MEMORANDUM

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SUMMARY

COMMERCIAL BANKING THRIVES IN MOZAMBIQUE IN TIMES OF ADVERSITY

Commercial banking in Mozambique has managed to maintain high growth rates, but recent adversity in the economy may bring changes to the banking landscape, including mergers and acquisitions, according to analysts.

Last year, even before the country's Western partners cut budget aid and the security situation deteriorated, the economy slowed by 1.1 percentage points to a growth rate of 6.3 percent, but the balance sheet of banks continued to grow "at an impressive rate," according to Eaglestone Securities.

In a recent report on Mozambican banking, in which it analysed the accounts of the six largest banks in the country, the consultancy said that assets, loans and deposits all continued to grow by 20 percent compared to 2014.

About 70 percent of deposits and loans are in meticais, 60 percent of deposits are sight deposits, asset quality ratios remained unchanged "at comfortable levels" and the banking sector is "well capitalised" and its six banks have solvency ratios above the regulatory requirements.

Also according to the consultancy, the profits of the six banks increased again due to a "robust" operating performance despite increased competition, rising wage costs and investment in the expansion of the branch network.

By assets, loans and deposits, the largest bank is BCI Fomento, followed by Millennium BIM, which last year posted higher net profit – US$81.4 million, followed by Standard Bank Mozambique, with US$51.4 million.

Moza Banco, Banco Único and Barclays Bank Moçambique completed the top six list among the 19 banks in the country – the latest of which is Portuguese-owned Banco Big.

The banking landscape of the country will suffer significant changes in the short and medium term, through the sale of Moza Banco, part-owned by Portugal's Novo Banco, which should also change hands, but BCI may also change its shareholder composition, due to changes in the capital of BPI in Portugal, one of the Mozambican bank's main shareholders, alongside state bank Caixa Geral de Depósitos (CGD).

"We believe that the deterioration of the conditions in the foreign currency market this year may have an impact on the Mozambican banking landscape in the medium term," says Eaglestone.

Due to a lack of foreign currency, along with an escalation of inflation, the Mozambican central bank has adopted a more restrictive monetary policy over 2016, while the government was required to submit an amending state budget with austerity measures demanded by the IMF and by most Western partners as a condition to restoring budget aid.

Budget aid was suspended because of the disclosure by the government of previously hidden debt in excess of US$2 billion. (11-07-2016)

ZIMBABWE ACCUSES FRANCE AND US OF PROTEST PLOT

Zimbabwe on Sunday accused the US and French embassies of backing street protests and a national work boycott which closed businesses and paralysed the public transport system last week.

The strike action was the latest in a series of protests over growing economic hardship blamed on the policies of 92-year-old President Robert Mugabe, who has been in power for 36 years.

"We have gathered from our intelligence that there was involvement of western embassies in all these disturbances that have been taking place," the state-owned Sunday Mail newspaper quoted home affairs minister Ignatius Chombo as saying.

"The evidence that we have gathered so far shows that the French embassy in Harare and other embassies are part of this plot as part of their regime change machinations." The newspaper reported that US ambassador Harry Thomas had in May met one of the organisers of last week's work boycott, the cleric Evan Mawarire, and that French ambassador Laurent Delahousse was "believed to have met Mawarire several times".

Delahousse denied ever meeting Mawarire and dismissed as "ridiculous" claims he backed the protests.

"I deny in the strongest terms any involvement with any organisation," he told AFP.

"I am not in Zimbabwe to cause trouble but to help and support the people of Zimbabwe. These ridiculous accusations are certainly out of line. "The authorities should focus on working for the good of the people and should investigate police violence." Public shows of dissent have been rare under Mugabe's oppressive rule, but they have grown in recent months as the battered economy has ground to a virtual halt.

Banks have run short of cash, government salaries have been delayed and many basic imports banned at a time when the country has also suffered a severe drought that has left millions hungry.

The job stayaway called by civic groups last Wednesday was well supported across the country after news of the plan spread on social media and organisers have vowed to press on with more protests in the coming weeks.

Information minister Christopher Mushowe warned Sunday that the authorities were tracking "all those who are abusing the social media to cause unrest in the country".

The government has warned that anyone sharing "subversive" material would be arrested. (AFP 10-07-2016)

MUGABE BLAMES WESTERN SANCTIONS FOR DELAYS IN PAYING GOVERNMENT WORKERS

Zimbabwe's President Robert Mugabe on Friday blamed sanctions by Western countries for his government's failure to pay its workers on time, which led to a crippling strike by civil servants this week.

