

## Africa

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## I. North Africa

### A. EGYPT

On May 11, 2010, the Egyptian parliament renewed the Emergency Law for two more years,<sup>1</sup> marking twenty-nine consecutive years of a state of emergency since President Mubarak assumed the presidency in 1981. The Emergency Law empowers the government to suspend certain rights of the citizenry;<sup>2</sup> however, the government pledged to apply the law only to cases of suspected “terrorism” and drug trafficking.<sup>3</sup>

### B. ALGERIA

On April 7, 2010, Algeria and the United States signed a treaty on Mutual Legal Assistance in Criminal Matters.<sup>4</sup> U.S. Attorney General Eric Holder explained at the signing in Algiers that the treaty “establishes a comprehensive framework for obtaining evidence in criminal cases” and is aimed at the prosecution of “terrorism, organized crime, and other serious violations of our laws.”<sup>5</sup> Specifically, the treaty sets forth a variety of ways in which the parties agree to provide assistance, including the temporary transfer of persons in custody to provide testimony in criminal proceedings, the execution of requests for search and seizure, and the identification, location, and recovery of the proceeds or instrumentalities of criminal activity.<sup>6</sup>

### C. MOROCCO

The political and legal status of Western Sahara, the region that Morocco has occupied since 1975, remained unresolved in 2010. In February, Morocco and the Polisario Front (representing the people of Western Sahara) held informal talks under the auspices of the United Nations aimed at breaking the deadlock, but no agreement was reached.<sup>7</sup> While Morocco had put forward an “autonomy” proposal for the region, the Polisario reiterated its view that a special referendum should decide the region’s status.<sup>8</sup> On April 20, 2010, the United Nations Security Council adopted Resolution 1920 to extend the mandate of the United Nations Mission for the Referendum in Western Sahara until April 30, 2011.<sup>9</sup>

1. Michael Slackman, *Egypt's Emergency Law Extended for Two Years*, N.Y. TIMES, May 11, 2010, <http://www.nytimes.com/2010/05/12/world/middleeast/12egypt.html?ref=usapatriotact>.

2. *Egypt: Cosmetic Changes Can't Justify Keeping Emergency Law*, HUMAN RIGHTS WATCH, May 12, 2010, <http://www.hrw.org/en/news/2010/05/12/egypt-cosmetic-changes-can-t-justify-keeping-emergency-law>.

3. Slackman, *supra* note 1.

4. Treaty Between Algeria and United States on Mutual Legal Assistance in Criminal Matters, U.S.-Alg., Apr. 7, 2010, available at <http://www.scribd.com/doc/29543347/U-S-Algeria-Agreement> (not yet in force) [hereinafter MLAT Treaty].

5. *Attorney General Eric Holder Speaks at the Signing of the U.S.-Algeria Mutual Legal Assistance Treaty*, U.S. DEPT OF JUSTICE, Apr. 7, 2010, <http://www.justice.gov/ag/speeches/2010/ag-speech-100407.html>.

6. See MLAT Treaty, *supra* note 4, art. 1.

7. Anna Theofilopoulos, *Western Sahara: The Failure of “Negotiations Without Preconditions,”* 22 U.S. INST. OF PEACE PEACE BRIEF, 3 (Apr. 23, 2010), <http://www.usip.org/files/resources/PB%2022%20Western%20Sahara%20the%20Failure%20of%20Negotiations%20w-out%20Preconditions.pdf>.

8. U.N. Secretary-General, *Rep. on the Situation Concerning Western Sahara*, ¶ 2, U.N. Doc. S/2010/175 (Apr. 6, 2010).

9. S.C. Res. 1920, ¶ 1, U.N. Doc. S/RES/1920 (Apr. 30, 2010).

On June 1, 2010, Morocco acceded to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.<sup>10</sup> Morocco is the first North African country to join the convention, which provides a procedure to facilitate the prompt return of children who have been abducted across international borders.<sup>11</sup> Finally, 2010 marked continuing developments in European Union-Morocco relations. In March 2010, EU and Moroccan leaders met in Granada to discuss political modernization in Morocco and trade liberalization.<sup>12</sup> Consistent with those discussions, in September 2010 the European Commission adopted a draft decision on a significant bilateral trade agreement between the EU and Morocco for agri-food and fisheries products.<sup>13</sup>

#### D. TUNISIA

In June 2010, the Tunisian Legislature passed an act to punish as treason contact by Tunisians with “agents of a foreign state” with the intention of harming Tunisia’s vital interests.<sup>14</sup> The new law has been condemned by human rights organizations as limiting the freedom of speech.<sup>15</sup> On November 7, 2010, President Ben-Ali announced major legislative proposals including:<sup>16</sup> the withdrawal of Tunisia’s first reservation to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); a bill to enable Tunisian women married to foreigners to pass their nationality to their children; and a draft amendment replacing imprisonment with fines for a number of contraventions. In February, the Council of Europe published the November 2009 Protocol between the European Community and the Republic of Tunisia establishing a dispute settlement mechanism applicable to disputes under the trade provisions of the Euro-Mediterranean Agreement.<sup>17</sup>

10. See *Status Table 28: Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, HAGUE CONFERENCE ON PRIVATE INT’L L., Jan. 3, 2011, [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=24](http://www.hcch.net/index_en.php?act=conventions.status&cid=24).

11. Hague Convention on the Civil Aspects of International Child Abduction art. 1, Oct. 25, 1980, 1343 U.N.T.S. 89.

12. *Joint Statement, European Union–Morocco Summit*, BRUSSELS EUROPEAN COUNCIL, (Mar. 7, 2010), [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/113247.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/113247.pdf).

13. Press Release, European Comm’n, Adoption of a Draft Agreement Between the EU and Morocco in the Agri-food and Fisheries Sector (Sept. 16, 2010), available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1138&format=HTML&aged=0&language=EN&guiLanguage=en>.

14. Ian Black, *Amnesty International Censures Tunisia Over Human Rights*, GUARDIAN (U.K.), July 13, 2010, <http://www.guardian.co.uk/world/2010/jul/13/amnesty-criticises-tunisia-human-rights>.

15. *Id.*

16. *Major Decisions Announced by President Ben Ali on 23rd Anniversary of Change*, TUNISIA ONLINE NEWS, Nov. 8, 2010, <http://www.tunisiaonlinenews.com/major-decisions-announced-by-president-ben-ali-on-23rd-anniversary-of-change/>; *Proposed Tunisia Citizenship Law Abolishes Paternal Veto Right*, ZAWYA, Sept. 22, 2010, <http://www.zawya.com/story.cfm/sidZAWYA20100923041245/Proposed%20Tunisia%20citizenship%20law%20abolishes%20paternal%20veto%20right/>.

