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## SPOTLIGHT ON EAST AFRICA BUSINESS OPPORTUNITIES IN THE REGION AND RISK MITIGATION

PRESENTER: NJERI WAGACHA

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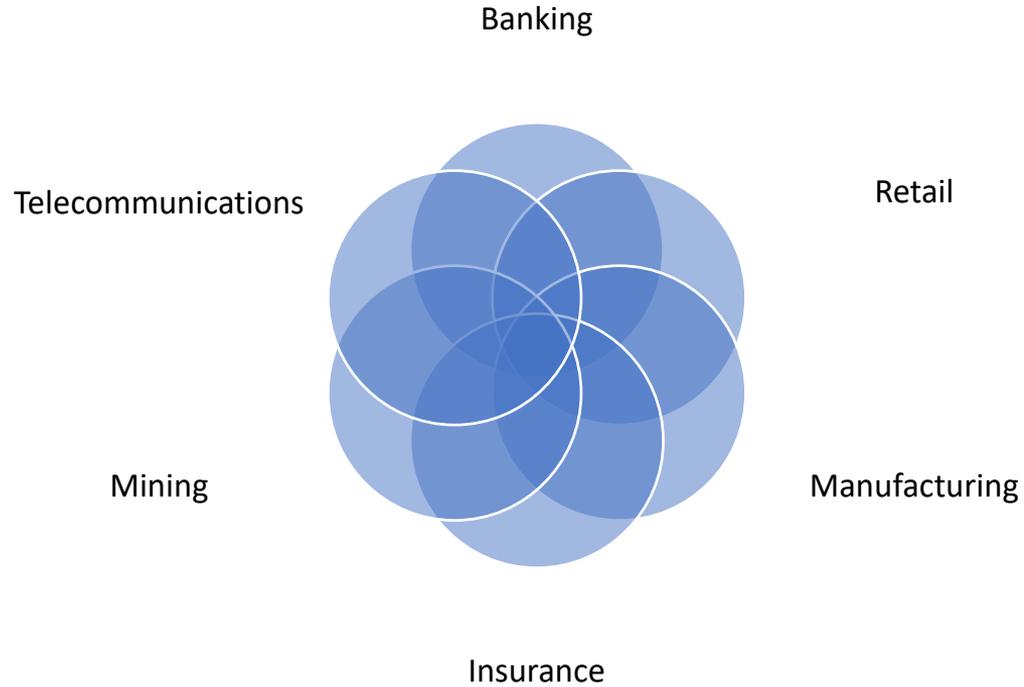
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# DEALS IN EAST AFRICA



SPOTLIGHT ON  
EAST AFRICA



# OPPORTUNITIES IN EAST AFRICA

FINTECH

Energy &  
Petroleum

Blue  
Economy

# RISKS FACED BY INVESTORS

Failure to carry out due diligence

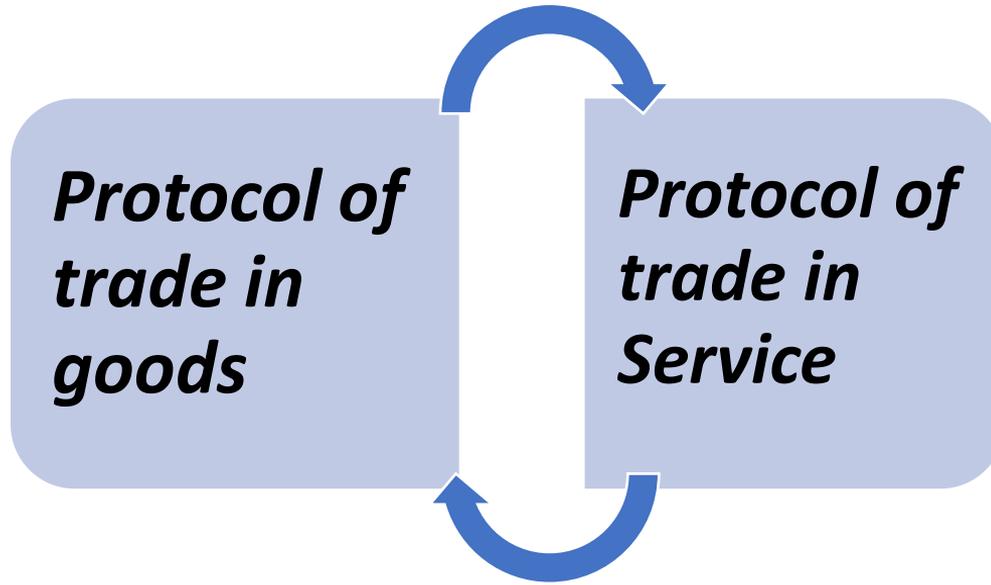
Understanding the Political and legal landscape