"We have problems with sanctions, the United States (US) is yet to remove them and the European Union (EU) has removed some of them," Mugabe said while addressing his ZANU-PF party supporters Friday evening at a stadium in the northeastern mining town of Bindura in a rally televised live on national television.

"They (workers) do not fully understand the problems that we face, it doesn't mean that we are poor but the payment of salaries can be delayed because of the sanctions." The 92-year-old leader vowed to find ways of paying government workers on time saying the current problems are temporary.

"We are solving the problem. We are saying these are troubles for these days only. It will not continue like this because we do not want the doctors, nurses and teachers to go on strike," he said.

"We use the US dollar, the dollar is printed in America and we don't print it on our own." Mugabe has blamed sanctions by the EU and the US for his government failure to deliver over the years, saying some government payments are being intercepted by Western countries.

Government workers in Zimbabwe went on strike Tuesday to protest against delayed salary payments amid growing tensions over the country's struggling economy.

Mugabe said cash shortages at banks are being caused by businesses and individuals who are not banking their money, resulting in the liquidity crunch.

"Some companies and our people who would have sold goods and got their money are withholding the money. They are not depositing the money to the banks," he said.

"Now when banks do not have money how can the workers be paid because the money in the banks is the one that government uses to pay its workers." He appealed to government workers to continue working even when their salaries are delayed.

"We are not saying we will not pay your salaries but we are saying the government has a lot of government departments. But some of you do not understand that," he said.

"I am happy to hear that some have returned to work." On Friday a Zimbabwe magistrate court granted bail to 104 people who are facing charges of public violence after protests on Monday by public transport drivers who were striking against police corruption, the Zimbabwe Lawyers for Human Rights said.

About 94 protesters were arrested on Wednesday after government workers went on strike.

Zimbabwe police reacted in both protests by beating up people and firing tear gas to disperse protesters.

Zimbabwe is currently facing a liquidity crunch with banks facing cash shortages while the government has been failing to pay its workers on time. *(*AFP 09-07-2016)

SENA RAILWAY, MOZAMBIQUE, READY TO RECEIVE MORE CARGO

The Mozambican Ministry of Transport and Communications has given assurances work to expand the Sena railway from a capacity of 6 million to 20 million tons has been executed with good quality, Mozambican daily newspaper Notícias reported.

The newspaper, citing a ministry source said the contractor followed the technical requirements included in the relevant specifications, on a 575-kilometre railway linking the port of Beira, in Sofala province, to the coal town of Moatize, in Tete province, central Mozambique.

Launched in June 2013, the contract was executed by Portuguese consortium Mota-Engil & Edivisa (the Visabeira Group), including work to extend lines at all 31 stations, from 750 to 1500 metres in order to allow the movement of standard trains with 100 cars pulled by six locomotives each.

Currently, the trains have a maximum of 42 cars hauled by two locomotives.

The works also includes laying ballast, recovery of more than 300 bridges, culverts and aqueducts, especially in the Lower Zambezi, notably repairing the famous Dona Ana Bridge, connecting the banks of the Zambezi between Sena, in Caia, and Mutarara, over a total distance of approximately 5 kilometres.

Built in 1914 by the then British company Trans-Zambezi Railways (TZR), the Sena line was at a complete standstill for 20 years during the civil war ended in 1992. After that it was subjected to heavy traffic, with the daily movement from 21 to 25 coal trains, cargo of Mozambique Ports and Railways (CFM) and passengers, the latter twice a week. (11-07-2016)

BRAZIL FOOD GIANT EYES FORAY INTO NAMIBIAN MARKET

Namibia’s political and economic stability has attracted the interests of Brazil’s food conglomerate BRF.

The company produces and sells poultry, pork and processed food to about 120 countries.

During a curtesy call on President Hage Geingob at State House on Tuesday, BRF chairperson Abilio Diniz noted that they are attracted by the country’s “political and economic stability, integration in regional trade blocks, infrastructure and reputation for transparency”.

He expressed the hope that the company and Namibia can do something together.

“We are one of the biggest corporations in Brazil. We hope we can do something for Namibia,” Diniz said, adding that Namibia can serve as springboard for his company to enter the SADC region.

The Brazilian company sells its products under the brands Sadia, Perdigão, and Qualy.

