, as well as income sourced outside of Tanzania is taxable to establish personal income tax. However, non-residents pay income tax on income that has been sourced from within Tanzania.

It is important to note that personal services are categorized as such if the given activity is performed within Tanzania, or if performed outside Tanzania but recipient is within Tanzania.

Personal Income Tax Rates

Individuals are progressively taxed from 8% to the maximum of 30%. On the other hand, non-resident individuals are taxed at a rate of 15%.

Partnerships; the partners are charged income tax on the profits distributed from partnership basing on the agreed sharing ratio.

Corporate Income Taxation

On the income of the resident person is sourced within and outside Tanzania. Non-residents, however, pay taxes on income

that has been sourced from within Tanzania only.

Corporate Income Tax is at a rate of 30%. This rate is applicable for both, resident business entities, as well as Permanent Establishments of non-resident business entities.

Alternatively, a 5% turnover fee is charged for technical and management service providers towards mining, oil and gas related services. A reduced rate of Corporate Income Tax is applicable at 25% for the first three years of operations for a company with at least 30% of its shares listed on the Dar es Salaam Stock Exchange.

Other taxes include;

- Value Added Tax (VAT) at 18% rate and 15% in Zanzibar,
- Custom Duties with varying rates,
- Excise Duties on all luxury based items depending on the product category involved.
- Fuel Levy,
- Petroleum Levy,

Payroll Taxes deducted at source by the employer including skills development levy at 4% of payroll costs, social security contributions at 20%, equally contributed by both employer and employee, workers compensation fund tariff charged at a rate of 0.6% for the private sector and 0.5% for the

public sector,

- Property Taxes,
- Service Levy imposed at 0.3% on turnover generated by corporate bodies and

Produce Cess imposed at 3% on food, and 5% on forest related products.

NGOs with a charitable status do not amount to income tax exemptions. Instead, a ruling recognizing an NGO as a charitable organization allowed to enjoy a tax deduction. For export and import business, there are regulations that cover; documentary compliance, border compliance and domestic transport requirements.

ENVIRONMENTAL CONSIDERATIONS

The National Environment Management Council (NEMC) oversees environmental management affairs. NEMC provides for a legal and institutional framework for sustainable management of the environment, prevention and control pollution, waste management, environmental quality standards, public participation, environmental compliance and enforcement, research and awareness rising.

A developer of a project is required to undertake or cause to be undertaken, at own cost, an environmental impact study. The de-

veloper is required to use environmental experts or firms approved by NEMC.

Other environmental considerations which are more specific to the nature of the business are governed under several pieces of legislation including:

The Environmental Management Act,

- The Environment Impact Assessment and Audit Regulations,
- The Wildlife Conservation Act, The Mining Act,
- The Petroleum Act,
- The Forest Act,
- The Forest Regulations, and
- The Water Resources Management Act.

DISPUTE RESOLUTION

Various forums are available for the settlement of disputes in Tanzania. They range from state regulated forums to private entities engaging in the process of resolving differences that stem out of various social and political undertakings.

Courts of law

The courts offer a formal mechanism for settling disputes among entities in different hierarchies. These include:

- Court of Appeal of Tanzania,
- High Court of Tanzania - specific divisions like the High Court Commercial Division, handles

commercial disputes,

- District Courts and The Residents Magistrates Courts, and
- Primary Courts.
- Tribunals : These are quasi-judicial bodies that are made under the law to resolve disputes emanating from various sectors. They include, but are not limited to:
 - District Land and Housing Tribunal which handles land matters;
 - Tax Revenue Appeals Tribunal which handles tax matters;
 - Tax Revenue Appeals Board which handles tax matters;
 - Fair Competition Commission;
 - Fair Competition Tribunal; and
 - Commission for Mediation and Arbitration; which handles employment disputes.

Alternatives to litigation

Disputes in Tanzania can be resolved in a number of ways in addition to adjudication by the courts of law, including arbitration, mediation, reconciliation and negotiations.

ANTI-CORRUPTION, MONEY LAUNDERING AND BRIBERY

Tanzania has a number of laws that endeavor to combat money laundering

and corruption. The laws are:

- Anti-Money Laundering Act;
- Prevention and Combating of Corruption Act;

- Proceeds of Crime Act,
- Economic and Organized Crime Control Act,
- Criminal Procedure Act,
- Mutual Assistance in Criminal Matters Act,
- Extradition Act,
- National Prosecutions Service Act,
- Drugs and Prevention of Illicit Trafficking in Drugs Act, ,
- Anti-Money Laundering (Cross Boarder Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016,
- Anti-Money Laundering and Proceeds of Crime (AMLPOCA) Regulations, 2015,
- Anti-Money Laundering (AMLA) Regulations, 2012, and
- Anti-Money Laundering Guidelines for Accountants and Auditors and its Regulations, 2007.

Tanzania has also passed the anti-money laundering (Amendment) Act, amending the Anti money laundering Act to the following effect:

- Money laundering to remain unailable,
- Introduces counter terrorist financing and counter proliferation financing,
- Beneficial ownership definition to be expanded,
- Even 5% shareholding is an indication of direct shareholding,
- Reporting persons proposed to

now include auditors, tax advisers, car dealers,

- More obligations on reporting persons,
- Politically exposed person definition widened, and
- Money laundering to be a separate, independent and distinct crime.

4.0 EXITING A BUSINESS

Exiting a business depends on the form of the business.

In the case of a Company, there are two modes of winding up a company in Tanzania:

Winding up by the Court (compulsory winding up), and Voluntary Winding up by Members or by creditors.

The Companies Act regulates the winding up procedures which are lengthy and depend on the mode of winding up. It is advised to seek legal advice and guidance on the mode and process of winding up as well as other tax and registry requirements before winding up is completed. The contents of this guide are for reference only and should not be considered to be a substitute for detailed legal advice.



MAELEKEZO YA KUFANYA BISAHARA TANZANIA

OVERVIEW

Maelezo mafupi kuhusu Nchi ya Tanzania

Tanzania ni nchi nzuri sana yenye makabila zaidi ya mia moja na ishirini. Makabila haya yote yanaishi pamoja kwa amani. Nchi hii imetajirika kutokana na maliasili yake. Hivyo basi kuna fursa pana kwa wale ambao wanalenga kufanya mambo ya uwekezaji kwa sababu ya eneo la jioografia ambalo linawezesha nchi kavu kutumia bandari zake wakati wa kuingia na kutoka. Aidha ardhi ya Tanzania inafaa kilimo na mambo mengine yanawesha utalii; soko nzuri ya nchi; malighafi nyingi; usalama wa hali ya juu; watu wenye upendo. Sera za soko nzuri zaidi na mwisho nchi bora katika uwekezaji wa mambo ya kiutalii.

Mfumo wa kisheria ya Tanzania

Jamhuri ya muungano wa Tanzania ni umoja wa nchi ya Tanganyika na Zanzibar. Tanzania bara na Zanzibar ni nchi ambazo zinajitegemea katika mifumo ya kisherai. Hata hivyo, mifumo hii yote iko chini ya mahakama kuu ya Tanzania ambayo ndio mahakama ya

rufani. Mfumo wa kisheria wa Tanzania ni wa sheria kwa mujibu wa katiba na vilevile hujumulisha sheria au sheria za kiislamu pamoja na zile za Kimila ambapo katika sheria za kimila zinahusika hata na kesi za kifamilia. Nchini Zanzibar, sheria zote zimetokana na mfumo wa sheria za Uingereza na zile za Kiislamu.

Mfumo wa Kisheria nchini Tanzania ni mifumo inayopitishwa bungeni katika mijadala ya Bunge, kanuni au masharti ya kuzingatiwa na jamii kwa makubaliano na bunge, maamuzi ya jaji au mahakama, mila na tamaduni za kijamii, sheria za kimataifa. Hata hivyo, Katiba ndiyo msingi wa sheria na ndiyo inayotawala sheria zote na zile zinazohusika na haki za binadamu

JINSI YA KUANZA KUFANYA BISHARA TANZANIA

Mwekezaji anayetaka kuanzisha biashara Tanzania lazima atembelee wakala wa usajili wa bishara na leseni Tanzania bara na wakala wa biashara na mali ya Tanzania-Zanzibar. Mashirika haya ndiyo

yanalohusika na usajili wa biashara na kupeana leseni ya kufanya biashara Tanzania bara au zanzibar. yeyeote anayetaka kufungua biashara tanzania anaweza kufungua tuvuti ya wakala wa usajili wa biashara na kutoa leseni www.brela.go.tz or www.bpra.go.tz kujua mengi zaidi. ni kazi ngumu kama huwezi kutambua namna na hali ya kufungua biashara tanzania bara na zanzibar.

Kufungua kampuni

Makampuni yanayodhibitiwa kwa hisa ndiyo yaliyo mengi Tanzania na ambayo yana fursa kubwa sana katika uwekezaji. Ili kusajili kampuni lazima uzingatie masharti ifuatayo:

- Tafuta jina la kampuni ili kupata jina kamili la kampuni ya biashara unayotaka kuanzisha.
- Usajili hufanywa mtandaoni kupitia kwa tuvuti ya kampuni ya wakala ya BRELA. Unaombwa kuwasilisha stakabadhi zako ukiambatanisha nyaraka za makubaliano, kanuni na madhumuni ya kufungua kampuni yako (Memorandum na Articles of Association) Tanzania na Zanzibar
- Ikiwa ni kampuni ambayo inaendesha shughuli kwingineko nje ya nchi, lazima pia utafute jina husika ili kufungua tawi la biashara Tanzania. Baada ya jina kupatikana, lazima pia uwasilishe stakabadhi zilizodhibitishwa za

makubaliano, kanuni na madhumuni ya kufungua tawi la biashara la kampuni kuu, notisi ya makao makuu ya kampuni yako, orodha ya wakurugenzi, na majina ya wakilishi watakaokuwa Tanzania.

- Kufungua kampuni inayodhibitiwa kwa hisa, mahitaji ni kuwa lazima muwe watu wawili na wakurugenzi wa kampuni wawili. Kampuni hii inaweza kumilikiwa kibinafsi au kumilikiwa na umma.

- Stakabadhi ya mkataba wa mwanahisa huwa unaombwa kuamabatana na katiba ili kudhibitisha uhalali na uhusiano baiana ya wanahisa.

- Kampuni ambazo huwekeza kwa ajili ya kunufaisha jamii bila kuondoa faida zake kutoka kwa kampuni ya biashara zake ni aina nzuri ya biashara ambayo inakubalika zaidi kwa sababu ya kuendeleza uwekezaji na maendeleo katika biashara

- Uongozi wa kampuni na mipango muhimu ya baadaye ya kampuni Sheria ya ufunguzi wa kampuni imeweka mambo muhimu ya kuzingatiwa katika mfumo rasmi wa uongozi wa kampuni kama ifuatavyo:

Wakurugenzi wa kampuni/shirika:

- Kampuni lazima imilikiwe na wakurugenzi wawili. Mkurugenzi

huyu lazima awe na umri wa zaidi ya miaka 18. Mkurugenzi akiwa mgeni, lazima awe na stakabadhi halali za kuwa Mkurugenzi mkaazi wa Tanzania na cheti kinachomruhusu kufanya kazi Tanzania au cheti kinachomruhusu kufanya kazi nchini bila kulipa ushuru fulani.

Katibu wa Kampuni

- Kila kampuni lazime iwe na katibu aliye na uwezo fulani kama ilivyo makatibu wa makampuni ya umma.

Mchakato mzima wa kufungua kampuni au shirika unaweza kumaliza siku saba (7)

Fursa zingine za kuweza kuendesha biashara nchini Tanzania ni pamoja na biashara vya mtu mmoja, biashara vya pamoja, biashara za ushirika/ ujamaa

MAHITAJI BAADA YA KUSAJILI KAMPUNI

- Nambari ya utambulisho wa kulipa ushuru
- Leseni ya biashara,
- cheti cha usajili wa ushuru wa thamani
- Kujisajili kwa kampuni ya bima ya wafanyakazi
- Kujisajili na shirika la usalama na afya ya wafanyakazi
- Kupata nsbsri ya hifadhi ya mfuko wa kijamii

MAHITAJI AMBAYO LAIMA

URIPOTI NAYO

Kampuni lazime kueleza stakabadhi zifuatazo na Mamlaka ya Usajili na Leseni (BRELA),

Mamlaka ya ushuru Tanzania na kamishena wa wafanyakazi

- Mauzo ya kila mwaka, chini ya miezi 18 kutoka siku ya usajili wa kampuni na wakala wa usajili na leseni BRELA;
- Stakabadhi za Malipo ya ushuru, ripoti ya matumizi ya fedha, faida na hasara na shirika la mamlaka la ushuru,
- Rekodi za Maelezo yaliyohaririwa kuhusiana na tawi la kampuni, habari kuhusu mabadiliko yoyote yaliyotokea katika kampuni kama vile (barua za kuajiri, mabadiliko ya wakurugenzi na kufukuzwa kwa wakurugenzi na makatibu, ongezeko la mtaji wa hisa, mabadiliko ya anwani, mabadiliko katika madhumuni ya biashara na kanuni za kendesha biashara), kwa BRELA;
- Mabadiliko ikiwa kampuni inauza mali yake na (BRELA); na
- Kurudi kwa wafanyakazi wa Kigeni katika nchi yao (kwa Kamisheni wa wafanyakazi).

LESENI ZA LAZIMA

Aina na idadi ya leseni za biashara zinazohitajika kuanza biashara Tanzania hutofaitiana kutegemea sekata na aina ya baishara.

Kando na shughuli za sekta fulani ya biashara, Mfanyabiashara Tanzania lazima apate leseni ya

jumla ya biashara kwa mujibu wa sheria ya utoaji leseni. Leseni za kisekta hutolewa baada ya kulipa kiasi fulani cha fedha,. Kwa upande mwingine, leseni ya biashara au cheti cha kuruhusu kufanya biashara hutolewa baada ya ukaguzi wa biashara moja kwa moja. Unashauriwa kuuliza na kutambua leseni zinazohitajika kwa mujibu wa sheria kutegemea aina ya sekta ya biashara unamoegeza.

FAIDA YA UWEKEZAJI TANZANIA

Ktuo cha urahisishaji wa uwekezaji Tanzania ambacho hufanya shughuli zake katika eneo moja, hutoa baadhi ya faida kwa makampuni na mshirika ya kutolipa ushuru kwa muda fulani wakati unapoanza au kufanya biashara baada ya kupokea cheti cha kupata msaa-da huo wa kutolipa ushuru au kupunguziwa ushuru. Ili kuweza kufaidika na huduma hii, lazima uwe umekamilisha na kuzingatia masharti fulani.

Mwekezaji aliye na cheti, hunufaika na suala la kulipa ushuru kwa serikali na faida au huduma nyinginezo. Miongoni mwa huduma wanazopata wawekezaji waliozingatia masharti ya uwekezaji ni pamoja na kupunguziwa kodi za kulipa ushuru kwa bidhaa vinavyonunuliwa nje ya

nchi, bidhaa vya hoteli, bidhaa ambavyo havijakamilika kutengenezwa, hasara kutokana na kuagiza biadhaa nje ya nchi, tofauti katika kulipa ushuru wa thamani kwa mitambo na mashine, kupokea baadhi ya mitambo na mashine, kuruhusiwa kubeba faida yote asilimia 100 ya fedha za kigeni uliyopata kama faida na faida au huduma nyinginezo nyumbani. Kuna vile vile makubaliano na wawekezaji wanaohitaji pesa za kuinua bashara zao (mtaji) hasa kwa wawekezaji wenye manufaa (mkakati) kwa jamii na nchi ya Tanzania.

UMILIKI WA ARDHI

Ununuzi na umilikaji wa ardhi Tanzania

Ardhi yote nchini Tanzania ni mali ya umma. Rais ndiye aliyepewa mamalaka ya kusimamia na kulin-da ardhi kwa niaba ya wananchi wote wa Tanzania. Raisi ni mlinzi wa haki zote za miliki za ardhi zilizopo, yaani miliki ya ardhi ya kimila na ile ya kiserikali. Yeye ni msimamizi na mdhamini mkuu wa ardhi yote.

Mtu au mwananchi yeyote anayetaka kumiliki ardhi anaruhusiwa kuipata kwa mujibu wa sheria za haki za kumiliki ardhi Tanzania ya kimila au ile ya serikali. mtu anaweza kumiliki ardhi kwa hati ya miaka 33, 66 au 99. Kwa mujibu wa

sheria za Tanzania, mtu asiye raia/ mgeni haruhusiwi kumiliki ardhi ya Tanzania ijapokuwa wawekezaji ambao wamepewa haki kwa muji-bu wa sheria ya Tanzania.

Upataji wa ardhi ambayo huja-pokezwa kwa mara ya kwanza na serikali:

- Pata fomu rasmi ya kuomba kujua au kudhibitisha uhalisi wa mmilikaji wa ardhi kutoka kwa ofisi ya usajili wa ardhi na kuomba kujua uhalisi wa jina la mmiliki, kujua ikiwa ardhi imewekwa rehani ya mkopo, kujua ikiwa ardhi ina zuio la mahakama, kujua ikiwa kuna zuio la mtu mwingine mwenye maslahi kama mke/mme nk., kujua ikiwa maeneo hayo watu watalipwa au walishalipwa fidia ili kupisha mradi fulani, kujua ikiwa kuna mogoro au jambo jingine lolote lisilo sawa.
- Hakikisha ushuru wa ardhi ushalipwa Ensure land rent is paid and is up to date,
- Watafute wasoroveya ili kupima na kuhakikisha vipimo kamili vya ardhi na mipaka yake. Engagement of a qualified surveyor to survey and confirm the size of the land as well as to ensure the existence of the beacons,
- Baada ya kupima ardhi unaweza kujiridhisha juu ya uhalisi wa hati miliki. Chunguza uhalali wa staka-baadhi za ardhi kama mikataba ya ardhi, fomu za ardhi na stakabadhi nyinginezo.
- Shirikisha mkaguzi aliyesajiliwa

kuweza kupima thamani ya ardhi na kutoa ripoti inayokubalika ya ukaguzi wa ardhi kwa ajili ya ku-kadiria malipo ya ushuru au kodi.

- Kupata kibali kutoka kwa kamishna wa ardhi cha umiliki wa ardhi. Katika hatua hii shirika linalo-chunguza uwekezaji wa wageni nje ya nchi la Treasury International Capital (TIC) litahusishwa kama wewe si raia wa Tanzania.
- Kupata kodi ya faida ya mtaji (bai ya ardhi), tathmini na hatimaye hati ya kodi ya faida ya mtaji ambayo inatoka kwa mamlaka ya mapato ya Tanzania na;
- Kupata fomu ya idhini kutoka kwa msajili wa hati miliki kwa ajili ya usajili wa mmiliki mpya kwenye hati miliki au haki zinazotokana na mali kwa mmiliki mpya kwenye hati miliki au haki zinazotokana na mali kwa mmiliki wa kigeni.

MASUALA YA AJIRA

Aina za mikataba ya ajira

Mikataba inaweza kuwa ama ya kipindi cha muda usiotajwa, muda unaotambulika kwa wataalamu, meneja wenye uzoefu na mkataba ya shughuli/kazi maalumu.

Ni bora kampuni au shirika kupata ushauri wa kisheria kabla ya ku-peana mikataba kwa wafanyakazi wake. Hii inatokana na kutofautiana kwa hali ya ajira na aina ya ajira ambapo kila mfanyakazi huwa na masharti ya kazi ambayo hupokea kutegemea namna anavyokuja na

aina ya kazi anayopewa. Hali hii ni muhimu kwa sababu kila hali na masharti hujumuishwa ili kudhibiti migogoro inayoweza kutokea kazini.

Stakabadhi za kazi na makaazi Wageni wanaofanya kazi nchini Tanzania lazima wawe na kibali halali cha kufanya kazi kinachotolewa na kamishna wa kazi na makazi ambacho kinatolewa na mkurugenzi wa huduma za uhamiaji au cheti halali alichopewa kwa mujiibu wa sheria kuishi Tanzania. Kila shirika au kampuni iliyopewa cheti cha msamaha kueleza biashara nchini Tanzania inaruhusiwa kuwaajiria wafanyakazi 10 wanawake wasio raia wa Tanzania

- Vibali vya ziada lazima viombe na kampuni kwa ushirikiano na shirika la waegezaji wa nje la TIC ambalo kwa ushirikiano na idara ya uhamiaji hufanya ukaguzi kutambua ikiwa kweli wafanyakazi wanaohitajika wenye tajiriba, uzoefu, taaluma ya kiteknolojia inayohitajika na mikataba iliyoafikiwa na uwekezaji, hawapatikani Tanzania.
- Shirika au kampuni inayowaajiri wageni lazima iwasilishe mpango wa urithi wa kazi husika ikiwa mfaanyakazi aliyeajiriwa atacha kazi au kupatwa na tatatizo kwa ajili ya kutosimamisha shughuli za biashara au kampuni.

Kusitishwa kwa mahusiano ya ajira/ukomo wa mkataba wa ajira Cessation of employment relationships

Ushauri wa kisheria unashauri mashirika kutambua njia mwafaka ya kuhitimisha mkataba wa ajira iliyo nafuu.

Usitishwaji wa mkataba wa ajira unaweza kusababisha changamoto na gharama au uamuzi kama vile kurudishwa kwa mfanyakazi kazini kwa fidia yote wakati wote alipofukuzwa kazini. Makubaliano na mwajiri kwa fidia ya mshahara wa miezi isiyopungua kumi na miwili kutoka kwa mwajiri

NISHATI

Tanzania ni nchi ambayo ina nishati tele ambazo hazichatumika vyema kama vile nishati ya maji, gesi asilia, makaa ya mawe, urani, upepo, jotoardhi, nishati ya jua, nishati kutokana na mawimbi na upepo. Tanzania ina rasilimali anuwai za mafuta. Serekali ya awamu hii imeelekeza nia ya kuongeza vyanzo vya uzalishaji wa nishati kama njia mojawapo ya kupanua na kuifikisha vijini kwa ajili ya kuvavutia wawekezaji katika sekta za watu binafsi.

HAKI MILIKI

Tanzania ni nchi ambayo imefanya mikataba anuwai inayohusika na haki miliki na imejitahidi kuweka sheria zinazolinda haki hizi.

Vile vile Tanzania ni nchi mwana-chama wa mashirika mbalimbali ya kimataifa yanayoshughulika na haki miliki, kwa mfano; Shirika la Dunia la Haki Miliki na Shirika la Haki Miliki ya Kikanda ya Afrika. Haki zinazolindwa ni pamoja na hakimiliki na haki nyinginezo zinazohusiana na hakimiliki, Alama za nembo ya biashara/nembo za huduma, Hati miliki, Nembo za Viwanda, majina ya biashara na viashirio/alama za Kijiografia n.k.

HUDUMA ZA BENKI

Huduma ya mikopo kwa sekta binafsi umezidi kukua na unatarajiwa kuendelea kudumisha mwelekeo wa kupanda hadi asilimia tarajiwa ya 10.6 lililowekwa mwaka wa fedha wa 2021/22. Kwa kusaidiwa na utekelezaji wa sera ya benki kuu ya hivi maajuzi, ya kuzidisha mikopo na upunguzaji wa viwango vya malipo kwa mikopo, mikakati endelevu ya kufufua uchumi wa dunia na sera endelevu chaya kuhusu fedha, uchumi wa Tanzania unazidi kuimarika duniani.

Tanzania pia imeboresha huduma ya upataji wa taarifa za mikopo kupitia kwa taasisi za mikopo. Kampuni yoyote iliyosajiliwa ndani au nje ya Jamhuri ya Muungano wa Tanzania inastahili kutuma maombi kwa Benki Kuu ya Tanzania kwa ajili ya kupata kadi/leseni ya kumbukumbu ya mikopo.

MASUALA YA USHURU

Kodi ya Mapato Tanzania Raia wa Tanzania hulipa ushuru kutokana na mapato wanayopata ndani na nje ya nchi. Hii ina maana kuwa mapato ambayo Mtanzania hupata kutokakana na kufanya kazi ndani au nje ya nchi ndio vyanzo vya ushuru wa mtu binafsi Tanzania. Hata hivyo Wananchi wasio wakaazi wa Tanzania hutozwa ushuru kutokana na mapato yao waliopata nchini Tanzania.

Ni muhimu kutambua kuwa huduma za kibinafsi zimeainishwa kama hizo shughuli ambazo hutolewa ama kufanywa ndani ya Tanzania, au zile zinazotolewa au kufanywa nje ya nchi ya Tanzania lakini mpokeaji wa pato yupo ndani ya Tanzania. Viwango vya Utozwaji wa ushuru wa Kodi kwa mapato ya mtu binafsi Watu binafsi hutozwa ushuru hatua kwa hatua kuanzia asilimia 8 hadi kiwango cha juu cha asilimia 30.

Kwa upande mwingine, watu wasio wakaazi wa Tanzania hutozwa ushuru kwa kiwango cha asilimia 15 Kodi za Bishara za Ushirikiano; washirika hutozwa ushuru wa mapato kwa faida inayosambazwa kutoka kwa ushirika kulingana na uwiano uliokubaliwa wa kugawana mapato. Ushuru wa Kodi za mapato ya Biashara za Kampuni au Shirika

Mapato ya mkaazi hupatikana ndani na nje ya Tanzania. Wasio wakaazi, hata hivyo, hulipa kodi kwa mapato ambayo yamepatikana kutoka ndani ya Tanzania pekee. Kodi ya Mapato ya Kampuni au shirika imewekwa katika kiwango cha asilimia 30. Kiwango hiki hulipwa na wakaazi na wasio wakaazi, mashirika au kampuni ya biashara ya wakaazi, pamoja na kampuni au mashirika ya kudumu ya biashara ya wasio wakaazi.

Vinginevyo, ada ya mauzo ya asilimia 5 hutozwa kwa watoa huduma za kiufundi na usimamizi wa huduma zinazohusiana na uchimbaji wa madini, mafuta na gesi Kampuni au shirika lenye angalau asilimia 30 ya hisa zake zilizoordheshwa kwenye Soko la Hisa la Dar es Salaam, hutozwa kiwango cha kodi ya mapato ya biashara kilichopunguzwa cha asilimia 25 kwa mika mitatu ya kwanza ya uendeshaji wa biashara Tanzania.

Kodi zinginezo ni pamoja na;

- Kodi za ungezoko la thamani ya asilimia 18 Tanzania bara na asilimia 15 Zanzibar,
- Ushuru wa Forodha wenye viwango vinavyotaofautiana,
- Ushuru kwa bidhaa vya anasa ambao hutofautiana katika viwango kulingana na kategoria ya bidhaa inayohusika
- Ushuru kwa Mafuta,

- Ushuru kwa petroli,
- Kodi za Mishahara zinazokatwa kwa na mwajiri ikijumuisha kodi ya ukuzaji ujuzi ya asilimia 4 ya gharama za mshahara; michango ya hazina ya mfugo wa jamii wa asilimia 20 ikichangiwa na mwajiri na mwajiriwa; ushuru wa mfuko wa fidia kwa wafanyakazi unaotozwa kwa kiwango cha asilimia 0.6 kwa sekta binafsi na asilimia 0.5 kwa sekta ya umma.

- Ushuru kwa mali,
- Ushuru kwa Huduma ya asilimia 0.3% kwa mauzo yanayotokana na mashirika ya ushirika na
- Kodi ya Mazao ya asilimia 3 kwenye chakula, na asilimia 5 kwenye mazao yanayohusiana na bidhaa za misitu. Mashirika ya kibinafsi hayana hisani ya kusamehewa kulipa kodi ya mapato. Kile kinachofanywa ni kuwa uamuzi unatotambua huduma ya mashirika haya ya kibinafsi yenye kutoa misaada hupunguziwa kiwango cha kutozwa kodi ya mapato yao. Kwa biashara inayohusika na kuuza bidhaa nje ya nchi na na kuagiza, kuna kanuni ambazo huzingatiwa katika shughuli hizo kama vile; kutambua stakabadhi zinazohitajika, kufuata masharti ya mipakani na mahitaji ya usafiri wa ndani.