17. See 2010 O.J. (L 40) 75 (EC).

## II. West Africa

### A. SENEGAL

In 2010, the Senegalese Parliament adopted the Gender Parity Law, requiring all political parties to introduce gender parity in national or local electoral lists.<sup>18</sup> As a result, any electoral lists that do not comply with the law will be rendered void.<sup>19</sup> The Senegalese Parliament unanimously adopted the Guidance on Renewable Energy Law in June 2010.<sup>20</sup> It is aimed at promoting enhanced renewable energy production and seeks to reduce vulnerability to pollution from fossil fuels.<sup>21</sup>

### B. GHANA

On July 2, 2010, the Petroleum (Exploration and Production) Bill was introduced in Parliament<sup>22</sup> and set standards for the oil industry.<sup>23</sup> On August 12, 2010, the Ministry of Energy unveiled the National Energy Policy, which highlighted the need to strengthen the petroleum sub-sector.<sup>24</sup> Also in August, Ghana blocked a \$4 billion bid by ExxonMobil to enter the deep water Jubilee field by purchasing the assets of Kosmos Energy LLC.<sup>25</sup> Such a sale is not valid without the consent of the Ghanaian national energy company.<sup>26</sup>

### C. GAMBIA

On October 4, 2010, the Gambian National Assembly unanimously amended Sections 43 and 94 of the Principal Act of the Drug Control (Amendment Bill) to provide for the death penalty for individuals found in possession of more than 250 grams of cocaine or heroin.<sup>27</sup> According to the Attorney General, Gambia has become a transit point for drug trafficking, particularly from Latin America bound for Europe.<sup>28</sup> In June 2010, at least

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18. Nicole Atwill, *Senegal: Adoption of Gender Parity Law*, LIBRARY OF CONG., June 7, 2010, [http://www.loc.gov/lawweb/servlet/lloc\\_news?disp3\\_l205402029\\_text](http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402029_text).

19. *Id.*

20. Kemo Cham, *Senegal Adopts Renewable Energy Law*, AFRICA NEWS, June 24, 2010, [http://www.africanews.com/site/Senegal\\_adopts\\_law\\_on\\_renewable\\_energy/list\\_messages/32964](http://www.africanews.com/site/Senegal_adopts_law_on_renewable_energy/list_messages/32964).

21. *Id.*

22. Petroleum (Exploration and Production) Act, July 2, 2010, *available at* [http://www.parliament.gh/files/Petroleum%20\(Exploration%20and%20Production\)%20Bill%202010.pdf](http://www.parliament.gh/files/Petroleum%20(Exploration%20and%20Production)%20Bill%202010.pdf).

23. *Id.*

24. Kobena Sam, *Mills Explains His Better Ghana Vision*, GHANA WEB, May 5, 2010, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=181464>.

25. Eduard Gismatullin, *New Rules for Tapping Africa's Abundant Oil*, BUSINESSWEEK Oct. 21, 2010, [http://www.businessweek.com/magazine/content/10\\_44/b4201018226924.htm](http://www.businessweek.com/magazine/content/10_44/b4201018226924.htm).

26. *Id.*

27. Musa Ndow, *Death Sentence for Drug Dealers as Assembly Amends Drug Control Bill*, DAILYOBSERVER, Oct. 6, 2010, <http://allafrica.com/stories/201010060566.html>.

28. *US Embassy Cables: Ghana 'Is Becoming Transshipment Point for Drugs Trade to Europe From Asia and Latin America*, GUARDIAN (U.K.), Dec. 14, 2010, <http://www.guardian.co.uk/world/us-embassy-cables-documents/192878>.

two tons of cocaine with a street value estimated at \$1 billion (about £675 million) were seized in Gambia.<sup>29</sup>

#### D. COTE D'IVOIRE

In July 2010, a Dutch criminal court held the multinational company Trafigura criminally liable for illegally exporting toxic waste to Cote d'Ivoire,<sup>30</sup> a case which arose from the 2006 dumping of toxic waste in and around Abidjan.<sup>31</sup> Trafigura was fined €1million; a fine based on Trafigura having violated European regulations on "the export of waste to the Third World" and for "harming the environment."<sup>32</sup> Separate litigation in 2010 concerned the distribution of \$45 million that Trafigura has made available to 30,000 alleged victims of the dumped waste.<sup>33</sup> In January 2010, a court in Cote d'Ivoire ruled that the money should be distributed by an activist acting on the victims' behalf, not by the U.K.-based law firm representing the victims, Leigh Day;<sup>34</sup> however, concerns have been raised that the funds would be misdirected.<sup>35</sup>

In May, the United Nations Environment Programme and Cote d'Ivoire signed a headquarters agreement on the Framework of the Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central and Southern Africa Region and protocol.<sup>36</sup> In June, a new facility was established in the port of Abidjan "to improve the monitoring of hazardous materials."<sup>37</sup>

#### E. SÃO TOMÉ E PRÍNCIPE

##### 1. Labor

Under a decree issued at the end of 2009, an employment card is now mandatory for every employee, including foreign workers.<sup>38</sup>

29. *Two Tons of Cocaine Seized in The Gambia*, BBC NEWS, June 8, 2010, <http://www.bbc.co.uk/news/10268510>.

30. *Trafigura Found Guilty of Exporting Toxic Waste*, BBC NEWS, July 23, 2010, <http://www.bbc.co.uk/news/world-africa-10735255>; *Dutch Court Fines Trafigura Over Ivory Coast Waste*, REUTERS, July 23, 2010, <http://af.reuters.com/article/topNews/idAFJ0E66M0FM20100723?pageNumber=2&virtualBrandChannel=0>.

31. *Id.*

32. Gilbert Kreijger, *Dutch Court Fines Trafigura Over Ivory Coast Waste*, REUTERS, July 23, 2010, <http://uk.reuters.com/article/idUKTRE66M1SB20100723>.

33. *Fear For Ivory Coast Pay-Out Cash*, BBC NEWS, Jan. 22, 2010, <http://news.bbc.co.uk/2/hi/africa/8475362.stm>.

34. *Id.*

35. *Id.*

36. Press Release, U.N. Env'tl. Programme, Headquarters of West Africa Marine Agreement Officially Transferred to Cote d'Ivoire (May 25, 2010) (on file with author); see also *Headquarters of West Africa Marine Agreement Officially Transferred to Cote D'Ivoire*, U.N. ENVTL. PROGRAMME, May 25, 2010, <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=624&ArticleID=6583&l=en>.

37. *UN Agency Helps Set Up Laboratory In Ivorian Port To Monitor For Toxic Waste*, ALLAFRICA.COM, June 25, 2010, <http://allafrica.com/stories/201006250965.html>.

38. See *February Through May 2010*, SAO TOME AND PRINCIPE LEGAL NEWS, <http://images.excentric.pt/documentos2/18/23/0002318.pdf> (last visited Feb. 1, 2011).

## 2. *Oil and Gas*

The Petroleum Activities Law (PAL)<sup>39</sup> was gazetted in late 2009 and entered into force in 2010. The PAL addresses exploration and production access rights, licensing requirements applicable to survey operations, and minimum content of production sharing agreements. By way of Decree-Law No. 52/2009 of December 31, 2009, the São Tomé and Príncipe Government delineated its Exclusive Economic Zone (“EEZ”) and created three areas for the exploration and exploitation of petroleum and natural gas.<sup>40</sup>

## III. Central Africa

### A. CAMEROON

#### 1. *Corruption*

On October 21, 2010 the National Anti-Corruption Commission validated the National Strategy for the Fight against Corruption.<sup>41</sup> The strategy targets ten sectors including the public investment budget, public contracts, the private sector, and customs.<sup>42</sup> The strategy will be institutionalized in 2011, and resources will be allocated in the State budget for its implementation.<sup>43</sup> Before completion of the strategy, the Commission held nationwide consultations to ensure the effective participation of all stakeholders in the process.<sup>44</sup> The strategy is the first step towards the actualization of the Commission’s vision of “a country where integrity constitutes an essential value for every citizen, with an economic growth equitably distributed to ensure the social welfare of all in a preserved environment.”<sup>45</sup>

#### 2. *Elections*

On October 13, 2010, a presidential decree was signed which gave legal effect to the Electoral Commission of Cameroon (ELECAM).<sup>46</sup> The decree has a retroactive effect regularizing all acts of ELECAM.

