

GLOBAL ACTION

A Newsletter of the **International Law Section** of the Cleveland Metropolitan Bar Association

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EDITOR'S NOTES

Mark J. Sundahl

As this final issue of Global Action for 2008 goes to press, I would like to thank the many contributors who have made this year's volume so successful. The pages of the newsletter have been filled with a variety of articles covering diverse topics such as export controls, immigration law, international tax, cybersquatting, and triangular mergers in Japan. This issue continues the tradition with a helpful summary, provided by Dr. Kim Amponsah, of recent business law reforms in Africa. This issue also contains a brief description of services that are offered by the Department of Commerce and the Ohio Department of Development to businesses that are interested in increasing their foreign sales.

If you would like to view previous issues of Global Action, a link to previous newsletters can be found on the International Law Section home page.

As always, submissions for future issues of Global Action are welcome and can be emailed directly to me or Reginald Russell for consideration. Submissions should be brief pieces (500-800 words) on a topic of interest to members of our section.

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A MESSAGE FROM THE CHAIR

Robert M. Spira

We are in the process of setting up our program agenda for the 2008-2009 year.

In addition to planning for our Global Forums and a seminar, we have begun preliminary discussions about doing another Symposium in partnership with a local international trade group. Following up on our 2007 presentation on Northeast Ohio's Global Challenge, we would again bring together leading businessmen, lawyers and government officials to discuss the pursuit and development of international business in the Cleveland area.

Please contact me if you have questions or comments on International Law Section activities. I look forward to hearing from you.

Robert M. Spira,
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SPECIAL ANNOUNCEMENT

Global Forum on International Tax

When: November 11th from 12:00 to 1:30 p.m.

Where: The Cleveland Metropolitan Bar Association headquarters on the Second Level of the Galleria at 1301 East Ninth Street.

See Upcoming Event section for further details.

DOING BUSINESS IN AFRICA: AN UPDATE

When one thinks of modern Africa, images of civil war, famine, wrenching poverty and human suffering quickly come to mind. However, these images do not provide a complete picture of Africa's risks and rewards from the point of view of the foreign investor. Despite a variety of challenges, Africa carries seeds of great potential for profitable business ventures – a potential that has recently gained greater recognition in the international business community. This article seeks to provide in a nutshell a clearer understanding of areas of opportunity for investors interested in doing business on the African continent.

Every year for the past five years, the World Bank and International Finance Corporation have issued a report on doing business in Africa (available at www.doingbusiness.org). The 2008 report indicates that doing business has become significantly easier in some parts of Africa as a result of numerous reforms that took place in 2006 and 2007. Among the twenty-four countries where improvements were noted, Mauritius topped the rankings with respect to the ease of doing business. Ghana, Kenya, Burkina Faso, and Mozambique also made significant advances. The types of reforms enacted in these countries address the formalities of starting a business, the strengthening of property rights, enhancing investor protections, increasing access to credit, easing tax burdens, and expediting trade. Examples of such reforms with respect to specific countries follow:

Mauritius has (1) simplified its tax system by creating a single corporate tax rate with fewer tax credits or tax holidays, (2) reduced the property registration fee to five percent of the property value, (3) simplified the construction permitting process, (4) shortened the business start-up time to one week with the implementation of a central database that links the company registry with tax, social security and local authorities, (5) created a new risk management system that has accelerated customs clearance for low-risk importers, and (6) enacted a new law that promises to help creditors recover their debts in bankruptcy cases.

Ghana has (1) increased the efficiency of public services, (2) cut bottlenecks in property registration reducing delays from six months to one, (3) reduced the time to create a company to 42 days by improving efficiency at the company registry and the environmental agency, (4) facilitated imports by reforms at the port authority, and (5) implemented new civil procedure rules and arbitration rules to improve the dispute resolution environment.

Kenya has (1) launched a licensing reform program that has resulted in the elimination of 110 business licenses and the simplification of eight other license processes, (2) streamlined the business start-up process, (3) reduced the time and cost of obtaining building permits, (4) simplified the property registration process, and (5) expanded the data collection abilities of private credit bureaus.

Burkina Faso has (1) introduced specialized commercial chambers in the general courts and lowered the cost of enforcing judgments by cutting the related registration tax from four to two percent of the judgment amount, (2) reduced the cost of property registration to 12.2 percent of the property

value, and (3) created a "one-stop shop" for company registration which has cut the business start-up time to eighteen days.