Diniz, was accompanied by BRF global CEO Pedro Faria, and Namibian businessman Knowledge Katti.

President Geingob thanked Diniz and his team saying that the southern African country has a wealth of attractions and advantages for foreign-owned companies looking for business opportunities.(APA 15-06-2016)

CENTRAFRIQUE : L' AGENCE DE RÉGULATION DES TÉLÉCOMMUNICATIONS MENACE DE SANCTIONNER LES SOCIÉTÉS DE TÉLÉPHONIE MOBILE

L’Agence de Régulation des Télécommunications (ART) de la Centrafrique a menacé ce mercredi de suspendre les nouvelles attributions des numéros de téléphone octroyées par les sociétés de téléphonie mobile.

L'ART estime que ces numéros sont distribués comme des « bouts de pain » aux populations et sont à l'origine de la mauvaise qualité de communication sur les téléphones portables.

Cette position découle de multiples plaintes des usagers de ces sociétés de téléphonie mobile.

L'ART a annoncé plusieurs mesures comme gamme de sanctions parmi lesquelles la suspension de vente de cartes SIM aux nouveaux clients de téléphonie mobile, l'encadrement de leurs nouvelles offres promotionnelles, leur mise en demeure en cas de non-respect de leur cahier de charges, et la création d'un numéro vert au profit des consommateurs pour dénoncer les désagréments subis sur les réseaux de téléphonie mobile.

Ces usagers ont menacé de déposer plainte contre ces entreprises pour dommages et intérêts, estimant que la mauvaise qualité des appels leur porte préjudice.

Les usagers soulignent que ces désagréments les obligent à acheter des crédits téléphoniques supplémentaires pour bien communiquer.

Le Centrafrique compte quatre sociétés de téléphonie mobile à savoir Orange, Moov, Azur, Telecel, et près de deux millions d'usagers.(APA 15-06-2016)

CONSTRUCTION OF NEW PORT AND RAILWAY IN MOZAMBIQUE BEGINS IN 2017

The construction of the railway line between Moatize and the Sopinho region of Mozambique, including the deep water port of Macuse, is due to begin in the first quarter of 2017, said the president of the Zambezia Development Corridor (Codiza) .
Abdul Carimo statement was made at the end of a meeting with economic agents who had been skeptical about the possibility of moving forward with this project, which has an estimated cost of US$3 billion.
The President of Codiza, quoted by daily newspaper Notícias, said that to date over US$60 million have been spent on environmental impact and economic viability studies needed for project implementation.
The port of Macuse and the railway line stretching over 500 kilometres, which are considered particularly strategic for the transporting coal, are also fundamental to the viability of many projects planned for the Zambezi Valley.
The Macuse project is about 60-percent owned by the Italian Thai Development Company Limited, of Thailand, 20 percent by Mozambican state port and rail company CFM and the remaining 20 percent by the Zambezi Integrated Development Corridor (Codiza). (11-07-2016)

UFM MEMBER STATES APPROVE FOUR NEW REGIONAL PROJECTS

Four new regional cooperation projects have been approved by Senior Officials of the Union for the Mediterranean (UfM), bringing the total number of UfM-labelled projects to 45, worth over EUR 5 billion.

The four new regional projects focus on promoting youth employment, maritime trade, urban regeneration and quality education:

- The project "Elaboration and implementation of a demand-driven toolbox for youth-orientated, innovative labour market services in the MENA region –"Toolbox Project"", part of the Med4Jobs Initiative.
- The Multi-Site Regeneration (MSR) Project in Jericho, part of the UPFI Project initiative.

- The project OPTIMED IMPLEMENTATION: Implementing a new Mediterranean Corridor: from South-Eastern to North-Western ports**.**
- The project “Eastern Mediterranean International School” (EMIS). (EU 16-06-2016)

TUNISIA: EUROMED INVEST HOLDS MASTERCLASS FOR YOUNG ENTREPRENEUR IN CULTURAL AND CREATIVE INDUSTRIES

Fifteen young Tunisian startups currently being launched or in their development stage, active in the Cultural and Creative Industries (CCI) attended a Masterclass entitled "Ensuring the Success of Tunisian startups in the Cultural and Creative Industries", organised on 31 May and 1 June 2016 in Tunis in the framework of the EU-funded project EUROMED Invest.

