

AFRICA RISK CONSULTING

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Kenya Summary 20 September 2019

The National Assembly's Committee on Finance and National Planning blocks the National Treasury's move to scrap a 4% cap on commercial lending rates above the benchmark central bank rate. Kenya-based Equity Bank announces it has entered into a holding agreement to acquire a controlling stake in the second-largest lender in the Democratic Republic of the Congo (DRC), Banque Commerciale du Congo (BCDC). The Hague-based International Court of Justice (ICJ) grants Kenya's request to postpone a hearing in the case concerning Maritime Delimitation in the Indian Ocean (Somalia v. Kenya) to allow for Kenya to recruit a new defence team. Energy minister principal secretary Joseph Njoroge says that the power grids of east and southern Africa will be interconnected in two to three years after completion of various high voltage lines, paving the way for regional trade.

Commercial lending cap to stay

The **National Assembly's Committee on Finance and National Planning** on 18 September blocked the **National Treasury's** move to scrap a 4% cap on commercial lending rates above the benchmark central bank rate.¹ Parliament will schedule a vote on the committee's recommendation to keep the law restricting what commercial banks can charge for loans, the date of which is yet to be determined. The bill, which President **Uhuru Kenyatta** (2013-present) introduced in October 2016, will then go back to Kenyatta for assent. Businesses, particularly small- and medium-sized ones, contest the finance committee's decision to keep the interest rate cap, which has slowed private-sector credit growth and caused lenders to consolidate their assets.

The parliamentary finance committee maintained the cap in its report on the 2019/20 (July-June) fiscal year, which it presented to parliament on 18 September, but asked that the law be rewritten to make clear that the cap applies to annual interest rates on all commercial loans. The committee said the "*banking industry continued to be profitable.*"² The report will be debated and voted on by parliament. Member of Parliament (MP) for **Seme, James Nyikal**, said "*we are going to remove any ambiguities and still have the cap.*" **Stanbic Bank** regional economist for **East Africa Jibrán Qureishi** said,

*"They were always going to reject it, but it's unclear whether the president will assent to it in this current form or send it back with changes."*³

The finance committee upheld the cap despite opposition from **Central Bank of Kenya (CBK)** governor **Patrick Njoroge** and the **High Court** annulling it. The finance ministry sought to repeal the rate cap in its budget proposals to parliament in June, arguing that it has constricted private-sector credit growth as banks shunned lending to customers deemed risky, including small and medium-sized businesses. The CBK said the cap probably reduced economic growth in 2017 by 0.4%. Njoroge on 18 September described the cap as a "*temporary deviation*" and that it was "*only a matter of time*" before it is removed. Njoroge has said the law affects the central bank's ability to formulate monetary policy and for markets to determine rates.