39. See *November 2009 Through January 2010*, SAO TOME AND PRINCIPE LEGAL NEWS, <http://images.exentric.pt/documentos2/71/20/0002071.pdf> (last visited Feb. 1, 2011).

40. *Id.*

41. Emmanuel Kendemeh, *Cameroon: Anti-Corruption Fight National Strategy Goes Operational in 2011*, ALLAFRICA.COM, Oct. 21, 2010, <http://allafrica.com/stories/201010211079.html>.

42. *Id.*

43. *Id.*

44. *Id.*

45. PROSPER MIMBOË, *Cameroon: Process to Elaborate National Anti-Corruption Strategy*, Africa-info (June 17, 2010, 15:03 EST), [http://africa-info.org/ang/index.php?option=com\\_content&view=article&id=425:cameroon-process-to-elaborate-national-anti-corruption-strategy-launched&catid=35:politics&Itemid=57](http://africa-info.org/ang/index.php?option=com_content&view=article&id=425:cameroon-process-to-elaborate-national-anti-corruption-strategy-launched&catid=35:politics&Itemid=57).

46. Emmanuel Kendemeh, *Cameroon: Anti-Corruption Fight - Natural Strategy Goes Operational in 2011*, ALLAFRICA.COM, Oct. 21, 2010, <http://allafrica.com/stories/201010211079.html>.

## B. EQUATORIAL GUINEA

### 1. *Aviation*

As one commenter noted, “New requirements for foreign aircraft to fly over and land in Equatorial Guinea were set forth by Ministerial Order No. 05/2010, of 19 May 2010. These requirements apply to both civil and military aircraft and commercial and non-commercial flights.”<sup>47</sup>

### 2. *International Relations*

Following the Economic and Monetary Community of Central Africa (“CEMAC”) summit in Douala, Cameroon, the six member countries agreed to bring into use a single passport for all CEMAC countries, a decision that was approved ten years ago. The biometric passport is expected to facilitate the free movement of people and goods within the CEMAC region and prevent document forgery.<sup>48</sup>

Equatorial Guinea’s formal application for full membership of the Community of Portuguese Language Countries (CPLP) was discussed at the VIII CPLP summit in July 2010, which was held in Luanda, Angola.<sup>49</sup> The CPLP has decided to open formal negotiations with Equatorial Guinea for the country, which has been an Associate Observer since July 2006, to join the Organization as a full Member.<sup>50</sup>

## C. GABON

The Republic of Gabon abolished the death penalty by means of Law No. 003/2010, of February 15, 2010.<sup>51</sup>

Decree No. 23/PR/MTEPS, of February 11, 2010, stipulated the list of entities required to provide minimum services to the general public in the event of a strike.<sup>52</sup> These entities include hospitals and teaching establishments.

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47. Bonny Mua, *Elecram Now Stands on Solid Legal Framework*, RTV, Oct. 18, 2010, [http://www.crtv.cm/cont/nouvelles/nouvelles\\_sola\\_fr.php?idField=8119&table=nouvelles&sub=politique](http://www.crtv.cm/cont/nouvelles/nouvelles_sola_fr.php?idField=8119&table=nouvelles&sub=politique).

48. *January Through June 2010*, EQUATORIAL GUINEA: LEGAL NEWS, <http://images.excentric.pt/documentos2/84/23/0002384.pdf> (last visited Feb. 1, 2011).

49. *Id.*

50. *Angola: Equatorial Guinea President Arrives for CPLP Summit*, ALLAFRICA.COM, July 22, 2010, <http://allafrica.com/stories/201007230030.html>; see *Angola: Mozambican President Augurs Success for CPLP Summit*, ALLAFRICA.COM, July 22, 2010, <http://allafrica.com/stories/201007230031.html>.

51. *Id.*

52. *Sommaire Partie Officielle Actes de la Republique Gabonaise*, 15 JOURNAL OFFICIEL DE LA REPUBLIQUE GABONAISE, 3 (Mar. 30, 2010).

#### IV. Eastern Africa

##### A. KENYA

###### 1. *New Constitution*

Kenyans voted in a national referendum on August 4, 2010 to approve a new Constitution that was promulgated on August 27, 2010.<sup>53</sup> Some of the key reforms include: the division of the country into forty-seven counties headed by an elected Governor;<sup>54</sup> the re-introduction of a bicameral Parliament and the allocation of a third of all leadership positions at national and county levels, and the civil service to female candidates.<sup>55</sup> Judicial reforms include the creation of a Supreme Court with final authority on appeals and exclusive original jurisdiction over Presidential petitions.<sup>56</sup> In addition, the independence of the judiciary has been strengthened with security of tenure and a new system of appointment,<sup>57</sup> while the Kadis' courts have been entrenched in the new law.<sup>58</sup> The office of the Attorney General (AG) has also been restructured to grant more autonomy to the Director of Public Prosecutions (DPP) to prevent political interference.<sup>59</sup> A National Land Commission has been created to manage land use and investigate present and historical land injustices.<sup>60</sup> Chapter four of the Bill of Rights has been expanded and strengthened to incorporate the rights provided in the International Covenant on Economic, Social, and Cultural Rights.<sup>61</sup> In addition, the Constitution permits dual citizenship<sup>62</sup> and Kenyan women can pass citizenship to their children and spouses.<sup>63</sup> Finally, any treaty ratified by Kenya shall be incorporated into law removing the requirement for domestication.<sup>64</sup>

###### 2. *Human Rights Developments*

On March 31, 2010, the International Criminal Court (ICC) Pre-Trial Chamber II granted the Prosecutor's application to investigate crimes against humanity allegedly perpetrated during the 2007-2008 post-election violence in Kenya.<sup>65</sup> The mandatory death sentence for capital offenses was ruled unconstitutional and overturned by the Court of

53. *Gabon Legal News*, MIRANDA CORREIA AMENDOEIRA & ASSOCS., Aug. 2010, <http://images.excentric.pt/documentos2/02/26/0002602.pdf>.

54. Bernard Momanyi, *Military Ready for Promulgation of New Constitution*, LATEST KENYAN NEWS BLOG (Aug. 22, 2010, 15:41 EST), <http://kenyaupdate.blogspot.com/2010/08/military-ready-for-promulgation-of-new.html>; see also CONSTITUTION (2010) (Kenya), available at <http://www.kenyalaw.org/klr/index.php>.

55. CONSTITUTION, arts. 6 § 1, 179 §§ 1-2, 180 § 1 (2010) (Kenya).

56. See *id.* art. 90 §§ 1-3.

57. *Id.* arts. 162 § 1, 163 §§ 1-2.

58. See *id.* arts. 160, 166.

59. *Id.* arts. 169 § 1(b), 170.

60. *Id.* arts. 156-58.

61. *Id.* art. 67.

62. See *id.* arts. 41, 43, 45; see also, International Covenant on Economic, Social, and Cultural Rights arts. 8, 12, 15, opened for signature Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976).

63. CONSTITUTION, art. 16 (2010) (Kenya).

64. *Id.* arts. 14 §§ 1-2, 15 §§ 1-2.

65. *Id.* art. 2 § 6.