The training gave participants the opportunity to benefit from a 2-day entrepreneurship programme aimed at assisting young CCI entrepreneurs channel their talent, expertise, experience, and education towards a professional career through the use of new communication models, financing, and specific project management.

The topics covered were enriched with direct testimonies and contributions from invited experts who created opportunities for reflection by also relying on a multimedia approach enabling better interaction among participants.

The aim of the **EUROMED Invest** project is to boost private business and investment within the Euro-Mediterranean region to contribute to an inclusive economic development. The project activities aim to empower Euro-Med business and investment networks to implement targeted strategies in support of SME development in specific sectors: agri-food, water and alternative energies, tourism, transport and logistics, cultural and creative industries. (EU 16-06-2016)

W/BANK, JICA BANKROLL MOZAMBIQUE FORESTRY INVENTORY

The World Bank and the Japanese International cooperation Agency (JICA) will jointly provide Mozambique with $1.3 million to support the Fourth National Forestry Inventory.

This will make it possible to gauge exactly how much of the country is forested and ensure greater resilience to climate change.

The representative of the World Bank in Mozambique, Mark Austin, said in Maputo on Thursday that forests play a fundamental role in regulating the climate, hence the importance of sustainable and responsible use of forest resources.

He was addressing a ceremony to launching the inventory in Maputo on Thursday.

According to the previous inventory crafted in 2007, Mozambique is losing 220,000 hectares of forest every year through illegal logging while between 2003 and 2013, it is estimated that it caused the country to lose $540 million.

“The inventory will help us see what is happening to the forests”, said Austin.

He reaffirmed the determination of the World Bank to support the Ministry of Land, Environment and Rural Development in guaranteeing the sustainable use of resources and hence the achievement of the Sustainable Development Goals adopted by the United Nations.

The preliminary results from the inventory are expected to be available by November, and should be confirmed in the first quarter of 2017.

The survey will cover the entire country, and will consist of an extensive collection of data on the quantity and quality of forest resources, through scientifically tested sampling methods.

It will estimate the total area of forest, and the area of each separate ecological zone; how much of each species is available for commercial purposes; and the rate of change of forestry coverage, through comparing 216 with the baseline year of 2007.

The study will also attempt to estimate the carbon content and the amount of biomass above and below the soil, and collect information about environmental and social safeguards for a REDD (Reducing Emissions from Deforestation and Forest Degradation) strategy.

These aspects had not been dealt with in the three previous forest inventories.

The Minister of Land, Environment and Rural Development, Celso Correia, who chaired the launch, said that the government intends to develop a national capacity to assess and monitor the conditions of Mozambican forests, and provide information about changes under way.

“Ten years after the last forest inventory, we want to update the information, and value the contribution that various stakeholders in our society can make to the sustainable management of our forests”, said Correia.(APA 16-06-2016)

CAMEROON: BANQUE ATLANTIQUE INTRODUCES ATM SERVICES

The Cameroon subsidiary of the Ivorian banking group Banque Atlantique now offers its customers Automated Teller Machines (ATMs) services, APA can report in Douala, the country's economic hub. “This modernization of services allows us to offer more services, such as money transfers or the change of PIN codes of the client’s magnetic card,” the bank said.

The novelty, however, lies in particular on the fact that the new equipment now allows a customer holding an account in Cameroon, to conduct money transfers to other accounts “in all 8 countries of the Banque Atlantique’s network” in Africa.

These countries, mainly in Central and West Africa include Benin, Burkina Faso, Cameroon, Cote d’Ivoire, Mali, Niger, Senegal and Togo.

Banque Atlantique entered the Cameroonian market in 2010, after it acquired Amity Bank, then a cash-strapped local banking institution.(APA 16-06-2016)

EIU PREDICTS THAT MOZAMBIQUE’S ECONOMY WILL GROW 3.8PCT IN 2016

Mozambique’s economy is expected to grow this year by just 3.8 percent, the lowest rate recorded in the last 15 years, wrote the Economist Intelligence Unit (EIU), in its latest report on the country.

On Monday, the Mozambican government is due to deliver an amended 2015 State Budget proposal to parliament. The revised budget’s macroeconomic scenario assumes a growth rate of 4.5 percent, against an initial forecast of 7.0 percent.