¹ The Star, 18 Sep 2019

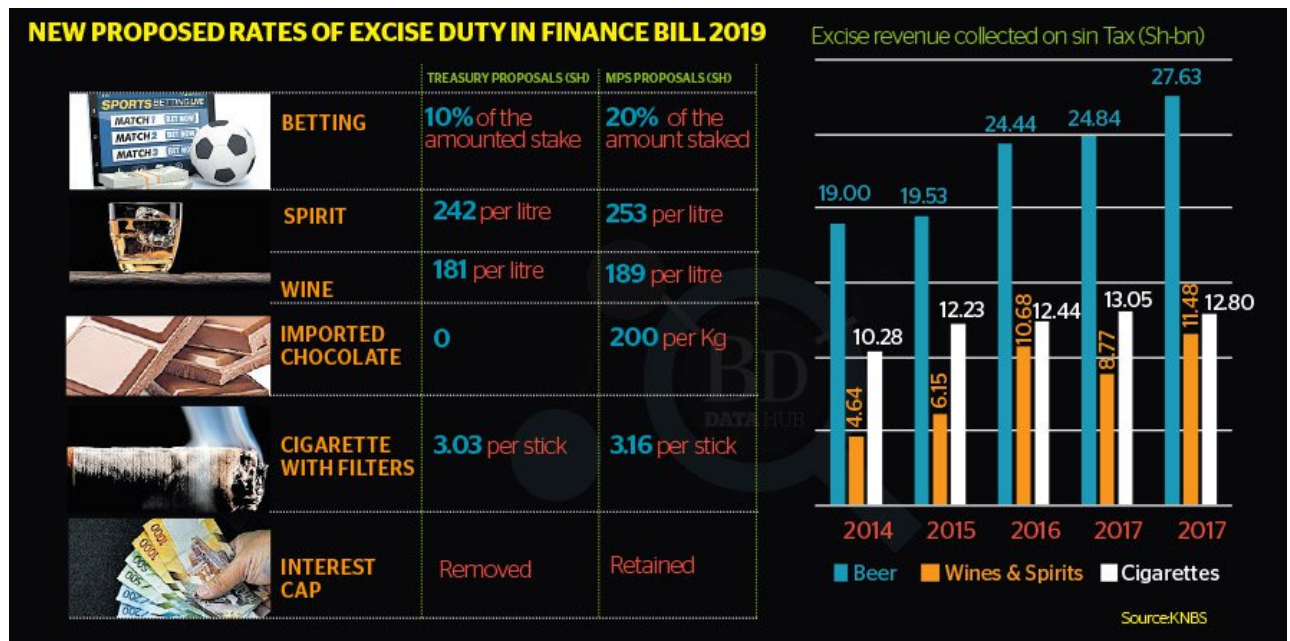
² Bloomberg, 18 Sep 2019

³ Reuters, 18 Sep 2019

The National Treasury capped commercial interest rates in 2016 at 4% above the benchmark central bank rate, saying it was concerned about high loan costs. Lawmakers approved the law in September 2016 to fulfill a campaign pledge by President Kenyatta to improve lending terms for borrowers, against the advice of the central bank and the treasury (see *ARC Briefing Kenya October 2016*). Instead, private-sector credit growth slowed as banks preferred lending to the government. The High Court ruled in March that the section of the law that caps rates was unconstitutional and gave parliament until March 2020 to re-examine the law, which the treasury was seeking to repeal through the **Finance Bill**.

Lenders have turned to consolidation to boost profit growth after government capping of commercial interest rates in 2016 crimped their margins. The CBK on 2 September approved **KCB Group's** takeover of the **National Bank of Kenya (NBK)**.⁴ KCB is Kenya's biggest lender by assets. NBK was founded by the government in 1968 but is now listed on the **Nairobi Stock Exchange**. KCB offered to buy struggling NBK in April through a share swap of one KCB share for every 10 shares of NBK. The central bank and the Treasury, together with the state pension fund, hold more than 70% of NBK.

The finance committee on 18 September also announced a raft of new tax measures intended to finance Kenya's 3.1 trillion Kenyan shillings (KSh) (\$29.89 billion) budget. The proposed bill will increase excise duty charged on cigarettes by 26.4%, wines 26% and spirits 26.5%, as well as impose 20% excise tax on the amount gamblers bet. The sports betting tax will give the government a sizeable share of the country's multi-billion-shilling gambling industry. The gaming industry has grown substantially over the last five years, to KSh 200 billion (\$1.98 billion) from 2 billion, employing 5,000 people in the process.⁵



Source: KNBS

... as Equity Bank continues to expand across Africa...

Kenya-based **Equity Bank** said on 9 September that it plans to acquire a controlling stake in the second-largest lender in the **Democratic Republic of the Congo (DRC)**, **Banque Commerciale du Congo (BCDC)**.⁶ Equity Bank's parent company, **Equity Group Holdings Limited (EGHL)**, has entered into a holding agreement with BCDC. BCDC had total assets of \$706m at the end of 2017. The

⁴ The Star, 2 Sep 2019

⁵ Reuters, 2 May 2019

⁶ FT, 9 Sep 2019

Congolese government owns a 25% stake in the lender. Equity Bank did not identify the BCDC shareholders or the size of the proposed deal. **Nairobi**-based analyst **George Bodo** said a combination would create the country's second largest bank with assets of more than \$1 billion.⁷ EGHL said in regards to its expansion in **Africa**,