Appeal in July 2010 in the matter of *Godfrey Goth Mutes v Republic*.<sup>66</sup> The Court held that section 204 of the Penal Code, as well as the delay in execution of the capital sentence resulting in the “death row syndrome” violated constitutional provisions against inhuman and degrading treatment and provisions for a fair trial; and the “right to life.”<sup>67</sup>

## B. DJIBOUTI

### 1. *Border Dispute Agreement*

On June 6, 2010, the Presidents of Djibouti and Eritrea signed a dispute agreement bringing to an end a two-year border dispute<sup>68</sup> which originated from conflicting colonial boundary treaties.<sup>69</sup> The agreement appoints Qatari officials as intermediaries in the negotiations between the two parties.<sup>70</sup> According to the agreement, Eritrea will remove its troops stationed along the unmarked boundary, and Qatari forces will remain deployed in both countries until the dispute is resolved.<sup>71</sup> Under the agreement, a trilateral commission, consisting of representatives from Djibouti, Eritrea, and Qatar, will appoint an external contractor to demarcate the land boundary in accordance with the “provisions of international agreements and rules on border delineation [to which] the two parties are bound.”<sup>72</sup> However, demarcation will depend on whether the two parties can agree on the validity of the treaties in question.<sup>73</sup>

### 2. *Constitutional Amendments*

In April 2010, Djibouti’s parliament abolished the existing two-term limit.<sup>74</sup> It adopted fourteen constitutional amendments including: the creation of a senate and the abolition of the death penalty;<sup>75</sup> an age limit of seventy-five for presidential candidates, and the reduction of the presidential mandate from six to five years.<sup>76</sup>

66. See *Pre Trial Chamber II’s Decision on Kenya*, KENYAN SECTION OF THE INT’L COMM’N OF JURISTS, May 2010, [http://www.icj-kenya.org/index.php?option=com\\_content&task=view&id=298&Itemid=70](http://www.icj-kenya.org/index.php?option=com_content&task=view&id=298&Itemid=70).

67. *Mutiso v. Republic of Kenya*, (2010) K.L.R. ¶ 36 (Kenya), available at [http://kenyalaw.org/Downloads\\_FreeCases/76411.pdf](http://kenyalaw.org/Downloads_FreeCases/76411.pdf).

68. See *id.* ¶¶ 27, 30-33.

69. Press Release, U.N. Security Council, Briefing Security Council, Commends Recent Steps by Eritrea, Djibouti to Negotiate Settlement of 2008 Border Dispute, U.N. Press Release SC/9987 (July 20, 2010), available at <http://www.un.org/News/Press/docs/2010/sc9987.doc.htm>.

70. Int’l Boundaries Research Unit, *Djibouti & Eritrea Agree to Boundary Mediation with Qatar*, DURHAM UNIV. (June 10, 2010), [http://www.dur.ac.uk/ibru/news/boundary\\_news/?itemno=10205&rehref=%2Fibru%2Fnews%2F&resubj=Boundary+news%20Headlines](http://www.dur.ac.uk/ibru/news/boundary_news/?itemno=10205&rehref=%2Fibru%2Fnews%2F&resubj=Boundary+news%20Headlines).

71. Letter from Hamad bin Jassim bin Jabr Al-Thani, Prime Minister and Minister of Foreign Affairs to Qatar, to His Excellency Ambassador Claude Heller, President of the United Nations Security Council, No. 5/938/1/2010 (June 6, 2010), available at <http://photos.state.gov/libraries/eritrea/30767/ghezaif/Text%20of%20Eritrea%20Djibouti%20Agreement.pdf> [Unofficial Translation].

72. *Id.*

73. *Id.*

74. *Id.*

75. *MPs in Djibouti Scrap Term Limits*, BBC NEWS, Apr. 19, 2010, <http://news.bbc.co.uk/2/hi/8630616.stm>.

76. Daniela Kirby, *Djibouti President Guelleb Third Term: Another End to Democracy in Africa?*, CONSULTANCY AFRICA INTELLIGENCE, [http://www.consultancyafrica.com/index.php?option=com\\_content&view=article&id=386&Itemid=219](http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=386&Itemid=219) (last visited Jan. 23, 2010).

## C. SOUTHERN SUDAN

The focus in Southern Sudan was firstly on the elections held in April. The balance of the year focused on preparing for the referendum for independence to be held on January 9, 2011<sup>77</sup> in accordance with the Comprehensive Peace Agreement signed in 2005<sup>78</sup> that ended over twenty-two years of civil war. Another challenge faced this year was the devolution of powers to the states. At the time of writing, only seven of ten of the states have named Ministers of Legal Affairs and as it is, the newly appointed state ministers seem to have no jurisdiction/powers in the Code of Criminal Procedure Act, 2008.<sup>79</sup>

## D. UGANDA

2010 legal developments in Uganda include the March 2010 ban on female genital mutilation/cutting,<sup>80</sup> the introduction of a HIV/AIDS Prevention and Control Bill in April 2010,<sup>81</sup> and the Anti-Homosexuality Bill of 2009, proposed in 2010, criminalizing homosexuality, including the "promotion of homosexuality," and imposing penalties such as life imprisonment and death for some infractions.<sup>82</sup> In response to criticism, President Museveni appointed a committee to review the bill.<sup>83</sup> The committee found that many clauses were either "unconstitutional or redundant of existing laws."<sup>84</sup> The committee recommended that the bill be withdrawn, but agreed that the "promotion of homosexuality should be criminalized."<sup>85</sup>

## E. TANZANIA

The Election Expense Act was signed into law in March 2010.<sup>86</sup> It provides guidelines on funding activities for the nomination process, election campaigns, and elections, and it establishes the powers of the Registrar.<sup>87</sup> The Act imposes restrictions and disclosure requirements for the use of personal funds and foreign funds in the election campaigns. Candidates will be required to provide auditing of accounts and submission to the Regis-

77. *Id.*; Kirby, *supra* note 76.

78. Maggie Fick, *UN Gears up for the South Sudan Referendum*, CHRISTIAN SCI. MONITOR, Sept. 8, 2010, <http://www.csmonitor.com/World/Africa/Africa-Monitor/2010/0908/UN-Gears-up-for-the-South-Sudan-Referendum>.

79. *UNDP Across Sudan: Peace Processes & Agreements*, U.N. DEV. PROGRAMS, 2010, <http://www.sd.undp.org/SudanPanda.htm>.

80. *Africa: MPs Push for Continent-Wide FGM/C Ban*, ALLAFRICA.COM, May 5, 2010, <http://allafrica.com/stories>.

81. The HIV and AIDS Prevention and Control Bill of 2010, (Uganda), *available at* <http://www.scribd.com/doc/31680838/HIV-and-AIDS-Prevention-and-Control-Bill-2010>.

82. The Anti Homosexuality Bill of 2009, Bill 18 (Uganda), *available at* <http://wthrockmorton.com/wp-content/uploads/2009/10/Bill-No-18-Anti-Homosexuality-Bill-2009.pdf>.

83. Gregory Branch, *Is Uganda's Anti-Homosexuality Bill Dead?*, GLOBAL POST, May 12, 2010, <http://www.globalpost.com/dispatch/africa/100510/uganda-anti-gay-bill>.

84. *Id.*

85. *Id.*

86. Marko Gideon, *New Election Law Restricts Access to Information*, MISA TANZANIA, Apr. 23, 2010, [http://www.tz.misa.org/index.php?option=com\\_content&view=article&id=65:new-election-law-restricts-access-to-information-](http://www.tz.misa.org/index.php?option=com_content&view=article&id=65:new-election-law-restricts-access-to-information-).