The EIU says that this cooling of the Mozambican economy reflects the decrease in public spending, reduced foreign direct investment due to deterioration of the business climate and the weather conditions that have had great impact on agricultural production.
The EIU analysts also said the increase in coal mining will be one of the factors for growth of the economy, which is related to the expected rise in ore prices on the international markets as well as to increased demand from India.
Traditional sectors are expected to provide a lower contribution than in the recent past. This is the case with agriculture, which should only resume normal production in 2017, after overcoming the effects of El Niño.
However, associated growth is expected to remain low due to the production structure being based on small family units and low yields, particularly for sugar, tea and cotton.
The natural gas industry has the potential to be a driver of long-term growth, but the extraction of the deposits discovered in northern Mozambique are only due to start being explored in the early 2020′s at best.
EIU forecasts EIU show that Mozambique's economy should grow between 4.2 percent and 5.6 percent in 2017-2020, with private and public consumption registering a high contraction this year, such as public expenditure, which is expected to fall by 17.6 percent, before resuming growth.
Exports of goods and services, with a growth forecast of 3.7 percent this year, is expected to reach higher levels in the following years, reaching a rate of 8.1 percent in 2017 and 7.3 percent in 2018, before slowing to a growth rate of 4.6 percent in 2019 and 2020. (11-07-2016)

KENYAN LEADER WOOS BELGIAN INVESTORS

President Uhuru Kenyatta Wednesday night made a passionate pitch for stronger trade and investment ties between his country and Belgium.
He made the plea to the country's private sector, which has been keen on exploiting the expanding investment opportunities in Kenya.

Uhuru asked Belgian investors to explore the wide range of investment opportunities in manufacturing.

He also mentioned value addition in agriculture and industry and emerging sectors in ICT and mining, a statement issued in Nairobi on Thursday disclosed.

President Kenyatta addressed a Belgium-Kenya business forum attended by more than 60 Belgian business executives and 70 from Kenya.

The forum was a follow-up to three back-to-back visits by Belgian business leaders to Kenya in the last three years.

On Wednesday, Uhuru held bilateral talks with King Philippe and Prime Minister Charles Michel on boosting trade and security ties.

He urged the Belgians to use Kenya to expand their economic engagement with Africa.

"We appreciate the investments that your businesses have in the country and the confidence that you have shown in our economy," he said.

He addressed a forum held at Cercle Gaulois, a major convention centre in Brussels.

He said Kenya has one of the most business friendly environments in Africa, noting that his country's economy is the largest and most integrated in the region and uses technology and innovation in most businesses transactions.

“The country has one of the highest mobile telephony and internet connectivity on the African continent and an increasingly sophisticated financial services sector,” he said.

He added that Kenya also boasts a well-educated highly sophisticated, creative and enthusiastic human resource pool, and a large expatriate population.

Kenya’s was ranked one of the highest recipients of Foreign Direct Investments in 2015. (APA 16-06-2016)

MOZAMBIQUE: 2015/2016 CASHEW YIELDS REACH 100,000 TONS

Mozambique's National Cashew Institute, (INCAJU) says about 100,000 tons of cashew nuts have been marketed in the 2015/16 agricultural year, which is now nearing its end.
INCAJU national director Ilidio Bande told a meeting of members of the cashew industry in Cafumpe, Gondola district in the central province of Manica on Thursday that cashew sales for the period had fetched revenue equivalent to $23.1 million.

According to Bande, in recent years, the total yield for cashew has been around 80,000 tons of nuts.

He said the 25 percent rise to 100,000 tons was thus an “important gain for the sector”.

Bande added that raw nuts are exported to India and Vietnam, while cashew kernels, processed in Mozambican factories, are mostly sent overseas to the United States.

He said the next challenge was to increase production to 120,000 tons of nuts per year, and to keep the Mozambican cashew industry supplied with raw material.

Bande stressed that attaining this further 20 percent increase in production would depend on greater involvement by peasants.

Currently the main producers of cashew are Nampula Province in northern Mozambique, Zambezia, and Manica in the centre of the country, and Inhambane and Gaza in the south. (APA 16-06-2016)

WORLD BANK TO APPROVE $300 LOAN TO MOROCCO

The World Bank’s board of directors will meet on July 14 in Washington DC to approve a 300 million dollar loan to Morocco.

According to lematin.ma, this loan marks the second phase of a two-step financing operation. The first phase consisted of a 300 million dollar loan as well, and was approved by the World Bank’s board of directors in April 2014.

