

*REMARKS BY H.E. JAKAYA MRISHO KIKWETE, FORMER PRESIDENT
OF THE UNITED REPUBLIC OF TANZANIA ON DISSECTING THE LEGAL
AND REGULATORY FRAMEWORK FOR DOING BUSINESS IN AFRICA
7TH AUGUST, 2017*

Your Excellency Nyesomi Ezenwo Wike, Governor of Rivers State;

Mr. Hannibal Uwaifo, President of the African Bar Association;

Members of the Governing Council;

Members of the Executive Council;

Members of the African Bar Association;

Distinguished Participants;

Invited Guests,

Ladies and Gentlemen.

Allow me to begin by thanking H.E. Nyesomi Ezenwo Wike, Governor of Rivers State for the warm reception and gracious hospitality extended to me and my delegation since our arrival in this beautiful and historic city of Port Harcourt. We are enjoying every minute of our stay. I would like, also, to express sincere gratitude to the President of the African Bar Association, the Governing Council and the Executive Council of the Association for the invitation and for according me this rare opportunity to speak to the learned brothers and sisters from across the Africa continent. I commend you Mr President and your team for choosing a very opportune theme indeed: **Dissecting the Legal and Regulatory Framework for Doing Business in Africa**. Augurs well with the spirit and aspiration of “Africa Rising” I feel profoundly honoured and privileged to share my thoughts on this critically important matter for growth and development in our dear continent.

Dear participants,

Africa is amazing and interesting to observe. With a surface area of 30.3 million square kilometres, it is the second largest continent after Asia on this planet. Africa is home to about 1.203 billion people according to 2016 estimates. With a population growth rate of 2.42 per cent per annum, it is

estimated that the population of Africa will be 2.4 billion in 2050. Currently about 200 million people, or 20 per cent of the population, are young people of between 15 and 24 years. It is further estimated that by 2030 this age group will be 320 million strong and close to 1 billion by 2050. Africa, therefore, has a huge workforce and market now and in many years to come.

Distinguished Participants,

Ladies and Gentlemen,

Beside human resource, Africa is extraordinarily rich in minerals, energy resources and agricultural land. Our continent holds about 30 per cent of the world's mineral resources. About half of the world's gold, 40 per cent of platinum and vast deposits of copper, diamonds, iron ore and other minerals are found in Africa. Over and above existing world class reserves, new and large oil and gas fields continue to be discovered in the continent.

Africa holds about 60 per cent of the world's uncultivated arable. Africa, therefore, is the prospective breadbasket of the future for humanity. Fortunately, like in arable land where only 10 per cent is currently being utilized, the bulk of the natural resources in Africa remain unutilized. Indeed, Africa has the resource base to become a formidable economic power house in the world. And, be a continent where its people are wealthy and healthy.

Ladies and Gentlemen,

With such an abundance of resources, it is paradoxical for Africa to be the least developed of the five continents on this planet. It is difficult to comprehend why there are too many people who live below the poverty line and many African nations are in the lower levels of the development ladder. For example, of the 30 low-income countries in the world, 27 are in Africa. This means 90 per cent of the world's poorest nations are in Africa. Africa is home to 17 of the 52 lower middle-income countries and 9 of the 51 upper middle-income countries. There is only one country, Seychelles, in the high-income category in Africa.

These statistics tell a very discomfoting story about our continent. For 50 per cent of the 54 African countries to be among the poorest nations in the world is not the kind of thing we would all like to hear about. This is a telling reminder of the daunting challenge and task ahead to wrestle these African nations and people of Africa out of the poverty trap.

Distinguished Participants,

Ladies and Gentlemen,

The question, which is mind boggling, is that of “*why is Africa in this state of affairs?*” There are a number of plausible explanations to this, but one of them is, that, “the legacy of colonial exploitation and the colonial economic system still lingers on.” During British, French, Portuguese and Spanish colonial rule, African economies were designed and structured to meet the raw material, energy resources and other need of the economies of the colonial powers. Therefore, the goods produced, the division of labour within nations, the education system and the transport infrastructure were all designed to fulfil that objectives.

Today, over five decades after independence, the situation has not changed much. There is little beneficiation and value addition so the bulk of what Africa produces is still being exported raw. African countries have remained predominantly primary producers thus benefitting less. Coupled with recurrent instability in commodity markets and the volatility of commodity prices African economies are disadvantaged and vulnerable.

Ladies and Gentlemen,

Blaming colonialism our fifty years after independence may not look good enough. We too have a share of the blame for not having done enough to transform the colonial economic structures. I am underlining the words “not having done enough” because I know African governments, have been taking measures to transform their economies with varying degrees of success. It has not been easy. The global financial and economic architecture, which has been reinforcing the unfair economic system, has been one of the major stumbling blocks to endeavours. That is the call for new world economic order is well founded.