87. The Election Expenses Act of 2010 (The Republic of Tanzania), *available at* <http://www.parliament.go.tz/Polis/PAMS/Docs/6-2010.pdf>.

trar of Political Parties. The new rules were tested for the first time during the November 2010 elections when on November 6th President Jakaya Kikwete was re-elected for a final five-year term.<sup>88</sup> The National Election Commission has yet to release its report on the elections, which is expected to evaluate the elections and assess the impact of the Act on electoral corruption.<sup>89</sup>

## V. Southern Africa

### A. ANGOLA

#### 1. *Energy*

The Ministry of Petroleum issued Executive Decrees 13/10 and 14/10, both on February 11, 2010, as regulations to the Training Decree-Law.<sup>90</sup> Executive Decree 13/10 governs the recruitment, training, and development of Angolan personnel, and the hiring of foreign personnel to work in petroleum operations in Angola.<sup>91</sup> Executive Decree 14/10 elaborates the rules governing the Fund to Train and Develop Angolan Human Resources in the Petroleum Sector.<sup>92</sup>

#### 2. *State*

The new Constitution of the Republic of Angola (“NCRA”) was gazetted in the Angolan Official Gazette of February 5, 2010.<sup>93</sup> A significant change is the introduction of indirect presidential elections.<sup>94</sup> On March 29, 2010, the Public Probity Law was gazetted.<sup>95</sup> It addresses anti-bribery and anti-corruption and establishes “the legal framework for administrative ethics and respect for public property by public servants.”<sup>96</sup>

### B. ZAMBIA

#### 1. *National Constitutional Conference*

On August 31, 2010, the National Constitutional Conference (“NCC”) presented its Draft Constitution to the Minister of Justice.<sup>97</sup> The NCC was created in 2007 to debate and adopt proposals for constitutional review, a process that lasted nearly three years and

88. *Id.*

89. Pius Rugonzibwa, *PCCB Readies Election Report*, DAILY NEWS (Tanz.), Nov. 8, 2010, [http://www.dailynews.co.tz/election/index\\_news.php?articleID=828](http://www.dailynews.co.tz/election/index_news.php?articleID=828).

90. *December 2009 Through March 2010*, ANGOLA LEGAL NEWS, <http://images.excentric.pt/documentos2/93/22/0002293.pdf> (last visited Jan. 22, 2011).

91. *Id.*

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.*

was subject to widespread criticism.<sup>98</sup> In November 2010, the Government announced its intention to publish the bill in the Government Gazette.<sup>99</sup>

## 2. *Chiluba Acquittal*

On August 14, 2010, the Lusaka High Court ruled that the 2007 London High Court judgment that ordered former President Chiluba to repay US\$46 million allegedly stolen while in office could not be enforced in Zambia.<sup>100</sup> The Attorney General has decided not to appeal the judgment.<sup>101</sup>

## C. LESOTHO

On June 2, 2010, the Land Act was promulgated to repeal the Land Act of 1979 and to introduce reforms in land administration and land tenure security.<sup>102</sup> Critics have stated that the Act would permit foreign ownership of land in Lesotho; however, according to the Act, a foreign-owned company can only own land if a Lesotho citizen has at least a twenty percent share in the business.<sup>103</sup> The Land Act also established land courts to expedite the resolution of land disputes.<sup>104</sup>

## D. MALAWI

Two men charged with “unnatural offences” under Section 153 and “indecent practices between males” under Section 156 of Malawi’s criminal code<sup>105</sup> following their traditional engagement ceremony in December 2009 were convicted, sentenced,<sup>106</sup> and eventually pardoned on humanitarian grounds.<sup>107</sup> On May 20, 2010, the men were sentenced to fourteen years imprisonment; however, they were pardoned nine days later following a meeting between Malawi’s President Bingu wa Mutharika and U.N. Secretary General Ban Ki-Moon.<sup>108</sup>

98. See *Background Note: Zambia*, U.S. DEP’T OF STATE, <http://www.state.gov/r/pa/ci/bgn/2359.htm> (last visited Jan. 22, 2011).

99. *Zambia: Government Begins Enacting Provisions of Draft Constitution*, LUSAKA TIMES (Zam.), Nov. 18, 2010, <http://www.lusakatimes.com/2010/11/18/govt-begins-enacting-provisions-draft-constitution/>.

100. Maluba Jere & Mwala Kalaluka, *Rejection of Registration of Chiluba’s London Judgment Extremely Disturbing—Lubinda*, POST (Zam.), Aug. 16, 2010, [http://www.postzambia.com/post-read\\_article.php?articleId=12735](http://www.postzambia.com/post-read_article.php?articleId=12735).

101. *Government Will Not Appeal Chiluba Verdict*, ZAMBIAN CHRONICLE, Aug. 20, 2010, <http://zambianchronicle.com/?p=6469>.

102. Caswell Tlali, *King Signs Land Bill*, LESOTHO TIMES, June 2, 2010, <http://www.lesotimes.com/?p=3797>.

103. *Id.*

104. *The Statement of the Monetary Policy Committee in View of the General Macroeconomy*, CENT. BANK OF LESOTHO, Mar. 2010, <http://www.centralbank.org.ls/publications/Econo%20Review%20Mar%202010.pdf>.

105. Letter from Human Rights Watch to Bingu wa Mutharika, President of Malawi, Letter to President of Malawi Urging Him to Uphold Constitutional Principles of Equality, Privacy and Dignity (Apr. 2, 2010), available at <http://www.hrw.org/en/news/2010/04/01/letter-president-malawi-urging-him-uphold-constitutional-principles-equality-privacy>.

106. Mabwuto Banda, *Malawi Gay Couple Sentenced to 14 Years in Jail*, REUTERS, May 20, 2010, <http://www.reuters.com/article/idUSTRE64J7CS20100521>.

107. *Malawi Couple Could Face Further Harassment*, AMNESTY INT’L, June 1, 2010, <http://www.amnesty.org/en/news-and-updates/malawi-couple-could-face-further-harassment-2010-06-02>.

108. *Id.*

In April, Malawi's government proposed a law to ban polygamy.<sup>109</sup> In July, legal proceedings were instituted at the Constitutional Court challenging the constitutionality of Section 17 of Malawi's Married Women's Property Act,<sup>110</sup> which "permits courts to deny women the right to property upon dissolution of a marriage if they have not made monetary contributions to that property."<sup>111</sup> Section 24 of Malawi's Constitution protects the right of women to property,<sup>112</sup> and women are more likely to make non-monetary contributions to property.<sup>113</sup>

## E. MOZAMBIQUE

### 1. Labor and Social Security

Decree No. 85/2009, adopted December 29, 2009, approved the Regulations on Basic Social Security Sub-System, providing financial and social support to unemployed citizens who are unable to meet their basic needs.<sup>114</sup>

### 2. Public Procurement

Decree No. 15/2010, adopted by the Council of Ministers on May 24, 2010, approved the new Regulations for the Procurement of Public Works and the Supply of Goods and Services to the State.<sup>115</sup>

## F. SOUTH AFRICA

On March 9, 2010, the Constitutional Court of South Africa clarified the role of the executive and judiciary branches in the lapse of Anti-Dumping duties in *International Trade Administration Commission v. SCAW South Africa (Pty) Ltd.*<sup>116</sup> The Court held that "decisions regarding the setting or lifting of anti-dumping duties are patently within the domain of the executive,"<sup>117</sup> and "that the initiation of a sunset review or a judicial review does not extend the lifespan of an anti-dumping duty beyond that period."<sup>118</sup>

109. *Malawi Move to Ban Polygamy Angers Muslims*, BBC NEWS, Apr. 30, 2010, <http://news.bbc.co.uk/2/hi/africa/8654326.stm>.