Spotlight on East Africa



# AFRICA CONTINENTAL FREE TRADE AREA AGREEMENT





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## SPOTLIGHT ON EAST AFRICA

BUSINESS OPPORTUNITIES IN THE  
EAST AFRICA REGION AND RISK  
MITIGATION

THE OIL AND GAS OUTLOOK

PRESENTER: MEGAN RODGERS

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## GLOBAL OVERVIEW

- A drop in global demand as the world came to grips with the COVID-19 pandemic **coupled** with an OPEC price war caused oil prices to plummet toward the end of the first quarter of 2020.
- By March 2020, Brent prices had fallen by 30% hovering between US\$26-US\$29 per barrel sending shock waves through already spooked financial markets. By April 2020 West Texas Intermediate WTI price oil futures turned negative for the first time in history. Producers paying traders to take oil as there was no place to put it.
- The impact of Covid on oil and gas demand and supply were reversed fairly rapidly:
  - By the end of May 2020 crude oil demand in China (the world's largest importer and also first country into the pandemic and the first one out) rebound to pre-Covid levels in world record breaking fashion - 35.2 million barrels in one haul.
  - Global demand for oil grew in the third and fourth quarter of 2020, as countries come out of lockdowns and international shipping and transportation increased the price rebound. Currently, Brent hovers around \$70/barrel, WTI \$69/barrel Gas on Henry Hub \$3.10/MMBtu.

### US oil prices turn negative



Source: Bloomberg, 20 April 2020, 20:16 GMT



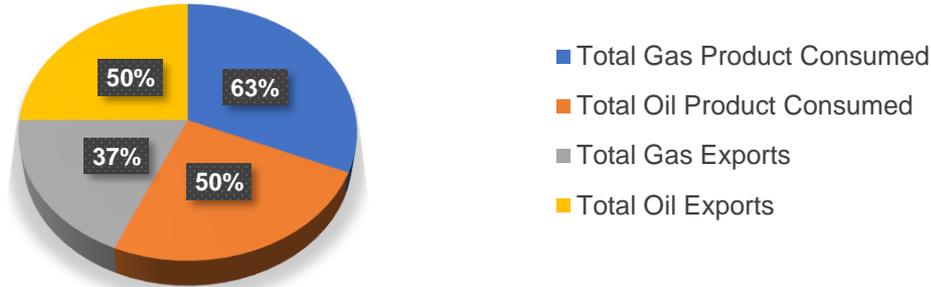
## WHAT DOES DECARBONIZATION MEAN FOR OIL AND GAS BUSINESSES

- The significance of the year 2020 in relation to the decarbonization drive:
  - Covid lockdowns resulted in a 17 percent **temporary drop** in CO<sub>2</sub> emissions fueling the decarbonization drive.
  - Paris Agreement - countries to submit their plans to reduce their Greenhouse Gas emissions to reach 2050 targets.
- Many oil and gas companies announced net-zero carbon emissions targets, transitions to net-zero business or portfolio diversification.
- **Key Renewable Strategies:**
  - Creating or increasing renewable capacity traditional sense of solar and wind with short, medium, and long-term goals.
  - Reducing emissions from current operations.
- Cash flow drives diversification into renewables and other areas. Allowing oil and gas business to evolve into broader energy companies by providing different forms of energy to their customer groups whether oil and gas or renewables.



## WHAT DOES AfCFTA MEAN FOR OUR DOMESTIC OIL AND GAS INDUSTRY

- Africa's proven gas reserves for the period 2020 is 527 tcf (trillion cubic feet) and proven oil reserves 125.7 billion barrels.