Distinguished Participants,

Having abundant resources is one thing, being able to use of those resources to improve the quality of life of a people and a nation is another. It takes sound economic and financial policies, attractive investment policies and measures, skilled work force, rule of law and strong institutions of governance to make that happen.

Fortunately, through having improved and more enlightened leadership taking appropriate policy decisions and actions and in collaboration with the World Bank and IMF, since the 1990s things have been changing for the better in Africa. Many countries in Africa have been pursuing sound economic policies. They have been undertaking economic and political reforms which have resulted better macro economic performance, new democratic dispensations and governance paradigms and for many nations and the continent.

Today, Africa is the second fastest growing continent after Asia. Over the last decade or so a number of African countries have been among the top 10 and top 20 fastest growing economies in the world. This commendable progress notwithstanding the majority of these countries are still sitting at the lower levels of the development ladder and in the doing business index.

Distinguished Participants,

Ladies and Gentlemen,

In the *World Report on Doing Business Index 2017* for example, in the top 50 countries, there is only one African country. This is Mauritius which is placed 49th. When one looks at the top 100 countries, including Mauritius Africa has 10 countries only. This means the remaining 44 countries are sharing slots with the remaining 89 countries. My country Tanzania and our host Nigeria are in this group occupying the 132nd and 169th positions respectively. These statistics show that a lot more work has to be done to improve the investment climate in the respective countries on the African continent.

Distinguished Participants,

Ladies and Gentlemen,

Good business environment is the “*sine qua non*” for increased investment and, in turn, for enhanced socio-development of a nation and people. There is no development without investment. Investment will transform Africa’s abundant natural resources into goods and services for use and increase people’s and nations’ incomes and improve the livelihood of the people of Africa. If we can’t attract investments into our economies, the abundant resources will remain unutilized. They will be as good as not being there. They will be like dead capital. They will remain more of a potential waiting to be tapped.

When we look at the trend of investment flows in the world, Africa gets the smallest share. *According to the World Investment Report 2017* FDI flow to Africa was USD 59 billion, USD 443 billion went to Asia while USD 1 trillion for developed countries according. It is important to note that extraction of natural resources (minerals, oil and gas sectors) took a lions share of the little investments coming to Africa. The other sectors get far less. Unfortunately, the disadvantaged sectors have a direct impact of the livelihood as the majority of the people on this continent. This explains why the transformation of Africa is slow and there are still too many people living under conditions of poverty.

Distinguished participants,

In undertaking economic reforms African countries should put in place friendly investment policies and take pertinent measures to improve the business environment. This way they will be able to attract investors both local and foreign to invest in their respective countries. Deliberate efforts must be made to promote local investors. They need assistance because they start from a very weak base. In my view they need assistance in getting access to credit as well as training and mentorship in entrepreneurial skills and other important services. If this is not done our countries will be too much outward looking. In the medium and long term this may become a problem for political and social stability of nations.

Ladies and Gentlemen,

It is heart-warming indeed to note that African countries are proactive in taking action aimed at improving the business environment in their respective countries. According to the *“World Report on Doing Business Index 2017”*, Sub-Saharan Africa alone accounted for 30% of the regulatory reforms making it easier to do business.

In recent years Africa’s legal and regulatory frameworks have gone from being ranked amongst the least business friendly in the world to moderate. Earlier ranking had placed African regulatory frameworks low until recently due to various factors. Among them are excessive business regulations, complicated permit procedures, opaque tax assessment rules, perceived lack impartiality of the court system, lack of transparency in the responsible institutions, complicated business registration and start up procedures.

Distinguished Participants,

At least 37 out of 48 countries in the Africa region adopted 80 reforms in the past year, an increase of 14 per cent from the previous year. Our continent, is also, the second-highest adopter of reforms, behind Europe and Central Asia. Some examples of said reforms include introducing and improving data portals as in Nigeria, Rwanda, and South Africa. There were also notable reforms in trade policy in Niger, for instance, where a mandatory pre-shipment inspection for imported goods was eliminated. Mauritius took measures to protect minority investors and deal with construction permits.

Gabon made paying taxes less costly for companies by reducing the corporate income tax rate. The Republic of Congo made paying taxes easier for companies by reducing corporate income tax rate and by abolishing tax on the rental value of business premises and tax on company-owned cars. Togo made starting a business less costly by reducing the fees to register with the tax authority. The Democratic Republic of Congo made starting a business easier by simplifying registration procedures and reducing the minimum capital requirement.

Dear Participants,

Ladies and Gentlemen,

The World Bank Doing Business Report shows that starting a business takes less than 20 days in half the countries of the world and Africa has joined the march on this front. There is still a long way to go relative to the UK where limited liability companies can be incorporated on-line in a few hours. However, thanks to advancements in information and communication technologies, several African countries have managed to considerably cut down the time it takes to set up companies. Examples include: introducing a standardised memorandum of association; enabling online publication; consolidating name checking, registration fee payment, tax registration, and company registration procedures; and shortening the time required to process completed applications.

