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# Africa Law Today

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*A publication of the ABA Section of International Law Africa Committee*

## A Message from the Chair

*Victor S. Mroczka*

### OUR NEW YEAR COMMITMENT!

Happy new year to everyone and welcome to another excellent edition of the ABA's Africa Committee newsletter. While President-elect Obama continues to reveal the agenda of his new administration, we eagerly await his policy decisions related to Africa. In this newsletter, several authors have contributed fascinating articles covering a variety of important issues. First and foremost, we have three articles discussing the situation in Zimbabwe. At the moment the world's eyes are intently focused on Zimbabwe and on what "Uncle Bob" has in store regarding the ongoing political negotiations as well as the ongoing crises that are impacting the country. Both Editor-in-Chief Roland Abeng and Ad Hoc Working Group leader Laura Young offer their thoughts on the ongoing situation and what we can anticipate in the coming year. In order to refresh our memory on the ABA's efforts, we also include, as addendums to this newsletter, the two rule-of-law letters ABA leadership sent to the Zimbabwean authorities last year. Also, our colleagues in Paris took time off to write an excellent article on the OHADA Pan-African court of Arbitration for this newsletter. We can also find a summary from Leigh Middleditch regarding the Commercial Law Training Program, something which all of us could participate in. Then, there is an article from Edna Udobong, former Africa Committee Chair, about Section Chair Aaron Schildhaus' recent visit to Nigeria. In the last article, yours truly tries to dispel the rumors floating around Washington, DC about United States Trade Representative-designate Tom Kirk and how his office will address trade issues related to Africa.

I would be remiss as Chair if I failed to mention all the other exciting initiatives currently being undertaken by the Africa Committee in 2009. Members, supporters, and friends of the Africa Committee should expect, in the near term, separate programs on private equity and Middle East investment in Africa, best practices in the African oil and gas industries (our second program in 12 months on the continent!), as well as an informed discussion comparing democratic and non-democratic transitions on the continent. We, led by vice-chair Ibrahim Bah, have just completed the always top-notch Africa contribution to the ABA's Year in Review and you can look forward to that publication being released this summer (section members automatically received this publication as part of their annual

publication being released this summer (Section members automatically receive this publication as part of their annual membership, so if you're not a member, this is reason alone to sign up now). Our working groups are also actively involved in a number of areas to bring you the latest developments in their respective areas. Whether it be working with local stakeholders in Kenya and Zimbabwe or recently setting up a blog discussing developments in Liberia, you can always find something new and exciting going on in these groups and, if you haven't already, I encourage you to visit our website and see what they have to offer.

As you can see, 2009 has started off as quite a busy year for the Africa Committee and we hope to bring you many new and interesting initiatives throughout this year. However, as always, this can only be done with your initiatives and ideas. Criticism is welcome as well. If there is something we are not doing that you feel needs to be addressed, please let us know. We are here to serve you. So, if you have something in mind that you think would be of interest to the Africa Committee, please do not hesitate to contact someone in the leadership and we'll see what we can do.

Once again, happy new year to everyone and here's to a prosperous 2009 to all those interested in Africa.

## COMMITTEE LEADERSHIP

<b>Chair:</b>	<b>Victor S. Mrocza</b>
<b>Vice Chairs:</b>	<b>Hdeel Abdelhady Roland D. Abeng Robert H. Alsdorf Nene Amegatcher Ibrahim Sajalieu Bah Gretchen C. Bellamy Babatunde Irukera Jacob A. Saah</b>
<b>Newsletter Editors:</b>	<b>Roland Abeng Gretchen C. Bellamy Sherell Daniels</b>
<b>Article Contributors:</b>	<b>Laura Young Otto Saki Roselyn Hanzi Roland Abeng Marie-Christine Cimadevilla Amadou Dieng Leigh Middleditch Edna Udobong Victor S. Mrocza</b>

### Solicitation of Contribution

Contributions to this newsletter by committee members are always welcome. In fact, we are officially requesting at least one article from all members (we are ambitious aren't we?!). Please send your articles or other news to:  
[roland@theabenglawfirm.com](mailto:roland@theabenglawfirm.com)

Thank you in advance!