MAZINGIRA

Masuala ya mazingira husimamiwa na Baraza la Taifa la Usimam-

izi wa Mazingira (NEMC). NEMC hutoa utaratibu wa kisheria na kitaasisi kwa ajili ya kuweka mikakati endelevu ya kuzuia na kudhibiti uchafuzi wa mazingira, usimamizi wa taka, viwango vya ubora wa mazingira, ushiriki wa umma, kuajili na kuadhibu wanaoaribu mazingira, utafiti na kuhamasisha umma kuhusu utunzaji wa mazingira.

Msanidi wa mradi yeyote anayetaka kuweka mradi anahitajika kufanya utafiti juu ya athari za mradi wake kwa mazingira au kulazimishwa kufanya ukaguzi wa kutambua athari ya mradi kwa mazingira kwa gharama yake kabla ya kujenga mradi. Msanidi anatakiwa kutumia wataalamu wa mazingira au makampuni yaliyoidhinishwa na Baraza la Taifa la Usimamizi wa Mazingira la NEMC.

Masuala mengineyo yanayohusiana na mazingira

Masuala mengineyo ya kimazingira yanayozingatana na ambayo ni mahususi zaidi hasa kwa aina fulani ya biashara yanatawaliwa kwa mujibu wa vipengele kadhaa vya sheria ikiwa ni pamoja na:

- Sheria ya Usimamizi wa Mazingira,
- Sheria ya Tathmini ya Athari na Kanuni za Ukaguzi wa mazingira,
- Sheria ya Uhifadhi na utunzaji wa Wanyamapori,
- Sheria ya Madini,

- Sheria ya Petroli
- Sheria ya Mimitu,
- Kanuni za Mimitu, na
- Sheria ya Usimamizi wa Rasilimali za Maji.

UTATUZI WA MIGOGORO

Tanzania inayo Majukwaa mbalimbali yaliyowekwa kwa ajili ya utatuzi wa migogoro. Miongoni mwa majukwaa haya ni yale yaliyowekwa na yanayodhibitiwa na serikali hadi kwa mashirika ya kibinafsi yanayojihusisha na michakato ya kusuluhisha tofauti zinazotokana na shughuli mbalimbali za kijamii na kisiasa kama vile:

Mahakama ya Kisheria

The courts offer a formal mechanism for settling disputes among entities in different hierarchies. These include:

Mahakama hii hutoa utaratibu na mikakati mbalimbali rasmi wa kusuluhisha mizozo katika nyanja na madaraja mbalimbali nchini. Miongoni mwazo ni pamoja na:

- Mahakama ya rufani ya Tanzania,
- Mahakama Kuu ya Tanzania – ambay ina vitengo maalum kama vile Mahakama Kuu Kitengo cha Biashara, kinachoshughulikia migogoro ya kibiashara,
- Mahakama za Wilaya na Mahakama za Hakimu Mkazi, na
- Mahakama ya chini za majaji au mahakama ya mwanzo

● **Mabaraza :** Haya ni mashirika ya kimahakama ambayo yameundwa chini ya sheria ili kutatua mizozo inayojitokeza katika sekta mbalimbali. Miongoni mwa mabaraza haya ya kisheria ni mengineyo mengi ni pamoja na:

● Baraza la ardhi na nyumba la wilaya linalojihusisha na masuala ya ardhi;

● Mahakama ya Rufaa ya Mapato ya Kodi inayoshughulikia masuala ya kodi;

● Bodi ya Rufaa ya Mapato ya Kodi inayoshughulikia masuala ya kodi;

● Tume ya ushindani halali wa biashara Tanzania

● Mahakama ya ushindani sawa; na

● Tume ya Usuluhishi na Maridhiano ambayo ambayo hushughulikia migogoro ya ajira

Njia nyinginezo mbadala za kutatua mizozo

Kando na njia zilizotajwa hapo juu, Tanzania ina njia kadhaa za kutatua mizozo. Miongoni mwanzo ni pamoja na uamuzi na mahakama za sheria, ikijumuisha usuluhishi, upatanishi, maridhiano na mazungumzo.

KUZUIA NA KUPAMBANA NA RUSHWA PAMOJA NA UTAPAJI FEDHA

Nchi ya Tanzania ina sheria kadhaa ambazo zimewekwa kwa ajili ya kuzuia utapaji/utakatishaji wa

fedha na rushwa nchini. Sheria hizi ni pamoja na:

● Sheria ya Kuzuia Utakatishaji Fedha Haramu;

● Sheria ya Kuzuia na Kupambana na Rushwa;

● Sheria ya Mapato ya Uhalifu, Sheria ya Udhhibiti wa Uhalifu wa Kiuchumi Uliopangwa, Sheria ya Mwenendo wa Jinai,

● Sheria ya Msaada kwa Masuala ya Jinai,

● Sheria ya kuhamisha wahalifu kwa mashtaka

● Sheria ya Huduma ya Kitaifa ya Mashtaka

● Sheria ya Dawa za Kulevywa na Kuzuia Usafirishaji Haramu wa Dawa za Kulevywa,

● Kanuni za Kuzuia Usafirishaji Haramu wa Pesa (Tamko la mipakani la Fedha na Hati Zinazoweza Kutumika kwa Mhusika), 2016;

● Kanuni za Kupambana na Utakatishaji wa Pesa na Mapato ya Uhalifu (AMLPOCA), 2015,

● Kanuni za Kuzuia Utakatishaji Pesa (AML), 2012, na

● Mwongozo wa Kupambana na Utakatishaji wa Pesa kwa Wahasiibu na Wakaguzi wa Hesabu na Kanuni zake, 2007.

Tanzania pia imepitisha Sheria ya kuzuia utakatishaji fedha haramu. Kuna marekebisha ya sheria hii ya Utakatishaji fedha ambayo kwa sasa inazingatia yafuatayo:

● Kwa mujibu wa sheria za Tanzania, mashtaka ya uhujumu uchumi

hayana dhamana. Wote wanaoshtakiwa kwa makosa hayo husalia rumande mpaka hukumu zao zinapotolewa.

- Tanzania imeweka mifumo imara ya Kudhibiti Fedha Haramu na Ufadhili wa Ugaidi na inaendelea kuimarisha na kusimamia mfumo kwa manufaa na usalama wa mali za wananchi.

- Kuendelea Kupanua Ufafanuzi kuhusu umiliki wa fedha haramu,

- Hata asilimia 5 ya kumiliki hisa ni ushahidi wa kuwa mwanahisa wa moja kwa moja

- Watu wanaotoa taarifa wanaopendekezwa sasa ni pamoja na wakaguzi, washauri wa kodi, wafanyabiashara wa magari,

- Watu kuwajibika zaidi kuripoti wahujumu wa fedha haramu

- Ufafanuzi zaidi kupanuliwa kiasiasa kufafanua kuhusu mhalifu wa uhujumu wa fedha haramu

- Utakatishaji fedha kuwa uhalifu tofauti, huru na tofauti.

KUWACHA/KUTOKA KWEYE BIASHARA

- Kuondoka katika shughuli za kuendelea kufanya biashara nchini Tanzania kunategemea aina ya biashara.

Kwa upande wa Kampuni, kuna njia mbili za kuondoka au kusimama au kumaliza shughuli za kufanya biashara nchini Tanzania:

- Kulazimika kuondoka kwa mujiibu wa sheria mahakamani na;

- Kusitishwa kwa hiari na wana-chama au wadau

Sheria ya Makampuni hudhibiti taratibu za kumaliza/kuondoka au kusimama kufanya biashara nchini Tanzania. Taratibu hizo ni ndefu na zinategemea namna ya kumaliza. Makampuni au mashirika yanayotaka kuondoka katika shughuli za biashara wanashauriwa kutafuta ushauri na mwongozo wa kisheria kuhusu njia na mchakato wa kumaliza pamoja na mahitaji mengine ya kodi na usajili kabla ya kukamilisha shughuli zake nchini Tanzania.

Yaliyomo haya ni maelekezo tu yasichukuliwe kuwa ni ya lazima kuzingatiwa kwa mujibu wa sheria wala yasichukuliwe kuwa ni mashauri mwafaka ya kisheria



FAIRE DES AFFAIRES EN TANZANIE

APERÇU

La Tanzanie en bref

Plus de 120 groupes ethniques différents cohabitent paisiblement dans ce beau pays.

La Tanzanie jouit d'une abondance de richesses naturelles, qui offre d'énormes opportunités d'investissement pour les investisseurs. Ceux-ci incluent une excellente situation géographique car un certain nombre de pays verrouillés dépendent des ports de la Tanzanie comme ports d'entrée et de sortie. Des terres arables, des attractions touristiques de renommée mondiale, des ressources naturelles, un marché national et sous-régional important, une large base d'approvisionnement en matières premières locales, des compétences abondantes et peu coûteuses, l'assurance de la sécurité personnelle, des personnes chaleureuses et une orientation politique de marché appropriée ajoutent à l'adéquation de la Tanzanie comme destination d'investissement.

Le système judiciaire tanzanien

La République-Unie de Tanzanie est un État unitaire entre le Tanganyika et Zanzibar. La Tanzanie

continentale et Zanzibar ont chacune leur propre système judiciaire. Cependant, les deux systèmes sont subordonnés à la Cour d'appel de Tanzanie. Le système juridique tanzanien est largement basé sur la common law, mais intègre également les lois islamiques et coutumières. Ces dernières sources du droit étant invoquées en matière personnelle ou familiale. À Zanzibar, le système juridique a évolué à partir de la common law anglaise et de la loi islamique.

Le cadre juridique en Tanzanie comprend une législation sous la forme de statuts ou de lois du Parlement et de règlements, de jurisprudence, de droit coutumier, de lois internationales. La Constitution est la loi fondamentale qui prévaut sur toutes les autres lois et comprend la Déclaration des droits.

Formes de faire des affaires en tanzanie

La Business Registration and Licensing Agency (BRELA) est l'organisation qui s'occupe de toute la constitution de diverses entités

commerciales en Tanzanie continentale et de la Zanzibar Business and Property Registration Agency (BPRA) en Tanzanie Zanzibar. Toute personne souhaitant ouvrir une entreprise en Tanzanie peut visiter www.brela.go.tz ou www.bpra.go.tz pour connaître tous les détails nécessaires requis. Ce n'est pas aussi simple qu'il n'y paraît car cela peut être un processus fastidieux et long si l'on ne connaît pas son chemin.

Entreprises

Les sociétés à responsabilité limitée sont la forme d'entreprise la plus populaire et le véhicule d'investissement. Aux fins de constituer une société, il faut faire ce qui suit :

- Effectuez une recherche de nom et sécurisez le nom de l'entreprise.
- L'inscription se fait en ligne via le système d'inscription en ligne (ORS) du BRELA en téléchargeant différents documents, y compris l'acte constitutif et les statuts.

En ce qui concerne les succursales étrangères ; une recherche de nom est également effectuée avant de soumettre des copies certifiées conformes de l'acte constitutif et des statuts de la société mère, de l'avis de localisation du siège social dans le pays de domicile, de la liste des administrateurs et des noms des représentants dans le pays.

- Pour créer une société à responsabilité limitée, l'exigence générale est un minimum de deux actionnaires et deux administrateurs. Une société à responsabilité limitée peut être privée ou publique. Un pacte d'actionnaires est conseillé pour compléter les documents constitutifs et régir davantage les relations entre actionnaires.
- Les sociétés à responsabilité limitée par garantie sont un véhicule commercial approprié pour la promotion du commerce, de l'investissement et des échanges.
- Il n'y a généralement pas d'exigences minimales en matière de capital social. Cependant, il existe des exigences prescrites en matière d'adéquation des fonds propres pour certains secteurs tels que les banques, les jeux et les assurances.
- Structure de gestion de l'entreprise et principaux passifs

La Loi sur les sociétés a défini les considérations clés pour la structure de gestion des sociétés comme suit :

Dirigeants d'entreprise :

Une société doit avoir au moins deux administrateurs. L'âge minimum pour un administrateur est de 18 ans. Un administrateur résident étranger doit avoir un permis de séjour et de travail valide ou un

certificat d'exemption.

Secrétaire de la Société

Chaque entreprise doit avoir un secrétaire avec les connaissances requises. Il existe des exigences spécifiques pour les entreprises publiques. L'ensemble du processus d'enregistrement/constitution d'une Comonay peut prendre jusqu'à 7 jours. D'autres formes de véhicules commerciaux comprennent l'entreprise individuelle, le partenariat, la société coopérative.

EXIGENCES APRÈS L'INSCRIPTION

- Obtention d'un numéro d'identification fiscale (NIF),
- Obtention d'une licence commerciale,
- Enregistrement de la TVA,
- Inscrivez-vous à l'assurance contre les accidents du travail,
- Inscrivez-vous auprès de l'Autorité de la sécurité et de la santé au travail (OSHA) et
- Obtenir le numéro d'enregistrement de la sécurité sociale.

EXIGENCES EN MATIÈRE DE RAPPORTS

Les entreprises sont tenues de déposer les documents suivants auprès de la Business Registration and Licensing Authority (BRELA), de la Tanzania Revenue Authority et du Labour Commissioner :

- les déclarations annuelles, au plus tard 18 mois après la date de constitution et à cet anniversaire par la suite, auprès de BRELA ;
- déclarations d'impôts, comptes audités auprès de l'Autorité fiscale de Tanzanie ;
- l'état des comptes audités d'une filiale; notifications concernant tout changement intervenu (par exemple nominations, changements et révocations d'administrateurs et de secrétaires ; augmentations de capital social ; modifications des MEMARTS ; modifications du siège social), auprès de BRELA ; frais lors de l'hypothèque des actifs de l'entreprise (avec BRELA); et
- retours sur l'emploi des non-resortissants (au commissaire du travail) .

LICENCES REQUISES

Le type et le nombre de licences requises pour entreprendre des activités en Tanzanie diffèrent d'un secteur à l'autre en fonction des exigences réglementaires et de la conformité de ce secteur.

En plus de satisfaire aux exigences sectorielles, il faut obtenir une licence commerciale générale conformément à la loi sur les licences commerciales. La plupart des licences sectorielles sont accordées après paiement de redevances spécifiées. Dans d'autres cas, une licence ou un permis d'exploitation

est délivré après une vérification physique des bureaux de l'entreprise. Il est généralement conseillé de demander un avis juridique sur les licences requises dans un secteur particulier pour garantir une conformité totale.

INCITATIONS À L'INVESTISSEMENT OFFERTES AUX INVESTISSEURS

Le Centre d'investissement de Tanzanie, un centre unique de facilitation des investissements, offre divers avantages fiscaux lors de l'obtention du certificat d'incitations. Pour bénéficier des incitations, un investisseur doit atteindre un seuil de capital spécifié.

Le titulaire d'un certificat d'incitation bénéficie des avantages fiscaux et autres applicables à l'entreprise. Certaines des incitations fiscales disponibles comprennent la déduction des droits d'importation sur les biens d'équipement réputés, la réduction des droits d'importation sur les équipements hôteliers, pour les produits semi-finis/semi-finis, la ristourne des droits d'importation, le report de la TVA accordé sur les biens d'équipement du projet tels que les installations et les machines, les allocations de capital pour les usines et les machines utilisées dans des processus de fabrica-

tion spécifiés, le droit de rapatrier 100% des bénéfices et du capital gagnés en devises, entre autres.

Il existe également des exigences en matière de capital et des avantages supplémentaires négociés pour les investisseurs stratégiques et les investisseurs stratégiques spéciaux.

ZONES ÉCONOMIQUES

L'Autorité des zones franches d'exportation (Export Processing Zones Authority - EPZA) en Tanzanie supervise les zones franches d'exportation (Export Processing Zones - EPZ) et les zones économiques spéciales (Special Economic Zones - SEZ).

L'objectif principal de l'Autorité est de superviser les investissements dans la ZES et l'EPZ en créant un environnement commercial approprié grâce au développement d'infrastructures industrielles et commerciales de classe mondiale, à la fourniture d'incitations à l'investissement compétitives et à des services efficaces de facilitation des investisseurs dans le secteur manufacturier pour stimuler les exportations.

Le programme EPZ encourage l'investissement dans les activités manufacturières orientées vers l'exportation, tandis que la ZES est plus large et plus inclusive et en-

courage l'investissement sectoriel en mettant l'accent sur l'agriculture, le commerce, le tourisme, l'exploitation minière et la foresterie.

À Zanzibar, des zones économiques franches (Free Economic Zones - FEZ) ont été créées à dessein pour attirer les investissements étrangers directs, en ciblant spécifiquement les projets à forte intensité de main-d'œuvre et en augmentant les exportations dans les secteurs du commerce, du tourisme, de la foresterie, des mines et de l'agriculture.

Les entreprises qui investissent dans les zones économiques bénéficient de procédures douanières et administratives simplifiées et doivent se procurer les licences nécessaires.

Critères d'éligibilité pour une licence EPZ

- Nouvel investissement
- Chiffre d'affaires annuel minimum à l'exportation de 100 000 USD pour les investisseurs locaux et 500 000 pour les investisseurs étrangers
- Au moins 80% des biens produits doivent être exportés
- Critères d'éligibilité pour une licence SEZ :
- Nouvel investissement
- Capital minimum de 100 000

USD pour les investisseurs locaux et 500 000 pour les investisseurs étrangers

- L'investissement doit être situé dans les parcs des zones économiques spéciales

PROPRIÉTÉ FONCIÈRE

Régime foncier et propriété

Toutes les terres appartiennent au public. Il est dévolu au président en tant que fiduciaire pour et au nom de tous les citoyens tanzaniens. Une personne/un citoyen peut jouir d'un droit légal à la propriété foncière en vertu d'un droit d'occupation accordé ou d'un droit d'occupation coutumier accordé pour des durées de 33, 66 ou 99 ans. Il est interdit à des étrangers de posséder des terres à moins que ce ne soit à des fins d'investissement accordées en vertu de la loi sur l'investissement de la Tanzanie.

Acquisition de terres si NON attribuées pour la première fois par le gouvernement ;

- Obtenir une recherche officielle au registre foncier pour vérifier et confirmer les détails/statuts de la propriété foncière ainsi que les charges enregistrées sur la propriété, le cas échéant,
- Veiller à ce que le loyer foncier soit payé et à jour,
- Engagement d'un géomètre

qualifié pour arpenter et confirmer la taille du terrain ainsi que pour s'assurer de l'existence des balises,

- Signature des documents de transaction (contrat de vente, formulaires fonciers et autres documents pertinents),
- Engagement d'un évaluateur qualifié qui procédera à l'évaluation du terrain et préparera des rapports d'évaluation acceptables à utiliser pour le calcul des taxes,
- Obtenir l'approbation du commissaire aux terres pour l'acquisition du terrain. A ce stade, TIC serait également impliquée en cas de propriété étrangère,
- Obtenir une évaluation de l'impôt sur les gains en capital et, par la suite, un certificat d'impôt sur les gains en capital auprès de l'Autorité fiscale de Tanzanie, et
- Obtenir l'approbation du responsable d'enregistrement des titres pour l'enregistrement du nouveau propriétaire sur le titre de propriété ou les droits dérivés (pour la propriété étrangère).

CONSIDÉRATIONS RELATIVES À L'EMPLOI

Nature des contrats

Il peut s'agir soit d'un contrat à durée indéterminée, soit d'un contrat à durée déterminée pour les professionnels et cadres de direction, soit d'un contrat pour une

tâche spécifique.

Il est important d'obtenir des conseils juridiques avant d'émettre des contrats de travail aux employés car chaque circonstance d'emploi peut déterminer la nature du contrat de travail à émettre et les conditions à inclure pour éviter ou gérer les conflits potentiels.

Permis de travail et de séjour

- Les expatriés travaillant en Tanzanie doivent détenir un permis de travail valide délivré par le commissaire au travail et un permis de séjour délivré par le directeur des services d'immigration, ou un certificat d'exemption valide.
- Chaque entreprise bénéficiant d'un certificat d'incitation a droit à un quota initial automatique de 10 expatriés maximum. Des permis supplémentaires doivent être demandés et le TIC prend une décision après consultation avec le service de l'immigration en tenant compte de la disponibilité de Tanzaniens qualifiés, de la complexité de la technologie employée par l'entreprise commerciale et des accords conclus avec les investisseurs.

Les employeurs de non-ressortissants doivent soumettre un plan de relève réalisable.

Cessation des relations de travail

Des conseils juridiques sont recommandés pour décider d'un mode de résiliation des contrats de travail plus sûr et plus rentable. Le licenciement abusif crée des contestations inutiles et des litiges coûteux ou des décisions telles que la réintégration de l'employé sans perte de rémunération pendant la période de licenciement abusif, le réengagement de l'employé à n'importe quelles conditions ou une indemnisation d'au moins douze mois de rémunération au employé.

ÉNERGIE

La Tanzanie possède des ressources énergétiques abondantes et encore inutilisées telles que l'hydroélectricité, le gaz naturel, le charbon, l'uranium, l'éolien, la géothermie, la biomasse, le solaire, les marées et les vagues. Il existe un large éventail de ressources énergétiques et de plans actuels du gouvernement exprimant le désir de diversifier les sources de production dans le cadre de l'élargissement de l'accès rural et d'attirer les investissements du secteur privé.

PROTECTION DE LA PROPRIÉTÉ INTELLECTUELLE (PI)

La Tanzanie a ratifié un certain

nombre de conventions relatives aux droits de propriété intellectuelle et, à ce titre, dispose d'une législation qui s'efforce de protéger ces droits. Le pays est également membre de plusieurs organisations internationales traitant de la propriété intellectuelle, par exemple l'Organisation mondiale de la propriété intellectuelle et l'Organisation régionale africaine de la propriété intellectuelle.

Les droits protégés comprennent :

- Droits d'auteur et droits voisins : en vertu de la loi n° 7 de 1999 sur le droit d'auteur et les droits voisins
- Service des marques de commerce et de service : sont protégés par la loi sur les marques de commerce et de service, Cap 326 R. E 2002, la loi sur les marques de marchandises, la loi sur la concurrence loyale, 2003 (n° 8 de 2003) et le délit civil de commercialisation trompeuse.
- Brevets et dessins et modèles industriels : sont protégés par la loi sur l'enregistrement des brevets, Cap 217 R. E 2002 et les conventions internationales.
- Noms commerciaux : sont protégés par la loi sur les noms commerciaux (enregistrement), Cap. 213 R. E 2002.
- Noms de domaine :- protégés par le droit commun.
- Droits d'obtenteur : - sont

protégés par la loi de 2012 sur les droits d'obtenteur.

- Droits à l'image : - protégés par le droit commun de droit à la propriété de l'image.

BANCAIRE

La croissance du crédit au secteur privé devrait continuer à maintenir une tendance à la hausse vers l'objectif de 10,6 % fixé pour 2021/22, soutenue par la mise en œuvre des mesures politiques récemment mises en place par la Banque Centrale pour favoriser la croissance du crédit et la baisse des taux débiteurs, la poursuite de la reprise de l'économie mondiale et le maintien d'une politique monétaire accommodante.

La Tanzanie a également amélioré l'accès aux informations sur le crédit en créant des bureaux de crédit. Toute société constituée à l'intérieur ou à l'extérieur de la République-Unie de Tanzanie est éligible pour demander à la Banque de Tanzanie une licence de bureau de référence de crédit.

QUESTIONS FISCALES

Impôt sur le revenu en Tanzanie
Les résidents de Tanzanie paient des impôts sur le revenu mondial. Cela signifie que les revenus provenant de l'intérieur de la Tanzanie, ainsi que les revenus provenant de l'extérieur de la Tanzanie, sont im-

posables pour établir l'impôt sur le revenu des particuliers. Cependant, les non-résidents paient un impôt sur le revenu provenant de l'intérieur de la Tanzanie.

Il est important de noter que les services personnels sont classés comme tels si l'activité donnée est exercée en Tanzanie, ou si elle est effectuée en dehors de la Tanzanie mais que le destinataire se trouve en Tanzanie.

Taux d'impôt sur le revenu des particuliers

Les particuliers sont imposés progressivement de 8% à 30% maximum. En revanche, les particuliers non-résidents sont imposés au taux de 15 %.

Partenariats ; les associés sont assujettis à l'impôt sur le revenu sur les bénéfices distribués par le partenariat sur la base du ratio de partage convenu.

Fiscalité des sociétés

Le revenu de la personne résidente provient de l'intérieur et de l'extérieur de la Tanzanie. Les non-résidents, cependant, paient des impôts sur les revenus provenant uniquement de la Tanzanie.

L'impôt sur les sociétés est au taux de 30 %. Ce taux s'applique à la fois aux entités commerciales résidentes et aux établissements sta-

bles d'entités commerciales non résidentes.

Alternativement, des frais de chiffre d'affaires de 5 % sont facturés aux prestataires de services techniques et de gestion pour les services liés à l'exploitation minière, pétrolière et gazière. Un taux réduit d'impôt sur le revenu des sociétés est applicable à 25 % pour les trois premières années d'activité pour une société dont au moins 30 % des actions sont cotées à la Bourse de Dar es Salaam.

Les autres taxes comprennent ;

- Taxe sur la Valeur Ajoutée (TVA) au taux de 18% et 15% à Zanzibar, Droits de douane à taux variables,
- Droits d'accise sur tous les articles de luxe en fonction de la catégorie de produits concernée,
- Taxe sur le carburant,
- Prélèvement pétrolier,
- Taxes sur les salaires prélevées à la source par l'employeur, y compris la taxe de développement des compétences à 4 % de la masse salariale, les cotisations de sécurité sociale à 20 %, versées à parts égales par l'employeur et l'employé, le tarif de la caisse d'indemnisation des accidents du travail facturé au taux de 0,6 % pour le secteur privé et 0,5% pour le secteur public,
- Impôts fonciers,
- Taxe sur les services imposés

à 0,3 % sur le chiffre d'affaires généré par les personnes morales et

- "Produce Cess imposed" à 3% sur la nourriture et 5% sur les produits liés à la forêt.

Les ONG ayant un statut caritatif ne bénéficient pas d'exonérations d'impôt sur le revenu. Au lieu de cela, une décision reconnaissant une ONG en tant qu'organisation caritative permettait de bénéficier d'une déduction fiscale.

Pour les activités d'exportation et d'importation, il existe des réglementations qui couvrent ; respect des documents, respect des frontières et exigences en matière de transport intérieur.

CONSIDÉRATIONS ENVIRONNEMENTALES

Le Conseil national de gestion de l'environnement (National Environment Management Council - NEMC) supervise les affaires de gestion de l'environnement. Le NEMC fournit un cadre juridique et institutionnel pour la gestion durable de l'environnement, la prévention et le contrôle de la pollution, la gestion des déchets, les normes de qualité environnementale, la participation du public, la conformité et l'application environnementales, la recherche et la sensibilisation.

Le promoteur d'un projet est tenu

d'entreprendre ou de faire entreprendre, à ses frais, une étude d'impact sur l'environnement. L'aménageur est tenu de faire appel à des experts en environnement ou à des cabinets agréés par le NEMC.

D'autres considérations environnementales qui sont plus spécifiques à la nature de l'entreprise sont régies par plusieurs textes législatifs, notamment :

- La loi sur la gestion de l'environnement,
- Le Règlement sur l'évaluation et l'audit des impacts sur l'environnement,
- La Loi sur la conservation de la faune,
- La Loi sur les mines,
- La Loi sur le pétrole,
- La loi forestière,
- Le Règlement Forestier, et
- La loi sur la gestion des ressources en eau.

RÈGLEMENT DES DIFFÉRENDS

Divers forums sont disponibles pour le règlement des différends en Tanzanie. Ils vont des forums réglementés par l'État aux entités privées engagées dans le processus de résolution des différends qui découlent de diverses entreprises sociales et politiques.

TRIBUNAUX

Les tribunaux offrent un mécanisme formel pour régler les différends entre entités de différentes hiérarchies. Ceux-ci incluent :

- Cour d'appel de Tanzanie,
- Tribunal de Grande Instance de Tanzanie - des divisions spécifiques comme la Division commerciale de la Haute Cour, gère les litiges commerciaux,
- Les tribunaux de district et les tribunaux de première instance des résidents, et
- Tribunaux primaires.
- Tribunaux : Il s'agit d'organismes quasi judiciaires créés en vertu de la loi pour régler les différends émanant de divers secteurs. Ils incluent, mais ne sont pas limités à :
 - Tribunal foncier et du logement de district qui traite les questions foncières ;
 - Tax Revenue Appeals Tribunal qui gère les questions fiscales ;
 - Tax Revenue Appeals Board qui gère les questions fiscales ;
 - Commission de la concurrence loyale ;
 - Tribunal de la concurrence loyale ; et
 - Commission de médiation et d'arbitrage ; qui traite les litiges du travail.