I mentioned earlier on that in Africa the regulatory framework has improved from least to moderate. Whereas we welcome this achievement, but this is not good enough. We in Africa should aim at getting to “very good” and “excellent”. We must aspire to be among the best. In the World Bank’s Doing Business Index a country’s performance is evaluated against 11 sets of indicators. These are: starting a business, getting construction permit, getting

electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts, resolving insolvency and labour markets. Of course, a gender dimension has been factored in all the indicators where this is of essence.

Ladies and Gentlemen,

Each indicator is weighted and given points. The total of these points is what determines the position of a country against all the countries evaluated. As alluded to earlier African countries occupy the lowest positions in the doing business rankings. This is not good for African nations. It means Africa will not be viewed favourably by investors. Coupled with reports of conflicts, wars, acts of terrorism and political instability Africa's attractiveness will be severely compromised. Everything should be done within our powers to get African countries to the greater heights in the global doing business index. I believe we can.

Ladies and Gentlemen,

I am of the view that African countries should give serious attention to the Reports on Doing Business. They talk about our countries, they rank our countries and that ranking has an impact on the standing of our countries. Investors read these reports and use them in making investment decisions. Therefore, countries should read these reports attentively, take note of the areas of strengths and areas of weakness raised. Thereafter, design appropriate actions to deal with the weaknesses and consolidate the gains. By doing so the business environment in our respective countries will be enhanced. It will make it easier for countries to attract more investments. As alluded to earlier more investments mean more growth of our economies, more jobs, more incomes for both the government and people. Ultimately better and happier life for the people and the country.

Dear Participants,

Ladies and Gentlemen,

When I was President of our dear country Tanzania, I always read the World Bank Report on Doing Business Index. I also read other reports on the same. After reading them I directed the relevant government departments to take appropriate action on the issues of concern raised. It was through these kinds

of interventions that in 2008 Tanzania was among the top 10 reformers in doing business in Africa.

After the 2014 Doing Business Report was released, I was concerned with the low rating of Tanzania I directed the President's Delivery Bureau to undertake a broad based study of the Business Environment in the country, identify the problem areas and recommend remedial measures.

As it is typical of the working norms of the Bureau relevant stakeholders from the business sector, public sector, academia, civil society, donors and others were convened to do diagnostic study and evaluation of the situation. They identified six key areas for action and gave recommendations on what needed to be done. I directed action to be taken.

We in the government worked on issues regarding bureaucratic redtape, curbing corruption, labour laws and all matters which were under our domain. The Judiciary worked on enhancing its capacity to address issues related to backlog of cases and the duration of handling cases. It is heart warming indeed to see work on improving the business environment in Tanzania continuing with even more vigour under my successor President John Pombe Magufuli.

No wonder, therefore that in the 2017 Report which covers the period from June 2015 to June 2016 Tanzania leaped 7 places from 139th to 132nd. I believe with the new administration's momentum in fighting corruption, improving efficiency and delivery by public officials and continues to invest in physical infrastructure in particular roads, electricity, ports and railways, Tanzania can make giant leaps forward in a few years from now.

Distinguished Participants,

Ladies and Gentlemen,

I have spoken at length, I think its high time for me to conclude lest I abuse the hospitality of being here this morning. Before I conclude let me highlight a few things as a way of summarising:

1. Investment is the food and oxygen that nourishes an economy. With investment the economy flourishes, without investment the economy does not grow. It stagnates and if investment continues to decline the economy may retrogress. Attracting investments, therefore, should be

accorded the top priority it deserves for continued growth of an economy.

2. Investments can be sourced from both local and foreign entrepreneurs. Recognizing the weak position the local investors are in, deliberate measures should be taken to assist them to grow and prosper. In this regard access to credit and mentorship in developing their entrepreneurial skills deserve special attention.
3. Investments are attracted better to places where the business environment is friendly and prospective. Therefore, creating a conducive environment for investment is imperative necessity. Implementing to the letter and spirit the benchmarks of the 11 sets of indicators contained in the Doing Business Index is the best way forward.
4. Over and above that, having peace, political stability, democracy, strong institutions of governance, predictability of government policies and actions, curbing corruption, rule of law and respect human rights are like the icing on the cake which makes a country a perfect investment destination. Nations should always aspire to promote and attain these important details. And,
5. Investment policies and contracts must be designed and structured to benefit equitably both African nations with the resources and the investors who have the capital, technology and skills. Nobody should be disadvantaged or short changed.

Distinguished Participants,

Invited Guests,

Ladies and Gentlemen,

To conclude, allow me once again to thank the organizers for having me here and for associating me with this important conference. Above all I thank you for giving me the opportunity to share my thoughts and experience with the esteemed Members of this prestigious Pan African organisation; the African Bar Association. I apologise that because of not being a lawyer I did not do a diligent job on dissecting the laws and legal framework for doing business. I leave that to you. You are the experts. I wish you successful deliberation.

I thank you for listening!