- Limited refining capacity - Africa imports circa 48% of finished product.
- Resource rich continent, the continent suffers from a huge energy deficit. Rolling blackouts remains the “tell tale sign” that utilization of indigenous oil and gas resource to improve the domestic market has not occurred.
- What promises do the African Continental Free Trade Area (AfCFTA) hold for better utilization of indigenous oil and gas resources.....



# WHAT DOES AfCFTA MEAN FOR OUR DOMESTIC OIL AND GAS INDUSTRY

## Facilitates Foreign Investment



- ✓ AfCFTA changes investors' value proposition by providing access to a larger market with reduced risk.
- ✓ Expansion of the regional market by providing a single market with reduced cross-border barriers means that investors model and monetise high capex projects on a regional scale rather than a national scale.

## Domesticates resource utilisation to improve the deficit



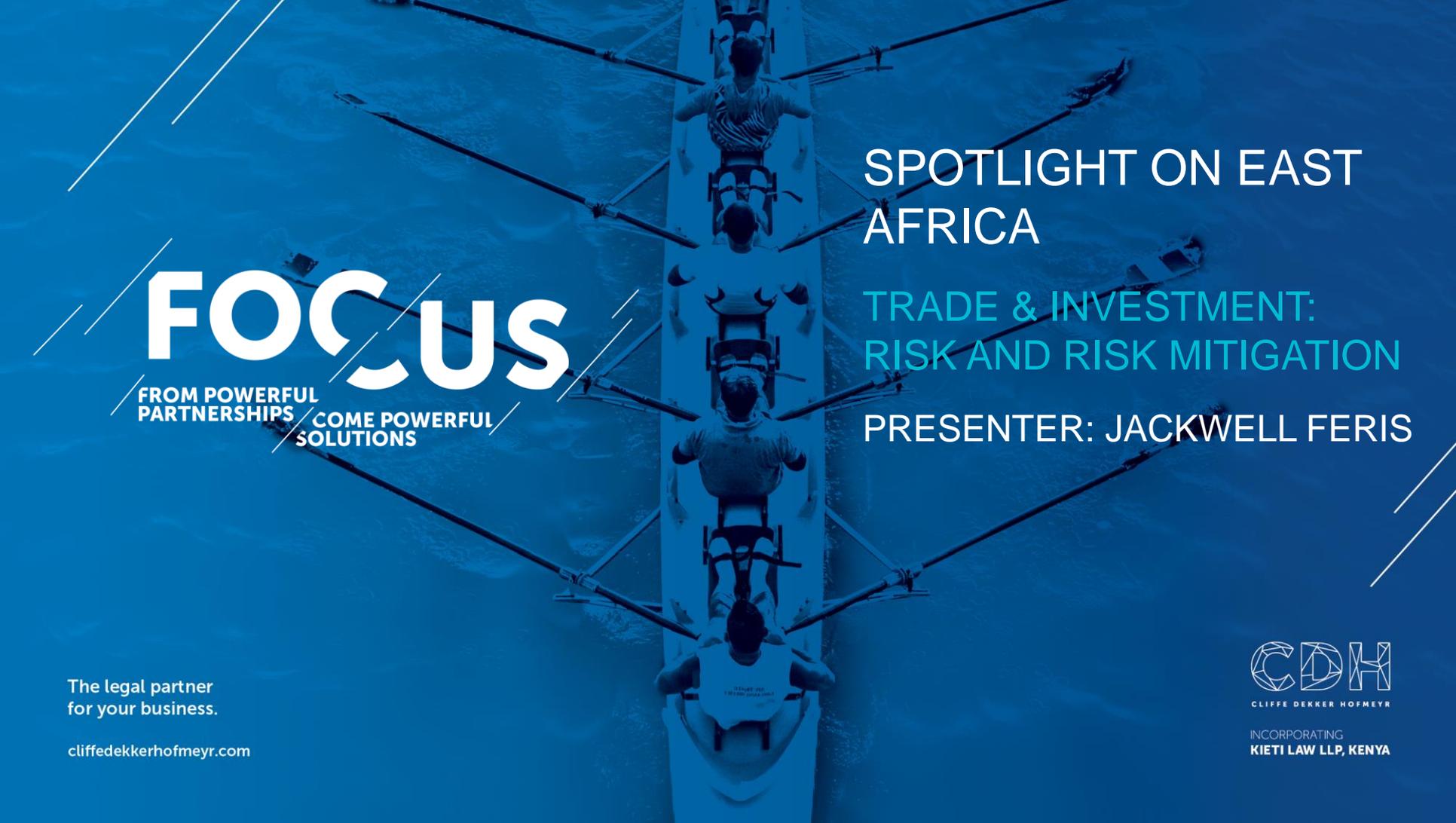
- ✓ Domesticating the use of oil and gas resources by promoting a dynamic intra-African trade market promotes bankability of critical infrastructure such as refineries, GTL plants etc, and in doing so reduces dependency on imported supply of finished product.
- ✓ Using AfCFTA to pivot away from extractive exports will help to secure more sustainable and inclusive trade that is less dependent on the fluctuations of commodity prices.
- ✓ With the AfCFTA, African oil and gas producing countries could have the capacity to have a better hold on the sector and more favourable trading terms intra-regionally.