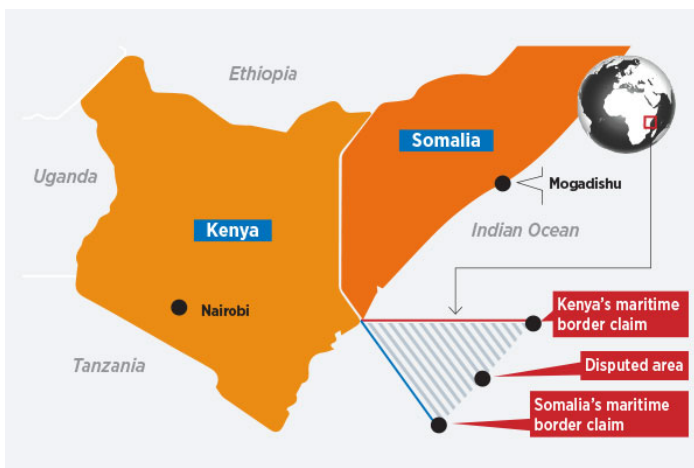
*"The proposed transaction is an opportunity for EGH to deliver the vision of building **sub-Saharan Africa's** premier financial institution through delivering innovative products and services to customers, including, in particular, the effective use of technology."⁸*

Equity Bank has expanded rapidly in the last 15 years and plans to continue expanding across Africa, where it currently has operations in eight countries. The bank already has a subsidiary in the DRC, having acquired **ProCredit Bank Congo**, the country's seventh-largest bank, in 2015. Equity Bank in April agreed a deal worth about \$106m to buy the assets of **London**-listed financial services firm **Atlas Mara** in **Rwanda, Zambia, Mozambique** and **Tanzania**.

DRC is appealing to ambitious regional lenders looking for growth, being one of the largest countries on the continent by land mass and with more than 80 million people. Bobo said that the market is mainly focused on serving large companies with operations there, making it necessary to have a big balance sheet to be able to compete and grow.

Cold War in the Horn of Africa?

The **Hague**-based **International Court of Justice (ICJ)**, the principal judicial organ of the **United Nations (UN)**, on 6 September granted Kenya's request to postpone a hearing in the case concerning **Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)** to allow for recruitment of a new defence team.⁹ Escalating political tensions between Kenya and **Somalia** are coinciding with heightened security concerns at their shared border and by jihadist militant group **Al Shabaab**. Some commentators have described the diplomatic meltdown and escalating cross-border tensions as a "cold war" (see below).¹⁰



The East African, 26 Jun 2019

The maritime delineation case dates back several years, and the lack of legal clarity over who owns potential offshore oil and gas reserves has discouraged investors.¹¹ Somalia took its case to the ICJ in 2014, seeking to redraw the maritime boundary from the current eastwards flow from the land border south of **Kiunga** (Kenya), to a diagonal flow.¹² Kenya's claimed maritime border runs along the line of latitude, significantly advantaging Kenya. The disputed region covers more than 100,000 square kilometres of water that reportedly contains hydrocarbons and fish resources. Kenya has already granted exploration

permits for three oil blocks, a move the Somalis are contesting. The **International Tribunal for the Law of the Sea (ITLOS)** deliberated on a similar maritime boundary delineation case between **Cote d'Ivoire** and **Ghana** in September 2017 (see *ARC Briefing Ghana October 2017*). The ITLOS special chamber found that there was no reason to deviate from the equidistance methodology and ruled in

⁷ George Bodo quoted in Reuters, 9 Sep 2019

⁸ FT, 9 Sep 2019

⁹ The East African, 6 Sep 2019

¹⁰ The East African, 2 Sep 2019

¹¹ Daily Nation, 28 Aug 2014.

¹² The East African, 26 Jun 2019

favour of Ghana,¹³ a that decision reinforced Ghana's exploration and extraction rights, and ensured the continuation of **Tweneboa, Enyenra & Ntomme (TEN)** oil field, Ghana's second largest offshore oil and gas reserve.¹⁴

The ICJ's decision to postpone the hearings came a week before they were scheduled to begin. They will now start on 4 November. Kenya's foreign secretary, **Monica Juma**, is pushing for an out-of-court settlement of the dispute over an oil-rich territory with Somalia. She is supported by the **African Union (AU) Peace and Security Council**, which tasked AU chairperson **Moussa Faki** on 6 September to resume talks between Kenya and Somalia to resolve the maritime boundary dispute.¹⁵ According to Juma,

*"The matters are not black and white; a sustainable solution has to be seen as mutual. We have preference for negotiated settlement."*¹⁶

Some analysts argue that the real reason Juma and Nairobi have tried to get the arbitration case postponed is because Kenya fears it will lose.¹⁷ Nairobi says its opposition to Somalia's bid to change the course of the boundary is based on national identity and statehood, and not because of the resources in the area.