110. *Malawi: Constitutional Court Hears Women's Property Rights Case*, S. AFRICA LITIG. CTR., Dec. 13, 2010, [http://www.southernafricallitigationcentre.org/news/item/Women\\_denied\\_property\\_rights](http://www.southernafricallitigationcentre.org/news/item/Women_denied_property_rights).

111. *Id.*

112. CONSTITUTION OF THE REPUBLIC OF MALAWI, §24(b)(i), available at [http://www.icrc.org/ihl-nat.nsf/162d151af444ded44125673e00508141/4953f2286ef17c2c1257129003696f4/\\$FILE/Constitution%20Malawi%20-%20EN.pdf](http://www.icrc.org/ihl-nat.nsf/162d151af444ded44125673e00508141/4953f2286ef17c2c1257129003696f4/$FILE/Constitution%20Malawi%20-%20EN.pdf).

113. *Review of the Republic of Malawi*, CANADIAN HIV/AIDS LEGAL NETWORK (Apr. 2010), <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1621>.

114. *November 2009 Through January 2010*, MOZAMBIQUE LEGAL NEWS, <http://images.excentric.pt/documentos2/64/20/0002064.pdf> (last visited Jan. 23, 2011).

115. *Mozambique: New Law Enters Into Force- Public Tenders Will be Faster*, ALLAFRICA.COM, Aug. 23, 2010, <http://allafrica.com/stories/201008240293.html>.

116. *See* Press Release, Constitutional Ct. of S. Africa, Media Summary of Int'l Trade Admin. Comm'n v. SCAW South Africa (Mar. 9, 2010), available at <http://www.saflii.org/za/cases/ZACC/2010/6media.pdf>.

117. *Id.*

118. *Id.*

## VI. African Institutions

### A. AFRICAN UNION

Controversy surrounded the 14th Ordinary Session of the African Union Summit in Addis Ababa as Malawi's president, Bingu wa Mutharika, replaced outgoing African Union (AU) Chairman Muammar Gaddafi of Libya.<sup>119</sup> Gaddafi had campaigned to retain his leadership role, a move opposed by a bloc of states from Africa's southern and eastern regions.<sup>120</sup> During his farewell address at the summit, Gaddafi emphatically reiterated his proposal to create a "United States of Africa" that would ostensibly provide a stronger, collective voice for African peoples in world affairs.<sup>121</sup> The prospects for such a project remain slim, as prominent AU members like South Africa, Ethiopia, and Nigeria have continually rejected Gaddafi's plans.<sup>122</sup>

At the 14th Ordinary Session, the heads of state and government passed a resolution condemning unconstitutional changes of government among AU member states and adopted economic sanctions in the event of such power transfers.<sup>123</sup> In February, the AU imposed sanctions and suspended Niger's membership following a military coup that ousted President Mamadou Tandja.<sup>124</sup> The following month, the AU placed sanctions on the government of Madagascar's leader, Andry Rajoelina, after the former opposition leader, who seized power in the spring of 2009, abandoned plans to set up a unity government, and instead appointed a military prime minister at the end of that year.<sup>125</sup> With regard to the International Criminal Court (ICC), the assembly reiterated its view that certain non-African states have abused the principle of universal jurisdiction and urged that all indictments pending before the ICC be halted.<sup>126</sup> Furthermore, the assembly called for an end to international sanctions imposed on Zimbabwe.<sup>127</sup>

The AU summit also provided the backdrop for the twenty-second New Partnership for Africa's Development (NEPAD) Heads of State and Government Implementation Committee, where discussions to incorporate NEPAD into the AU's structural framework resulted in the dissolution of NEPAD and the creation of a new planning and coordination agency in its stead.<sup>128</sup>

119. *Gaddafi Thwarted Over African Union Presidency*, BBC NEWS, Jan. 31, 2010, <http://news.bbc.co.uk/2/hi/africa/8489724.stm>.

120. *Id.*

121. Jason McLure, *After Losing a Post, Qaddafi Rebukes the African Union*, N.Y. TIMES, Jan. 31, 2010, <http://www.nytimes.com/2010/02/01/world/americas/01au.html>.

122. *Id.*

123. Press Release, African Union Comm'n, Addis Ababa: Decisions of the 14th African Union Summit (Feb. 9, 2010), available at <http://www.afrik-news.com/article16912.html>.

124. *African Union Suspends Niger After Military Coup*, BBC NEWS, Feb. 20, 2010, <http://news.bbc.co.uk/2/hi/africa/8525665.stm>.

125. *African Union Acts Against Madagascar's Andry Rajoelina*, BBC NEWS, Mar. 18, 2010, <http://news.bbc.co.uk/2/hi/africa/8574051.stm>.

126. Press Release, African Union, Decisions of the 14th African Union Summit (Feb. 4, 2010), available at <http://www.fasngo.org/assets/files/publicatons/DECISIONS%20OF%20THE%2014TH%20AFRICAN%20UNION%20SUMMIT.pdf>.

127. *Id.*

128. Press Release, African Union Comm'n, Twenty Second Summit of the NEPAD Heads of State and Government Implementation Committee Meets to Finalise Issues of Integration of NEPAD into AU (Jan. 30, 2010), available at <http://www.africa-union.org/root/au/Conferences/2010/January/summit/pr/en/en%20>

In July, the AU instructed its members not to comply with the ICC's arrest warrant against Sudan's president, Omar al-Bashir, who was indicted by the Court on genocide charges.<sup>129</sup> In September, the United Nations (UN) and the AU announced the creation of a joint task force on peace and security, which will meet twice a year and coordinate activities with the AU's Permanent Observer Mission to the UN and the brand-new UN Office to the AU.<sup>130</sup>

#### B. AFRICAN DEVELOPMENT BANK

2010 African Development Bank (AfDB) projects include: the Lake Turkana Solar and Wind Farm Project (Kenya),<sup>131</sup> the Team Sooner Power Project (Ghana),<sup>132</sup> the Motored Oil Refinery (Egypt),<sup>133</sup> a submarine cable link between West Africa and Europe (Ghana, Nigeria, Portugal),<sup>134</sup> participation in the Africa Infrastructure Investment Fund 2,<sup>135</sup> and creation of an African Guarantee Fund in cooperation with the International Finance Corporation and others to provide guarantees to financial institutions which lend to small and medium enterprises throughout the region.<sup>136</sup> The AfDB Board of Governors demonstrated support for the bank's mission by approving a plan to increase its capital base by 200 percent to US\$100 billion in May 2010.<sup>137</sup>

#### C. AFRICAN EXPORT-IMPORT BANK

On May 27, 2010, the Japan Bank for International Cooperation (JBIC) signed a memorandum of understanding (MOU) for cooperative relations with the African Export-Import Bank (Afreximbank). Pursuant to the agreement, the two institutions would collaborate to promote trade between Japan and African countries and projects in Africa involving Japanese firms.<sup>138</sup> On July 19, 2010, the Board of Directors of AfDB Group approved a US\$150million line of credit to Afreximbank to finance trade and trade-related

20%2014th%20SUMMIT%20PR%2020%20NEPAD%20HSGIC%20OPENS%2030%2001%2010%20cor.doc.

129. *Kenyan Ambassadors Summoned Over Omar al-Bashir's visit*, BBC NEWS, Sept. 1, 2010, <http://www.bbc.co.uk/news/world-africa-11156184>.

130. Press Release, U.N., UN and African Union Launch Joint Task Force on Peace and Security (Sept. 25, 2010), available at <http://www.un.org/apps/news/story.asp?NewsID=36192&Cr=African+Union&Cr1=>.