The second phase will consist of the to-be approved loan of another 300 million dollars and will be used to support the nation’s financial sector and targets the development of capital markets. It will also not only enhance the management of the Caisse marocaine de retraite, which deals with retirement reforms in the public sector, but also improve Small and Medium-sized Enterprises SME’s access to financing.

The same source adds that the document submitted to the World Bank “recognizes the need for a properly functioning capital market to ensure resilient economic competitiveness via a more diversified financial intermediary.”

The Moroccan government will use the loan to meet its goals of diversifying the financial sector in order to fund the real economy while maintaining financial stability. It deems that the financial sector is well placed to overcome developmental challenges with the modernization of the capital markets.

This sector is said to be “vast and diverse,” with 25 banks, 18 insurance companies, 8 large pension funds, 373 mutual funds, 35 financial corporations, 13 microcredit institutions and 2 state-owned specialized financial groups. The loan will also be used to fund innovative start-ups and to support SME with easier access to funding.

The plan for development of the financial sector in Morocco, presented by the government at the Bretton Woods Institution, will require 450 million dollars in total funding. In addition to the World Bank, the African Development bank will also, after approval of the loan, contribute to the project with a loan of 125 million dollars.(Morocco World News 15-06-2016)

MOODY’S FURTHER DOWNGRADES MOZAMBIQUE’S SOVEREIGN DEBT RATING

Moody’s downgraded Mozambique’s sovereign debt credit rating from “Caa1″ to “Caa3″, further adding to the assessment that the country’s treasury bonds are highly speculative debt, the credit rating agency said in a statement Friday.

With this decision, which further adds to Moody’s discouragement to investment in the country’s debt, Moody’s concludes the review it began on 20 March, after Mozambique disclosed undeclared debts of over US$1.4 billion.

The downgrade of Mozambique’s sovereign risk primarily reflects the agency’s opinion of the “weak will of the government to honour its debt commitments, given the pressures it faces in terms of liquidity.”

Mozambique is currently negotiating with the creditors of Mozambique Asset Management (MAM), which failed in May to pay the first installment of US$178 million on a state-backed loan, which Moody’s says could result in a postponement of payments and losses to creditors.

“Such a restructuring would amount to a default by the government on the State guarantee granted on this loan,” said the agency.

Moody’s also gave the country’s credit rating a negative outlook, which indicates that there may be a further downgrade in the future because of the risks of litigation and the possibility that Mozambique may also default on other debt securities. (11-07-2016)

IMF WELCOMES NIGERIA’S DECISION TO END CURRENCY PEG

The International Monetary Fund (IMF) said on Thursday it welcomed the decision by Nigeria’s central bank to abandon its currency peg and adopt a flexible exchange rate policy, saying this was important to reduce fiscal and external imbalances.

IMF spokesman Gerry Rice told a weekly news briefing the fund wanted to see how effectively the naira exchange market functioned once the new float system was put into effect next Monday.

Nigeria’s central bank governor said in a letter to President Muhammadu Buhari the bank expected the naira to settle at around 250 to the dollar after it abandoned the peg of 197 to the dollar it had supported for 16 months.

"I think the announcement yesterday to revise the guidelines for the operation of the Nigerian interbank foreign exchange market is an important and welcome step," Rice told reporters. "It will provide greater flexibility in that market, the foreign exchange market."

Senior IMF officials, including MD Christine Lagarde, have urged Nigerian officials to allow the naira to fall to absorb some of the shock to the economy from a plunge in oil prices and revenues. Organisation of the Petroleum Exporting Countries (Opec) member Nigeria is a major oil producer. IMF officials have said that Nigeria has not requested IMF financial assistance, but has been in consultation with the fund on dealing with budget shortfalls.

"As we have said before, a significant macroeconomic adjustment that Nigeria urgently needs to eliminate existing imbalances and support the competitiveness of the economy is best achieved through a credible package of policies involving fiscal discipline, monetary tightening, a flexible exchange rate regime and structural reform," Rice said. "Allowing the exchange rate to better reflect market forces is an integral part of that."

Nigeria’s national economic council, the country’s top economic body, welcomed on Thursday the central bank’s decision to adopt a flexible exchange rate policy, a spokesman said on Thursday.

"It will help the economy and ease the access to forex," said a spokesman for the body, which groups the federal and state governments. "At the end of the day we should be better off."

Nigeria’s central bank said on Wednesday it would begin market-driven foreign currency trading next week, abandoning the peg of 197 naira to the dollar that it has supported for 16 months.