Alternatives au contentieux
Les différends en Tanzanie peuvent être résolus de plusieurs façons en plus de l'arbitrage

par les tribunaux, y compris l'arbitrage, la médiation, la réconciliation et les négociations.

LUTTE CONTRE LA CORRUPTION, LE BLANCHIMENT D'ARGENT ET LA CORRUPTION

La Tanzanie a un certain nombre de lois qui s'efforcent de lutter contre le blanchiment d'argent et la corruption. Les lois sont :

- Loi sur la lutte contre le blanchiment d'argent ;
- Loi sur la prévention et la lutte contre la corruption ;
- Loi sur les produits de la criminalité,

Loi sur la lutte contre le crime économique et organisé,

- Loi sur la procédure pénale,
- Loi sur l'entraide en matière criminelle,
- Loi sur l'extradition,
- Loi sur le Service national des poursuites,
- Loi sur les stupéfiants et la prévention du trafic illicite de stupéfiants, ,
- Règlement de 2016 sur la lutte contre le blanchiment d'argent (déclaration transfrontalière de devises et d'instruments négociables au porteur),
- Règlement de 2015 sur la lutte contre le blanchiment d'argent et les produits du crime (Anti-Money Laundering and Proceeds of Crime

AMLPOCA),

- Règlement de 2012 sur la lutte contre le blanchiment d'argent (Anti-Money Laundering - AMLA) et
- Directives anti-blanchiment d'argent pour les comptables et les auditeurs et ses règlements, 2007.

La Tanzanie a également adopté la loi sur la lutte contre le blanchiment d'argent (amendement), modifiant la loi sur la lutte contre le blanchiment d'argent à l'effet suivant :

- Le blanchiment d'argent reste insaisissable,
- Introduit la lutte contre le financement du terrorisme et la lutte contre le financement de la prolifération,
- Définition de la propriété effective à élargir,
- Même une participation de 5 % est une indication d'actionnariat direct,
- Les personnes déclarantes ont proposé d'inclure désormais les auditeurs, les conseillers fiscaux, les concessionnaires automobiles,
- Plus d'obligations pour les déclarants,
- La définition de la personne politiquement exposée a été élargie et
- Le blanchiment d'argent doit être un crime séparé, indépendant et distinct.

SORTIR D'UNE ENTREPRISE

Liquidier une entreprise dépend de la forme de l'entreprise. Dans le cas d'une société, il existe deux modes de liquidation d'une société en Tanzanie :

- Liquidation par le Tribunal (liquidation obligatoire), et
- Liquidation volontaire par les associés ou par les créanciers.

La loi sur les sociétés régit les procédures de liquidation qui

sont longues et dépendent du mode de liquidation. Il est conseillé de demander des conseils juridiques et des conseils sur le mode et le processus de liquidation ainsi que sur d'autres exigences fiscales et d'enregistrement avant que la liquidation ne soit terminée. Le contenu de ce guide est fourni à titre indicatif uniquement et ne doit pas être considéré comme un substitut à des conseils juridiques détaillés.







DOING BUSINESS IN RWANDA

BY TRUST LAW CHAMBERS

Rwanda's strategic geographical location offers great opportunities as a commercial hub to the East and Central African regions. Considered the second easiest country in Africa to do business according to the most recent World Bank's annual Doing Business indices and coupled with an attractive investment climate that has low inflation levels and zero tolerance to corruption, Rwanda has gained a reputation for good governance, commitment to economic growth and development with prevailing peace and security. Below are some of the salient points to note when considering investment in Rwanda

1. BUSINESS SET UP

A Business may be owned by an individual or group of legal or natural persons. Business entities are registered by the Office of the Registrar General at Rwanda Development Board (RDB) through an online process. Registration is free of cost. Approval takes between 6 hours and 2 days. The company registration process is synced with tax registration. Upon registration, a business receives a registration certificate which includes the Company Code Number that doubles

as its Tax Identification Number. There are no restrictions in place for foreign ownership of Business entities in Rwanda. Entities can be 100% foreign owned either by legal or natural foreign persons. There is however a requirement to have a resident director for all companies. The resident director does not have to be a national of Rwanda, but must be legally resident in Rwanda. Whereas one setting up a business in Rwanda must consider many factors that will influence what business structure to pursue and seek advice to that effect. The Company Law in Rwanda allows for registration of;

- Companies limited by shares
- Companies limited by guarantee
- Companies limited by both shares and guarantee

These may be domestic (subsidiaries) or foreign (branch) companies. Companies can also be registered as;

- Limited life companies
- Community Benefit Companies
- Protected Cell Companies

Other business vehicles through which business may be carried out provided for under Rwandan laws are;

- a. Partnerships
- b. Foundations (Private Benefit foundations)

2. TAXATION

In Rwanda, taxes are registered for and paid through an online tax system. Registration for taxes is automatic upon registration of a business entity, however within a period of seven (7) days from the beginning of the business activity, a business is required to seek login details for the online tax portal through which online tax declarations to the tax authority (Rwanda Revenue Authority (RRA) are done. All companies are further required to have electronic billing (EBM) systems in place.

Corporate Income Tax is charged at a maximum rate of 30%. Entities listed on the Rwanda Stock exchange and those registered as strategic investors under the investment law however, may pay lower CIT rates. Business entities with turnover exceeding Twenty Million Rwanda Francs (Rwf20m) in the previous fiscal year or Five Million (Rwf5m) in the preceding quarter are required by law to register for VAT (which is charged at the standard rate of 18%).

A withholding tax of 15% is payable on dividends, as well as on payments from residents to

non-resident service providers. Dividend tax rates may however vary where dividends are paid to a shareholder in a country with a Direct Tax Agreement with Rwanda. Companies listed on the Rwanda Stock Exchange pay a dividend tax of 5% on dividend payments made to East African shareholders.

Customs in Rwanda are payable based on the East African Community custom laws and regulations.

3. EMPLOYMENT

Current employment taxes in Rwanda are payable following the scale in the table below;

Band of monthly income (Rwandan Francs)	Tax rate (%)
Up to 30,000	0%
30,001 – 100,000	20%
Over 100,000	30%

Employers and employees are also required to make social security contributions (Pension and Occupational Hazards Insurance) to the Rwanda Social Security Board (RSSB). Currently, 5% of gross salary is contributed by the employer while the employees contribute 3% of their gross salary.

In addition, 0.6% of gross salary of an employee is contributed to RSSB for the maternity benefits scheme, which is a fund set up to compensate mother's taking time off from work for maternity leave. 0.3% is contributed by both the employer and the employee. 0.5% of net salary (after the above deductions), is furthermore contributed by employees to the Community Based Health (CBH) Insurance scheme also managed by RSSB.

It is the employers' legal responsibility to withhold and pay the employee's tax and compulsory RSSB contributions. Whereas Rwanda has no Reciprocal Agreement with any country with regards to deduction and remittance of employee's tax and social security deductions, income that is earned by non-citizen individuals employed by international organizations that have signed agreements with the Government of Rwanda in accordance with Rwandan law, may be exempt from employee's tax.

4. IMMIGRATION

The Immigration laws provide a requirement for work permits for all foreign employees working in Rwanda. Foreign entrepreneurs are given business work permits, and can freely live and carry on business in Rwanda for the duration of the permit.

Employee work permits are however only granted where an employer can prove the lack of local talent for a particular position.

The Ministry of Labour and Public Service periodically releases an "Occupations on Demand List (ODL)" which highlights skills that are lacking or in short supply in the market on Rwanda. For these occupations, work permits are easily granted once a foreigner provides proof of such skill.

These permits are usually given for 2 year periods, which are freely renewable as long as the skill remains on the ODL. For all other occupations, an Employer is required to undertake a "Labour Market Test", this is a procedure through which a Company must demonstrate that after sufficient advertising, the Company has failed to find a Rwandan suitable for the position that they require to fill.

Usually a 2-year permit will be given, during which time a Company will be required to train locals for this position. For foreign owned companies, usually the CEO or Managing Director will be given a work permit regardless of the skill level.

5. FOREIGN LAND OWNERSHIP RESTRICTIONS

Under Rwandan law, foreigners

can own land under leases of a maximum of 49 years, which are renewable. This restriction also applies to companies which are majority (51%) foreign owned. Rwandan individuals are given up to 99 year leases, with freehold tenure restricted to investments. Individuals who had freehold at the time of the land reform maintained their freehold titles, however if transferred, the new owner receives a leasehold title. In addition to the above, various sectors are regulated and require additional licenses, including

banking, insurance, energy, public transport, mining among others. Requirements, licenses, permits and obligations that may arise for each business structure are provided for by specific laws and regulators. These laws are constantly updated to reflect the fast pace of economic growth, development and day to day realities of doing business in Rwanda by the Government of Rwanda in bid to create a space for businesses growth without compromising on the safety and long term vision and goals of investors and the nation at large.



KUFANYA BIASHARA NCHINI RWANDA; MUHTASARI

Rwanda imebarikiwa kupatikana katika eneo la kijografia lililo na uwezo wa kutoa fursa nzuri za kibiashara kwa mataifa ya Afrika Mashariki na kati. kwa mujibu wa tafiti za hivi karibuni za Benki ya Dunia kuhusu nchi bora za uwekezaji biashara, Rwanda ilikuwa nchi ya pili barani Afrika ya kuwekeza biashara. Pamoja na mazingira na hali yake ya hewa ya kuvutia ya uwekezaji, nchi ya Rwanda inatambulika kuwa na viwango vya chini vya mfumuko wa bei na nchi ambayo imepiga marufuku masuala ya ufisadi. Rwanda imepata sifa za utawala bora wa kujitolea kukuza uchumi na maendeleo. Kutokana na hali ya amani na usalama uliopo, yafuatua ni mambo muhimu ya kufahamu unapohitaji kuwekeza au kufanya biashara nchini Rwanda.

1. KUANZISHA BIASHARA

Nchini Rwanda, biashara inaweza kumilikiwa na mtu binafsi au kikundi cha watu kisheria au kwa makubaliano na maridhiano. Mashirika ya biashara husajiliwa na ofisi ya msajili mkuu katika Bodi ya Maendeleo ya Rwanda ya (Rwanda Development Board). Usajili hufanywa kupitia njia ya mtan-

daoni.

Usajili ni wa bure na huchukua kati ya saa 6 hadi siku 2 kupokea idhini ya kufanya biashara. Mchakato wa usajili wa kampuni unasawazishwa na usajili wa ushuru. Baada ya kusajiliwa, biashara hupokea cheti cha usajili ambacho kinajumuisha nambari ya msimbo wa kampuni ambayo hufanya kazi rudufu ya kuwa pia nambari ya utambulisho wa ushuru. Hakuna viziwi vilivyowekwa kuhusu umiliki wa kigeni wa mashirika ya biashara nchini Rwanda.

Mashirika yanaweza kuwa asilimia 100 ya kigeni yakimilikiwa na mtu au watu binafsi waliokubalina kufanya biashara kwa ushirika kishe-ria au kwa maridhiano. Hata hivyo, kuna hitaji la kuwa na mkurugenzi mkazi wa Rwanda katika makampuni yote. Mkurugenzi huyu si lazima awe raia wa Rwanda lakini lazima awe mkazi halali nchini Rwanda. Licha ya kuwa anayeanzisha na kutaka kufanya biashara Rwanda lazima azingatie mambo kadhaa ambayo yanaweza kuathiri aina ya biashara, ni vyema pia kupata ushauri wa kuweza kumsaidia kufanya biashara kupata aina ya biashara inayohusika. She-

ria ya kampuni nchini Rwanda inaruhusu usajili wa;

- Makampuni yanayodhibitiwa kwa hisa*
 - Makampuni yenye ukomo wa dhamana*
 - Makampuni yanayodhibitiwa kwa hisa na dhamana
- Hizi zinaweza kuwa kampuni za ndani (tanzu) au za kigeni (tawi) Makampuni pia yanaweza kusajiliwa kama;
- Makampuni yanayodhibitiwa kimaisha*
 - Makampuni ya faida ya kijamii
 - Makampuni ya yenye matawi mbalimbali ya aina moja*

Vyombo vingine vya kibiashara ambavyo vinaweza kutekelezwa katika uwekezaji kwa mujibu wa sheria za Rwanda ni;

- a) Biashara vya Ushirikiano
- b) Biashara vya kibinafsi (misingi ya faida ya kibinafsi)

2. USHURU

Nchini Rwanda, ushuru husajiliwa na kulipwa kupitia mfumo wa ushuru wa mtandaoni. Usajili wa kodi hufanywa pindi unaposajili chombo cha biashara, au ndani ya muda wa siku saba tangu mwanzo wa shughuli ya biashara. Kulipa ushuru, jina la Biashara huingizwa kwenye tuvuti kutafuta maelezo ya kuingia kwenye tovuti ya kodi ya mtandaoni ambayo kupitia kwayo

matangazo ya kodi ya mtandaoni kwa mamlaka ya ushuru (Mamlaka ya Mapato ya Rwanda) hufanyika. Makampuni yote yanahitajika zaidi kuwa na mifumo ya malipo ya kielektroniki. Ushuru wa mapato ya biashara hutozwa kwa kiwango cha juu cha asilimia 30. Mashirika yaliyoorodheshwa kwenye soko la Hisa la Rwanda na yale yaliyosajiliwa kama wawekezaji wa kimkakati chini ya sheria ya uwekezaji, yanaweza kulipa viwango vya chini vya ushuru wa kampuni au shirika au biashara

Mashirika ya biashara yenye mauzo yanayozidi Milioni ishirini za Rwanda katika mwaka wa fedha uliopita au milioni tano za Rwanda katika robo iliyotangulia zinatakiwa kisheria kujisajili kwa VAT (ambayo inatozwa kwa kiwango cha kawaida cha asilimia 18).

Kodi ya zuio* ya asilimia 15 inalipwa kwa migao na pia kwa malipo kutoka kwa wakaazi kwenda kwa watoa huduma wasio wakaazi. Viwango vya kodi ya mgao hata hivyo vinaweza kutofautiana ambapo gawio hulipwa kwa mwenye hisa katika nchi iliyo na mkataba wa ushuru wa moja kwa moja na Rwanda. Kampuni zilizoorodheshwa kwenye soko la hisa la Rwanda hulipa ushuru wa mgao wa asilimia 5 kwa malipo ya gawio yaliyotolewa kwa wanahisa wa Af-

rika Mashariki.

Ushuru wa forodhani nchini Rwanda unalipwa kwa kuzingatia sheria na kanuni za forodha za Jumuiya ya Afrika Mashariki

3. AJIRA

kodi za sasa za ajira nchini Rwanda zinalipwa kwa kufuata kiwango kilicho kwenye jedwali hapa chini; Kikundi cha mapato ya kila mwezi

Kikundi cha mapato ya kila mwezi (Shilingi za Rwanda)	Kiwango cha ushuru (%)
Hadi 30,000	0%
30,001 – 100,000	20%
Zaidi ya 100,000	30%

Waajiri na waajiriwa pia wanatakiwa kutoa michango ya hifadhi ya jamii (Bima ya Penisheni na Hatari za Kazini) kwa bodi Hifadhi ya Jamii ya Rwanda (RSSB). Hivi sasa asilimia 5 ya mshahara wa jumla unachangiwa na mwajiri huku wafanyakazi wakichangia asilimia 3 ya mishahara yao. Zaidi ya hayo, asilimia 0.6 ya mshahara wa jumla wa mfanyakazi huchangiwa kwa RSSB kwa ajili ya mpango wa mafao ya uzazi, ambao ni hazina iliyoanzishwa ili kufidia muda wa mama

kuondoka kazini kwa ajili ya likizo ya uzazi. Asilimia 0.3 inachangiwa na mwajiri na mwajiriwa.

Asilimia 0.5 ya Mishahara yote (baada ya makato yaliyo hapo juu) inachangiwa zaidi na wafanyakazi katika mpango wa Bima ya afya ya jamii unaosimamiwa na RSSB. Ni wajibu wa kisheria wa waajiri kulipa wanapolipwa kodi ya mfanyakazi na michango ya lazima ya RSSB. Kwa kuwa Rwanda haina makubaliano na nchi yoyote kuhusu kukatwa na kutuma makato ya kodi na hifadhi ya jamii ya mfanyakazi, mapato ambayo yanalipwa na watu wasio raia waliojariwa na masharika ya kimataifa ambayo yametia sainsi mikataba na serikali ya Rwanda kwa mujibu wa sheria za Rwanda, inaweza kusamehewa kodi ya mfanyakazi.

4. UHAMIAJI

Sheria za uhamiaji hutoa mahitaji ya vibali vya kufanya kazi kwa wafanyakazi wote wa kigeni wanaofanya kazi nchini Rwanda. Wajasirimali wa kigeni wanapewa vibali vya kufanya kazi za biashara, na wanaweza kuishi na kufanya biashara kwa uhuru nchini Rwanda kwa muda wote wa kibali hicho. Vibali vya kufanya kazi kwa mfanyakazi hata hivyo vinatolewa pale ambapo mwajiri anaweza kuthibitisha ukosefu wa mtu mwenye uwezo nchini kwa nafasi fulani.

Wizara ya kazi na utumishi wa umma mara kwa mara hutoa “Occupations on Demand List ODL” ambayo huangazia ujuzi ambao haupo au uhaba katika soko la Rwanda. Kwa kazi hizi, vibali vya kazi vinatolewa kwa urahisi mara tu mgeni atakapotoa udhibitisho wa ujuzi huo. Vibali hivi kwa kawaida hutolewa kwa vipindi vya miaka 2, ambavyo vinaweza kusajiliwa upya bila malipo mradi ujuzi unabaki kwenye ODL

Kwa kazi nyingine zote, mwajiri anatakiwa kufanya “Mtihani wa soko la kazi”, huu ni utaratibu ambao kampuni lazima ionyeshe kuwa baada ya matangazo ya kutosha, kampuni imeshindwa kupata mwananchi mkaazi wa Rwanda anayefaa kwa nafasi ambayo wanahitaji kujaza. Kwa kawaida kibaali cha miaka 2 kitatolewa wakati ambapo kampuni itahitajika kutoa mafunzo kwa wenyeji kwa nafasi hii.

5. Vizuizi vya umiliki wa ardhi ya kigeni

Chini ya sheria ya Rwanda, wageni wanaweza kumiliki ardhi chini ya ukodishaji wa kiwango cha juu cha miaka 49, ambayo inaweza kusajiliwa upya. Kizuizi hiki pia kinatumika kwa kampuni ambazo ni nyingi ambazo kwa asilimia 51 zinamilikiwa na wageni. Raia wa

Rwanda wamepewa hadi ukodishaji wa miaka 99, huku umiliki huria ukiwekwa tu kwa uwekezaji. Watu ambao walikuwa na uhuru wa kumiliki ardhi wakati wa mageuzi ya ardhi walidumisha hatimiliki zao za umiliki hata hivyo ikiwa zitahamishwa, mmiliki mpya anapokea hati ya ukodishaji.

Mbali na hayo hapo juu, sekta mbalimbali zimedhibitiwa na zinahitaji leseni za ziada zikiwemo benki, bima, nishati, usafiri wa umma, uchimbaji madini miongoni mwa nyinginezo. Mahitaji, leseni, vibali na majukumu ambayo yanaweza kuzuku kwa kila muundo wa biashara yanatolewa na sheria na vidhibiti maalum. Sheria hizi zinasasishwa mara kwa mara ili kuakisi kasi ya ukuaji wa uchumi, maendeleo na ukweli wa siku hadi siku wa kufanya biashara nchini Rwanda na serikali ya Rwanda ili kuunda nafasi ya ukuaji wa biashara bila kuathiri usalama na maono na malengo ya muda mrefu ya wawekezaji na taifa kwa ujumla.



FAIRE DES AFFAIRES AU RWANDA

La situation géographique stratégique du Rwanda offre de grandes opportunités en tant que plaque tournante commerciale vers les régions d'Afrique orientale et centrale. Considéré comme le deuxième pays d'Afrique où il est le plus facile de faire des affaires selon les indices Doing Business annuels les plus récents de la Banque mondiale et associé à un climat d'investissement attrayant caractérisé par de faibles niveaux d'inflation et une tolérance zéro à la corruption, le Rwanda a acquis une réputation de bonne gouvernance, d'engagement à la croissance économique et le développement dans un climat de paix et de sécurité. Voici quelques-uns des points saillants à noter lors de l'examen de l'investissement au Rwanda

1. CRÉATION D'ENTREPRISE

Une entreprise peut appartenir à un individu ou à un groupe de personnes morales ou physiques. Les entités commerciales sont enregistrées par le Bureau du registraire général du Rwanda Development Board (Office of the Registrar General at Rwanda Development Board - RDB) par le biais d'un processus en ligne.

L'inscription est gratuite. L'approbation prend entre 6 heures et 2 jours. Le processus d'enregistrement de la société est synchronisé avec l'enregistrement fiscal. Lors de l'enregistrement, une entreprise reçoit un certificat d'enregistrement qui comprend le numéro de code de l'entreprise qui sert également de numéro d'identification fiscale.

Il n'y a pas de restrictions en place pour la propriété étrangère d'entités commerciales au Rwanda. Les entités peuvent être détenues à 100 % par des étrangers, soit par des personnes morales, soit par des personnes physiques étrangères. Il existe cependant une obligation d'avoir un administrateur résident pour toutes les sociétés. Le directeur résident ne doit pas nécessairement être un ressortissant rwandais, mais doit résider légalement au Rwanda.

Alors que la création d'une entreprise au Rwanda doit tenir compte de nombreux facteurs qui influenceront la structure d'entreprise à poursuivre et demander conseil à cet effet. La loi sur les sociétés au Rwanda permet l'enregistrement de;

Sociétés en commandite par actions

- Sociétés à responsabilité limitée par garantie

- Sociétés en commandite par actions et garantie

Il peut s'agir de sociétés nationales (filiales) ou étrangères (succursales).

Les entreprises peuvent également être enregistrées en tant que;

- Sociétés d'assurance-vie à responsabilité limitée

- Entreprises d'utilité communautaire

- Sociétés de cellules protégées

Les autres véhicules commerciaux à travers lesquels les affaires peuvent être exercées prévus par les lois rwandaises sont ;

a. Partenariats

b. Fondations (fondations privées)

2. FISCALITÉ - AU RWANDA,

les impôts sont enregistrés et payés via un système fiscal en ligne. L'enregistrement aux impôts est automatique lors de l'enregistrement d'une entité commerciale. Cependant, dans un délai de sept (7) jours à compter du début de l'activité commerciale, une entreprise est tenue de demander les informations de connexion au portail fiscal en ligne par lequel les déclarations fiscales en ligne à l'administration fiscale Rwanda

Revenue Authority (Rwanda Revenue Authority - RRA) sont faites.

Toutes les entreprises sont en outre tenues de mettre en place des systèmes de facturation électronique (Electronic Billing - EBM).

L'impôt sur les sociétés est perçu à un taux maximum de 30 %. Les entités cotées à la bourse du Rwanda et celles enregistrées en tant qu'investisseurs stratégiques en vertu de la loi sur l'investissement peuvent toutefois payer des taux d'IS inférieurs.

Les entités commerciales dont le chiffre d'affaires dépasse vingt millions de francs rwandais (20 millions de Frw) au cours de l'exercice précédent ou cinq millions (5 millions de Frw) au cours du trimestre précédent sont tenues par la loi de s'enregistrer à la TVA (qui est facturée au taux standard de 18%).

Une retenue à la source de 15 % est due sur les dividendes, ainsi que sur les versements des résidents aux prestataires de services non résidents. Les taux d'imposition des dividendes peuvent toutefois varier lorsque les dividendes sont versés à un actionnaire dans un pays ayant conclu une convention fiscale directe avec le Rwanda. Les sociétés cotées à la Bourse du Rwanda paient une taxe sur les dividendes de 5% sur les dividendes versés aux actionnaires

d’Afrique de l’Est.

Les douanes au Rwanda sont payables sur la base des lois et réglementations douanières de la Communauté de l’Afrique de l’Est.

3. EMPLOI

Les taxes sur l’emploi actuelles au Rwanda sont payables selon le barème du tableau ci-dessous ;

Tranche de revenu mensuel (francs rwandais)	Taux d’imposition (%)
Jusqu’à 30 000	0%
30,001 – 100,000	20%
Plus de 100 000	30%

Les employeurs et les employés sont également tenus de verser des cotisations de sécurité sociale (retraite et assurance contre les risques professionnels) au Rwanda Social Security Board (RSSB). Actuellement, 5% du salaire brut est cotisé par l’employeur tandis que les salariés cotisent 3% de leur salaire brut.

En outre, 0,6 % du salaire brut d’une salariée est cotisé au RSSB pour le régime d’allocations de maternité, qui est un fonds créé

pour compenser l’arrêt de travail de la mère pour congé de maternité. 0,3% est cotisé par l’employeur et l’employé. 0,5% du salaire net (après les déductions ci-dessus), est en outre cotisé par les employés au régime d’assurance maladie communautaire (Community Based Health- CBH) également géré par RSSB. Il est de la responsabilité légale de l’employeur de retenir et de payer l’impôt du salarié et les cotisations obligatoires RSSB.

Considérant que le Rwanda n’a conclu d’accord de réciprocité avec aucun pays en ce qui concerne la déduction et le versement des retenues d’impôt et de sécurité sociale des employés, les revenus gagnés par des non-ressortissants employés par des organisations internationales qui ont signé des accords avec le gouvernement du Rwanda conformément à la loi rwandaise, peuvent être exonérés de la taxe professionnelle.

4. IMMIGRATION

Les lois sur l’immigration prévoient une exigence de permis de travail pour tous les employés étrangers travaillant au Rwanda. Les entrepreneurs étrangers reçoivent des permis de travail et peuvent librement vivre et exercer leurs activités au Rwanda pendant la durée du permis.

Les permis de travail des employés ne sont toutefois accordés que lorsqu'un employeur peut prouver le manque de talents locaux pour un poste particulier. Le Ministère du Travail et de la Fonction Publique publie périodiquement une "Liste des Métiers à la Demande (Occupations on Demand List - ODL)" qui met en évidence les compétences qui manquent ou sont rares sur le marché rwandais. Pour ces professions, les permis de travail sont facilement accordés une fois qu'un étranger apporte la preuve d'une telle compétence. Ces permis sont généralement accordés pour des périodes de 2 ans, librement renouvelables tant que la compétence reste sur l'ODL.

Pour toutes les autres professions, un employeur est tenu d'entreprendre un "test du marché du travail", il s'agit d'une procédure par laquelle une entreprise doit démontrer qu'après une publicité suffisante, l'entreprise n'a pas réussi à trouver un Rwandais adapté au poste qu'il doit pourvoir. Habituellement, un permis de 2 ans sera accordé, période pendant laquelle une entreprise sera tenue de former des locaux pour ce poste. Pour les entreprises étrangères, le PDG ou le directeur général se verra généralement accorder un permis de travail, quel que soit son niveau de com-

pétence.

5. RESTRICTIONS À LA PROPRIÉTÉ FONCIÈRE ÉTRANGÈRE

En vertu de la loi rwandaise, les étrangers peuvent posséder des terres en vertu de baux d'une durée maximale de 49 ans renouvelables. Cette restriction s'applique également aux entreprises détenues majoritairement (51 %) par des étrangers. Les particuliers rwandais se voient accorder des baux pouvant aller jusqu'à 99 ans, le temps de détention en pleine propriété étant limitée aux investissements. Les personnes qui avaient la pleine propriété au moment de la réforme agraire ont conservé leurs titres de pleine propriété, mais en cas de transfert, le nouveau propriétaire reçoit un titre de bail.

En plus de ce qui précède, divers secteurs sont réglementés et nécessitent des licences supplémentaires, notamment la banque, l'assurance, l'énergie, les transports publics, l'exploitation minière, entre autres. Les exigences, licences, permis et obligations qui peuvent survenir pour chaque structure d'entreprise sont prévues par des lois et des régulateurs spécifiques. Ces lois sont constamment mises à jour pour refléter le rythme rapide de la croissance économique,

du développement et des réalités quotidiennes des affaires au Rwanda par le gouvernement du Rwanda dans le but de créer un espace pour la croissance des entreprises sans compromettre la sécurité et la vision et les objectifs à long terme des investisseurs et de la nation dans son ensemble.