131. John McKenna, *Kenya Solar and Wind Project Approved*, INFRASTRUCTURE J., Mar. 11, 2010, <http://www.ijonline.com/genv2/secured/DisplayArticle.aspx?ArticleID=61280>.

132. Tom Bowker, *Ghana IPP in Sight of Financial Close*, INFRASTRUCTURE J., Aug. 3, 2010, <http://www.ijonline.com/genv2/secured/Search/Default.aspx?s=a>.

133. Josh Posaner, *Egyptian Oil Refinery Nears Financial Close*, INFRASTRUCTURE J., Feb. 16, 2010, <http://www.ijonline.com/genv2/secured/DisplayArticle.aspx?ArticleID=60818>.

134. Josh Posaner, *US\$240m Submarine Cable Link Online*, INFRASTRUCTURE J., June 1, 2010, <http://www.ijonline.com/genv2/secured/DisplayArticle.aspx?ArticleID=62678>.

135. Tom Bowker, *Week in Review: 12 April 2010–16 April 2010*, INFRASTRUCTURE J., Apr. 16, 2010, <http://www.ijonline.com/genv2/secured/DisplayArticle.aspx?ArticleID=61929>.

136. Pietro Calice & Torben Lindqvist, *Rationalise Aid to Increase Efficiency and Meet MDGs*, FIN. TIMES, Sept. 23, 2010, <http://www.ft.com/cms/s/0/1a24d30c-c69e-11df-8a9f-00144feab49a.html>.

137. William Wallis, *African Bank to Triple its Level of Capital*, FIN. TIMES, May 29, 2010, [http://www.ft.com/cms/s/7ea6c8ce-6abb-11df-b282-00144feab49a,dwp\\_uuid=ebe33f66-57aa-11dc-8c65-0000779fd2ac,print=yes.html](http://www.ft.com/cms/s/7ea6c8ce-6abb-11df-b282-00144feab49a,dwp_uuid=ebe33f66-57aa-11dc-8c65-0000779fd2ac,print=yes.html).

138. *JBIC Signs MOU With Afrexim Bank for Cooperation*, JAPAN BANK FOR INT'L COOPERATION, May 28, 2010, <http://www.jbic.go.jp/en/about/press/2010/0528-01/index.html>.

projects.<sup>139</sup> Afreximbank reportedly has an advanced project pipeline of over US\$4.6 billion. It is projected that twenty-six percent of the sub-projects that Afreximbank plans to finance will be in the telecommunication sector, while eight percent and seven percent will be devoted to the energy and transportation sectors, respectively.

#### D. COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA (COMESA)

On January 27, 2010, the COMESA-EAC-SADC Tripartite and the U.K. Government's Department for International Development (DFID), entered into an agreement to deepen and strengthen their cooperation arrangement.<sup>140</sup> On January 29, 2010, COMESA signed an MoU with the Economic Community for West African States (ECOWAS) "to enhance private sector development in the two regions and to advance regional economic integration."<sup>141</sup> In April, COMESA launched the Simplified Trade Regime (STR) between Malawi and Zambia, and in July between Zambia and Zimbabwe in the Victoria Falls. The STR offers to small informal traders similar duty-free privileges that the Free Trade Area (FTA) has provided to regular traders. Under the STR, traders can import or export goods with a value of less than US\$500 free of duty.<sup>142</sup>

#### E. EAST AFRICAN COMMUNITY

##### 1. EAC Common Market

The East African Community (EAC) Common Market Protocol came into effect on July 1, 2010, and its common market was formally launched.<sup>143</sup> The Protocol creates a single market guaranteeing the free movement of goods, services, persons, capital, and workers, and the right of establishment and residence. Initiatives already underway include: One Stop Border Posts to facilitate free movement of goods and people; the operationalization of the EAC Competition Act and consumer policy; the implementation of the East Africa Food Security and Climate Change Policy; the development of capacities for harmonized quality standards; and coordination of economic and financial sector. The Protocol is expected to provide momentum to already existing common market freedoms in services, labor markets, and immigration issues.<sup>144</sup>

139. *AfDB Approves USD 150-Million Line of Credit to Afreximbank*, AFRICAN DEV. BANK, July 23, 2010, <http://www.afdb.org/en/news-events/article/afdb-approves-usd-150-million-line-of-credit-to-afreximbank-7085/>.

140. *Signing of the MoU Between the COMESA-EAC-SADC Tripartite and DFID Portcullis House*. London. E-COMESA NEWSLETTER, ISSUE # 235 (COMESA Secretariat Public Relations Unit), Jan. 29, 2010, at 1, available at [http://about.comesa.int/attachments/080\\_e-comesa\\_newsletter\\_235.pdf](http://about.comesa.int/attachments/080_e-comesa_newsletter_235.pdf).

141. Press Release, Common Market of E. & S. Africa, COMESA signs MoU With ECOWAS to Enhance Private Sector Development (Feb. 8, 2010), available at [http://about.comesa.int/attachments/276\\_Press%20Release%20COMESA%20and%20ECOWAS.pdf](http://about.comesa.int/attachments/276_Press%20Release%20COMESA%20and%20ECOWAS.pdf).

142. *COMESA Launches STR in Zimbabwe and Zambia*, E-COMESA NEWSLETTER, ISSUE # 261 (COMESA Secretariat Public Relations Unit), July 30, 2010, at 6, available at [http://about.comesa.int/attachments/080\\_e-comesa\\_newsletter\\_261.pdf](http://about.comesa.int/attachments/080_e-comesa_newsletter_261.pdf).

143. Protocol on the Common Market of the East African Community, available at [http://www.eac.int/advisory-opinions/doc\\_download/362-eac-common-market-protocol.html](http://www.eac.int/advisory-opinions/doc_download/362-eac-common-market-protocol.html).

144. Statement by the EAC Secretary General Amb. Juma V. Mwapachu on the Occasion of the Commencement of the EAC Common Market (July 1, 2010), available at [http://news.eac.int/index.php?option=com\\_docman&task=doc\\_download&gid=131&Itemid=152](http://news.eac.int/index.php?option=com_docman&task=doc_download&gid=131&Itemid=152).



## 2. Nile Basin Agreement

Four of the five Partner States (except Burundi) have ratified the Nile Cooperative Framework Agreement (NCFA) of the Nile Basin Initiative (NBI), whose signing is open until May 2011.<sup>145</sup> The Agreement provides a new legal framework for the use, development, conservation, and management of the River Nile basin and its resources. It also formalizes the transformation of NBI into a permanent Nile River Basin Commission.<sup>146</sup> The Agreement requires ratification by six states to come into effect. Ratification of the Agreement has increased tensions over the Nile Waters and potential for conflict.<sup>147</sup>

## F. ECONOMIC ORGANISATION OF WEST AFRICAN STATES (ECOWAS)

On November 19, 2010, the ECOWAS Court of Justice ruled that Senegal alone cannot prosecute former Chadian President Hissene Habré for human rights abuses and suggested that a special tribunal or an international court should fulfill the mandate to prosecute Habré.<sup>148</sup> In 2006, the AU mandated that Senegal prosecute Habré for his involvement in as many as 40,000 politically motivated killings during his eight-year presidency in Chad.<sup>149</sup> In 2007, the Senegalese National Assembly revised its penal code lifting the legal obstacles to prosecuting Habré;<sup>150</sup> however, Habré's lawyers brought a case before the ECOWAS Court accusing Senegal of violating his human rights.<sup>151</sup> The AU has urged Senegal to proceed with the trial,<sup>152</sup> and donor countries and institutions have pledged €8.5 million to finance the trial.<sup>153</sup> On November 30, 2010, The Court ordered the Nigerian Government to provide, as a right, free and compulsory education to every Nigerian child in conformity with Article 17 of the African Child's Rights Act, Section 15 of the Child's Rights Act 2003, and Section 2 of the Compulsory Free and Universal Basic Education Act, 2004.<sup>154</sup>

145. Agreement on the Nile River Basin Cooperative Framework, May 14, 2010, available at [http://www.internationalwaterlaw.org/documents/regionaldocs/Nile\\_River\\_Basin\\_Cooperative\\_Framework\\_2010.pdf](http://www.internationalwaterlaw.org/documents/regionaldocs/Nile_River_Basin_Cooperative_Framework_2010.pdf).

