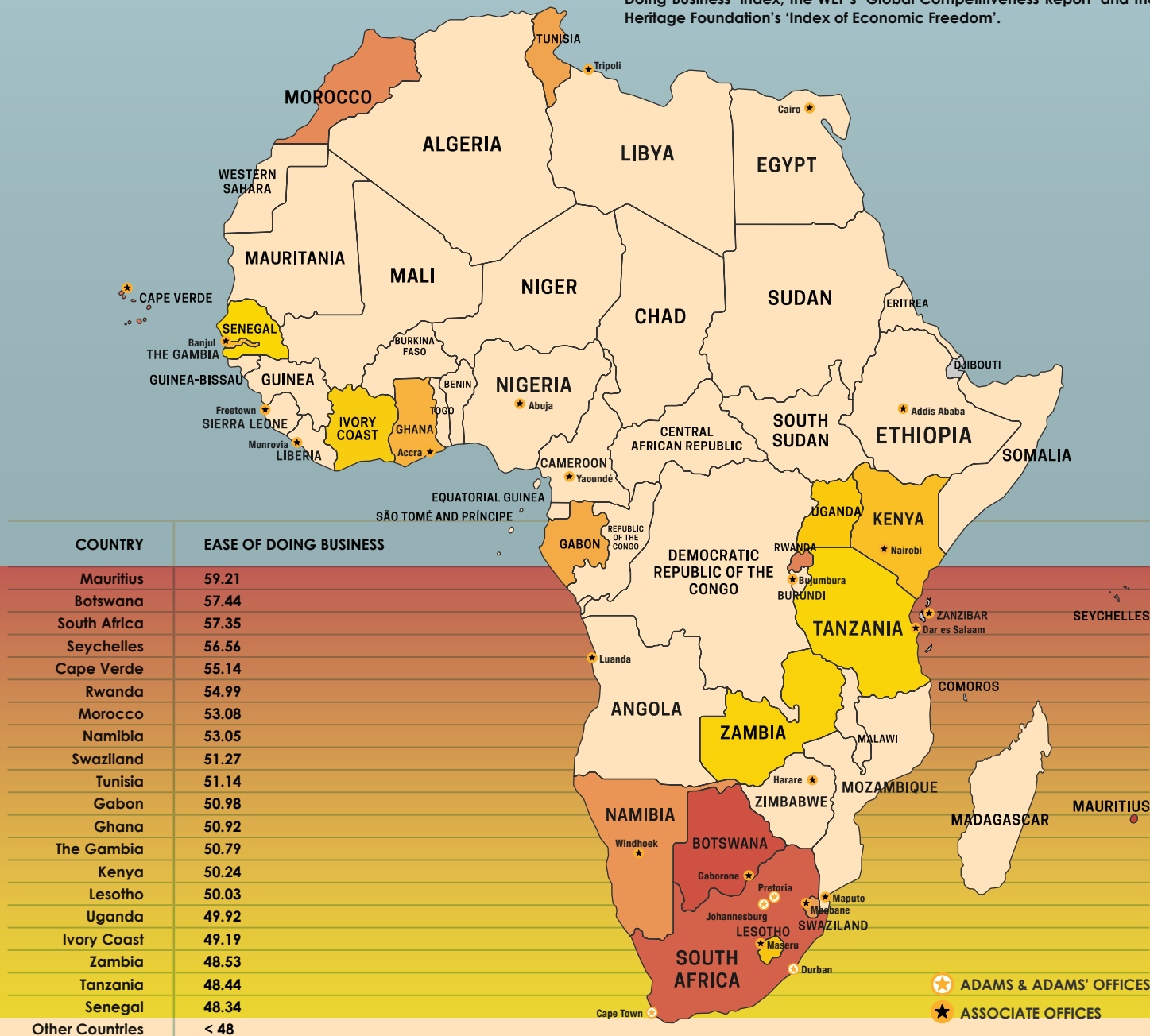


# ADAMS & ADAMS

# YOUR AFRICAN

## LAW FIRM OF CHOICE

This heatmap presents the results of the top 20 best-performing countries in Africa – reflecting data from indices such as the World Bank's 'Ease of Doing Business' index, the WEF's 'Global Competitiveness Report' and the Heritage Foundation's 'Index of Economic Freedom'.