**DOING BUSINESS
IN BURUNDI 2022**



DOING BUSINESS IN BURUNDI

BY NOA ADVOCATES

COUNTRY OVERVIEW

Burundi is an East Africa country with an area of 27,834 Km² (Land: 25,680 Km²). According to a UNFP report in July 2021, the population was 12 Million with a density of 463.3/Km². This population is very young with over 64% of the population being below the age of 24. The economic Capital is Bujumbura with an estimation of 1 092 859 inhabitants in 2020. The Political Capital is GITEGA.

The lowest point is Tanganyika Lake at 772 m above the sea level. The Lake is the longest in the World (677Km) and the 2nd deepest (1400m). The shore length is 828 Km with the largest fish population (200 species endemic to the lake). The Lake Tanganyika connects Burundi to 3 countries: DRC, Tanzania and Zambia.

The main languages used are: Kirundi, French and English; the mother tongue is Kirundi. The official languages are French and Kirundi. In most businesses, Swahili is widely used. These days, a lot of people use English as a communication language more than before. The climate is mild with an average of 21°C. It rains between 8 and 9 months a year.

SOCIO-ECONOMIC CONTEXT

According to the World Bank report in 2021, the Gross Domestic Product (GDP) in Burundi was worth 3.10 billion dollars. The GDP per capita is \$US 260. The top of GDP composition sector of the country is agriculture which accounts for 39.4%. The industry accounts for 16.4% and the services 44.2%. The exchange rate on 09th May 2022 is 2067.5 BIF par \$US (buy rate).

The inflation rate is 7.52%, 5.57%, 4.63% (consumer prices respectively 2020/2021/2022). Life expectancy is 57 years.

i. why investing in burundi

Burundi is a strategic location that offers to reach Eastern DRC and Western Tanzania with an estimate of 16million consumers each. The country has also fiscal and customs incentives. The unique attractiveness are:

- Lake Tanganyika beaches that offer leisure activities;
- Breathtaking landscape, Kibira rainforest;
- Cultural heritage.
- Burundi drummers.

There is also a large untapped

investment opportunities in Burundi with no fierce competition and an availability of Raw material in excessive. The labor force is cheap (estimation of 80\$US/month). Burundi has a strategic position when considering its membership of a lot of regional Communities:

- Member of EAC Market that accounts 288 million consumers when including the joining of DRC on 29th March 2022.
- Member of COMESA with 433.9 million consumers.
- Member of CEPGL (ECGLC).
- Bridge between EAC and ECCAS (Economic Community of Central African States).
- Connection to the SADC market through Lake Tanganyika.

ii. investment opportunities

Burundi offers large opportunities for investors. The following sectors are more attractive than others.

Mining:

Burundi has a stock of Nickel, gold, wolframite, Rare Earth, Vanadium, coltan, etc. The country has 6 % of world reserves of nickel with 180 million tones estimate. Research of Uranium is underway.

Energy:

The development of Hydro, solar, biogas and wind power plants

energy is possible in Burundi and the land is still very raw.

Agriculture and agro-processing Industry:

Burundian coffee is rated among the best in the world. In addition, Burundi has other export products such as: Tea, cotton, palm oil, fish, potatoes, fruits and vegetables, leather, wheat, etc.

Manufacturing:

On this category, there is: cement, soft drinks, carbonated waters, beverages, sugar, etc.

Transport:

There is a great need to develop transport on Lake Tanganyika. As the road linking Burundi to Tanzania in the south is very unstable due to the rising waters of the Lake these days, the best opportunity is to exploit the maritime route. This can allow easy access to inaccessible areas of eastern DRC. Roads & bridges construction, Air transport and modernization of Bujumbura Airport is ongoing.

Industry, trade and services. Health and Education infrastructure.

Tourism:

Burundi culture dance, drummers, Hotels, places, animal parks, etc.

offer opportunities to invest in this sector.

Finance sector (banking and micro-financing), IC Technologies. Etc.

However, in all of the above-mentioned sectors, the priority remains on the following sectors that are seen as very strategic:
Agriculture including fisheries and livestock;
Mining and energy;
Manufacturing/Processing industry;
Advanced maritime transportation;
Construction of modern tourism infrastructure.



III. BUSINESS REGISTRATION

1. Registration Agencies

In Burundi, there are 5 agencies involved in the business registration:

- Tribunal de Commerce (Commercial Court), a Department under the Ministry of Justice in charge of registry of commercial activities in Burundi;
- The National Institute of Social Services known as "Institut National de Sécurité Social" (INSS);
- The Burundi Revenue Authority or Office Burundais des Recettes

(OBR);

The Labour Inspection Unit;
The Burundi Development Agency.
Burundi has three other operational one-stop-shops for: construction permits, property transfer and connecting to electricity.

2. Registration documents issued

The procedure of registration of a company can be completed within a working day. The documents issued are the following:

- Statutes (Constitution);
- Tax Identification Number (TIN);
- Card member to the National Social Security Institute.

For some businesses, Licenses are required before proceeding to the registration as a company:

- Banks
- Lending Institutions
- Microfinance
- Money transfer and Forex
- Life and non-life insurance
- Import, Storage and Sale of Petroleum products
- Extraction, purchase and sale of mining products
- Certified Public Accountant and Tax Advisors
- Lawyers and Notaries
- Customs agencies activities Bars, Hotel, Restaurant and Night Clubs activities
- Water, air and road transportation

- Security and Guarding
- Education
- Health
- Electricity generation
- Chemical products

IV. INCENTIVES

The Burundi Investment Code offers incentives to some businesses. To be eligible, some documents are required, depending on the type of business:

- Trade Registry Certificate,
- Tax Identification Number (TIN),
- Business Plan,
- Environmental Impact Study Certificate,
- Jobs estimate,
- List materials/Equipment to be imported,
Etc.

According to Burundi Investment Code, the incentives include the protection of investments, no nationalization or expropriation of investments on Burundi territory except in the exceptional case of public interest (Article 13), fair compensation in case of expropriation (article 13), flexible dispute settlement provisions (article 17). There is a special taskforce that has been set up to review the incentives on a case-to-case basis as some of them include tax holidays.

V. FISCAL AND CUSTOMS BENEFITS

Investors who have an eligibility certificate for advantages provided in the Burundi investment code will benefit this following:

- Exemption of charges on property transfer (mutation fee);
- No duty on raw material, capital goods and specialized vehicles;
- Corporate tax rate: 30%. It is reduced of 5% if 50 – 200 Burundians are employed; it is reduced of 2% if more than 200 Burundians nationals are employed;
- Free repatriation of profit after payment of tax;
- VAT exemption on imported equipment and raw materials for investment projects identified to be strategic and priority sectors for the national economy.

VI. CONCLUSION

Burundi is currently on the path of an ambitious program of political stabilization, national reconciliation and more specifically, on economic reforms. Conditions for attracting investors are gradually put in place and opportunities are visible.

Even if there are still challenges, many efforts have been put in place to facilitate investment and allow investors to set up their business in the country, in an acceptable climate, with the benefit of advantages.

Therefore, the invitation is given to those willing to invest in Burundi to come because the time has already come and make a contribution to the establishment of a good business climate in Burundi.



KUFANYA BIASHARA BURUNDI

YALIYOMO

- Muhtasari wa nchi
- Muhtasari wa kijamii na kiuchumi
- Kwa nini kuwekeza Burundi
- Fursa za uwekezaji
- Usajili wa biashara
- Wakala wa usajili
- Hati za usajili zinazotolewa
- Vichocheo
- Faida ya pesa na desturi
- Hitimisho

MUHTASARI WA NCHI

Burundi ni nchi ya Afrika Mashariki yenye eneo la kilomita (km) 27,834 (Ardhi: 25,680 km kulingana na ripoti ya UNPF Julai 2021. Burundi ina jumla ya idadi ya watu milioni 12 wanaokaa katika upana wa eno la kilomita 463.3 mzunguko. Idadi hii ya watu ni changa sana huku zaidi ya asilimia 64 ya watu wakiwa chini ya umri wa miaka 24. Mji mkuu wa kiuchumi ni Bujumbura wenye makadirio ya wakazi milioni 1,092,859 kufikia mwaka 2020. Mji mkuu wa Kisiasa ni Gitega. Sehemu ya chini kabisa ya nchi hii kuna Ziwa Tanganyika lenye kina cha mita 772 ya bahari. Ziwa hilo ndilo refu zaidi duniani (677km) na la pili kwa kina kirefu

(1400m). Urefu wa ufuo ni Km 828 na yenye idadi kubwa ya samaki (lina jumla ya aina 200 za samaki). Ziwa Tanganyika linaunganisha Burundi na nchi tatu za Jamuhuri ya Demokrasia ya Congo, Tanzania na Zambia.

Nchi ya Burundi ni nchi ambayo inatumia lugha tatu za Kirundi, Kifaransa na Kiingereza. Lugha mama ni Kirundi. Lugha rasmi ni Kifaransa na Kirundi. Kiswahili ni lugha ambayo imedhihirika kutumika sana katika biashara nyingi nchini Burundi. Siku hizi, watu wengi hutumia Kiingereza kama lugha ya mawasiliano zaidi kuliko hapo awali.

Hali ya hewa ni laini na wastani wa digirii 21. Mvua hunyesha kati ya miezi nane na tisa kwa mwaka.

MUHTASARI WA HALI YA KIJAMII NA KIUCHUMI

ulingana na ripoti ya Benki ya Dunia ya mwaka wa 2021, Pato la Taifa nchini Burundi lilikuwa na thamani ya dola bilioni 3.10. Pato la Taifa kwa kila mtu ni dola 260. Sekta ya kilimo ndiyo inayoongoza kuchangia Pato la Taifa linalochukua asilimia 39.4. Sekta ya viwanda inachangia asilimia 16.4 na huduma asilimia

44.2. Kiwango cha ubadilishaji wa fedha kufikia tarehe 9 Mei 2022 ni 2067.5 BIF kwa dola moja ya kimarekani katika kiwango cha kununua. Mfumuko wa bei ni asilimia 7.25, 5.57, 4.63 (Bei za watumiaji mtawaliwa katika miaka ya ukadiriaji wa fedha ya (2020/2021/2022). Matarajio ya maisha ya mwananchi wa Burundi ni miaka 57.

VIVUTIO VYA UWEKEZAJI BIASHARA BURUNDI

Burundi ni eneo la kimkakati ambalo kwa mfanyibiashara ni nchi iliyo karibu na eneo la Mashariki mwa Jamuhuri ya Demokrasia ya Kongo na Magharibi mwa Tanzania. Nchi hii inakadiriwa kuwa na wateja wanaokadiriwa kuwa milioni 16. Hali ya uchumi wa nchi hii ni wenye kuvutia kifedha na katika shughuli za forodha. Vivutoa vya pekee vinavyopatikana katika nchi hii.

- Fukwe za Ziwa Tanganyika zinazovutia shughuli za utalii na maliwazo
- Mandhari ya kuvutia ya milima na mabonde na msitu wa Kibira.
- Utamaduni wa jamii.
- Wapiga ngoma wa Burundi.

Pia kuna fursa kubwa za uwekezaji ambazo hazijatumiwa nchini, ushindani wa kiwango cha chini na urahisi wa kupatikana kwa malighafi nyingi. Nguvu kazi ni

nafuu (inayokakadirio kuwa dola 80 za Marekani kwa kila mwezi).

Burundi ina nafasi ya kipekee ya kimkakati kulingana na eneo lake la kijiografia ukilinganisha na nchi wanachama za Jumuiya za kikanda;

- Burundi ni Mwanachama wa Soko la Afrika Mashariki ambalo lina jumuisha wateja milioni 288 ukiongeza Jamuhuri ya Demokrasia ya Kongo ambayo imejiunga na jumuiya.
- Mwanachama wa COMESA yenye wateja milioni 433.9
- Mwanachama wa CEPGL (ECGLC).
- Ni mwanachama wa Afrika Mashariki na pia mpatanishi wa Jumuiya ya Kiuchumi ya Nchi za Afrika ya Kati.
- Ni mwanachama wa soko la SADC kupitia Ziwa Tanganyika.

FURSA ZA UWEKEZAJI

Burundi ina fursa kubwa kwa wawekezaji. Sekta zifuatazo zinavutia zaidi kuliko zingine.

1. Uchimbaji madini.

Burundi ina madini ya kutosha ya Nikeli, dhahabu, wolframite, ardhi adimu, vanadium, coltan n.k. Nchi ya Burundi ina asilimia 6 ya akiba ya madini ya nikeli inayokadiriwa kuwa tani milioni 180. Zaidi ya hayo, Utafiti kuhusu upatikanaji wa madini ya Urani unaendelea.

2. Nishati

Kuna uwezekano wa kuwekeza katika ujenzi wa nishati ya haidrojeni, nishati ya jua, biogesi na mitambo ya nguvu za upepo nchini na bado kuna ardhi ya kutosha kuendeleza aina hizi za nishaji.

3. Sekta ya Kilimo na viwanda vya Usindikaji wa bidhaa vya Kilimo.

Kahawa ya Burundi ni miongoni mwa kahawa bora zaidi ulimwenguni. Aidha, Burundi ina bidhaa nyingine zinazouzwa nje kama vile; chai, pamba, mafuta ya mawese, samaki, viazi, matunda na mboga, ngozi, ngano n.k

4. Viwanda

Katika kategoria hii kuna; vuwanda vya bidhaa kama vile saruji, vinywaji baridi, maji ya kaboni, vinywaji, sukari, n.k

5. Usafiri

Kuna haja kubwa ya kujenga usafiri katika ziwa Tanganyika. Hii inatokana na matatizo ya mafuriko ya kila mara katika barabara ya kuunganisha Burundi na Tanzania kusini. Ujenzi wa barabara hii baharini itafanya hata usafiri wa kufika Jamuhuri ya Kongo mashariki kurahisishwa. Ujenzi wa barabara na madaraja, usafiri wa anga na uboreshaji wa uwanja wa ndege wa Bujumbura unaendelea kwa sasa kuboresha

usafiri..

6. Kuna fursa ya kuanzisha Viwanda, biashara na huduma.

7. Kujenga Miundo mbinu ya Afya na elimu.

8. Utalii.

Ngoma ya utamaduni wa Burundi, wachezaji wa ngoma, hoteli, maeneo, mbuga za wanyama n.k hutoa fursa za kuwekeza katika sekta hii.

9. Sekta ya fedha (Benki na ufadhili mdogo)

10. Teknolojia nk.

Hata hivyo katika sekta zote zilizotajwa hapo juu, kipaumbele kimeweka msisitizo kwenye sekta zifuatazo ambazo zinaonekana kuwa za kimkakati sana;

- Kilimo, ikijumuisha uvuvi na mifugo.
- Madini na nishati
- Sekta ya utengenezaji/usindikaji.
- Usafiri wa hali ya anga na baharini.
- Ujenzi wa miundombinu ya kisa-sa ya utalii.

USAJILI WA BIASHARA

1. Mashirika ya Usajili

Nchini Burundi kuna mashirika 5 yanayohusika katika usajili wa biashara;

- Mahakama ya biashara – idara iliyo chini ya Wizara ya Sheria inayosimamia usajili wa shughuli

za kibiashara nchini Burundi.

- Taasisi ya Kitaifa ya Huduma za Jamii inayojulikana kama Institut Natinal de Securite Social (INSS).
 - Mamlaka ya Mapato ya Burundi au Ofisi ya Burundais des Recettes (OBR).
 - Kitengo cha Ukaguzi wa Kazi.
 - Shirika la Maendeleo la Burundi.
- Burundi ina maeneo mengine matatu yanayofanya kazi moja ya; vibali vya ujenzi, kuhamisha mali na kuunganisha umeme.

2. Nyaraka za Usajili zinazotolewa.

Utaratibu wa kampuni unaweza kukamilika ndani ya siku za kazi. Hati zinazotolewa ni zifuatazo;

- Sheria/katiba.
- Nambari ya Utambulisho wa Ushuru (TIN)
- Mwanachama wa kadi kwa Taasisi ya Kitaifa ya Hifadhi ya Jamii. Kwa biashara zingine leseni zinazohitajika kabla ya kuendelea na usajili wa kampuni ni;
 - Benki.
 - Taasisi za Mikopo.
 - Fedha ndogo.
 - Uhamisho wa pesa na soko la ubadilishaji wa fedha za kigeni.
 - Bima ya maisha na isiyo ya maisha.
 - Uigizaji, uhifadhi na uuzaji wa bidhaa za petroli.
 - Uchimbaji, ununuzi na uuzaji wa bidhaa za madini.

- Idhini kutoka kwa Mhasibu wa umma alinayeidhinisha na washauri wa ushuru.
- Wanasheria na wathibitishaji.
- Shughuli za wakala wa forodha.
- Baa, hoteli, mkahawa na shughuli za vilabu vya usiku.
- Usafiri wa maji, anga na barabara.
- Usalama na ulinzi.
- Elimu.
- Afya.
- Uzalishaji wa umeme.
- Bidhaa za kemikali.

VICHOCHEO

Kanuni ya Uwekezaji wa nchi ya Burundi hutoa msaada wa kumotisha na kukuza na kuendeleza baadhi ya biashara. Biashara zinazostahili kupata msaada wa kuinua biashara huhitaji baadhi ya hati au stakabadhi kulingana na aina ya biashara kama vile;

- Cheti cha usajili wa biashara
- Nambari ya Utambulisho wa Ushuru (TIN)
- Mpango wa biashara
- Cheti cha utafiti wa athari kwa mazingira
- Makadirio ya kazi
- Orodhesho ya nyenzo/vifaa vitakavyoagizwa kutoka nje ya nchi, n.k

Kulingana na Kanuni ya Uwekezaji ya Burundi, motisha hizo za kui-

nua biashara ni pamoja na ulinzi wa vitega uchumi, kutotaifishwa au kunyang'anywa kwa uwekezaji katika eneo la Burundi isipokuwa katika kesi ya kipekee ya maslahi ya umma kwa mujibu wa sheria (Kifungu cha 13), fidia ya haki katika kesi ya kunyang'anywa mali (kifungu cha 13), sheria ya utatuzi wa migogoro ya kuleta maridhiano (Kifungu cha 17).

Kuna jopo maalum ambalo limeundwa ili kukagua biashara kutokana na kuwa baadhi ya msaada wa kumotisha na kuendeleza biashara unahusu kufanya biashara bila kulipa ushuru wa aina fulani.

FAIDA ZA FEDHA NA DESTURI

Wawekezaji ambao wana cheti cha kustahiki kwa manufaa ya kufanya biashara nchini Burundi kulingana na kodi ya sheria ya kufanya biashara Burundi huweza kufaidika na;

- Msamaha wa malipo ya kuhamisha mali (ada ya mabadiliko)
- Kutolipa ushuru wa malighafi, bidhaa za mtaji na magari maalum.
- Upunguzaji wa kiwango cha ushuru wa kampuni ambapo; badala ya kulipa asilimia 30, ushuru utapunguzwa kwa asilimia 5 ikiwa biashara yako inaajiri wananchi wa Burudi kuanzia 50-200 wameajiriwa. Aidha, ikiwa biashara yako imeajiri raia

wa Burudi zaidi ya 200 ushuru unapunguzwa asilimia 2.

- Kuhamisha faida ya biashara ikiwa umekuwa ukilipa ushuru
- Msamaha wa kulipa ushuru wa ushuru (VAT) kwa vifaa na malighafi zinazoagizwa kutoka nje kwa miradi ya uwekezaji iliyoanishwa kuwa sekta za kimkakati na kipaumbele kwa uchumi wa taifa.

HITIMISHO

Burundi kwa sasa imeweka mipango kabambe ya kuimarisha hali ya kisiasa, upatanisho na maridhiana ya kujenga mahusiano, hasa katika kujaribu mageuzi ya kiuchumi. Masharti ya kuvutia wawekezaji yanazidi kuwekwa hatua kwa hatua kwa ajili ya kuweka fursa zinaonekana kwa wawekezaji kukuza na kuendeleza biashara.

Hata ingawa kumekuwpo na changamoto za uwekezaji na nyingi nyinginezo, jitihada nyingi zinazidi kufanyika kuwezesha uwekezaji na kuruhusu wawekezaji kuanzisha biashara zao nchini. Hali ya uwekezaji ya kunufaisha wawekezaji inazidi kuboreshwa. Kwa hivyo, Serikali inatoa mwiliko kwa wale walio tayari kuwekeza Burundi kufika kwa sababu wakati tayari umefika wa kutoa mchango katika kuweka hali nzuri ya uwekezaji wa biashara nchini.

MAPENDEKEZO YETU

KATIKA HATI.

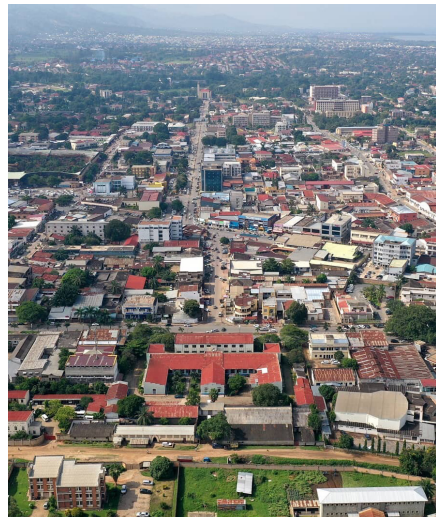
“Ujenzi mpya wa biashara baada ya janga la UVIKO -19”: Mielekeo imara ya uvuvuzi wa Uchumi. Kufufua uchumi kutoka kwa janga la UVIKO -19, na kujenga biashara vya kudumu kama ilivyokuwa kabla ya janga, mifumo na shughuli za kibiashara zinazoharibu mazingira lazima ziepukwe. Bila kudhibitiwa, dharura za kimazingira duniani kama vile mabadiliko ya hali ya hewa na upotovu wa biashara kudumu zinaweza kusababisha madhara makubwa zaidi ya kijamii na kiuchumi kuliko yale yaliyosababishwa na UVIKO -19. Kuepukana nalo, mipango mkakati ya kufufua uchumi lazima uzingatiwe na kutekelezwa ili kujenga upya uchumi bora.

Hii inamaanisha kuwa wawekezaji lazima watie bidii zaidi ili kujenga uchumi imara na maisha yenye riziki kuirudisha katika hali jinsi ilivyokuwa na zaidi. Kunahitajika kuundwa kwa sera za uvuvuzi wa uchumi ambazo zitavutia wafanyibiashara kuwekeza na kusababisha mabadiliko ya mienendo miongoni mwa wananchi ambao hata janga lingine likitokea hawataweza kuathirika kiuchumi. Muhimu kwa yote, lazima mfumo au sera husika huo ziundeze ustawi wa wote Mwelekeo mwingine wa kutathimini ikiwa mfumo, sera au mbinu

inayohusika ni ya kujenga upya uchumi ulio bora ni ule unaoendana na madhumuni ya kudumu au ya muda mrefu ya uchumi, kuzingatia ustahamilivu wa athari za hali ya uchumi, kupunguza hali ya uchumi kukosa kudumu katika sekta ya uchumi, upotezaji wa biashara kutodumu na kuongezeka kwa matawi ya biashara

Kiutendaji, sera za ufufuzi wa biashara zilizoundwa vyema zinaweza kushughulikia vipimo kadhaa kwa wakati mmoja, kama kuweka mfumo rahisi wa kuwezesha wawekezaji kuufikia kwa urahisi kufikiwa na wengi, na kuwekeza katika mifumo ya nishati iliyo nafuu.

Baadhi ya mapendekezo muhimu ya kuzingatia na serikali baada ya UVIKO-19



na kupunguza suala ukosefu wa usawa wa kikazi miongoni mwa wananchi na biashara ili kuepukana na biashara za muda mfupi na kuepukana na kufungia nje uchukuzi na miundo mbinu inayoweza kudumisha shughuli za kibiashara.

Utekelezaji wa haraka wa sera ambazo zinawezesha wawekezaji na umma kuwekeza pamoja na kuratibu au kurekebisha sera zilizopo kuwezesha uwekezaji.

Mapendeleo ya kukubali mashirika na sekta mbalimbali kufanya biashara baina yao, kuweka idara na serikali mtambuka zenye kutoa taarifa na mielekeo ya muda mrefu ya kufanya biashara baina ya serikali, na kukubali kuweka mifumo na miundo mbinu mbalimbali na michakato ya kujenga na kukuza biashara kuliko kutegema matokeo ya teknolojia moja katika shughuli za kibiashara.



FAIRE DES AFFAIRES AU BURUNDI

APERÇU DU PAYS

Le Burundi est un pays d'Afrique de l'Est avec une superficie de 27 834 Km² (Terrain : 25 680 Km²). Selon un rapport UNPF de juillet 2021, la population était de 12 millions d'habitants avec une densité de 463,3/Km². Cette population est très jeune avec plus de 64% de la population ayant moins de 24 ans. La Capitale économique est Bujumbura avec une estimation de 1 092 859 habitants en 2020. La Capitale Politique est GITEGA.

Le point le plus bas est le lac Tanganyika à 772 m au-dessus du niveau de la mer. Le Lac est le plus long du Monde (677Km) et le 2^{ème} plus profond (1400m). La longueur du rivage est de 828 Km avec la plus grande population de poissons (200 espèces endémiques au lac). Le lac Tanganyika relie le Burundi à 3 pays : la RDC, la Tanzanie et la Zambie.

Les principales langues utilisées sont : le kirundi, le français et l'anglais ; la langue maternelle est le kirundi. Les langues officielles sont le français et le kirundi. Dans la plupart des entreprises, le swahili est largement utilisé. De nos jours,

beaucoup de burundais l'anglais comme langue de communication plus qu'avant.

Le climat est doux avec une moyenne de 21°C. Il pleut entre 8 et 9 mois par an.

CONTEXTE SOCIO-ECONOMIQUE

Selon le rapport de la Banque mondiale en 2021, le produit intérieur brut (PIB) du Burundi valait 3,10 milliards de dollars. Le PIB par habitant est de 260 \$US. Le premier secteur de composition du PIB du pays est l'agriculture qui représente 39,4%. L'industrie représente 16,4% et les services 44,2%. Le taux de change au 09 mai 2022 est de 2067,5 BIF par \$US (taux d'achat).

Le taux d'inflation est de 7,52%, 5,57%, 4,63% (prix à la consommation respectivement 2020/2021/2022). L'espérance de vie est de 57 ans.

I. POURQUOI INVESTIR AU BURUNDI

Burundi est un endroit stratégique qui offre d'atteindre l'est de la RDC et l'ouest de la Tanzanie avec une estimation de 16 millions de consommateurs chacun.

Le pays dispose également d'incitations fiscales et douanières. Les attraits uniques sont :

- Les plages du lac Tanganyika qui offrent des activités de loisirs ;

Paysage à couper le souffle, forêt tropicale de la Kibira ;

- Héritage culturel.

- Tambours burundais.

Il existe également de grandes opportunités d'investissement inexploitées au Burundi sans concurrence féroce et une disponibilité excessive de matières premières. La main d'œuvre est bon marché (estimation de 80\$US/mois).

Le Burundi occupe une position stratégique compte tenu de son appartenance à de nombreuses Communautés régionales:

- Membre du marché EAC qui compte 288 millions de consommateurs en incluant l'adhésion de la RDC le 29 mars 2022 .

- Membre du COMESA avec 433,9 millions de consommateurs.

- Membre de la CEPGL (ECGLC).

- Passerelle entre l'EAC et la CE-EAC (Communauté économique des États de l'Afrique centrale).

- Connexion au marché de la SADC par le lac Tanganyika.

II. OPPORTUNITÉS D'INVESTISSEMENT

Le Burundi offre de grandes opportunités pour les investisseurs. Les secteurs suivants sont plus attractifs que d'autres.

Exploitation minière:

Le Burundi dispose d'un stock de Nickel, d'or, de wolframite, de terres rares, de vanadium, de coltan, etc. Le pays dispose de 6 % des réserves mondiales de nickel avec une estimation de 180 millions de tonnes. La recherche sur l'uranium est en cours.

Énergie:

Le développement de l'énergie hydroélectrique, solaire, biogaz et éolienne est possible au Burundi et la terre est encore très brute.

Industrie agricole et agro-industrielle :

Le café burundais est classé parmi les meilleurs au monde. En outre, le Burundi a d'autres produits d'exportation tels que : Thé, coton, huile de palme, poisson, pommes de terre, fruits et légumes, cuir, blé, etc.