146. *Id.*

147. *Emerging Regional Security Threats in the Nile Basin*, INST. FOR SEC. STUDIES, Aug. 13, 2010, available at <http://www.issafrica.org>.

148. Drew Hinshaw, *ECOWAS Court Rules Senegal Must Use Tribunal to Try Habre*, VOICE OF AM. NEWS, Nov. 19, 2010, <http://www.voanews.com/english/news/africa/ECOWAS-Court-Rules-Senegal-Must-Use-Tribunal-to-Try-Hissene-Habre-109241724.html>.

149. *Id.*

150. *Chronology of the Habré Case*, HUMAN RIGHTS WATCH, Feb. 12, 2009, <http://www.hrw.org/fr/news/2009/02/12/chronology-habre-case>.

151. *Id.*

152. Jason McLure, *AU Urges Senegal to Move Ahead With Chad's Habre Trial*, BLOOMBERG, Nov. 25, 2010, <http://www.bloomberg.com/news/2010-11-24/african-union-urges-senegal-to-move-ahead-with-trial-of-chad-s-habre.html>.

153. *Habré Trial Waits on Senegalese Political Will*, RFI, Nov. 25, 2010, <http://www.english.rfi.fr/africa/20101125-habre-trial-waits-senegalese-political-will>.

154. Davidson Iriekpen, *ECOWAS Court: Give Every Child Free Education*, THIS DAY, Nov. 30, 2010, <http://www.thisdayonline.com/>.

## G. INTER-GOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)

On March 15, 2010, IGAD and three other Regional Economic Communities of the Eastern and Southern Africa and Indian Ocean (ESAIO) Region “signed project financing agreements totaling 118 million Euros with the European Union to support diverse regional economic integration and development projects.”<sup>155</sup>

On August 3, 2010, the Executive Secretary of the IGAD issued a statement expressing dismay at the decision of the Pre-trial Chamber of the International Criminal Court (ICC) to issue a second warrant of arrest against the President of Sudan, H.E. Omar Hassan Ahmed Al-Bashir on charges of genocide.<sup>156</sup> IGAD is of the view that the decision of ICC will have negative impact on the progress in Sudan’s democratic transformation and the smooth implementation of the Comprehensive Peace Agreement (CPA) facilitated by IGAD in 2005, increasing the “risk of instability in Sudan, the IGAD region and in the whole continent.”<sup>157</sup>

## H. SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

2010 marked the thirtieth anniversary of the SADC. On March 29, 2010, the SADC signed a Cooperation Framework Agreement with the Government of Brazil.<sup>158</sup> The agreement envisages cooperation in a number of areas including: “infrastructure development with special emphasis on energy, food security, information and communication technology, and science and technology.”<sup>159</sup> In August, the Heads of State and Government of the SADC met in Namibia for the organization’s 30th Jubilee summit.<sup>160</sup> SADC leaders agreed to postpone the launching of the SADC Customs Union, formerly scheduled to come into force in 2010.<sup>161</sup> The Summit also endorsed the Council decision on the establishment of the Regional Poverty Observatory and mandated that the SADC Secretariat convene an Extra Ordinary Summit on Economic Development.<sup>162</sup>

In 2010, the SADC Tribunal focused on substantive employment matters and procedural issues. The Tribunal heard three employment-related cases, ruling in each that the Respondent breached its employment contract with the Applicant.<sup>163</sup> The Tribunal granted a default judgment and a waiver of a filing deadline in two separate cases while

155. *Regional Integration in Eastern and Southern Africa Boosted*, IGAD NEWS, 1 (Mar.-Apr. 2010), [http://www.igad.int/index.php?option=com\\_docman&task=doc\\_details&gid=10&Itemid=144](http://www.igad.int/index.php?option=com_docman&task=doc_details&gid=10&Itemid=144).

156. Executive Secretary, Statement on Chamber of the International Criminal Court, (Aug. 3, 2010), *available at* [http://www.igad.int/index.php?option=com\\_content&view=article&id=234:es-statement-on-chamber-of-the-international-criminal-court&catid=61:statements&Itemid=15](http://www.igad.int/index.php?option=com_content&view=article&id=234:es-statement-on-chamber-of-the-international-criminal-court&catid=61:statements&Itemid=15).

157. *Id.*

158. Press Release, S. African Dev. Cmty., Press Release on the Signing of Agreements in Brazil, (Mar. 29, 2010), *available at* <http://www.sadc.int/index/browse/page/729>.

159. *Id.*

160. *Communiqué of the 30th Jubilee Summit of the SADC Heads of State and Government*, S. African Dev. Cmty., Aug. 17, 2010, <http://www.sadc.int/index/browse/page/782>.

161. *Id.*

162. *Id.*

163. *Kanyama v. S. Afr. Dev. Cmty. Secretariat*, SADC (T) 05/2009 (S. Afr. Dev. Cmty. Trib. 2010), *available at* <http://www.sadc-tribunal.org/docs/case052009.pdf>; *Kethusegile-Juru v. S. Afr. Dev. Cmty. Parl. Forum*, SADC (T) 02/2009 (S. Afr. Dev. Cmty. Trib. 2010), *available at* <http://www.sadc-tribunal.org/docs/case022009J.pdf>; *Mondlane v. S. Afr. Cmty. Secretariat*, SADC (T) 07/2009 (S. Afr. Dev. Cmty. Trib. 2010), *available at* <http://www.sadc-tribunal.org/docs/case072009.pdf>.

declining jurisdiction on a third case.<sup>164</sup> Under Rule 78(2) of its Rules of Procedure, the Tribunal found exceptional circumstances to award costs to the Applicant in each of the employment-related decisions.<sup>165</sup>

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164. *Bach's Transp. (Pty), Ltd. v. Dem. Rep. Congo*, SADC (T) 14/2008 (S. Afr. Dev. Cmty. Trib. 2010), available at <http://www.sadc-tribunal.org/docs/case142008.pdf> (default judgment granted because of Respondent's failure to answer Applicant's petition); *Swissboro Diamond Mines (Pty), Ltd. v. Lesotho*, SADC (T) 04/2009 (S. Afr. Dev. Cmty. Trib. 2010), available at <http://www.sadc-tribunal.org/docs/case042009.pdf> (waiver of filing deadline granted to Respondent because of volume of Applicant's petition); *Tanzania v. Cimexplan (Mauritius), Ltd.*, SADC (T) 01/2009 (S. Afr. Dev. Cmty. Trib. 2010), available at <http://www.sadc-tribunal.org/docs/case012009.pdf> (jurisdiction declined on procedural grounds—failure to exhaust local remedies).

165. S. Afr. Dev. Cmty. R. of P., Part XVI, 78(2), available at <http://www.sadc.int/default/index/browse/page/163#rule78>.