## Socio Economic Benefits



- ✓ Regional Trade to attain such regional value added and socio-economic development, governments need to have a strong commitment to tackle inconsistent economic policies, infrastructural deficiencies.





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SPOTLIGHT ON EAST  
AFRICA

TRADE & INVESTMENT:  
RISK AND RISK MITIGATION

PRESENTER: JACKWELL FERIS

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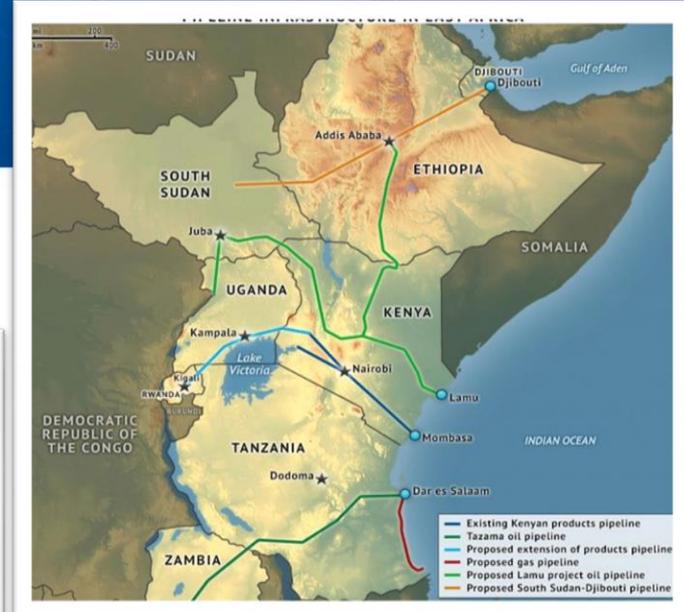
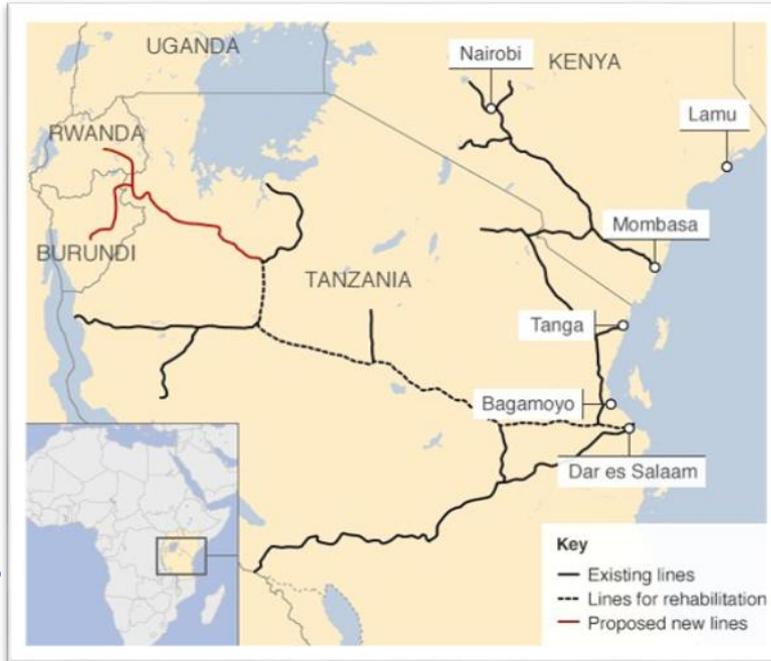
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# TRADE ROUTES EAST AFRICA: THE LINK TO THE OPPORTUNITIES