Mozambique has (1) enacted a new commercial code that introduced stricter corporate governance rules, strengthened the rights of minority shareholders, and modernized the business registration process, (2) reduced the start-up time for new companies, and (3) created specialized commercial courts to resolve commercial disputes with greater efficiency.

Two other recent reports have provided further evidence of improved business conditions in Africa and help to identify those countries that have a business environment that is friendly to the foreign investor. One report, issued by the Multilateral Investment Guarantee Agency (MIGA), a private sector arm of the World Bank Group, undertook a comparative study of operating costs and conditions in six industries in nine sub-Saharan African countries: Ghana, Kenya, Lesotho, Madagascar, Mali, Mozambique, Senegal, Tanzania and Uganda. This report highlights evidence of growing economies in these countries and provides guidance to foreign investors on the relative advantages of doing business in each of these countries. The other report, issued by the United Nations Conference on Trade and Development, identified a number of African countries as being more attractive for foreign direct investment than others, namely, Botswana, Equatorial Guinea, Ghana, Mozambique, Namibia, Tunisia and Uganda. These countries share similar features that make them attractive to investors, including stable policy and macroeconomic environments, active privatization programs, higher GDP growth rates, favorable trade policies, relatively well-developed infrastructure, intense investment promotion activities, and efforts to improve the education levels and skills of their people.

With respect to the potential of specific industries in Africa, the most promising areas of growth are in infrastructure, telecommunications, agribusiness, tourism, finance, and natural resources, including oil and minerals. The infrastructure opportunities are perhaps the most visible and can be seen in multiple projects in port expansion, railway construction, and the building of road linkages from commodity production areas to ports.

To summarize, many African countries deserve a second look from foreign investors. In addition to the opportunities for tremendous growth in a number of economic sectors, many countries have undertaken significant legal reforms to ensure that business transactions can take place efficiently in a stable and secure environment.

Dr. Kim D. Amponsah

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www.zimmerdesign.net

LINKS

Become a section member:

http://www.clemetrobar.org/professionals_sections.asp

World Trade Center Cleveland:

www.wtc.cleveland.org

American Society of International Lawyers: www.asil.org

Cleveland-Marshall College of Law

www.law.csuohio.edu

Case Western Reserve University School of Law

www.law.case.edu

Greater Cleveland International Lawyers Group: GCIL@parker.com

BUSINESS GUIDANCE FOR EXPORTERS

When your clients begin to explore the possibility of expanding their sales into foreign markets, they will likely need more than good legal advice. Issues of financing, currency risk, and the vetting of foreign sales representatives and distributors are some of the other concerns that such companies may have. If you are not able to address these concerns yourself, you may wish to direct your clients to the local office of the U.S. Department of Commerce Export Assistance Center or the Global Markets Division of the Ohio Department of Development.

The Export Assistance Center (EAC) provides a number of services that help U.S. companies enter foreign markets. For example, the EAC can undertake a customized market research study for a company to help the company understand the foreign markets and plan intelligently about how best to approach the marketplace. The EAC also offers the Gold Key Matching Service which assists exporters in identifying

and vetting potential sales representatives, distributors, or joint venture partners. Further information regarding these services, among others, can be found on the Export Assistance Center website at www.export.gov.

The Global Markets Division of the Ohio Department of Development provides similar support services to Ohio companies that are interested in increasing their foreign sales. For example, your client can ask for an on-site visit by a trade advisor who will help create an export strategy that is tailored to your client's needs. The Department of Development will also help your client locate sales representatives and distributors abroad who are well-positioned to promote your client's products. Clients can also gain cost-effective exposure to the world market by participating in catalog shows and trade shows sponsored by the Department of Development. More detailed information regarding the services offered by the Department of Development can be found at www.odod.state.oh.us/itd/ServicesForExporters.htm.

UPCOMING EVENTS

The International Law Section holds meetings on the second Monday of every month.

The next Global Forum will be held on November 11th from 12:00 to 1:30 p.m.

The forum will address international tax and will focus on recent UK-US cross border taxation developments. The forum will be held at the Cleveland Metropolitan Bar Association headquarters on the Second Level of the Galleria at 1301 East Ninth Street. Members will soon be receiving an email with registration information. If you do not receive an email, please contact Bob Heintel at rheintel@cfd.com to register.

To join the section, to be placed on our mailing list, or to make inquiries regarding section activities please contact Samantha Pringle, Director of CLE & Sections, at springle@clemetrobar.org or Jessica Paine, Asst. Director of Sections & Community Programs, at jpaine@clemetrobar.org.

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