Fabrication:

Sur cette catégorie, il y a : le ciment, les boissons gazeuses, les eaux gazeuses, les boissons, le sucre, etc.

Le transport:

Il y a un grand besoin de dévelop-

per le transport sur le lac Tanganika. La route reliant le Burundi à la Tanzanie au sud étant très instable en raison de la montée des eaux du lac ces jours-ci, la meilleure opportunité est d'exploiter la voie maritime. Cela peut permettre un accès facile aux zones inaccessibles de l'est de la RDC.

de routes et de ponts, le transport aérien et la modernisation de l'aéroport de Bujumbura sont en cours.

Industrie, commerce et services. Infrastructures de santé et d'éducation.

Tourisme:

La culture burundaise, la danse, les tambours, les hôtels, les places, les parcs animaliers, etc. offrent des opportunités pour investir dans ce secteur.

Secteur financier (banque et micro-finance), IC Technologies. Etc.

Cependant, dans tous les secteurs susmentionnés, la priorité reste sur les secteurs suivants qui sont considérés comme très stratégiques :

Agriculture y compris la pêche et l'élevage;

Mines et énergie ;

Industrie de fabrication/ transformation;

Transport maritime avancé;

Construction d'infrastructures

touristiques modernes.

III. ENREGISTREMENT D'ENTREPRISE

1. Agences d'enregistrement

Au Burundi, il existe 5 agences impliquées dans l'enregistrement des entreprises :

- Tribunal de Commerce, Département du Ministère de la Justice chargé du registre des activités commerciales au Burundi ;
- L'Institut National des Services Sociaux dit « Institut National de Sécurité Sociale » (INSS) ;
- L'Office Burundais des Recettes ou Office Burundais des Recettes (OBR) ;
- Le Service de l'Inspection du Travail ;
- L'Agence Burundaise de Développement.

Le Burundi dispose de trois autres guichets uniques opérationnels pour : les permis de construire, le transfert de propriété et le raccordement à l'électricité.

2. Documents d'enregistrement délivrés

La procédure d'enregistrement d'une société peut être complétée en un jour ouvrable. Les documents délivrés sont les suivants :

- Statuts (Constitution);
- Numéro d'identification fiscale

(NIF) ;

- Affilié à l'Institut National de la Sécurité Sociale.

Pour certaines entreprises, des licences sont requises avant de procéder à l'enregistrement en tant que société :

- Banques
- Etablissements de crédit
- Microfinance
- Transfert d'argent et Forex
- Assurance vie et non vie
- Importation, Stockage et Vente de produits Pétroliers
- Extraction, achat et vente de produits miniers
- Expert-comptable et fiscaliste agréé
- Avocats et Notaires
- Activités des agences en douane
- Activités Bars, Hôtel, Restaurant et Discothèques
- Transport maritime, aérien et routier
- Sécurité et gardiennage
- Éducation
- Santé
- Production d'électricité
- Produits chimiques

IV. DES INCITATIONS

Le Code des investissements du Burundi offre des incitations à certaines entreprises. Pour être éligible, certains documents sont requis, selon le type d'entreprise:

- Certificat du Registre du Commerce,

- Numéro d'identification fiscale (NIF),

Plan d'affaires,

- Attestation d'Etude d'Impact Environnemental,

- Estimation des travaux, Lister les matériaux/équipements à importer, Etc.

Selon le Code burundais des investissements, les incitations comprennent la protection des investissements, pas de nationalisation ou d'expropriation des investissements sur le territoire burundais sauf dans des cas exceptionnels d'intérêt public (article 13), une indemnisation équitable en cas d'expropriation (article 13), dispositions pour un règlement souple des différends (article 17).

Un groupe de travail spécial a été mis en place pour examiner les incitations au cas par cas, car certaines d'entre elles incluent des exonérations fiscales.

V. AVANTAGES FISCAUX ET DOUANIERS

Les investisseurs qui disposent d'une attestation d'éligibilité aux avantages prévus par le code des investissements burundais bénéficieront de ce qui suit :

- Exonération des frais de mutation immobilière (frais de mutation) ;

- Aucun droit sur les matières premières, les biens d'équipement et les véhicules spécialisés ;
- Taux d'impôt sur les sociétés : 30 %. Il est réduit de 5% si 50 à 200 Burundais sont employés ; il est réduit de 2% si plus de 200 ressortissants burundais sont employés ;
- Libre rapatriement des bénéficiaires après paiement de l'impôt ;
- Exonération de la TVA sur les équipements et matières premières importés pour les projets d'investissement identifiés comme étant des secteurs stratégiques et prioritaires pour l'économie nationale.

VI. CONCLUSION

Le Burundi est actuellement sur la

voie d'un programme ambitieux de stabilisation politique, de réconciliation nationale et plus précisément, de réformes économiques. Les conditions pour attirer les investisseurs se mettent progressivement en place et des opportunités sont visibles.

Même s'il reste des défis à relever, de nombreux efforts ont été mis en place pour faciliter l'investissement et permettre aux investisseurs de s'implanter dans le pays, dans un climat acceptable, en bénéficiant d'avantages.

Dès lors, l'invitation est faite à ceux qui veulent investir au Burundi de venir car le moment est déjà venu d'apporter leur contribution à l'instauration d'un bon climat des affaires au Burundi.



**DOING BUSINESS
IN SOUTH SUDAN 2022**



DOING BUSINESS IN SOUTH SUDAN

BY PRISM LAW

1. INTRODUCTION

a. History and Geography

South Sudan is a country with in East Africa bordering Uganda to the South, Kenya to the South West, Ethiopia to the West, Sudan to the North, Central Africa Republic to the East and Democratic Republic of Congo in the South East. Southern Sudan through the Sudan People's Liberation Army waged a way of independence against the Khartoum Government from 1983 until 2005 when the Comprehensive Peace Agreement ended the war and the SPLM joined the Government. A referendum was conducted in 2010 where the issue of independence was raised. The People of the South unanimously voted for independence and on 9th July, 2011, the Republic of South Sudan was born

b. Population

The population of South Sudan as per the 2010 census is estimated at 12 million people. Due to the South Sudanese Civil War, this number has greatly shrunk and a population census is yet to be conducted. Most of the population

live in rural areas without access to various amenities.

c. Economy

Though South Sudan is endowed with a vast array of minerals and other natural resources, it is an import dependent country with few foods manufactured within the country and is largely dependent on oil, which covers about 98% of Government Expenditure. The GDP of south Sudan is estimated at about USD 3.6 Billion as of 2020.

2. JUDICIAL SYSTEM

a. Legal System

Although upon establishment as a Republic, South Sudan adopted the Common Law System of law, elements of sharia civil law still exist owing to its historical ties with Sudan.

b. Courts

The highest Court is the Supreme Court, which equally acts as the constitutional Court, The Court of Appeal, High Court, County Courts I & II and the Payam (Traditional) Courts. The Chief Justice has powers to establish specialized Divisions and Tribunals.

c. Dispute Resolution

Reconciliation is a cornerstone in the South Sudan legal system both criminal and civil. The Code of Civil Procedure Act provides for arbitration between parties to a suit and the arbitral award is regarded as final. In practice, Judges will always encourage a settlement between the parties before they are heard on the merits of the case. In a bid to avoid the backlog and delays in the Judiciary, Legal Practitioners and other industry experts have set up entities such as the Juba Centre of Arbitration that handles matters referred to it by any of the parties. Upon an Arbitral award, the matter is then referred to the Court.

3. SETTING UP A BUSINESS

a. Business Names

This is governed by the Registration of Business Names Act, which allows any persons to operate a business name or a sole proprietorship. This is normally done by reserving the name at the Business Registry and providing details of the business owners. A notice has to be provided to the Chief Registrar in the event that any of details of the owners or ownership has changed post registration. Although not prohibited by law, it is practice that foreigners may not set up business names and that it is a preserve of South Sudanese.

b. Partnerships

This is governed by the Partnerships Act and Limited Liability Partnerships Act that allows persons carrying on a business under a common intention to make profit. Persons wishing to register a partnership must reserve the name and deliver a partnership deed, drafted by an Advocate, to the Chief Registrar together with all the details of the partners. In the event of any changes in regards to the details entered in the register, a notice must be sent to the Chief registrar.

c. Local Company

This is governed by the Companies Act 2012.

The different types of companies that may be registered as local are;

- Private Company Limited by Shares
- Public Company Limited by Shares
- Private Company Limited by Guarantee

A company is required to draft its Memorandum and Articles of Association or adopt the Tables as provided under the Act.

Under the Act, all medium and large companies must have a “financially able” South Sudanese Shareholder who must hold not less than 31% of the shares while

small companies shall be the preserve of South Sudanese. In practice however the aspect of “financially able” has been ignored and as such all companies that have Foreigners as shareholders must have South Sudanese holding at least 31% of the Shares. In such cases, the minimum share capital is USD 500,000 whereas for fully owned South Sudanese Companies, the minimum share capital is SSP 100,000.

d. Branch of a Foreign Company

The Act also allows a foreign company to open a branch within the Republic of South Sudan before it can commence business. Where a branch is opened, a company need not have a local shareholder and may appoint a Director or General Manager to run the affairs of the company.

4. RUNNING A BUSINESS

a. Foreign Investment

The Government is keen to encourage and bring in more foreign investment within the country. The rights of foreign Investors from nationalization and compulsory acquisition are protected under the Investment Promotion Act and Southern Sudan Investment Authority Act. Under this law, all foreigners are required to obtain a license before their companies can engage in business.

Entities are also required to obtain other licenses such as;

- Membership of the Chamber of Commerce. Though a voluntary association, in practice membership to it is mandatory.
- City Council Trading License
- Operation License
- Tax Registration Certificate

Entities that deal in industries such as Telecommunication, Banking, Mining, Tourism, Medicine and Transport are required to obtain industry specific licenses.

b. Taxation

The Tax regime in South Sudan is regulated under the National Revenue Authority 2016 and the Taxation Act 2009 as amended. All companies in South Sudan are required to register with the Tax Man within 21 days of registering the company. Companies resident in South Sudan are required to pay Business Profit Tax, which ranges from 15% to 30% as per the categories provided under the Ac.

Companies are also required to withhold tax in regards to employee wages, interest, dividends and royalties and where a consultancy is provided by a non-resident person.

c. Sanctions

Although South Sudan is subject to an arms embargo bar for a few individuals and entities who were sanction by the United States and

European Union, foreign entities may still conduct business including with the Government of South Sudan and not the sanctioned entities or individuals.

d. Currency Regulation

Although the Bank of Sudan Act states that all payments for goods and services must be paid in Local Currency, this has been largely ignored due to the inflationary tendencies of the local currency that has been evident in the last few years. The South Sudanese Pound was also not easily convertible to the major world currencies. Parties continue to transact in both the local and foreign currencies.

Under the Anti-Money Laundering Act 2011, any persons engaged in bank transactions of USD 10,000 or more must provide proof and purpose of funds and the same has to report to the Financial Intelligence Authority. The financial Intelligence Service is however not operational and as such banks do forward these to the Supervision Department of the Bank of South Sudan. The Bank of South Sudan in combatting Money Laundering has also issued directives to banks that all bank transactions involving companies shall be accompanied by E-Invoices initiated through the National Revenue Authority E-Platform.

e. Employment

All foreigners employed in South Sudan are required by Law to obtain a work permit before they take up employment. The ministry of Labour issues a criterion that is necessary to obtain a work permit. Under the Social Insurance Fund Act 1990, Employers are obligated to withhold 8% and contribute 17% as Social Insurance Fund that is paid out at the time of an Employee's exit from employment.

The South Sudan Pension Fund established under the South Sudan Pension Fund Act 2012 is mandated to receive all Social Security contributions. It is however yet to be fully operationalized and thus in line with the repealed 1997 Labour Act, Employers are mandated to establish private schemes and hold these amounts to be paid out to employees upon end of their contract.

Employment contracts whether written or oral have equal protection under the law.

In regards to termination, though not provided under law, practice is that consent should be sought from the Labour office. All disputes stemming from termination is dealt with by the Labour Office in the first instance and where after appeals shall lie to the County Courts.

f. Land rights

Foreigners are prohibited from buying land in South Sudan under the Land Act 2009 and may only lease for a duration not exceeding 99 years.

g. Issuance of Credit facilities

Various regional banks have set up shop within South Sudan and with that comes access to credit facilities. With foreigners not able to

own land, credit facilities are available to leasehold owners with the consent of the Head Lessor.

h. Intellectual Property

South Sudan currently has no legislation governing Trade Marks & Copyright as the Trade Marks Act 1969 was suspended by the Minister. The current Bill is still pending the legislative processes at Parliament.



MWONGOZO WA KUFANYA BIASHARA SUDAN KUSINI

A) HISTORIA NA JIOGRAFIA.

Sudan Kusini ni nchi inayopatikana Afrika Mashariki, inapakana na Uganda kusini, Kenya, Kusini Magharibi, Uhabeshi, Magharibi, Sudan, Kaskazini, Jamhuri ya Afrika ya Kati, Mashariki na kupakana na Jamhuri ya Kidemokrasia ya Kongo katika Kusini Mashariki.

Sudan Kusini kupitia Jeshi la wananchi wa Sudan Kusini la Sudan People's Liberation Army, lilianzisha vita vya ukombozi dhidi ya serikali ya Khartoum kwanzia miaka ya 1983 kudai uhuru kutoka serikali ya Khartoum. Kufikia mwaka 2005 Mkataba wa kuleta amani ulivyotekelezwa na Jeshi la SPLM likajiunga na serikali ya Kusini. Mnamo mwaka wa 2010, Kura ya maoni ilifanyika na kwa kauli moja wananchi wa Kusini wakapiga kura ya kujitenge na serikali ya Khartoum. Mnamo tarehe 9 Julai, 2011 Jamhuri ya Sudan Kusini ilizaliwa.

Idadi ya watu

Kulingana na sensa ya mwaka wa 2010 inakadiriwa kuwa Sudan Kusini ina idadi ya watu milioni 12. Kutokana na vita vya wenyewe kwa wenyewe vya Sudan Kusini,

idadi ya watu imepungua na bado sensa haijafanywa. Idadi kubwa ya watu wanaishi vijijini ambako hakuna huduma mbalimbali.

b). Uchumi.

Ingawa Sudan Kusini imejaliwa kuwa na safu kubwa ya madini na maliasili nyingine, ni nchi ambayo hutegemea sana uagizaji wa chakula kutoka nchi za nje kutokana na uchache wa viwanda vya ndani vya chakula. Nchi hii inategemea sana mafuta ambayo kwa kiasi kikubwa huchangia takriban asilimia 98 ya pato la matumizi ya serikali. Pato la taifa la Sudan Kusini inakadiriwa kuwa thamani ya dola za Marekani bilioni 3.6 kufikia 2020.

2. MFUMO WA MAHAKAMA

a) Mfumo wa Kisheria

Sudani kusini ina mfumo wa sheria ya katiba ambao hupitishwa kwa mujibu wa bunge la taifa. Hata hivyo, licha ya kuwa Sudani kusini ni jamhuri ambayo hutegemea sheria zinazopitishwa na bunge, kuna vipengele vya mfumo wa Sharia ambao bado unathaminiwa miongoni mwa baadhi ya raia

wake kutokana na uhusiano wake wa kihistoria na Sudan.

b). Mahakama

Mahakama iliyo juu zaidi ni Mahakama kuu ambayo hufanya kazi sawa na Mahakama ya Kikatiba, Mahakama ya Rufani, Mahakama kuu, Mahakama ya Kaunti I na II na Mahakama za Payam (za jadi) jaji mkuu ana mamlaka ya kuanzisha mahakama ya Divisheni na Mabaraza maalum

c). Utatuzi wa Migogoro

Amani na Maridhiano ndio msingi katika mfumo wa sheria wa kutatua migogoro ya jinai na makosa madogomadogo katika nchi ya Sudan Kusini. Sheria ya upatanisho na maridhiano baina ya wahusika wanaozozana imepewa nafasi kubwa katika utatuzi wa migogoro na mara nyingi mahakama na mahakimu huhimiza maridhiano nje ya korti kabla ya kusikilizwa na kutoa uamuzi wa kesi mahakamani. Ili kuelekwa na mrundikano na ucheleweshaji wa kesi katika idara ya Mahakama, Wanasheria na wataalam wengine wa tasnia wameruhusiwa kuweka vituo vya sheria vya upatanisho na maridhiano ambapo baada ya kesi kusikilizwa na maamuzi kutolewa, maamuzi ya kesi husika hupelelewa kwenye mahakama kwa ajili ya maridhiano

3. KUANZISHA BIASHARA SUDANI KUSINI

a). Majina ya Biashara

Hii inasimamiwa na sheria ya Usajili wa Majina ya Biashara ambayo inaruhusu mtu yeyote kuandikisha na kuendesha biashara kwa jina lolote liwe na biashara ya umiliki wa ushirika au ya mtu mmoja. Kwa kawaida hili hufanywa kwa kuwasilisha, kuhifadhi jina kwenye usajili wa biashara na kutoa maelezo ya wamiliki wa biashara.

Aidha ikiwa kutatokea mabadiliko yeyote ya umiliki wa biashara baada ya kusajili jina la biashara, taarifa kamili za kuonyesha mabadiliko lazima zitumwe na kuandikisha upya wamilikaji au mmilikaji wa biashara kwa msajili mkuu. Aidha, Ingawa haijakatazwa na sheria, ni desturi kwamba wageni hawajaruhusiwa kupeana biashara zao majina, ni wananchi wa Sudan kusini pekee wanaoruhusiwa kuandikisha majina ya biashara.

b). Ushirikiano

Hii inatawaliwa na Sheria ya Ubia na Sheria ya Ubia wa Dhima Ndogo ambayo inaruhusu watu wanaofanya biashara chini ya nia ya pamoja ya kupata faida. Watu wanaotaka kusajili ushiriki lazima wahifadhi jina na kuwasilisha hati ya ubia iliyoandaliwa na wakili kwa msajili mkuu pamoja na maelezo yote ya washirika. Katika tukio la

mabadiliko yoyote kuhusiana na maelezo yaliyowekwa kwenye rejista, taarifa lazima ipelekwe kwa msajili mkuu kuandikisha upya ushirika wa biashara.

c). Kampuni ya Ndani

Hii inasimamiwa na Sheria ya Makampuni ya kuzingatia kodi ya mwaka 2012. Aina tofauti za kampuni ambazo zinaweza kusajiliwa kama za ndani ni;

- Kampuni binafsi kwa hisa
- Kampuni ya umma kwa hisa
- Kampuni za kibinafsi kwa dhama-na

Kampuni inahitajika kutayarisha mkataba wake na vifungu vya muungano/ushirika au kupitisha majedwali kama yalivyotolewa kwa mujibu wa sheria. Kulingana na sheria hiyo, makampuni yote ya wastadi/madogo na makubwa lazima yawe na mwanahisa wa Sudan Kusini “Mwenye uwezo wa kifedha” ambaye lazima amiliki zaidi ya asilimia 31 ya hisa huku makampuni madogo yakihifadhiwa wananchi wa Sudan Kusini. Kiutendaji hata hivyo kipengele cha uwezo wa kifedha kimepuuzwa na hivyo makampuni yote ambayo yana wageni kama wanahisa lazima yawe na raia wa Sudan Kusini wenye angalau asilimia 31 ya hisa. Katika hali kama hizi mtaji wa chini wa hisa ni dola 500,000 za

marekani ambapo kampuni za Sudan Kusini zinazomilikiwa kikamilifu, mtaji wa chini kabisa wa hisa ni Pauni za Sudan Kusini 100,000.

d). Tawi la Kampuni za Kigeni

Sheria pia inaruhusu kampuni ya kigeni kufungua matawi ya biashara ndani ya Jamuhuri ya Sudan Kusini. Hata hivyo unaruhusiwa kufungua tawi kabla ya kuanza biashara. Kampuni haihitaji kuwa na mwanahisa wa sehemu hiyo. Kinachohitajika ni meneja wa kuendesha biashara katika tawi lita-kalofunguliwa.

4. KUENDESHA BIASHARA

a). Wawekezaji Wageni

Serikali ya Sudani kusini inahimiza na inakubali kuwaleta wawekezaji zaidi wa kigeni nchini. Haki za wawekezaji wa kigeni za kutaifishwa na umiliki wa biashara zinalindwa kwa mujibu wa sheria za kuwawutia wawekezaji na Sheria ya Mamlaka ya Uwekezaji ya Sudan Kusini.

Kwa mujibu wa sheria hii, wageni wote wanatakiwa kupata leseni kabla ya kuanza kufanya biashara. Mashirika pia yanatakiwa kupata leseni nyinginezo kama vile;

- Uanachama wa chumba cha wafanyabiashara. Ingawa ni chama cha hiari, kiutendaji uanachama wake ni wa lazima.

Leseni ya biashara ya halmashauri ya jiji.

- Leseni ya uendeshaji shughuli.
- Cheti cha usajili wa ushuru.

Mashirika yanayojishughulisha na sekta kama vile mawasiliano, benki, uchimbaji madini, utalii, dawa na uchukuzi yanatakiwa kupata leseni mahususi za sekta hizo.

b). Ushuru

Utaratibu wa ushuru nchini Sudan Kusini unadhibitiwa na Mamlaka ya Kitaifa ya ushuru 2016 na Sheria ya Ushuru ya 2009 kama ilivyorekebishwa. Kampuni zote nchini Sudan Kusini zinatakiwa kujisajiliwa na idara au ofisi ya kuku-sanya kodi ndani ya siku 21 baada ya kusajiliwa kwa biashara. Kampuni zinazopatikana Sudan Kusini zinatakiwa kulipa kodi ya faida ya biashara ambayo ni kati ya asilimia 15 hadi asilimia 30 kulingana na kategoria zilizotolewa kulingana na sheria hiyo.

Makampuni/biashara pia inatakiwa kukata ushuru kutoka kwa mishahara ya wafanyakazi, kodi, riba, migao na mirabaha na kulipa kwa serikali kwa niaba yao, hasa wafanyikazi ambao sio wakaazi wa Sudani Kusini.

c). Vikwazo

Ingawa Sudan Kusini imewekewa vikwazo vya silaha miongoni mwa baadhi ya watu binafsi na mashiri-

ka/kampuni chache ambazo ziliwekewa vikwazo na Marekani na Umoja wa Ulaya, mashirika ya kigeni yanaruhusiwa kufanya biashara na serikali ya Sudan Kusini wala sio mashirika/kampuni au watu binafsi waliowekewa vikwazo.

d). Udhibiti wa Fedha.

Ingawa sheria ya benki ya Sudan inasema kwamba malipo yote ya bidhaa na huduma lazima yalipwe kwa sarafu ya Sudan Kusini, hili limepuuzwa kwa kiasi kikubwa kutokana na kuanguka kwa bei ya pauni ya Sudani Kusini kwa sarafu kuu za duniani. Malipo yanaendeshwa kwa pesa za Sudani Kusini na za kigeni.

Sudani Kusini inalindwa na sheria ya kudhibiti matumizi ya pesa haramu ya mwaka wa 2011. Kwa mujibu wa Sheria hii, mtu yeyote anayehusika na miamala ya benki ya dola 10, 000 za Marekani lazima atoe uthibitisho wa asili na madhumuni ya fedha husika. Aidha, lazima Mamlaka ya Upelelezi wa fedha ipate ripoti ya miamala hiyo. Huduma ya Ujasusi wa Kifedha hata hivyo haifanyi kazi na kwa hivyo benki hutuma visa hivi kwa idara ya Usimamizi ya Benki ya Sudan Kusini kudhibiti matumizi ya fedha haramu. Benki ya Sudan Kusini katika kupambana na uhalifu wa pesa, imetoa maagizo kwa

benki zote zitekelezwe kielektroniki kupitia kwa mfumo wa mamlaka ya ushuru wa taifa wa jukwaa la kielektroniki ambalo huambatanishwa na ankara za kielektroniki.

e). Ajira

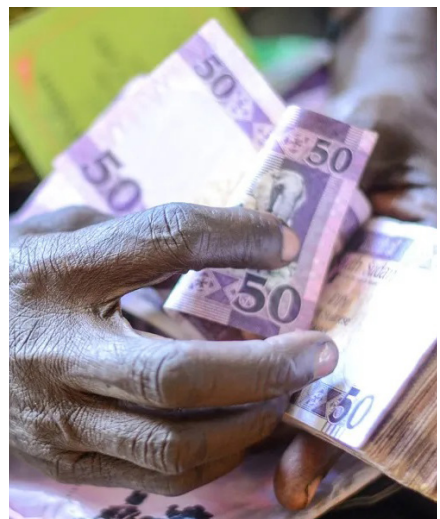
Wafanyakazi wote kutoka nje ya Sudani Kusini wanahitajika kupata kibali cha kazi kwa mujibu wa sheria kukubaliwa kufanya kazi nchini Sudani Kusini. Wizara ya Kazi hutoa vigezo na maelekezo ya mahitaji ya kupata kibali cha kufanya kazi. Kwa mujibu wa Sheria ya Mfuko wa Bima ya Jamii ya mwaka 1990, waajiri wameruhusiwa kupunguza asilimia 8 ya mshahara wa mfanyakazi na kuchangia asilimia 17 kama Mfuko wa Bima wa Jamii ya kila mwezi ambayo hulipwa kwa mfanyakazi wakati anapostaafu au kuondoka kazini.

Sudani kusini ilianzisha mfuko wa Pensheni wa wanajamii ambao unaendeshwa kwa mujibu wa Sheria ya Mfuko wa Pensheni wa Sudani Kusini ya mwaka wa 2012. Sudani kusini pension fund ina mamlaka ya kupokea michango yote ya Hifadhi ya Jamii. Hata hivyo, bado haijaanza utekelezwaji wake. Kwa hiyo, kwa mujibu wa sheria ya wafanyakazi iliyofutwa mwaka 1997, waajiri wana mamlaka ya kuanzisha mifumo ya kibinafsi ya kuhifadhi kiasi fulani cha pesa cha mshahara wa mfanyakazi amba-

cho atalipwa baada ya kumaliza kwa mkataba wake wa kikazi.

Wafanyakazi wanaofanya kazi Sudani kusini wanalindwa na sheria ya kuwa Mikataba yote ya ajira iwe imeandika au ya makubaliano baina ya mwajiri na mfanyakazi bila maandishi inalindwa kwa mujibu wa sheria ya wafanyakazi

Mathalani, ingawa hakuna sheria iliyowekwa ya kufukuzwa kwa mfanyakazi kazini, mzozea ni kwamba kabla ya kumfukuza Migogoro yote inayoweza kusababisha mfanyakazi kufukuzwa kazini, hushughulikiwa na ofisi ya wafanyakazi ambayo inafanya kazi ya upatanishi na maridhiano. Hali ikizidi na kushindwa kusuluhishwa, korti au mahakama ya kaunti huingilia kati kusuluhisha kesi.



f). Haki za Ardhi

Chini ya sheria ya ardhi ya mwaka 2009, wageni hawaruhusiwi kununua wala kumiliki ardhi. Wanaruhusiwa tu kukodi ardhi kwa muda usiozidi miaka 99.

g). Utoaji wa Huduma za Mkopo

Benki mbalimbali za kikanda zimeanzisha matawi yake ndani ya Sudan Kusini na hiyo zinakuja na huduma ya mikopo kwa wataje. Hata hivyo, wageni wasio na uwezo wa kumiliki ardhi hawaruhusiwi kupata mikopo. Wanaoruhusiwa

kupata huduma ya mikopo ni wamiliki wa ardhi ya kukodi ambao huweza kupata huduma hiyo ya mikopo kwa idhini ya mkodishaji mkuu

h). haki miliki

Sudan Kusini kwa sasa haina sheria ya haki miliki inayosimamia alama za biashara na Hakimiliki kwani sheria ya Alama za Biashara ya 1969 ilipigwa marufuku na waziri. Mswada wa sasa bado unasubiri michakato ya kutunga sheria bungeni kuhusu haki miliki.



POUR FAIRE DES AFFAIRES AU SOUDAN DU SUD

1. INTRODUCTION

a). Histoire et géographie

Le Soudan du Sud est un pays d'Afrique de l'Est bordé par l'Ouganda au sud, le Kenya au sud-ouest, l'Éthiopie à l'ouest, le Soudan au nord, la République centrafricaine à l'est et la République démocratique du Congo au sud-est.