Foreign investors and economists have called for months for a devaluation as chronic foreign currency shortages choked economic growth and deterred investment.

The naira is expected to fall sharply when interbank trading begins on Monday, but the central bank said it did not have a target for the currency and the price would be "purely" market-driven. The naira was trading on the black market at around 370 naira to the dollar on Thursday.

Giving the first indication of a target, governor Godwin Emefiele said in a June 3 letter to Buhari — seen by Reuters — that the central bank hoped the naira would eventually trade at around 250 naira to the dollar, a level the president has "approved".

"I must assure Your Excellency that we are indeed reasonably optimistic that at some point the rate will settle around 250 naira," Emefiele said in the letter.

The letter, which briefed Buhari on the foreign exchange plan announced on Wednesday, said it could take three to four weeks to clear a $4bn backlog of foreign exchange demand.

Buhari has for months said that he does not want the naira to be devalued, but backed a more flexible exchange rate policy when the central bank outlined its plans in May, without elaborating.

The presidency has not commented on the new regime, with Buhari’s spokesman declining to comment when Reuters called on Wednesday.

The central bank could not be immediately reached for comment.

Africa’s biggest economy, which contracted by 0.4% in the first quarter, faces its worst crisis in decades after the decline in oil prices since 2014 and last year’s introduction of a currency peg, which prompted a large-scale capital flight.

With a likely sharp fall for the naira, Nigerian products will become relatively cheap and imports more expensive, which should stimulate the domestic economy but also lift inflation.

Buhari has previously raised concern about the inflationary effect that a weaker currency will have on Nigeria’s poor.

Nigeria, Africa’s largest crude exporter, has resisted devaluing its currency for more than a year despite other major oil producers, including Russia, Kazakhstan and Angola, allowing currencies to fall after crude prices collapsed. (Reuters 17-06-2016)

INVESTMENT ACT MAY CLASH WITH SADC TREATY

Legal practitioners have been saying for some time now that SA’s Protection of Investment Act is not in sync with the country’s commitments under the Southern African Development Community Protocol on Finance and Investment (SADC Protocol).

This seems to refer to a simple statement of fact, which the government will have to address — and quickly — if it does not want to find itself on the losing end of international trade disputes in future.

Ever since the government unilaterally started cancelling 13 bilateral investment treaties with EU member states, the process of international arbitration in SA has come under fire. The draft Promotion and Protection of Investment Bill, which was signed into law in December, has removed the automatic right of recourse by foreign investors to international arbitration.

Meanwhile, the Cabinet has approved the introduction to Parliament of the draft International Arbitration Bill. This intends to improve access to justice for companies doing business outside the country and foreign companies in SA.

The bill will repeal the Recognition and Enforcement of Foreign Arbitral Awards Act and amend the Protection of Business Act. It will also be aligned with the Model Law on International Commercial Arbitration, which has been adopted by the United Nations Commission on International Trade Law.

Minister in the Presidency Jeff Radebe says “the process of international arbitration is an essential tool for doing business across the borders of the country”.

But to date, certain of the government’s stated policies in favour of black economic empowerment (BEE) — most emphatically, the notion of using expropriation to right past wrongs — have come up against investor protections that are still provided for in years to come, in the cancelled bilateral investment treaties. And foreign investors are not happy.

The recently formed EU Chamber of Commerce and Industry in Southern Africa warns that some European businesses in SA have put projects on hold, or are considering relocating to other African countries, following the uncertainty created by the Promotion and Protection of Investment Bill. The EU is SA’s largest trading partner and a major export destination.

The government — through the Department of Trade and Industry — argues that recourse to international arbitration, as provided in the bilateral investment treaties, which it terminated, is lengthy, costly and has not established a body of legal precedent.

More pertinently, it says that international arbitration does not give governments the space to implement public policies. In SA’s case, this often means BEE policies, and raises the spectre of possible expropriation in the minds of foreign investors.

Like many governments, the South African state fears that powerful multinationals — including those such as cigarette or alcohol producers — will litigate hugely in defence of their foreign assets and supposed rights. It believes foreign arbitration panels do not reflect domestic law and will possibly award outlandish penalties against it.

Earlier in June, the UN Conference on Trade and Development (UNCTAD) launched its annual review of investor-state arbitrations for 2015. A record high of 70 such cases were filed in the year. The overall number of publicly known claims reached 696. By the end of 2015, a total of 444 such proceedings had been concluded, with 36% of cases decided in favour of the state, 26% in favour of the investor and 26% of cases settled.