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# EASE OF DOING BUSINESS IN AFRICA

**Adams & Adams** is an internationally recognised and leading African law firm, specialising in intellectual property, corporate and commercial services. We are consistently acknowledged and tier-1 ranked by the leading global industry bodies and peer-review indices that recognise excellence in global legal practice. Central to our growth and success, is the close relationship we continue to foster and enjoy with our local partners and Associate Offices throughout the African continent, in combination with vital engagement with local Registries. Each year our professionals travel widely, focusing our efforts on jurisdictions where protecting our clients' interests has been paramount. Through our Associate Offices and long established networks, we serve our global client base throughout the African continent – in matters of intellectual property, commercial law, property and litigation.

## REFERENCE GUIDE 2019

	Is a business licence required?	Must there be local shareholders?	Must there be local directors?	Can a branch or external company be used?	Must a tax officer be appointed?	Is there an exchange control regime?	Is a work visa required for business?	Data protection law	Consumer protection law	Competition or anti-trust law
<b>ANGOLA</b>	No	No except in certain sectors	No	Yes	No	Yes	Yes	Yes	Yes	No
<b>BOTSWANA</b>	Yes	No	Yes	Yes	Yes	No	Yes	Pending bill	Yes	Yes
<b>CAMEROON</b>	Yes subject to intended business activities	No except in certain sectors	Yes	Yes but only for a limited period	No	Yes	Yes	No	No	Yes
<b>DJIBOUTI</b>	Yes	No	No	Yes	No	No	Yes	No	Yes	No
<b>EGYPT</b>	Yes in certain industries	No except for joint stock and limited liability companies	No	Yes but only for certain purposes	No	No	Yes	No	Yes	Yes
<b>GHANA</b>	No	No	Yes	Yes	No	Yes	Yes	Yes	Pending bill	No except for industry-specific regulations
<b>IVORY COAST</b>	No	No	No	Yes but only for a limited period	No	Yes	Yes	Yes	Yes	No
<b>KENYA</b>	No except in certain sectors	No	No	Yes	No	No	Yes	Pending bill	Yes	Yes
<b>MADAGASCAR</b>	No	No	No	Yes	No	No	Yes	Yes	No	Yes
<b>MALAWI</b>	Yes	No	Yes	Yes	No	Yes	Yes	No	Yes	Yes
<b>MAURITIUS</b>	Yes	No	Yes but for GBC-1 and limited liability companies	Yes	No	No	Yes	Yes	Yes	Yes
<b>MOROCCO</b>	Yes	No	No	Yes	No	Yes	Yes	Yes	Yes	Yes
<b>MOZAMBIQUE</b>	No	No	No	Yes	No	Yes	No	No	Yes	No
<b>NAMIBIA</b>	Yes	No	No	Yes	Yes	Yes	Yes	No	No	Yes
<b>NIGERIA</b>	Yes	No except in certain sectors	No	Yes	No	Yes	Yes	No	Yes	Pending bill
<b>SENEGAL</b>	No	No	No	Yes but only for a limited period	No	No	Yes	Yes	No	Yes
<b>SOUTH AFRICA</b>	No	No	No	Yes	Yes	Yes	Yes	Effective date is pending	Yes	Yes
<b>TANZANIA</b>	Yes	No except for public companies	No except for public companies	Yes	No	No	Yes	Pending bill	Yes	Yes
<b>TUNISIA</b>	No but authorisation is required	No except for public companies	Yes except for limited liability companies	Yes	No	Yes	Yes	Yes	Yes	Yes
<b>UGANDA</b>	Yes	No	No	Yes	No	Yes	Yes	Pending bill	No	No
<b>ZAMBIA</b>	Yes	No	Yes	Yes	No	Yes	Yes	Pending bill	Yes	Yes
<b>ZANZIBAR</b>	Yes	No except for public companies	No except for public companies	Yes	No	No	Yes	No	Yes	Yes
<b>ZIMBABWE</b>	Yes	No	No except for a private company	Yes	No	Yes	Yes	Pending bill	Pending bill	Yes

# PROTECTION AND ENFORCEABILITY IN AFRICA

## PATENTS

It is possible to obtain patent and design protection in most countries on the African continent. Many jurisdictions have made significant changes and improvements to their IP laws, in complying with their obligations in terms of international treaties to which they are signatories.