**POLITICAL**

## Trade Policy Toward Africa: What Will the Obama Administration Bring to the Table?

*Victor S. Mroczka*

When President-elect Obama takes office as the 44<sup>th</sup> President of the United States, he will face enormous problems and challenges. There was much speculation in the legal, trade, and general media that when Rep. Xavier Becerra turned down (and former mayor Tom Kirk accepted) the nomination to become President-elect Obama's United States Trade Representative, that trade would not be a priority issue for the incoming administration. The popular thinking is that working with a possibly protectionist Congress and the challenges of addressing the current economic crisis, there would be no room for trade in the near future. If I may be so bold, to view this as an either-or situation (i.e., economy or trade), is too simplistic in this day and age.

While it is true that the challenges presented by the economic crisis will consume much of the early energy of the Obama Administration, this does not mean that trade, particularly Africa trade, will be left unaddressed. First of all, trade is one of the ways in which the Obama Administration will proceed in addressing the economic crisis. Put simply, without trade, the situation facing the United States and the rest of the world will be worse off. To neglect trade issues would be irresponsible for anyone trying to stimulate an economy and create jobs and the Obama Administration is certainly not going to forego opportunities that benefit the United States economy and its stakeholders.

However, in terms of new initiatives, African stakeholders will have to wait until the Obama Administration has its Africa-specific officials in place before consideration of anything new. This will most likely not occur until late 2009 at the earliest. In the meantime, there already exist mechanisms by which the Obama Administration could enhance its relationship with various African stakeholders. For example, bilateral forums such as the Trade, Investment and Development Cooperation Agreement (TIDCA) signed in July 2008 could be used to continue to build the U.S.-Southern Africa Customs Union (SACU) trade relationship. Regional forums, such as the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), and the Southern African Development Community (SADC), can continue to be utilized as effective communication forums to address multilateral African trade issues. For country-specific and rapid-response trade issues, the United States can utilize its proprietary communications channels in the form of diplomatic exchanges and the USAID trade hubs throughout Africa. Given the popularity of President-elect Obama in the region, the United States has some rare built-up goodwill in the region from the start and this should not be squandered.

Therefore, the future of African trade does not look as bleak as many would have us believe. Working hand-in-hand with African stakeholders, whether through existing or new initiatives, will definitely be pursued by both sides as part of striding efforts to not only widen, but deepen the U.S. – Africa trade paradigm.

## OTHER NEWS AND USEFUL INFORMATION

### SPRING 2009 MEETING UPDATE

April 14 –April 18, 2009

The Committee is sponsoring two programs addressing the following topics:

- Developments in Oil & Gas in Africa (Jacob Saah)
- Human Rights Situation in Zimbabwe (Laura Young)

### Other Projects

- Outreach efforts to work with local human rights groups and law societies in Kenya and Zimbabwe in response to crises in each country
- Advice and consideration of the adoption of the Western Sahara report by the Committee

### Committee Leadership Update

The Chair and Steering Committee of the ABA-SIL Africa Committee heartily welcome Babatunde Irukera of the Simmonscooper Partners Law Firm in Lagos, Nigeria as a new Vice Chair. Before his appointment, Babatunde had been an active member of the Nigeria Working Group and of the Africa Committee. Congratulations Tunde!

### Join the Africa Committee:

[https://www.abanet.org/ome/front/form/ome\\_main.cfm?JoinType=m&sc=RMM8ILEF](https://www.abanet.org/ome/front/form/ome_main.cfm?JoinType=m&sc=RMM8ILEF)

Committee Website: <http://www.abanet.org/dch/committee.cfm?com=IC805000>

Conference Calls: dial-in information is provided a few days prior to the conference call

February 2009 Call: Feb. 18 at 1pm

March 2009 Call: Mar. 18 at 1pm

### Useful links

Ghana Working Group: <http://www.abanet.org/dch/committee.cfm?com=IC550555>

Liberia Working Group: <http://www.abanet.org/dch/committee.cfm?com=IC550553>

Sierra Leone Working Group: <http://www.abanet.org/dch/committee.cfm?com=IC550554>

The Liberia Working Group also works with the International Legal Resource Center in implementing its projects. If you have particular subject matter expertise, you can become a member of the ILRC database by registering at [www.abanet.org/intlaw/intlproj/ilrc](http://www.abanet.org/intlaw/intlproj/ilrc)