Le Sud-Soudan, par l'intermédiaire de l'Armée populaire de libération du Soudan, s'est engagé sur la voie de l'indépendance contre le gouvernement de Khartoum de 1983 à 2005, lorsque l'Accord de paix global a mis fin à la guerre et que le SPLM a rejoint le gouvernement. Un référendum a été organisé en 2010 où la question de l'indépendance a été soulevée. Le peuple du Sud a voté à l'unanimité pour l'indépendance et le 9 juillet 2011, la République du Soudan du Sud est née

b). Population

La population du Soudan du Sud selon le recensement de 2010 est estimée à 12 millions de personnes. En raison de la guerre civile sud-soudanaise, ce nombre a considérablement diminué et un recensement de la population n'a

pas encore été effectué. La majorité de la population vit dans des zones rurales sans accès à diverses commodités.

c). Économie

Bien que le Soudan du Sud soit doté d'une vaste gamme de minéraux et d'autres ressources naturelles, c'est un pays dépendant des importations avec peu d'aliments fabriqués dans le pays et dépend largement du pétrole, qui couvre environ 98 % des dépenses publiques. Le PIB du Soudan du Sud est estimé à environ 3,6 milliards USD en 2020.

2. SYSTÈME JUDICIAIRE

a). Système légal

Bien que lors de sa création en tant que république, le Soudan du Sud ait adopté le système de droit commun, des éléments de droit civil de la charia existent toujours en raison de ses liens historiques avec le Soudan.

b). Tribunaux

La plus haute cour est la Cour suprême, qui agit également en tant que Cour constitutionnelle, la Cour

d'appel, le Tribunal de Grande Instance, les tribunaux de comté I et II et les Payam (traditionnels). Le juge en chef a le pouvoir d'établir des divisions et des tribunaux spécialisés.

c). Règlement des différends

La réconciliation est une pierre angulaire du système juridique du Soudan du Sud, tant au pénal qu'au civil. La loi sur le Code de procédure civile prévoit l'arbitrage entre les parties à un procès et la sentence arbitrale est considérée comme définitive. En pratique, les juges encourageront toujours un règlement entre les parties avant qu'elles ne soient entendues sur le fond de l'affaire.

Afin d'éviter l'arriéré et les retards dans le système judiciaire, les praticiens du droit et d'autres experts du secteur ont mis en place des entités telles que le Centre d'arbitrage de Juba qui gère les affaires qui lui sont soumises par l'une des parties. Sur décision arbitrale, l'affaire est alors portée devant la Cour.

3. CRÉER UNE ENTREPRISE

a). Noms commerciaux

Ceci est régi par la loi sur l'enregistrement des noms commerciaux, qui permet à toute personne d'exploiter un nom commercial ou une entreprise individuelle.

Cela se fait normalement en réservant le nom au registre des entreprises et en fournissant les détails des propriétaires de l'entreprise. Un avis doit être fourni au greffier en chef (Chief Registrar) dans le cas où l'un des détails des propriétaires ou de la propriété a changé après l'enregistrement.

Bien que cela ne soit pas interdit par la loi, il est d'usage que les étrangers ne puissent pas créer de noms commerciaux et que c'est l'apanage des Sud-Soudanais.

b). Partenariats

Ceci est régi par la loi sur les sociétés en nom collectif et la loi sur les sociétés à responsabilité limitée qui permettent aux personnes qui exploitent une entreprise dans le but commun de réaliser des bénéfices. Les personnes souhaitant enregistrer un partenariat doivent réserver le nom et remettre un acte de partenariat, rédigé par un avocat, au greffier en chef avec toutes les coordonnées des associés. En cas de modification des données inscrites au registre, un avis doit être envoyé au chef de l'état civil.

c). Entreprise locale

Ceci est régi par la loi sur les sociétés de 2012.

Les différents types d'entreprises qui peuvent être enregistrées comme locales sont ;

- Société privée limité par actions
- Société anonyme par actions
- Société privée à responsabilité limitée par garantie

Une société est tenue de rédiger son acte constitutif et ses statuts ou d'adopter les tableaux conformément à la loi. En vertu de la loi, toutes les moyennes et grandes entreprises doivent avoir un actionnaire sud-soudanais "financièrement capable" qui doit détenir au moins 31 % des actions, tandis que les petites entreprises doivent être l'apanage des sud-soudanais.

Dans la pratique, cependant, l'aspect « capable financièrement » a été ignoré et, à ce titre, toutes les sociétés qui ont des étrangers comme actionnaires doivent avoir des Sud-Soudanais détenant au moins 31 % des actions.

Dans de tels cas, le capital social minimum est de 500 000 USD alors que pour les sociétés sud-soudanaises entièrement détenues, le capital social minimum est de 100 000 SSP.

d). Succursale d'une société étrangère

La loi permet également à une société étrangère d'ouvrir une succursale dans la République du Soudan du Sud avant de pouvoir commencer ses activités. Lor-

squ'une succursale est ouverte, une société n'a pas besoin d'avoir un actionnaire local et peut nommer un directeur ou un directeur général pour gérer les affaires de la société.

4. GÉRER UNE ENTREPRISE

a). L'investissement étranger

Le gouvernement tient à encourager et à attirer davantage d'investissements étrangers dans le pays. Les droits des investisseurs étrangers contre la nationalisation et l'acquisition forcée sont protégés par la loi sur la promotion des investissements et la loi sur l'Autorité des investissements du Sud-Soudan. En vertu de cette loi, tous les étrangers sont tenus d'obtenir une licence avant que leurs entreprises puissent s'engager dans des activités commerciales.

Les entités sont également tenues d'obtenir d'autres licences telles que ;

- Adhésion à la chambre de commerce. Bien qu'il s'agisse d'une association bénévole, dans la pratique, l'adhésion à celle-ci est obligatoire.
- Licence de commerce du conseil municipal
- Licence d'exploitation
- Certificat d'immatriculation fiscale

Les entités qui traitent dans des

secteurs tels que les télécommunications, la banque, l'exploitation minière, le tourisme, la médecine et les transports sont tenues d'obtenir des licences spécifiques à l'industrie.

b). Imposition

Le régime fiscal au Soudan du Sud est régi par la National Revenue Authority 2016 et la Taxation Act 2009 telle que modifiée. Toutes les entreprises du Soudan du Sud sont tenues de s'enregistrer auprès du Tax Man dans les 21 jours suivant l'enregistrement de l'entreprise.

Les sociétés résidant au Soudan du Sud sont tenues de payer l'impôt sur les bénéfices des entreprises, qui varie de 15 % à 30 % selon les catégories prévues par la loi. Les entreprises sont également tenues de retenir l'impôt sur les salaires, les intérêts, les dividendes et les redevances des employés et lorsqu'une consultance est fournie par une personne non-résidente.

c). Les sanctions

Bien que le Soudan du Sud soit soumis à un embargo sur les armes pour quelques individus et entités qui ont été sanctionnés par les États-Unis et l'Union européenne, les entités étrangères peuvent toujours faire des affaires, y compris avec le gouvernement du Soudan du Sud et non avec les

entités ou individus sanctionnés.

d). Réglementation monétaire

Bien que la loi sur la Banque du Soudan stipule que tous les paiements pour les biens et services doivent être payés en monnaie locale, cela a été largement ignoré en raison des tendances inflationnistes de la monnaie locale qui se sont manifestées ces dernières années. La livre sud-soudanaise n'était pas non plus facilement convertible dans les principales devises mondiales. Les parties continuent d'effectuer des transactions en monnaie locale et étrangère.

En vertu de la loi de 2011 sur la lutte contre le blanchiment d'argent, toute personne engagée dans des transactions bancaires de 10 000 USD ou plus doit fournir une preuve et l'objet des fonds et doit en faire rapport à la Financial Intelligence Authority. Le service de renseignement financier n'est cependant pas opérationnel et, à ce titre, les banques les transmettent au département de surveillance de la Banque du Soudan du Sud. La Banque du Soudan du Sud, dans le cadre de la lutte contre le blanchiment d'argent, a également émis des directives aux banques selon lesquelles toutes les transactions bancaires impliquant des entreprises doivent être ac-

compagnées de factures électroniques initiées via la plate-forme électronique de l'Autorité fiscale nationale.

e). Emploi

Tous les étrangers employés au Soudan du Sud sont tenus par la loi d'obtenir un permis de travail avant de prendre un emploi. Le ministère du Travail émet une liste de critères nécessaire pour obtenir un permis de travail. En vertu de la loi de 1990 sur le fonds d'assurance sociale, les employeurs sont tenus de retenir 8 % et de cotiser 17 % en tant que fonds d'assurance sociale qui est versé au moment de la cessation d'emploi d'un employé.

Le fonds de pension du Soudan du Sud créé en vertu de la loi de 2012 sur le fonds de pension du Soudan du Sud est mandaté pour recevoir toutes les cotisations de sécurité sociale. Il n'est cependant pas encore pleinement opérationnel et, par conséquent, conformément à la loi sur le travail de 1997 abrogée, les employeurs sont tenus d'établir des régimes privés et de conserver ces montants à verser aux employés à la fin de leur contrat. Les contrats de travail, qu'ils soient écrits ou verbaux, jouissent d'une protection égale en vertu de la loi. En ce qui concerne le licenciement, bien que non prévu par la

loi, la pratique veut que le consentement soit demandé au bureau du travail. Tous les litiges résultant d'un licenciement sont traités en premier lieu par l'Office du travail, puis les appels doivent être interjetés devant les tribunaux de comté.

f). Droits fonciers

Les étrangers n'ont pas le droit d'acheter des terres au Soudan du Sud en vertu de la loi foncière de 2009 et ne peuvent louer que pour une durée ne dépassant pas 99 ans.

g). Émission de facilités de crédit

De multiples banques régionales se sont installées au Soudan du Sud et ont ainsi accès à des facilités de crédit. Les étrangers n'étant pas en mesure de posséder des terres, des facilités de crédit sont disponibles pour les propriétaires à bail avec le consentement du bailleur principal.

h), Propriété intellectuelle

Le Soudan du Sud n'a actuellement aucune législation régissant les marques de commerce et le droit d'auteur car la loi de 1969 sur les marques de commerce a été suspendue par le ministre. Le projet de loi actuel est toujours en attente des processus législatifs au Parlement.



**Rt. Hon Rebecca Alitwala Kadaga The
First Deputy Prime Minister and Minister
of East African Community**

**KTA
Regional
Business
Forum**

**DOING BUSINESS
IN DRC 2022**



DOING BUSINESS IN THE DEMOCRATIC REPUBLIC OF CONGO (DRC)

BY BULA BULA MBUYI & PARTNERS

GOVERNMENT STRUCTURE

Executive: The president is the chief of state and the prime minister is the head of government. The president is directly elected by simple majority popular vote for a five-year term and is eligible for a second term. The prime minister is appointed by the president. Cabinet is appointed by the president.

Legislative: The DRC has a bicameral parliament.

Judicial: The highest courts are the Court of Cassation and the Constitutional Court. The subordinate courts are the State Security Court, Court of Appeals (organised into administrative and judiciary sections), Tribunal de Grande, magistrates' courts, and customary courts. Next presidential and parliamentary elections: December 2023.



ECONOMIC DATA

Nominal GDP (USD billions)	: 46.06
GDP per capita (USD)	: 456.89
Inflation rate (% change)	: 11.50
Government revenue (% of GDP)	: 10.57
Government gross debt (% of GDP)	: 16.14

**Source: IMF (November 2020)*

Agriculture is the main economic sector in the DRC with coffee, palm oil, rubber, cotton and sugar as some of the main cash crops. The mining and service sectors have improved in recent years.

More than 80% of the DRC's total exports consists of exports of mineral products, mainly ores and metals. The DRC has reserves of oil, diamonds, gold, copper, zinc and other untapped natural resources.

The DRC's main export partners are China, Zambia, South Korea and Finland. The main export commodities include diamonds, copper, gold, cobalt, wood products, crude oil and coffee. The DRC's main import partners are China, South Africa, Zambia, Belgium, India and Tanzania. The main import commodities include foodstuffs, mining and other machinery, transport equipment and fuels.

RISK RATINGS

- World Economic Forum global competitiveness index (2019): 139/141
 - World Bank ease of doing business (2020): 183/190
 - Corruption perception index (2019): 168/180
- and memberships
- International and regional organisations and customs unions
- African Development Bank

- African Union
- Common Market for Eastern and Southern Africa ("COMESA")
- Economic Community of Central African States
- Economic Community of the Great Lakes Countries
- Group of 24
- Group of 77
- Gulf of Guinea Commission
- International Monetary Fund
- Organization for the Harmonization of Business Law in Africa ("OHADA")
- Organisation of African, Caribbean and Pacific States
- Southern African Development Community
- United Nations
- World Bank Group
- World Customs Organization

The DRC receives preferential treatment under the agreements listed here: <http://ptadb.wto.org/Country.aspx?code=180>

Bilateral investment treaties

The DRC has bilateral investment treaties in force with France, Germany, Switzerland and the United States of America. Treaties have been signed with Belgium-Luxembourg Economic Union, China, Egypt, Greece, India, Italy, Jordan, Portugal, Republic of Korea, South Africa and Ukraine but these have not yet entered into force.

Investment related agreements /

institutions

- Cotonou Agreement
- Multilateral Investment Guarantee Agency

● World Trade Organization
Dispute resolution

Convention on the Settlement of Investment Disputes (“ICSID Convention”)

- **OHADA**
- Permanent Court of Arbitration
- United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)

Intellectual property (“IP”) treaties

A comprehensive list of IP-related treaties signed by the DRC is available at: <http://www.wipo.int/wipolex/en/profile.jsp?code=CD>

See the trade marks section below for further detail.

Applicable legal regime

The DRC’s legal system is based on Belgian civil law, as well as customary and tribal law.

Dispute resolution

The OHADA treaty provides an arbitration procedure. Disputes relating to the general uniform acts, or any other business dispute, can be submitted to the OHADA arbitration procedure. The DRC is also a signatory of the ICSID Convention and adheres to the rules

of the International Chamber of Commerce.

Land acquisition, planning and use

The state exclusively owns land in the DRC, however, it can grant companies and individuals occupancy rights through: perpetual concession contracts only available to Congolese citizens; or ordinary concession contracts available to foreign investors, registered companies and Congolese citizens with 25-year occupancy which is renewable.

Competition

merger control

- On 8 July 2019, the DRC adopted a new Law on Pricing, Freedom and Competition (the “Competition Act”) which introduces merger control.

The Competition Act came into effect on 9 August 2018.

- Pending the signature and entry into force of a decree establishing a new Competition Commission (the “Commission”), the powers conferred on it by the Act shall be exercised by the (old) Competition Commission created by the Order establishing the Competition Commission of 1987 (the “Old Commission”).

- An economic concentration derives from any act that confers alone or jointly the possibility of exercising control or a decisive in-

fluence over one or more undertakings, notably by way of:

- transfer of property or ownership on all or part of goods, rights or obligations of another undertaking;
- creation of a joint venture; or rights or contracts which confer influence over the composition, deliberations or decisions of an undertaking or a group of undertakings.
- A concentration meeting one of the following thresholds shall be subject to review in the DRC:
 - the turnover achieved in the DRC by the parties to the concentration is equal to or exceeds an amount to be determined by Decree of the Prime Minister upon proposal of the Minister of the Economy (this Decree has not been adopted yet to the best of our knowledge);
 - the parties to the concentration hold a combined market share of 25%; or
 - the contemplated transaction creates / reinforces a dominant position.
- The DRC is a pre-implementation regime. Failure to notify constitutes a violation of merger control rules. It is uncertain at this stage what potential administrative penalties may apply to missed mergers.
- The DRC is a member of the regional competition bodies, COMESA and OHADA. OHADA does not

have an operational merger control regime in place, while COMESA does have merger control. Merger activities in the DRC should be conducted with COMESA in mind.

Prohibited practices

- The Competition Act prohibits cartels (whether through a formal agreement or a concerted practice) which aim at:
 - restricting access to the market by competitors;
 - enabling businesses to carve up markets amongst them or fix prices;
 - hampering production, outlets, investments or technical and technological advances; or
 - skewing the outcome of a competitive bid.
- Exemptions may, however, be granted by the Commission in respect of anticompetitive agreements which contribute to promoting economic progress, job creation and maintenance.
- The Competition Act prohibits abuses of dominance and abuses of economic dependence. It also prohibits restrictive trade practices (i.e. resale price maintenance, discriminatory practices, refusal to supply and sudden termination of established commercial relationships).
- Anticompetitive agreements, cartels and abuses of dominance are subject to a maximum fine of

50% of the profit or 20% of the turnover achieved by the infringing company in the DRC.

- Resale price maintenance is subject to a fine ranging from CDF10-million to CDF50-million.
- COMESA regulates prohibited practices in the COMESA Common Market. Activities in the DRC should be conducted with this regional competition body in mind.

Employment requirements
immigration

- Foreign individuals intending to work in the DRC are required to obtain a work permit, generally valid for two years and renewable.
- Work permit quota regulations apply to the main industries, including mining, in the DRC. Work permits cannot be granted in respect of certain positions that are reserved for DRC citizens.

fixed-term contracts

It is legally permissible to conclude a limited or fixed term duration contract which will terminate at the end of the project. Fixed term contracts are limited to a two-year period and may only be renewed once. A contract is presumed to be for an indefinite period unless it is specified as a fixed-term contract. Payment in local currency. New immigration rules require, as a condition for obtaining a work visa, an employee to have a local bank account and receive all or a part of

his/her remuneration under the employment contract in such local bank account. doing business in the Derestrainment of trade agreements. Restraint of trade are not valid and enforceable and protection in this regard must be incorporated into the contract of employment investment regime
Investment regime

- The Investment Code (Law No. 004/2002 of 21 February 2002) governs foreign investments in the DRC. The DRC is a member of OHADA which establishes a modern and common legal framework for business activities, through eight uniform acts directly applicable to its member states. Corporate issues, including formation, incorporation, management and dissolution of companies, are regulated by the OHADA Uniform Act on Commercial Companies and Economic Interest Groupings, which supersedes all contradictory provisions of national legislation.

An investment one-stop shop (Agence Nationale pour la Promotion des Investissements ("ANAPI")) has been established to facilitate registration and increase transparency in licensing procedures. Registration /licensing requirements. At the one-stop shop, companies fill in a "formulaire unique"

in order to register with the:

- Commercial Registry (Guichet Unique de la Création d'Entreprise);
 - tax administration (Direction Générale des Impôts);
 - Ministry of Labour; and
 - National Institute for Social Security (Institut National de Sécurité Sociale ("INSS")).
- The Labour Inspection Department and the National Office of Employment (l'Office National de l'Emploi ("ONEM")) are also to be notified of the establishment of the company.
- Operating permits may also be required from municipal councils.
- Non-industry specific registrations / licences See above.

Industry specific licences

Industry specific licences may be required in the mining, telecommunications, banking, financial services and air transport sectors.

Incentives

- The Investment Code grants a preferential tax regime to promote direct investment in certain regions and in specific sectors or activities, including exemption from corporate income tax, property tax and import and export duties.
- The Mining Code provides for various incentives available to holders of mining or quarrying licenses and their subcontractors.

Exchange control regulation

- Exchange control regulations apply in the DRC. Commercial banks are generally authorised, subject to relevant taxes being paid, to transfer funds out of the country.
 - Mining companies are required to receive 60% to 100% of their proceeds from export sales in the DRC and to use such funds for domestic purposes only.
 - Any transfer of funds to or from the country is subject to a foreign exchange levy (redevance de suivi de change) at the rate of 0.2% (in addition to bank charges).
- Types of entities available for foreign investment

The forms of doing business available in the DRC are mainly the following provided for by the OHA-DA Uniform Act on Commercial Companies and Economic Interest Groupings:

- Public limited company (société anonyme, SA);
 - simplified limited liability company (société par actions simplifiée, SAS);
- private limited liability company (société à responsabilité limitée, SARL);
- general partnership (sociétés à nom collectif, SNC);
- limited partnership (société en commandite simple, SCS);
- joint venture (sociétés en par-

ticipation);

- de facto partnership (sociétés de fait);
- economic interest grouping (groupements d'intérêt économique, GIE);
- registered branch of a foreign company; and
- Representation or liaison of-fice.

privalimited liability company

Minimum number of shareholders
SARL | SA | SAS: A minimum of one shareholder is required.. In principal, local shareholders are not required, but may be required in certain specified sectors such as mining, oil and gas.

In terms of the Subcontracting Law, 2017, enforced in practice since October 2020, more than 50% of the shares in any subcontracting company must be held by DRC citizens and its management must consist of a majority of DRC citizens.

Minimum share capital

In terms of the OHADA Uniform Act on Commercial Companies and Economic Interest Groupings, the following minimum share capital requirements apply:

SARL: no minimum required share capital;

SA: F.CFA10-million (approximately USD18 476); and

SAS: no minimum required share

capital.

Directors

SARL: must have at least one managing director (gérant). It is recommended that someone who is either based in or regularly travels to the DRC be appointed as managing director, as it is required for such a person to hold a long term visa. There is no requirement to appoint directors / managers in addition to the managing director.

SA: must appoint a chairman of the board who can also act as general manager of the company (directeur général). A board of directors with three to 12 members, including a chairman, is to be appointed.

SAS: free to determine its management structure, which should, as a minimum, consist of one chairman. There is no requirement to appoint a board of directors.

Company secretary. There is no requirement to appoint a company secretary in the DRC.

Auditor

SARL and SAS: must appoint a statutory auditor when two of the following three conditions are met at the end of the financial year: its total balance sheet exceeds F.CFA125-million (approximately USD233 000); the annual turnover exceeds F.CFA250-million (approximately USD462 000); or the permanent staff exceeds 50

employees.

SA: appointment of an auditor is mandatory.

Registered address

- Every company shall have a registered office which shall be indicated in the Articles of Association.
- The address of the company's accountants or lawyers may be used as registered address for an interim period.

Shelf companies

- There are no shelf companies available in the DRC.

Registration process

- Companies are registered at the Commercial Registry and it takes approximately three days to complete registration once all the required documents have been submitted.

tTax system

The DRC has a source-based tax system in terms of which both res-

idents and non-residents are subject to tax on income earned from a source in the DRC.

Corporate Residence

A company is resident in the DRC if its incorporated in the DRC and its head office and principal place of business are located in the DRC. Corporate tax rate. Resident companies and permanent establishments of foreign companies are subject to corporate income tax at the rate of 30%.

A minimum tax of 1% of declared revenue applies. A symbolic minimum tax is due if a company has no declared revenue for a tax year.

Capital gains tax ("CGT")

Capital gains are generally included in ordinary taxable income and subject to corporate income tax at the standard rate of 30%.

The direct or indirect sale of shares in a company holding a mining title is subject to a specific CGT regime.



WITHHOLDING TAX (“WHT”) RATES

Payment to	WHT rate Residents	Non-Residents
Branch profits	N/A	20% on 50% of after-tax profits
Dividends	20% 10%(mining licence holders) 0% (paid to an active shareholder other than a joint stock company)	20% 10% (mining licence holders)
Interest	N/A	20% 0% (foreign currency loans concluded abroad to mining companies) 0% (government and treasury bonds)
Royalties	14%	14%
Management, consulting and technical service fees	N/A	14%

DOUBLE TAX AGREEMENTS (“DTAs”)

DTAs are in force with Belgium and South Africa.

Losses

Losses may be carried forward indefinitely. However, the deduction of losses brought forward is capped at 60% of the net taxable profit of the particular year in respect of which the loss deduction is claimed.

A company that fails to submit its tax return on time for a specific tax year forfeits the right to carry forward the losses incurred in that year.

Transfer pricing

In terms of the DRC’s transfer pricing rules, where a DRC company is directly or indirectly connected to / associated with a non-resident company, any undue bene-

fit granted to the latter company would be re-characterised as an abnormal act of management and ignored for corporate income tax purposes. In order to avoid reassessment in such situation, the resident company must provide evidence that the transaction has been carried out independently without any consideration for the group company's interest. "Associated persons" is broadly defined and includes participation in capital or through holdings. Limitations on interest deductibility.

There are no thin capitalisation rules in the DRC. Interest payments to a foreign shareholder or any other related-party are deductible only if the loan is repayable within a maximum period of five years and the interest rate does not exceed the internationally accepted average interbank rate (taux moyen interbancaire internationalement reconnu) in force during the month of repayment of the principal debt. Specific rules apply to the mining sector.

EMPLOYEE TAXES

The income tax rates applicable to resident individuals are:

The tax is calculated based on a progressive scale and the overall tax shall not, in any case, exceed 30% of taxable income.

Annual chargeable income (CDF)	TAX rate
Up to 1 944 000	3%
1 944 000-21 600 000	15%
1 944 000-21 600 000	30%
Over 43 200 000	40%

A flat rate of 15% income tax applies to the remuneration of casual workers.

In addition to employment income tax, employers are liable for exceptional tax on the remuneration of expatriates (impôt exceptionnel sur les rémunérations des expatriés) in respect of remuneration paid to expatriates at a rate of 25% (12.5% for mining companies during the first 10 years of the mining project).

Social security contributions

Both employees and employers must make monthly social security contributions to the INSS on the employee's remuneration, including the salary, bonuses, the value of fringe benefits and leave pay.

The employer contribution rate consists of:

- family welfare: 6.5%;

- professional risk: 1.5%; and
- Retirement pension: 5%.
- The employee contribution rate is 5%.

Payroll tax

A monthly professional training contribution is payable by employers to the National Office of Professional Training (Institut National de Préparation Professionnelle ("INPP")) at a rate of:

3% for public companies and companies with a workforce of 1 to 50 employees;

2% for companies with 51 to 300 employees; and

1% for companies with a workforce of over 300 employees.

Employers are also obliged to contribute 0.2% of remuneration to ONEM and cover all the medical costs of its employees and their families.

Stamp duty

The DRC does not levy stamp duties. Except for the transfer of mining shares, which is subject to 1% tax on the nominal value of the shares transferred, there is no transfer duty on the transfer of shares or bonds, but the transfer of immovable property is subject to registration duty at the rate of 6% of the price (1.5% in the case of a merger and to 3% in the case of a transfer of business activities).

VAT

taxable supplies

VAT is levied on the supply of goods and services in the DRC and on the importation of goods and services. VAT rate 16%

Registration threshold

Any person or entity who carries on business in the DRC and has an annual taxable turnover / expected annual taxable turnover exceeding CDF80-million must register for VAT. Businesses whose turnover is below the registration threshold would cease to be subject to VAT from the following year, but may apply for voluntary registration.

Reverse VAT on imported services

A non-resident is required to designate a VAT representative in the DRC who will be jointly liable for payment of VAT. Where such non-resident fails to appoint a VAT representative, the VAT due is payable by the client in the DRC.

doing business in the Democratic Republic o

International conventions, treaties and arrangements

- Paris Convention
- World Intellectual Property Organization
- World Trade Organization

Classification

The International Classification of goods and services applies. A single application may cover any number of classes of goods and/

or services.

Categories of trade marks

Provision is made for:

- Collective marks; and
- Service marks.

Filing requirements

- Power of attorney, simply signed;
- reproductions of the trade mark; and
- Certified copy of the priority document, if applicable, with a certified French translation.

Procedure

Applications are examined as to formal and substantive requirements.

Oppositions

No provision is made but an interested party may invoke the nullity of a trade mark.

Duration and renewal

A trade mark registration is effective for an initial period of 10 years and, thereafter, renewable for further periods of 10 years.



KUFANYA BIASHARA KATIKA JAMHURI YA KIDEMOKRASIA YA KONGO

MFUMO WA UTAWALA/SERIKALI

Uongozi: Rais ndiye msimamizi mkuu na kiongozi wa nchi na Waziri mkuu ndiye aliye mkuu wa shughuli za serikali. Rais wa DRC huchaguliwa kwa kura kila baada ya miaka mitano. Raisi hupigiwa kura na ushindi wake hutokana na wingi wa kura anazopata kutokana na upigaji wa kura moja kwa moja na kidemokrasia. Raisi anakubaliwa kutawala nchi kwa mihula miwili. Waziri mkuu wa Uganda pamoja na baraza la mawaziri huteuliwa na Rais.

Bunge: Nchi ya DRC ina aina mabunge mawili.