- ❑ Roads
- ❑ Railways
- ❑ Ports
- ❑ Crude Pipelines
- ❑ Aviation
- ❑ Inland waterways



## MAJOR RISK

- ❑ Covid19
- ❑ Political
- ❑ Corruption
- ❑ Climate Change
- ❑ Terrorism/piracy
- ❑ Civil Unrest



## Typical Country Risk or Political Risk

- Resources Nationalism and/or Expropriation;
- Denial, withdrawal, or non-renewal of licenses or concessions;
- Increasing the operating conditions (environmental regulations, bans and moratoriums);
- Beneficiation requirement of minerals (value-adding industries)
- National participation requirements (i.e. ownership requirements by the state or nationals of that state);
- Increases of tax or royalties;
- Forced renegotiation of investment agreements;



## Risk Mitigation

- Country & Sector Due Diligence
- Investment structuring:
  - Multilateral Treaties:
    - AfCFTA: Investment Protocol
    - East Africa Community/Common Market for Eastern and Southern Africa (COMESA): Investment Agreement
  - Bilateral Investment Treaties (Kenya: Burundi) (Uganda: Eritrea)
  - Investment Laws (Rwanda – 2021)
- Investment Agreement:
  - Stabilisation Provisions/Adaption Provisions:
  - Government Codes
- Political Risk Insurance
- International Arbitration or other ISDS methods
  - BITs (ICSID)
  - Investment Agreements (ICSID)

## Spotlight on Rwanda: Investment Structuring

- The World Bank's Doing Business 2019 survey ranks Rwanda 29th out of 190 economies surveyed.
- FDI attractiveness allowing it to secure about 4.5% of net FDI inflows per year.
- The country is among the easiest places to register a property (2nd) or to get a credit (3<sup>rd</sup>)
- The country is perceived to have low political risk
- New Investment Code, 2021
- A member of ICSID since 1979
- A member of the New York Convention 2008



**Trade Risk:** Rwanda still faces bottlenecks in order to become a real manufacturing hub, particularly the trading across borders item (88th)



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SPOTLIGHT ON EAST  
AFRICA  
COMMERCIAL DISPUTE  
RESOLUTION

PRESENTER:  
DESMOND ODHIAMBO

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# OBJECTIVES



Methods of commercial  
dispute resolution



Practical tips



Overview of Commercial  
Arbitration in East Africa

## Methods of commercial dispute resolution

- **National courts**

- Litigation
- Challenges

- **Mediation**

- ADR
  - Court annexed mediation – Kenya, Uganda, Rwanda, & Tanzania
  - Mediation agreement
  - Ad hoc mediation
- Preserves commercial relationships

- **Arbitration**

- ADR – International commercial transactions
- Speed, flexibility, choice of governing law

## Commercial Arbitration – Overview

- Nairobi, Kenya
  - As a seat of arbitration
  - Legislative support for arbitration?
    - UNCITRAL Model Law
  - Judiciary's attitude to arbitration agreements;
  - Judiciary's attitude to the enforcement of foreign arbitral awards?
    - Acceded to the New York Convention
  - Institutions:
    - Nairobi Centre for International Arbitration

## Commercial Arbitration - Overview

- Kigali, Rwanda
  - As a seat of arbitration
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    - Acceded to the New York Convention
  - Arbitral Institutions:
    - Kigali Centre for International Arbitration

## Commercial Arbitration – Overview

- Harmonization of legislation: arbitration laws
  - Tanzania
    - ✓ New Arbitration Act 2020
    - ✓ Tanzania Center for Arbitration
    - ✓ Do parties have a choice on governing law?
  - Ethiopia
    - ✓ Adopted New York Convention

## Practical tips



Arbitration & Mediation clauses



Institutional Arbitration/Mediation



Choice of governing law/seat of arbitration

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