There are only a few countries in Africa in which the IP systems are not operational or where there are no laws regulating IP matters. These include Eritrea, Somalia and South Sudan. Aside from these, it is possible to obtain protection for patents and designs in all other countries on the continent.

There are two regional IP organisations in Africa, namely African Regional Intellectual Property Organization (ARIPO) and the African Intellectual Property Organization, better known as OAPI.

ARIPO has a total of 19 member states. All member states, with the exception of Somalia, have acceded to the Harare Protocol, which enables the filing of patent and design applications through ARIPO. Applications are filed by way of a single application at the ARIPO head office in Harare, Zimbabwe, enabling patent or design protection in multiple jurisdictions with a single application.

It is possible to file an application for patent or design protection in these countries either through ARIPO or by way of a national application in one or more member states. Where protection in multiple member states is required, it is more cost-effective to file an ARIPO application. Many IP offices do not have the ability to process applications in an efficient manner, making ARIPO a very attractive option for those wanting to obtain patent or design protection in these countries.

OAPI has a total 17 member states. Unlike, the ARIPO system, the countries which are members of OAPI no longer have any national IP laws. Accordingly, those wanting to obtain patent or design protection in any OAPI member state must file an OAPI application. Applications are filed at the OAPI head office in Yaounde, Cameroon and applications automatically cover all member countries.

South Africa, being one of the most developed countries on the continent and which plays home to several international and regional manufacturing facilities, attracts the highest volume of patent and design filings on the continent. It is also home to the majority of patent and design litigation in Africa. Other jurisdictions, such as Nigeria, Kenya, Tanzania, Egypt and Ethiopia are seeing an increased interest in IP protection in their jurisdictions.

## TRADE MARKS

The practice of Adams & Adams includes a full-service Trade Marks Department with services throughout Africa, dealing with all matters relating to the prosecution and maintenance of trade marks; franchising; litigation relating to domains, trade marks, counterfeit goods, passing-off, infringements, unlawful competition, copyright, advertising law and related aspects of corporate law; and trade mark opposition and cancellation proceedings before the Registry.

As a part of trade mark portfolio management, we offer trade mark watching services, conduct trade marks valuations, and perform due diligences services.

We have a right of appearance before the Registrars in South Africa and surrounding territories and also have associate offices in Angola, Botswana, Burundi, Cameroon (OAPI), Cape Verde, Egypt, Ethiopia, Ghana, Kenya, Lesotho, Liberia, Libya, Mozambique (ARIPO), Namibia, Nigeria, Sierra Leone, Sao Tome & Principe, Tanzania (including Zanzibar), The Gambia and Zimbabwe. We also provide services in the rest of Africa through a relationship with a trusted network of agents.

By using an international portfolio management system, we are well positioned to perform trade mark prosecution, maintenance and enforcement services in territories that are part of regional agreements in Africa, namely OAPI and ARIPO.

In our experience, the OAPI filing system is functioning well. The 17 member states renounced their domestic laws, replacing national filings with a regional system that extends trade mark protection to all states through a central filing system.

Only 10 ARIPO member states have acceded to the Banjul Protocol. Only 5 of the 10 member states have incorporated the provisions of the Banjul Protocol into their national laws to recognise ARIPO trade mark applications. There is, as such, doubt regarding the validity of an ARIPO trade mark in most of the members countries and our advice would be to file national applications instead.

We are well equipped to assist our clients with international registration in terms of the Madrid system in Africa. Although the Madrid system functions very well in most countries outside of Africa, the reliance on the Madrid-system in most African countries carries with it a degree of commercial risk. We advise our clients on the best ways of using the Madrid system in Africa.

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