Mahakama: Mahakama ya juu katika nchi ya DRC ni mahakama ya Rufaa ya hali ya juu ambayo jukumu lake kuu ni kufasiri sheria husika za nchi. Aidha mbali na mahakama hii, kuna pia mahakama ya Katiba. Mahakama za chini ni mahakama ya Kijeshi na korti za rufaa ambayo imepengwa katika vitengo vya utawala na mahakama, Korti za chini za kusikiliza kesi ndogondogo, korti za mahakimu na za kijamii/kimila Uchaguzi mkuu wa Urais na wabunge utafanyika Desember 2023.



DATA YA KIUCHUMI

Pato la Taifa (Dola Bilioni 46.06 za Marekani):
Pato la Taifa kwa kila mtu ni Dola 456.89 za Marekani
Kiwango cha mfumuko wa bei ni asilimia 11.50 (mabadiliko)
Mapato ya Serikali ni asilimia 10.57 ya Pato la Taifa.
Jumla ya deni la Serikali ni asilimia 16.14 ya Pato la Taifa

**Chanzo: IMF (Novemba 2020)*

Kilimo ndio sekta kuu ya kiuchumi nchini DRC yenye kahawa, mawese, mmea wa raba, pamba na sukari kama baadhi ya mazao makuu ya biashara. Madini na sekta za huduma zimeimarika katika miaka ya hivi karibuni.

Zaidi ya asilimia 80 ya jumla ya mauzo ya nje ya DRC yanajumuishwa mauzo ya bidhaa za madini, hasa ores na chuma. DRC ina akiaba ya mafuta, almasi, dhahabu, shaba, zinki na maliasili nyingine ambazo hazijatumika.

Washirika wakuu wa mauzo ya nje ya bidhaa kutoka DRC ni Uchina, Zambia, Korea Kusini na Ufini. Bidhaa kuu zinazouzwa nje ni pamoja na almasi, shaba, dhahabu, cobalt, bidhaa za mbao, mafuta ghafi na kahawa. Washirika wakuu wa uagizaji wa bidhaa ni Uchina, Afrika Kusini, Zambia, Ubelijiji, India na Tanzania. Bidhaa kuu za kuagiza ni pamoja na vyakula, madini na mashine nyinginezo, vyombo vya usafiri na mafuta.

UKADIRIAJI WA HASARA YA KUEGEZA DRC

- Kielezo cha ushindani wa jukwaa la kimataifa duniani ni 139/141 kulingana na ripoti ya 2019
- Mikakati kufanya biashara iliyowekwa na Benki kuu ya Dunia ambayo ni 183/190 mwaka 2020
- Kielezo cha mtazamo wa ufisadi ni 168/180 makadirio ya mwaka 2019

and memberships Uwanachama wa DRC katika Mashirika ya kimataifa na ya kikanda na vyama vya forodha

- Benki ya Maendeleo ya Afrika
- Umoja wa Afrika
- Soko la Pamoja la Afrika Mashariki na Kusini mwa Afrika ("COMESA")
- Jumuiya ya Kiuchumi ya Nchi za Afrika ya Kati
- Jumuiya ya Kiuchumi ya Nchi za Maziwa Makuu
- Mwanachama wa kundi la Nchi 24 G-24 linalofanya kazi pamoja kuratibu misimamo ya nchi zinazoendelea kuhusu masuala ya kifedha katika shirika la kifedha la kimataifa
- Mwanachama mwanzilishi wa nchi 77 kati ya 134 ambazo ziliungana kwa ajili ya kushirikian kukuza masilahi yao ya kiuchumi pamoja na mijadala katika shirika la umoja wa kimataifa
- Tume ya Ghuba ya Guinea
- Mfuko wa Fedha wa Kimataifa
- Shirika la umoja wa Sheria ya Biashara barani Afrika ("OHADA")
Shirika la Mataifa ya Afrika, ya Karibia na Pasifiki
- Jumuiya ya Maendeleo ya Kusini mwa Afrika
- Umoja wa Mataifa
- Kundi la Benki ya Dunia
- Shirika la Forodha Duniani
- DRC inapokea upendeleo chini ya mikataba iliyoorodheshwa hapa: <http://ptadb.wto.org/Country.as>

px?code=180

Mikataba ya kimataifa ya uwekezaji baina ya nchi

- DRC ina mikataba ya uwekezaji baina ya nchi za Ufaransa, Ujerumani, Uswizi na Marekani.
- Mikataba imetiwa saini na Umoja wa Kiuchumi wa Ubelijiji-Luxembourg, Uchina, Misri, Ugiriki, India, Italia, Jordan, Ureno, Jamhuri ya Korea, Afrika Kusini na Ukraine. Mikataba hii bado haijaanza kutekelezwa .

Mikataba/taasisi zinazohusiana na uwekezaji

- Mkataba wa Cotonou Wakala wa Dhamana ya Uwekezaji wa Kimataifa
- Shirika la Biashara Duniani

UTATUZI WA MIGOGORO

Mkataba wa Utatuzi wa Migogoro ya Uwekezaji (“Mkataba wa ICSID”)

- OHADA
- Mahakama ya Kudumu ya Usuluhishi wa migogoro
- Mkataba wa Umoja wa Mataifa wa Utambuzi na Utekelezaji wa Tuzo za Usuluhishi wa Kigeni (Mkataba wa New York)

mikataba ya haki miliki (“ip”).

Orodha ya kina ya mikataba inayohusiana na hakimiliki iliyotiwa saini na DRC inapatikana katika tuvuti ya: <http://www.wipo.int/wipolex/en/profile.jsp?code=CD>

Tazama sehemu ya alama za nembu ya biashara hapa chini kwa

maelezo zaidi.

Utaratibu wa kisheria unaotumika

- Mfumo wa kisheria wa DRC unategemea sheria za kiraia za Ubelijiji, pamoja na sheria za kimila na kikabila.

Utatuzi wa migogoro

- Mkataba wa OHADA unatoa utaratibu wa kutatua migogoro/mizozo Mizozo inayohusiana na vitendo vya kawaida, au mzozo mwingine wowote wa biashara, inaweza kuwasilishwa kwa kitego cha sheria cha utaratibu wa kutatua mizozo cha OHADA.
- DRC pia imetia saini Mkataba wa ICSID na inazingatia sheria za Jumuiya ya Kimataifa ya Biashara.

Upatikanaji wa ardhi, mipango na matumizi

Serikali ndiyo mmiliku mkuu wa ardhi katika Jamhuri ya Demokrasia ya Kongo, hata hivyo, inaweza kutoa haki za umiliki wa makampuni na watu binafsi kupitia:

- mikataba ya makubaliano ya kudumu inapatikana kwa raia wa Kongo pekee; au
- mikataba ya kawaida ya makubaliano inayopatikana kwa wawekezaji wa kigeni, makampuni yaliyosajiliwa na raia wa Kongo wenye umiliki wa miaka 25. Mikataba hii hufanyika upya baada ya miaka ya kumiliki kuisha.

Mashindano ya udhibiti wa Muungano wa Makampuni

- Mnano Tarehe 8 Julai 2019, Jamhuri ya Demokrasia ya Congo ilipitisha Sheria mpya kuhusu Bei, Uhuru na Ushindani (“Sheria ya Ushindani”) katika biashara ambayo unadhibiti masuala ya mashirika au kumpuni kushirikiano kwa ajili ya kugandamiza makampuni mengina na wateja raia wa Kongo kuhusu bei ya bidhaa
- Sheria ya ya udhibiti ya Ushindani ilianza kutekelezwa tarehe 9 Agosti 2018.
- Inaposubiri kuwekwa mkono na kuanza kutumika kwa amri ya kuanzishwa kwa Tume mpya ya Ushindani (“Tume”), mamlaka iliyopewa na Sheria hiyo itatekelezwa na Tume/kamisheni (ya zamani) ya Ushindani iliyoundwa kwa Amri ya kuanzishwa kwa Tume ya Ushindani ya 1987 (“Tume ya zamani”).
- Ushirikiano wa kiuchumi wa kutoa uamuzi wa kibinafsi au kwa ushirika kwa vitendo ambavyo kwa upande mmoja ama mwingine huathiri udhibiti au ushawishi madhubuti kuhusu shughuli moja au zaidi za biashara, au husababisha ushawishi, haswa kwa njia ya:
 - Kuhamisha mali au umiliki wa kila sehemu au bidhaa yote, haki ama majukumu au haki ya mtu mwingine, uundaji wa biashara vya pamoja au ubia; au
 - Haki au kandarasi zinazole-

ta ushawishi kwa wanaohusika, makubaliano au uamuzi wa shughuli au kikundi.

- Mikutano yeyote ya ushirika juu ya mojawapo wa vizingiti vifuataavyo italazimika kukaguliwa na utawala nchini DRC:
 - Mauzo yaliyopatikana nchini DRC na wahusika katika shirika atatozwa kiasi cha malipo ambayo ni sawia au itakayozidi kiasi kama itakavyoamuliwa na Amri ya Waziri Mkuu kutokana na mapendekezo ya Waziri wa Uchumi (Amri hii bado haiwekwa katika utekelezaji);
 - Wahusika katika makampuni humiliki sehemu ya soko ya pamoja ya asilimia 25; au
 - Muamala unaofikiwa huunda / huimarisha nafasi kuu.
 - DRC ni nchi ambayo hushikilia na hutekeleza uratibu wake, Kukosa kuarifu au hali ya ukiukaji au kutozingatia sheria za udhibiti, Haijulikani katika hatua hii ni adhabu gani za kiutawala zinaweza kutumika kwa shirika.

DRC ni mwanachama wa mashirika ya kikanda ya udhibiti ushindani ya Soko la Pamoja la Mashariki na Kusini mwa Afrika -COMESA na OHADA. OHADA haina utaratibu wa kudhibiti ushiriki unaotumika, huku COMESA ikiwa na udhibiti wa ushirika. Shughuli za ushirikiano katika DRC zinapaswa kufanywa kwa kuzingatia utaratibu wa COMESA

Mambo.matendo yaliyopigwa marufuku

- Sheria ya udhibiti ushindani inakataza mashirika (iwe kwa makubaliano rasmi au yeyote ile) ambayo yanalenga:
 - kuzuia mashirika mengine fursa ya kushiriki katika soko kwa washindani wake;
 - kuwezesha biashara, kuzingira masoko kati yao au kupandisha bei;
 - kukwamisha uzalishaji, maduka, uwekezaji au maendeleo ya kiufundi na kiteknolojia; au
 - upindisha matokeo ya zabuni ya ushindani.
 - kampuni kama hizo zinaweza kusamehewa ikiwa vikwazo vina vyoweka ni kwa manufaa ya kuinua uchumi au kusababisha nafasi za kazi kwa ajili ya kuimarisha uchumi
 - Sheria ya Ushindani inakataza matumizi mabaya ya utawala na ya kuharibu uhuru wa soko na wa kuzuia ukuaji wa kiuchumi. Pia inakataza mazoea ya biashara yenye vikwazo (yaani udumishaji wa bei ya mauzo, desturi za kibaguzi, kukataa ugavi na usitishaji wa ghafla wa mahusiano ya kibiashara yaliyoanzishwa).
 - Mikataba isoendeleza uchumi, mashirika na matumizi mabaya ya utawala yanayotozwa faini ya juu zaidi ya asilimia 50 ya faida au asilimia 20 ya mauzo yanayopatikana na kampuni inayokiuka nchini DRC

itatozwa.

- Kuweka bei ya mauzo yatatozwa faini ya kuanzia milioni 10 CDF hadi milioni 50 CDFi.
- COMESA inadhibiti mazoea yaliyopigwa marufuku katika Soko la Pamoja la COMESA. Shughuli nchini DRC zinapaswa kufanywa kwa kuzingatia chombo hiki cha udhibiti ushindani cha kikanda.

MAHITAJI YA AJIRA:

Uhaniaji

- Wageni wanaonua kufanya kazi nchini DRC wanatakiwa kupata kibali cha kufanya kazi, ambacho kwa ujumla kinatumika kwa miaka miwili na ambacho huweza kutolewa upya kila baada ya miaka miwili..
- Kanuni za upataji wa vibali vya kazi hutumika kwa viwanda vikuu, vikiwemo vya uchimbaji madini, nchini DRC. Vibali vya kufanya kazi haviwezi kutolewa kwa nyadhifa fulani ambazo zimetengwa kwa ajili ya raia wa DRC.

Mikataba ya muda maalum

- Inaruhusiwa kisheria kuweka mkataba wa muda mfupi au uliowekwa ambayo itasitishwa mwisho wa mradi. Mikataba ya muda usiobadilika ni ya muda wa miaka miwili tu na ambayo hutolewa mara moja baada ya muda wa kusitishwa kwa mkataba wa kwanza..
- Mkataba unachukuliwa kuwa

wa muda usiojulikana isipokuwa kama umebainishwa kama mkataba wa muda maalum.

Malipo kwa fedha za DRC

- Sheria mpya za uhamiaji zimweweke maasharti kuwa yeyote anayepata kibali/visa ya kufanya kazi DRC kuwa na akaunti ya benki ya DRC ambapo atakuwa akipokea malipo yake yote au sehemu ya malipo yake chini ya mkataba wa ajira katika akaunti hiyo ya benki ya ndani.

Vizuizi vya mikataba ya biashara

- Kizuizi cha biashara si halali na halitimzwi. Kwa hivyo kwa ajili ya kuweka usalama na ulinzi, suala hili lazima liingizwe katika mkataba wa ajira.

Utaratibu wa uwekezaji the De

- Kanuni ya Uwekezaji (Sheria Na. 004/2002 ya 21 Februari 2002) ni kanuni iliyowekwa kusaidia na kusimamia uwekezaji wa kigeni nchini DRC.
- Jamhuri ya Demokrasia ya Kongo DRC ni mwanachama wa OHADA ambayo huanzisha mfumo wa kisheria wa kisasa na wa kawaida wa shughuli za biashara. UHADA ina sheria nane ambapo kila mwanachama lazima kutii na kuzingatia katika masuala yote ya uwekezaji nchini mwake.
- Masuala ya ushirika, ikiwa ni

pamoja na uundaji wa shirika, ushirikisno wa kibiashara, usimamizi na usitishwaji wa mikataba ya makampuni, yanadhibitiwa na Sheria Sawa ya OHADA kuhusu Makampuni ya Biashara na Makundi ya Kiuchumi, ambayo inachukua nafasi ya masharti yote au yanayokinzana na sheria za kitaifa.

- Duka moja la uwekezaji (Agence Nationale pour la Promotion des) limezinduliwa ili kuwezesha usajili na kuongeza uwazi katika taratibu za utoaji leseni nchini kongo

Mahitaji Usajili na upataji wa leseni

- Katika duka moja, kampuni zinazotaka kusajili au kupata leseni hujaza domu ya “fomula ya kipekee” ili kujiandikisha kupata leseni na:
 - Sajili ya Biashara (Guicet Unique de la Création d’Entreprise);
 - Idara ya usimamizi wa kodi (Direction Générale des Impôts);
 - Wizara ya Kazi; na Taasisi ya Kitaiifa ya Hifadhi ya Jamii (Institut National de Sécurité Sociale (“INSS”).
 - Idara ya Ukaguzi wa Kazi na Ofisi ya Kitaifa ya Ajira (l’Office National de l’Emploi (“ONEM”)) pia kabla ya kuanzisha kampuni ni sharti kuarifu idara hii kuhusu kuanzishwa kwa kampuni hiyo.
 - Vibali vya uendeshaji biashara vinaweza pia kuhitajika kutoka kwa mabaraza ya manispaa.

Usajili/leseni mahususi zisizo za sekta ya viwandani
Tazama maelekezo za hapo juu.

Leseni mahususi za sekta

Leseni mahususi za sekta zinawezwa kuhitajika katika sekta ya madini, mawasiliano ya simu, benki, huduma za kifedha na usafiri wa anga.

Motisha/Vivutio vya uwekezaji

Msimbo wa Uwekezaji hutoa utaratibu za upendeleo wa ushuru ili kukuza uwekezaji wa moja kwa moja katika maeneo/majimbo fulani na katika sekta au shughuli mahususi, miongoni mwa ushuru huo ni kama vile kutolipa ushuru wa mapato ya shirika, ushuru wa mali na ushuru wa kuagiza na kuuza bidhaa nje ya nchi. Kanuni ya Madini inatoa vivutio mbalimbali vinavyopatikana kwa wamiliki wa leseni za uchimbaji madini au uchimbaji mawe na wakandarasi wao wadogo.

Masharti na udhibiti wa Ubadilishanaji wa fedha

Kanuni za udhibiti wa ubadilishaji fedha duniani zinatumiwa nchini DRC. Benki za biashara kwa ujumla zinaidhinishwa, kulingana na ushuru husika unaolipwa, kuhamisha fedha nje ya nchi. Makampuni ya uchimbaji madini yanatakiwa kupokea asilimia 60 hadi 100 ya mapato yao kutokana na mauzo ya

bidhaa hizi nje nchini DRC na kutumia fedha hizo nchini Uhamisho wowote wa fedha kwenda au kutoa nchini utatozwa ushuru wa fedha za kigeni (redevance de suivi de change) kwa kiwango cha asilimia 0.2 (kando na malipo ya huduma za benki).

Aina za taasisi na maeneo yenye fursa za uwekezaji wa kigeni DRC

Zifuatazo aina mbalimbali za nafasi za makampuni na makundi ya kiuchumi za kufanya biashara zinazopatikana kwa mujibu wa sheriana masharti ya kufanya biashara ya OHADA katika jamhuri ya Demokrasia ya Kongo:

- Kampuni zinazodhibitiwa na hisa (za kibinafsi au za umma (société anonyme, SA);
- kampuni ya dhima ndogo iliyorahisishwa (société par actions simplifiée, SAS);
- kampuni ya dhima ndogo ya kibinafsi (société à responsabilité limitée, SARL);
- Kampuni za Bisahara za ushurika wa jumla wa kiuchumi (sociétés à nom collectif, SNC);
- Bisahara za ushirika mdogo (société en commandite simple, SCS);
- Kampuni za ubia (sociétés en participation);
- Biashara za Ushirika wa makubaliano kwa mujibu wa sheria ambao hujasajiliwa (sociétés de fait);

- Makundi ya kibiashara yenye nia mahususi (groupements d'intérêt économique, GIE);
- Matawi ya kampuni za kigeni iliyosajiliwa na ofisi za uwalishi wa kampuni. privalimited liability company

Idadi ya Wanahisa

- Kampuni ya mtaji yenye dhima ndogo SARL | SA | SAS: idadi ya mwanahisa mmoja anahitajika.
- Kimsingi, wanahisa wa ndani hawatakiwi, ila katika baadhi ya sekta fulani maalum kama vile madini, mafuta na gesi.
- Kwa mujibu wa Sheria ya Mkandarasi Mdogo wa 2017, ambayo imekuwepo katika utekelezaji tangu Oktoba 2020, zaidi ya asilimia 50 ya hisa katika kampuni yoyote ya kandarasi ndogo lazima zmilikiwe na raia wa DRC. Utawala na usimamizi wa kampuni hizi kwa masharti ni lazima wawe raia wa DRC kwa idadi.

Kiwango cha mtaji wa hisa

Kwa mujibu wa Sheria sawia ya OHADA kuhusu Makampuni ya Biashara na Makundi ya biashara za Kiuchumi yenye malengo maalumu, mahitaji yafuatayo lazima yazingatiwe:

- Kampuni ya mtaji yenye dhima ndogo -SARL: Haina kiwako cha mtaji wa hisa unaohitajika;
- Kampuni ya mtaji yenye dhima ndogo- SA: mtaji wa kiwango cha

hisa ya milioni 10 ya fedha za randi ya Afrika Kusini- F.CFA (takriban dola 18 476 za marekani); na Hakuna kiwango cha mtaji wa hisa unaohitajika kwa Kampuni ya mtaji yenye dhima ndogo.

Wakurukenzi

Kampuni ya dhima ndogo ya Kibinafsi: lazima iwe na angalau mkurugenzi mkuu mmoja (gérant). Inapendekezwa kwamba mtu ambaye anaishi nchini au anasafiri mara kwa mara kwenda DRC ateuliwe kama mkurugenzi mkuu, kwani inahitajika mtu kama huyo kuwa na visa ya muda mrefu ya kusafiri DRC. Hakuna sharti la kuteua wakurugenzi/wasimamizi pamoja na mkurugenzi mkuu kusimamia kampuni.

Kampuni hii lazima iteue mwenyekiti wa bodi ambaye anaweza pia kuwa naibu/kaimu meneja mkuu wa kampuni (directeur général). Bodi ya wakurugenzi yenye wajumbe watatu hadi 12, akiwemo mwenyekiti, itateuliwa kusimamaia kampuni husika. Kampuni hii ina uhuru wa kumua utaratibu na uongozi wake katika usimamizi, ambao unapaswa kuwa na mwenyekiti mmoja. Hakuna sharti la kuteua bodi ya wakurugenzi.

Katibu wa Kampuni/shirika

Hakuna sharti lililowekwa la ku-

teua katibu wa kampuni nchini DRC.

Mkaguzi wa shirika

Kampuni zenye SARL na SAS: lazima ziteue mkaguzi wa kisheria baada ya kutimiza masharti mawili kati ya matatu yafuatayo mwisho ni mwa mwaka wa fedha:

Ikiwa jumla ya makadirio ya fedha inazidi milioni 10 ya F.CFA125 (takriban Dola 33 000 za Marekani); Ikiwa mauzo ya kila mwaka yanazidi milioni 10 ya F.CFA250 (takriban dola 62 000 fedha za marekani); au Ikiwa wafanyakazi wa kudumu wanazidi wafanyakazi 50. Ni lazima kampuni hii ya kibinasfi kuteua mkaguzi.

Anwani ya Kampuni

- Kila kampuni itakuwa na afisi iliyosajiliwa na ambayo itaonyeshwa katika mkataba wa Kanuni za ushirika au uundaji wa kampuni.

- Anwani ya wahasibu au wanasheria wa kampuni inaweza kutumika kama anwani iliyosajiliwa kwa muda mfupi

Kampuni rafu/kampuni ilisosajili na isiyo na shughuli

- Hakuna kampuni rafu ambayo inapatikana DRC. Kampuni rafu ni kampuni iliyosajiliwa kufanya shughuli za kibiashara na imedumu kwa muda bila kufanya shughuli zake.

Mchakato wa usajili wa Akmpuni

- Kampuni husajiliwa katika idara

ya Msajili wa Kibiashara. Mchakato huchukua takriban siku tatu kukaamilika usajili mara tu stakabadhi zote zinazohitajika zimewasilishwa. Mfumo wa kodi/ushuru

Jamhuri wa Demokrasia wa Kongo ina mfumo wa ushuru ambao hutegemea chanzo cha mapato yao kwa wakaazi na wageni wanayopata kutoka nchini DRC.

Makazi ya Biashara

Kampuni ni kampuni iliyosajiliwa nchini DRC ikiwa na ofisi zake kuu na sehemu kuu ya biashara zake nchini DRC. Kiwango cha ushuru wa kampuni Makampuni ya wakaazi na zilizoansishwa na wageni za kudumu hutozwa ushuru wa mapato ya kampuni kwa kiwango cha asilimia 30. Kodi ya chini ya asilimia 1 ya mapato yaliyotangazwa itatumika. Kiwango cha chini cha kodi kinapaswa kulipwa ikiwa kampuni haijatangaza mapato yake ya mwaka wa ushuru. Kodi ya mapato ya gharama ("CGT").

Faida ya mtaji kwa ujumla imejumuishwa katika mapato ya kawaida yanayotozwa ushuru na kwa mujibu wa kodi ya mapato ya shirika, shirika hutozwa kiwango cha kodi ya ushuru wa asilimia 30. Uuzaji wa moja kwa moja au usio wa moja kwa moja wa hisa katika kampuni iliyo na hatimiliki ya madini hutegemea utaratibu maalum wa kila mwaka wa kodi ya mapato ya gharama ya CGT.

VIWANGO VYA USHURU KWA MALIPO MBALIMBALI YA “WITHHOLDING TAX”

Malipo kwao	Viwango vya kodi kwa wakaazi	Kwa wagenis
Faida za matawi	Hauhusiki	Asilimia 20% kwa asilimia 50% ya faida baada ya kutozwa kodis
Migao ya hisa	Asilimia 20 Asilimia 10%(kwa wamiliki wa leseni ya shirika la madini) Asilimia 0 (ambayo hulipwa kwa mwanahisa mshiriki kando na hisa za migao ya mtaji katika kampuni)	Asilimia 20 Asilimia 10 (kwa mmiliki wa leseni ya kampuni ya madini)
Faida	Hauhusiki	Asilimia 20 Asilimia 0 (mkopo kwa Fedha za kigeni ulioteklezwa nje ya nchi na kampuni ya madini) Asilimia 0 (Dhamana za serikali na hazina)
Mirabaha	Asilimia 14	Asilimia 14
Ada za usimamizi, ushauri na huduma za kiufundi	Haihusiki	Asilimia 14



MIKATABA YA ULIPAJI KODI MARA MBILI (“DTAS”)

Aina hii ya utozwaji wa ushuru hutekelezwa na Ubelijiji na Afrika Kusini.

Hasara

Hasara inaweza kusogezwa mbele kwa muda usiojulikana. Hata hivyo, makato ya hasara inayoletwa mbele yanafikia asilimia 60 ya faida yote inayototwa ushuru wa mwaka husika ambapo makato ya hasara yanadaiwa. Kampuni ambayo itashindwa kuwasilisha marejesho yake ya ushuru kwa wakati kwa mwaka mahususi wa ushuru inaweza kupoteza haki ya kuendeleza hasara iliyopatikana mwaka huo.

Bei ya Uhamisho

Kwa mujibu wa sheria za bei za uhamishaji za DRC, ambapo kampuni ya DRC imehusishwa/ ina ushirika wa moja kwa moja au na kampuni ya Kigeni, manufaa yoyote yasiyofaa yanayotolewa kwa kampuni ya pili yatatajwa tena kuwa ni kitendo kisicho cha kawaida cha usimamizi na kwa hivyo itapuuzwa kupuuzwa kulipa ushuru wa mapato ya shirika kwa madhumuni husika. Ili kuepukana na uchunguzi na tathimini mpya ya kampuni katika hali kama hiyo, kampuni iliyosajiliwa DRC lazima itoe ushahidi kwamba shughuli hiyo imefanywa kwa kujitegemea

bila kuzingatia maslahi ya kampuni za ushirika.

“Watu wanaohusishwa” ni wale ambao wanaoshirikishwa kimtaji au kihisa au wale walio na mgao wa umiliki wa kampuni inayohusika.

vizuizi/ masharti ya kutozwa ushuru kwa faida za madeni

DRC haina sheria ya kuzuia ukataji wa kodi kwa faida ya biashara ambayo inaendesha shughuli zake kwa kutumia fedha za kuomba/ ufadhili au mkopo. Malipo ya riba kwa mbia wa kigeni au mshirika mwingine yeyote anayehusiana yanakatwa tu ikiwa mkopo unalipwa ndani ya kipindi cha miaka mitano na kiwango cha riba hakizidi kiwango cha wastani kinachokubalika kimataifa (taux moyen interbancaire internationalement reconnu) kinachotumika hasa katika mwezi wa ulipaji wa deni kuu. DRC ina sheria mahususi zinatumiwa kwa sekta ya madini.



USHURU WA WAFANYIKAZI

Viwango vya ushuru wa mapato vinavyotumika kwa wakaazi ni:

Mapato ya kila mwaka yanayotozwa (CDF)	Viwango vya ushuru
Up to 1 944 000	3%
1 944 000-21 600 000	15%
21 600 000-43 200 000	30%
Over 43 200 000	40%

Kodi inakotolewa kwa kuzingatia kiwango kinachoendelea na ushuru wa jumla hautazidi asilimia 30% ya mapato yanayotozwa kodi kwa vyovyote vile.

Kiwango cha kawaida cha asilimia 15% ya ushuru wa mapato hutumika kwa malipo ya wafanyikazi wa kawaida.

Kando na malipo ya kodi ya mapato ya ajira, waajiri wanatozwa ushuru wa kipekee wa malipo ya wahamiaji kutoka nje ya nchi (impôt exceptionnel sur les rémunérations des expatriés) kuhusiana na malipo yanayolipwa kwa wataalam kutoka nje ya nchi kwa kiwango cha asilimia 25% (12.5% kwa makampuni ya madini wakati wa kwanza). Miaka 10 ya mradi wa

uchimbaji madini).