Following a recent trend, a high share of new cases — about 40% — were brought against developed countries. The majority of new cases invoked bilateral investment treaties, most of them dating back to the 1990s.

State conduct most frequently challenged by investors in 2015 included legislative reforms in the renewable energy sector, alleged direct expropriations of investments, alleged discriminatory treatment and revocation or denial of licences or permits.

With the brouhaha in SA’s mining industry, it is no wonder that the government is running scared. UNCTAD says the arbitral decisions adopted in 2015 touch upon a number of important legal issues concerning the scope of treaty coverage, the conditions for bringing of investor-state arbitrations claims, the meaning of substantive treaty protections and the calculation of compensation and other remedies.

On some issues, tribunals followed previous decisions, while on other issues they adopted approaches that departed from earlier decisions. Some of the prominent decisions concern investor nationality, ownership and control. An investor-state arbitration conference will be held in July at UNCTAD’s World Investment Forum 2016 in Nairobi, Kenya.

In 2009, after international arbitration against SA by foreign investors, the Department of Trade and Industry completed a review of its bilateral investment treaty policy framework.

Various private Italian mining companies had brought a court case against the government, stating that its positive racial discrimination laws violated bilateral investment treaties with other countries. They wanted €266m in compensation for the “expropriation” of their granite mining operations in SA.

The arbitration was settled in a hearing in The Hague in 2010. This allowed the companies to convert all its old-order mining rights for 5% black empowerment, bypassing the 26% BEE ownership required by the then mining charter.

Jackwell Feris, a director at law firm Cliffe Dekker Hofmeyr’s dispute resolution practice, says for a state to be bound by an international arbitration agreement, there must be “clear and unambiguous” consent by the state to an arbitration process.

He says that from a South African perspective, any international investment arbitration can only bind the South African government if it complies with the requirements of section 231 of the Constitution — adoption by Parliament. Failing this, any reliance on such an agreement, signed or not, for protection of an investment “will be misplaced”.

He goes on to say that a number of the bilateral investment treaties concluded between SA and other SADC member states are signed, but have never — as far as can be ascertained — been ratified, and will possibly never be, based on the government’s policy change in this respect.

To highlight some dangers in this, in 2014, the Permanent Court of Arbitration in the Hague found that Russia had deliberately expropriated Yukos Oil Company and awarded three former shareholders of the company about $50bn — a staggering sum. Russia then brought proceedings before the District Court in the Hague seeking to set aside the Yukos awards, as well as three interim awards.

Feris says that a number of courts in jurisdictions such as the US and Switzerland refused to enforce the Yukos arbitration award on the basis that there was no agreement to arbitrate the dispute with Russia.

Global Law firm DLA Piper says as a result, the war between the Yukos shareholders and Russia is being fought on two fronts: at the seat of the arbitration where the awards were made, and in the jurisdictions where the Yukos awards are being enforced — or not.

DLA Piper says the most significant battle to date came to a head in April. The Hague District Court, in a landmark decision, granted Russia’s application to set aside both the interim awards and the Yukos awards.

Feris says the Russian arbitration matter illustrates the importance of understanding whether or not investors can rely on a bilateral investment treaty for protection, if it has only been signed but not ratified.

This same principle applies to all African jurisdictions where both signature by the executive and ratification by parliament are required to bind the state. But Feris also says that where bilateral investment treaties or international investment arbitrations have been signed but not ratified, parties are under an obligation of good faith — in terms of customary international law — to refrain from acts that would defeat or frustrate the object and purpose of the treaties they have signed.

But now that SA is prohibiting international arbitration in respect of any new investment in terms of the Protection of Investment Act, Feris says there are inconsistencies that must be remedied before it comes into effect.

If these are not remedied, the provision of the SADC Protocol will override the Protection of Investment Act and leave the door open to foreign investors. They will argue that “clear and unambiguous” consent to investor-state arbitration against SA for any current or future breaches of the SADC Protocol still exists.

This means that despite the new investment act, SA remains open to challenges to its policies through international arbitrations from foreign investors who have a qualifying investment in the country.(BD 17-06-2016)

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Fernando Matos Rosa

fernando.matos.rosa@sapo.pt
fernando.matos.rosa@skynet.be