Mfuko wa hifadhi wa Taifa wa kijamii

Waajiriwa na waajiri ni lazima watoe michango ya kila mwezi ya hifadhi ya jamii kwa mfuko huu wa hifadhi wa INSS juu ya ujira wa mfanyakazi, ikijumuisha mshahara, malipo ya ziada bonasi, thamani ya marupurupu ya ziada na malipo ya likizo.

Kiwango cha mchango wa mwajiri ni pamoja na:

- ustawi wa familia: 6.5%;
- Hatari ya kitaaluma: 1.5%; na
- Malipo ya uzeeni/kustaafu: 5%.
- Kiwango cha mchango wa mfanyakazi ni 5%.

Kodi ya Mishahara

Mchango wa kila mwezi wa mafunzo ya kitaaluma hulipwa na waajiri kwa Ofisi ya Kitaifa ya Mafunzo ya Kitaalamu (Institut National de Préparation Professionnelle ("INPP")) kwa kiwango cha:

- kwa makampuni ya umma na makampuni yenye nguvu kazi ya mfanyakazi 1 hadi 50 hulipa asilimia 3%;
- Makampuni yenye wafanyakazi 51 hadi 300 hulipa asilimia 2%; na
- Makampuni yenye wafanyakazi zaidi ya 300 hulipa asilimia 1%.

Waajiri pia wanalazimika kuchangia asilimia 0.2% ya malipo kwa ONEM na kulipia gharama zote za matibabu za wafanyikazi wake na

familia zao.

Kodi ya huduma za muhuri wa ushuru

DRC haitozi ushuru wa muhuri wa kodi/stempu. Isipokuwa kwa uhamisho wa hisa za madini, ambayo inatozwa ushuru wa asilimia 1% kwa thamani ya nominella ya hisa zilizohamishwa, hakuna ushuru wa kuhamisha hisa au dhama-na, lakini uhamishaji wa mali isiy-ohamishika unatozwa ushuru wa usajili ya kiwango cha asilimia 6% ya bei (asilimia 1.5% katika kesi ya ushurikia na hadi asilimia 3% ka-tika kesi ya uhamisho wa shughuli za biashara).

Kodi ya Ongezeko la Thamani Bidhaa za kutozwa kodi

Jamhuri ya Demokrasia ya Kongo hutozwa VAT is levied on the supply of goods and services in the DRC and on the importation of goods and services. Kodi ya Ongezeko la Thamani hutozwa kwa usamba-zaji wa bidhaa na huduma katika Jamhuri ya Demokrasia ya Kongo hutozwa na uagizaji wa bidhaa na huduma kutoka nje ya nchi.

Viwango wa utozaji wa kodi ya ongezeko la thamani

Asilimia 16% ya Kiwango cha usajili Mtu au shirika lolote linalofanya biashara nchini DRC na ambalo lia mauzo ya kila mwaka yanayotoz-wa ushuru/ mapato yanayotaraji-

wa kutozwa ushuru ya kila mwaka yanayozidi CDF80-milioni lazima isajiliwe ya VAT.

Biashara ambazo mauzo yake ni yako chini ya kiwango cha usajili hazitatozwa Ushuru wa VAT kuan-zia mwaka unaofuata, lakini zin-aweza kutuma maombi ya usajili wa hiari.

Badiliko katika kodi ya VAT kwa huduma zilizoagizwa

Mtu asiye mkazi anahitajika ku-teua mwakilishi wa VAT nchini DRC ambaye atawajibika kwa pamoja kwa malipo ya VAT. Pale ambapo mtu ambaye si mkazi atashindwa kuteua mwakilishi wa VAT, malipo ya VAT yanalipwa na mteja nchini DRC.

Makubaliano, Mikataba na Mipan-go ya Kimataifa

- Makubaliano ya kibiashara ya Paris
- Shirika la Hakimiliki Duniani
- Shirika la Biashara Duniani

Uainishaji

Ainsho la Kimataifa la bidhaa na huduma ndiyo inayokubalika. Maombi moja inaweza kushughu-likia idadi kadhaa ya bidhaa na/au huduma.

Kategoria za alama za Biashara

Utoaji wa huduma umafanywa kwa:

- Alama za pamoja; na
- Alama za huduma.

Mambo/Mahitaji ya kujaza katika kufungua shirika

- Stakabadhi kutoka kwa wakili iliyowekwa saini;
- Maombi ya maombi ya Utolewaji wa alama za biashara; na
- Nakala ya stakabadhi muhimu inayohusika na tafsiri yake kwa Kifaransa iliyoidhinishwa.

Mchakato wa usajili

Maombi yanachunguzwa kwa muhibu wa mahitaji rasmi na muhimu inayohusika .

Kufungwa kwa kampuni

Hakuna masharti na maelekezo yanayohusika lakini mhusika anaweza kutumia ubatili wa alama ya biashara.

Muda wa kutumika na upya wa matumizi ya nembo ya biashara

Usajili wa alama ya biashara unatumika kwa miaka 10 na, baada ya hapo, unaweza kuomba kusajili upya alma/ nembo hii kwa zaidi ya miaka 10 zaidi.



FAIRE DES AFFAIRES EN RÉPUBLIQUE DÉMOCRATIQUE DU CONGO

STRUCTURE GOUVERNEMENTALE

Exécutif : Le Président est le Chef de l'État et le Premier Ministre est le chef du gouvernement. Le Président est directement élu en un seul tour à la majorité simple d'un vote populaire pour un mandat de cinq ans et est rééligible pour un second mandat. Le Premier Ministre est nommé par le Président. Le Cabinet est nommé par le Président.

Législatif : La RDC a un parlement bicaméral.

Judiciaire : Les plus hautes juridictions sont la Cour de cassation, le Conseil d'Etat et la Cour constitutionnelle. Les juridictions subordonnées sont la Cour de sûreté de l'Etat, la Cour d'appel (organisée en sections administrative et judiciaire),

Tribunal de Grande, les magistrats et tribunaux coutumiers.

Prochaines élections législatives présidentielles : décembre 2023.



DONNÉES ÉCONOMIQUES

PIB nominal (milliers de milliards de dollars)	: 46,06
PIB par habitant (USD)	: 456,89
Taux d'inflation (variation en %)	: 11,50
Recettes publiques (% du PIB)	: 10,57
Dette publique brute (% du PIB)	: 16,14

* Source : FMI (novembre 2020)

L'agriculture est le principal secteur économique en RDC avec le café, l'huile de palme, le caoutchouc, le coton et le sucre parmi les principales cultures de rente. L'exploitation minière et les secteurs des services se sont améliorés ces dernières années.

Plus de 80% des exportations totales de la RDC consistent en des exportations de produits miniers, principalement des minerais et des métaux. La RDC dispose de réserves de pétrole, de diamants, or, cuivre, zinc et autres ressources naturelles inexploitées.

- Les principaux partenaires à l'exportation de la RDC sont la Chine, la Zambie, la Corée du Sud et la Finlande. Les principaux produits d'exportation sont les diamants, le cuivre, l'or, cobalt, produits du bois, pétrole brut et café.

- Les principaux partenaires d'importation de la RDC sont la Chine, l'Afrique du Sud, la Zambie, Belgique, Inde et Tanzanie. Les principaux produits d'importation comprennent des denrées alimentaires, machines minières et autres, matériel de transport et carburants.

COTES DE RISQUE

- Indice de compétitivité mondiale du Forum économique mondial (2019) : 139/141
- Facilité de faire des affaires de la Banque mondiale (2020) : 183/190

- Indice de perception de la corruption (2019) : 168/180 et adhésions

Organisations internationales et régionales et unions douanières

- Banque africaine de développement
- Union africaine
- Marché commun de l'Afrique orientale et australe (« COMESA »)
- Communauté économique des États de l'Afrique centrale
- Communauté économique des pays des Grands Lacs
- Groupe de 24
- Groupe de 77
- Commission du Golfe de Guinée
- Fonds monétaire international
- Organisation pour l'Harmonisation en Afrique du Droit des Affaires (« OHADA »)
- Organisation des États d'Afrique, des Caraïbes et du Pacifique
- Communauté de développement de l'Afrique australe
- Les Nations Unies
- Groupe de la Banque mondiale
- Organisation mondiale des douanes
- La RDC bénéficie d'un traitement préférentiel dans le cadre des accords énumérés ici : <http://ptadb.wto.org/Country.aspx?code=180>

Traités bilatéraux d'investissement

La RDC a des traités bilatéraux d'investissement en vigueur avec la France, l'Allemagne, la Suisse et

les États-Unis d'Amérique.

Des traités ont été signés avec l'Union économique belgo-luxembourgeoise, la Chine, l'Égypte, la Grèce, l'Inde, l'Italie, la Jordanie, le Portugal, la République de Corée, l'Afrique du Sud et l'Ukraine, mais ils ne sont pas encore entrés en vigueur.

Accords/institutions liés à l'investissement

- Accord de Cotonou
- Agence multilatérale de garantie des investissements
- L'organisation mondiale de commerce

règlement des différends

Convention pour le règlement des différends relatifs aux investissements (« Convention CIRDI »)

- OHADA
- Cour permanente d'arbitrage
- Convention des Nations Unies sur la reconnaissance et l'exécution des sentences arbitrales étrangères (Convention de New York) Traités de propriété intellectuelle (« PI »)

● Une liste complète des traités relatifs à la propriété intellectuelle signés par la RDC est disponible sur :

<http://www.wipo.int/wipolex/en/profile.jsp?code=CD>

Voir la section sur les marques de commerce ci-dessous pour plus de détails.

Régime légal applicable

Le système juridique de la RDC est basé sur le droit civil belge, ainsi que sur le droit coutumier et tribal.

Règlement des différends

● Le traité OHADA prévoit une procédure d'arbitrage. Les litiges relatifs aux actes uniformes généraux, ou tout autre litige commercial, peuvent être soumis à la procédure d'arbitrage OHADA.

● La RDC est également signataire de la Convention CIRDI et adhère aux règles de la Chambre de commerce internationale.

Acquisition, planification et utilisation des terres

● L'État est propriétaire exclusif des terres en RDC, cependant, il peut concéder aux entreprises et aux particuliers des droits d'occupation à travers :

● les contrats de concession perpétuelle accessibles uniquement aux citoyens congolais ; ou

● contrats de concession ordinaires accessibles aux investisseurs étrangers, aux sociétés enregistrées et aux citoyens congolais avec une durée d'occupation de 25 ans renouvelables.

Concurrence

contrôle des fusions s

● Le 8 juillet 2019, la RDC a adopté une nouvelle loi sur les prix, la liberté et la concurrence (la « loi sur la concurrence ») qui introduit le contrôle des concentrations.

La loi sur la concurrence est entrée

en vigueur le 9 août 2018.

- Dans l'attente de la signature et de l'entrée en vigueur d'un décret instituant une nouvelle Commission de la concurrence (la « Commission »), les attributions qui lui sont conférées par la loi sont exercées par l'(ancienne) Commission de la concurrence créée par l'arrêté instituant la Commission de la concurrence de 1987. (l' « Ancienne Commission »).

Une concentration économique découle de tout acte qui confère, seul ou conjointement, la possibilité d'exercer un contrôle ou une influence déterminante sur une ou plusieurs entreprises, notamment par :

- transfert de propriété ou de propriété sur tout ou partie des biens, droits ou obligations d'une autre entreprise ;
- création d'une coentreprise ; ou
- droits ou contrats qui confèrent une influence sur la composition, les délibérations ou les décisions d'une entreprise ou d'un groupe d'entreprises.

Une opération de fusion atteignant l'un des seuils suivants est soumise à examen en RDC :

- le chiffre d'affaires réalisé en RDC par les parties à la fusion est égal ou supérieur à un montant à déterminer par arrêté du Premier ministre sur proposition du ministre chargé de l'économie (cet arrêté n'a pas encore été adopté à

notre connaissance);

- les parties à la concentration détiennent une part de marché cumulée de 25 % ; ou

- l'opération envisagée crée/renforce une position dominante.

La RDC est un régime de pré-mise en œuvre. Le défaut de notification constitue une violation des règles de contrôle des fusions. On ne sait pas à ce stade quelles sanctions administratives potentielles peuvent s'appliquer aux fusions manquées.

La RDC est membre des organismes régionaux de concurrence, COMESA et OHADA. L'OHADA n'a pas mis en place de régime opérationnel de contrôle des fusions, tandis que le COMESA dispose d'un contrôle des fusions. Les activités de fusion en RDC doivent être menées avec le COMESA à l'esprit.

Pratiques interdites

La loi sur la concurrence interdit les ententes (que ce soit par le biais d'un accord formel ou d'une pratique concertée) qui visent à :

- restreindre l'accès au marché des concurrents;
- permettre aux entreprises de se répartir les marchés entre elles ou de fixer les prix ;
- martelant la production, les débouchés, les investissements ou les avancées techniques et technologiques ; ou

- fausser le résultat d'une offre concurrentielle.

Des dérogations peuvent toutefois être accordées par la Commission en ce qui concerne les accords anticoncurrentiels qui contribuent à favoriser le progrès économique, la création et le maintien d'emplois.

La Loi sur la concurrence interdit les abus de position dominante et les abus de dépendance économique. Elle interdit également les pratiques commerciales restrictives (c'est-à-dire les prix de revente imposés, les pratiques discriminatoires, le refus de fournir et la rupture brutale des relations commerciales établies).

Les accords anticoncurrentiels, cartels et abus de position dominante sont passibles d'une amende maximale de 50% du bénéfice ou 20% du chiffre d'affaires réalisé par l'entreprise contrevenante en RDC.

Le maintien du prix de revente est passible d'une amende allant de 10 à 50 millions de CDF.

Le COMESA régit les pratiques interdites dans le Marché commun du COMESA. Les activités en RDC doivent être menées en tenant compte de cet organisme régional de compétition.

Conditions d'emploi

immigration

Les personnes étrangères ayant

l'intention de travailler en RDC sont tenues d'obtenir un permis de travail, généralement valable deux ans et renouvelable.

Les réglementations sur les quotas de permis de travail s'appliquent aux principales industries, y compris l'exploitation minière, en RDC. Les permis de travail ne peuvent être accordés pour certains postes réservés aux citoyens de la RDC.

contrats à durée déterminée

Il est légalement permis de conclure un contrat à durée déterminée ou à durée déterminée qui prendra fin à la fin du projet. Les contrats à durée déterminée sont limités à une durée de deux ans et ne peuvent être renouvelés qu'une seule fois.

Un contrat est présumé être à durée indéterminée sauf s'il est spécifié comme un contrat à durée déterminée.

Paiement en monnaie locale

Les nouvelles règles d'immigration exigent, comme condition d'obtention d'un visa de travail, qu'un employé dispose d'un compte bancaire local et reçoive tout ou partie de sa rémunération au titre du contrat de travail sur ce compte bancaire local.

faire des affaires dans le De restriction des accords commerciaux

Les restrictions commerciales ne

sont pas valides et exécutoires et la protection dans ce cas doit figurer dans le contrat de travail régime d'investissement

RÉGIME D'INVESTISSEMENT

Le Code des investissements (Loi n° 004/2002 du 21 février 2002) régit les investissements étrangers en RDC.

La RDC est membre de l'OHA-DA qui établit un cadre juridique moderne et commun pour les activités des entreprises, à travers huit actes uniformes directement applicables à ses États membres. Les questions sociales, notamment la constitution, la gestion et la dissolution des sociétés, sont régies par l'Acte uniforme OHA-DA relatif aux sociétés commerciales et au groupement d'intérêt économique, qui annule et remplace toutes les dispositions contraires des législations nationales.

- Un guichet unique de l'investissement (Agence Nationale de Promotion de Investments (" ANAPI ") a été créé pour faciliter l'enregistrement et accroître la transparence des procédures d'octroi de licences.

EXIGENCES EN MATIÈRE D'INSCRIPTION/LICENCE

Au guichet unique, les entreprises remplissent un « formulaire unique » afin de s'inscrire auprès

de :

- Registre du commerce (guichet unique pour la création d'entreprise) ;
 - administration fiscale (Direction Générale des Impôts) ;
 - Ministère du Travail ; et
 - Institut National de la Sécurité Sociale (« INSS ») .
 - L'Inspection du Travail et l'Office National de l'Emploi (« ONEM ») doivent également être avisés de la création de l'entreprise.
 - Des permis d'exploitation peuvent également être exigés des conseils municipaux.
- Enregistrements / licences non spécifiques à l'industrie
- Voir au dessus.

LICENCES SPÉCIFIQUES À L'INDUSTRIE

- Des licences spécifiques à l'industrie peuvent être requises dans les secteurs de l'exploitation minière, des télécommunications, de la banque, des services financiers et du transport aérien.

DES INCITATIONS

- Le Code des investissements accorde un régime fiscal préférentiel pour favoriser les investissements directs dans certaines régions et dans des secteurs ou activités spécifiques, y compris l'exonération de l'impôt sur les sociétés, de la taxe foncière et des droits d'importation et d'exportation.

- Le Code minier prévoit diverses incitations à la disposition des titulaires de titres miniers ou de carrières et de leurs sous-traitants. Réglementation du contrôle des changes
- La réglementation du contrôle des changes s'applique en RDC. Les banques commerciales sont généralement autorisées, sous réserve du paiement des taxes applicables, à transférer des fonds hors du pays.
- Les sociétés minières sont tenues de recevoir 60% à 100% de leurs recettes de ventes à l'exportation en RDC et d'utiliser ces fonds à des fins nationales uniquement.
- Tout transfert de fonds vers ou depuis le pays est soumis à une taxe de change (royauté de surveillance des changes) au taux de 0,2% (en plus des frais bancaires).

Types de formats d'entreprises disponibles pour les investissements étrangers

Les formes d'affaires disponibles en RDC sont principalement les suivantes prévues par l'Acte uniforme OHADA relatif aux sociétés commerciales et au groupement d'intérêt économique :

- société anonyme (SA);
- société par actions simplifiées (SAS);
- société à responsabilité limitée (SARL);
- société en nom collectif (SNC);
- société en commandite simple (SCS);
- coentreprise (coentreprises);
- société de fait (sociétés de fait);
- groupement d'intérêt économique (GIE);
- succursale enregistrée d'une société étrangère; et
- bureau de représentation ou de liaison.

SOCIÉTÉ À RESPONSABILITÉ LIMITÉE

Nombre minimum d'actionnaires

- SARL | SA | SAS : Un minimum d'un actionnaire est requis.
- En principe, les actionnaires locaux ne sont pas obligatoires, mais peuvent l'être dans certains secteurs précis tels que les mines, le pétrole et le gaz.
- Aux termes de la loi de 2017 sur la sous-traitance, appliquée en pratique depuis octobre 2020, plus de 50 % des actions de toute entreprise de sous-traitance doivent être détenues par des citoyens de la RDC et sa direction doit être composée d'une majorité de citoyens de la RDC.

CAPITAL SOCIAL MINIMAL

Aux termes de l'Acte uniforme OHADA relatif aux sociétés commerciales et au groupement d'intérêt économique, les exigences minimales suivantes en matière

de capital social s'appliquent :

SARL : pas de capital social minimum requis ; SA : 10 millions FCFA (environ 18 476 USD) ; et SAS : pas de capital social minimum requis.

Directeurs

SARL : doit avoir au moins un directeur général. Il est recommandé qu'une personne basée ou voyageant régulièrement en RDC soit nommée directeur général, car il est nécessaire qu'une telle personne soit titulaire d'un visa de longue durée. Il n'y a aucune obligation de compléter les administrateurs/gérants en plus du directeur général.

SA : doit nommer un président du conseil d'administration qui peut également agir en tant que directeur général de la société. Un conseil d'administration de 3 à 12 membres, dont un président, doit être nommé.

SAS : libre de déterminer sa structure de direction qui doit être composée au minimum d'un président. Il n'est pas nécessaire de nommer un conseil d'administration.

Secrétaire de la Société

La nomination d'un secrétaire général n'est pas obligatoire en RDC.

Auditeur

SARL et SAS : doivent nommer un commissaire aux comptes lorsque deux des trois conditions suivantes sont remplies à la clôture de

l'exercice :

son bilan total dépasse 125 millions F.CFA (environ 233 000 USD) ; le chiffre d'affaires annuel dépasse 250 millions F.CFA (environ 462 000 USD) ; or

l'effectif permanent dépasse 50 salariés.

SA : la nomination d'un commissaire aux comptes est obligatoire.

ADRESSE ENREGISTRÉE

Toute société a un siège social qui est indiqué dans les statuts.

L'adresse des comptables ou des avocats de la société peut être utilisée comme siège social pendant une période transitoire.

Sociétés de stockage

Il n'y a pas de sociétés de stockage disponibles en RDC.

Processus d'inscription

Les entreprises sont enregistrées au registre du commerce et il faut environ trois jours pour terminer l'enregistrement une fois que tous les documents requis ont été soumis.

RÉGIME FISCAL

La RDC a un système d'imposition basé sur la source en vertu duquel les deux résidents et les non-résidents sont assujettis à l'impôt sur les revenus tirés d'une source en RDC.

Résidence corporative

Une société est résidente en RDC

si elle est constituée en RDC et si son siège social et son établissement principal sont situés en RDC. Taux d'imposition corporatif Sociétés résidentes et établissements stables de sociétés étrangères sont soumis à l'impôt sur les sociétés au taux de 30 %. Une taxe minimale de 1 % du revenu déclaré s'applique. Un minimum symbolique l'impôt est dû si une entreprise n'a pas de revenus déclarés pour une année d'imposition.

IMPÔT SUR LES BÉNÉFICES ("CGT")

Les gains en capital sont généralement inclus dans le revenu imposable ordinaire et soumis à l'impôt sur les sociétés au taux normal de 30 %.

La cession directe ou indirecte d'actions d'une société titulaire d'un titre minier est soumise à un régime spécifique de CGT.



IMPÔT SUR LE REVENU (« WHT »)

Paiement à	Taux impôt sur le revenu résidents	Non-résidents
Bénéfices de la succursale	N/A	20 % sur 50 % des bénéfices après impôt
Dividendes	20% 10 % (titulaires d'un permis minier) 0% (versé à un actionnaire actif autre qu'une société par actions)	20% 10% (titulaires d'un permis minier)
intérêt	N/A	20% 0% (prêts en devises conclus à l'étranger à des sociétés minières) 0% (obligations d'État et du Trésor)
Redevance	14%	14%
Frais de gestion, de conseil et de services techniques	N/A	14%

CONVENTIONS DE DOUBLE IMPOSITION (« CDI »)

Des CDI sont en vigueur avec la Belgique et l'Afrique du Sud.

Pertes. Les pertes peuvent être reportées indéfiniment. Toutefois, la déduction des pertes reportées est plafonnée à 60 % du bénéfice net imposable de l'année au titre de laquelle la déduction des pertes est réclamée.

Une entreprise qui ne soumet pas

sa déclaration de revenus à temps pour une année d'imposition donnée perd le droit de reporter les pertes subies au cours de cette année.

Prix de transfert

Aux termes des règles de prix de transfert de la RDC, lorsqu'une société de la RDC est directement ou indirectement liée à / associée à une société non-résidente, tout avantage indu accordé à cette

dernière société serait requalifié en acte de gestion anormal et ignoré pour aux fins de l'impôt sur le revenu des sociétés. Afin d'éviter une réévaluation dans une telle situation, la société résidente doit apporter la preuve que l'opération a été réalisée de manière indépendante sans aucune considération pour l'intérêt de la société du groupe .

- Les « personnes associées » sont définies au sens large et incluent la participation au capital ou par le biais de participations.

Limitations de la déductibilité des intérêts

- Il n'y a pas de règles de sous-capitalisation en RDC.
- Les paiements d'intérêts à un actionnaire étranger ou à toute autre partie liée ne sont déductibles que si le prêt est remboursable dans un délai maximum de cinq ans et que le taux d'intérêt ne dépasse pas le taux interbancaire moyen internationalement accepté en vigueur pendant le mois de remboursement de la dette principale.
- Des règles spécifiques s'appliquent au secteur minier.

LES IMPÔTS DES SALARIÉS

Les taux d'impôt sur le revenu applicables aux personnes physiques résidentes sont les suivants:

Revenu annuel imposable (CDF)	TAX rate
Jusqu'à 1 944 000	3%
1 944 000-21 600 000	15%
21 600 000-43 200 000	30%
Plus de 43 200 000	40%

- L'impôt est calculé selon un barème progressif et l'impôt global ne peut en aucun cas excéder 30% du revenu imposable.

- Un taux forfaitaire d'impôt sur le revenu de 15 % s'applique à la rémunération des travailleurs occasionnels.

- En plus de l'impôt sur le revenu du travail, les employeurs sont redevables de l'impôt exceptionnel sur les rémunérations des expatriés (impôt exceptionnel sur les rémunérations des expatriés) au titre des rémunérations versées aux expatriés au taux de 25% (12,5% pour les sociétés minières pendant les 10 premiers années du projet minier).



COTISATIONS SOCIALES

Les employés et les employeurs doivent verser des cotisations sociales mensuelles à l'INSS sur la rémunération de l'employé, y compris le salaire, les primes, la valeur des avantages sociaux et l'indemnité de congé.

Le taux de cotisation patronale se compose de :

bien-être familial : 6,5 % ;

- risque professionnel : 1,5 % ; et
- Retrait de pension : 5 %.
- Le taux de cotisation des salariés est de 5 %.

taxe sur les salaires

- Une contribution mensuelle à la formation professionnelle est due par les employeurs à l'Office National de la Formation Professionnelle (« INPP ») au taux de :

- 3 % pour les entreprises publiques et les entreprises de 1 à 50 salariés ;
- 2 % pour les entreprises de 51 à 300 salariés ; et
- 1% pour les entreprises de plus de 300 salariés.
- Les employeurs sont également tenus de verser 0,2 % de la rémunération à l'ONEM et de couvrir tous les frais médicaux de ses salariés et de leurs familles.

Droit de timbre

- La RDC ne perçoit pas de droits de timbre.
- A l'exception de la cession des actions minières qui est soumise à

la taxe de 1% sur la valeur nominale des actions cédées, il n'y a pas de droit de mutation sur la cession d'actions ou d'obligations, mais la cession de biens immobiliers est soumise au droit d'enregistrement au taux de 6% du prix (1,5% en cas de fusion et à 3% en cas de transfert d'activité).

T.V.A.

fournitures taxables

La TVA est prélevée sur la fourniture de biens et de services en RDC et sur l'importation de biens et de services.

Taux de TVA 16%

Seuil d'inscription

Toute personne ou entité qui exerce une activité en RDC et qui réalise un chiffre d'affaires annuel imposable / chiffre d'affaires annuel imposable supérieur à 80 millions de CDF doit s'inscrire à la TVA. Les entreprises dont le chiffre d'affaires est inférieur au seuil d'immatriculation cesseraient d'être assujetties à la TVA à partir de l'année suivante, mais pourraient demander une immatriculation volontaire. TVA inversée sur les services importés. Un non-résident est tenu de désigner un représentant TVA en RDC qui sera solidairement redevable de la TVA. A défaut pour ce non-résident de désigner un représentant TVA, la TVA due est due par le client en RDC.

faire des affaires en République démocratique o

CONVENTIONS, TRAITÉS ET ARRANGEMENTS INTERNATIONAUX

- Congrès de Paris
- Organisation mondiale de la propriété intellectuelle
- L'organisation mondiale du commerce

CLASSIFICATION

La classification internationale des biens et services s'applique. Une seule application peut couvrir n'importe quel nombre de classes de produits et/ou de services.

Catégories des marques

La fourniture est faite pour :

- marques collectives ; et
- les marques de service.

Exigences de soumission

Procuration, simplement signée ;

- reproductions de la marque ; et
- copie certifiée conforme du document de priorité, le cas échéant, avec une traduction française certifiée conforme.

PROCÉDURE

Les candidatures sont examinées en fonction des exigences de forme et de fond.

OBJECTIONS

Aucune disposition n'est prévue mais un intéressé peut invoquer la nullité d'une marque.

DURÉE ET RENOUVELLEMENT

Un enregistrement de marque est effectif pour une période initiale de 10 ans et, ensuite, renouvelable pour de nouvelles périodes de 10 ans.



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