... as the terrorism risk increases ...

Somalia-based Islamist group Al-Shabaab's leader, **Ahmed Diriye**, issued a rare audio message on 19 September criticising Kenya's claim on disputed maritime waters and accusing Western governments of pillaging the country's natural resources.¹⁸ Experts warn that the so-called "cold war" between Kenya and Somalia risks the resurgence of terrorism as the divisions could embolden Al Shabaab.

Kenya's campaign as part of the **African Union Mission in Somalia (AMISOM)** to defeat Al Shabaab in Somalia has been very controversial. The **Kenya Defence Forces' (KDF)** effective control of the area is allegedly covering for the mass smuggling of sugar from **Kismayo (Lower Juba Province, Somalia)** into Kenya. The incumbent regional leader and proxy for the KDF, **Ahmed Mohamed Islam 'Madobe'**, on 22 August won the selection process in **Jubaland (Somalia)** for the local presidency. Kenya has backed Madobe since 2012. Somali President **Mohamed Abdullahi Mohamed 'Farmajo'** rejects the result in Jubaland. Since Kenyan forces deployed to Somalia in 2011, Al Shabaab has carried out several deadly attacks on its soil, the latest on 15 January against an office complex housing the **Dusit** hotel, which killed 21 (see *ARC Briefing Kenya January 2019*).

The Kenyan government has urged the **United Nations (UN)** to list Al Shabaab under the same sanctions as **Al-Qaeda** and the **Islamic State**. The Somalia government in August fronted a fight to block Kenya's bid to tighten sanctions on Al Shabaab. Somalia, supported by **Kuwait, Poland and Belgium**, prevented Kenya's proposal that would have blocked humanitarian aid to areas controlled by Al Shabaab in Somalia. Kenya argued that placing Al Shabaab under **UN Resolution 1267** could influence a coalition of countries similar to the one against **ISIS**, limiting the group's expansion.

Regional power grid linking up

Energy minister principal secretary **Joseph Njoroge** said on 17 September that the power grids of east and southern **Africa** will be interconnected in two to three years after completion of various high-voltage lines, paving the way for regional trade.¹⁹ The greater connectivity and pooled resources will attract investors and improve the ease of doing business in a region that has been dogged by poor and unreliable power supply.

¹³ ITLOS Press Release, 23 Sep 2017.

¹⁴ Multiple sources: BusinessWire, 23 Sep 2017; ITLOS Press Release, 23 Sep 2017.

¹⁵ Capital FM, 6 Sep 2019

¹⁶ Bloomberg, 13 Sep 2019

¹⁷ Africa Confidential, 13 Sep 2019

¹⁸ Daily Nation, 20 Sep 2019

¹⁹ Reuters, 17 Sep 2019

Njoroge told the East African power conference that high-voltage lines linking **Ethiopia, Tanzania and Uganda** to Kenya were expected to be ready in three years.

The Kenya-Ethiopia link will be a 500 kilovolt (kV) line. The lines to Uganda and Tanzania will be 400 kV. The power line to Uganda would thereafter link Rwanda and then **Burundi**. This will significantly boost development of the **East African Community (EAC)** trade bloc. Additionally, the Kenya-Tanzania line is also expected to connect to **Zambia**, making it possible to trade power with **Southern Africa**, which already has a series of connections between **South Africa, Zambia, Zimbabwe and Mozambique**.

Njoroge had previously said the line connecting Kenya to Ethiopia was expected to be completed in 2017, the line between Kenya and Uganda to be ready in 2016, and the Kenya-Tanzania line was scheduled to be finished last year. Njoroge told **Reuters** after his presentation the missed timetables were due to difficulties with land acquisitions on some sections for putting up the lines, known as wayleaves.

*"Some of them [delays] have been caused by wayleaves. We have had some challenges with wayleaves. But there is none which would have been concluded [in that time]."*²⁰

Kenya had installed generation capacity of 2,712 MW as at end 2018, against total power demand of 1,800 MW.

Planner

4 Nov 2019 **The Hague (Netherlands) International Justice Court (ICJ)** hearings for **Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)** case to begin;

12 Dec 2019 **(Kenya)** Jamhuri Day national holiday;

2022 **(Kenya)** *Daily Nation*. General elections to be held;

Chronology

18 Sep 2019 **Nairobi (Kenya)** *The East African*. **Central Bank of Kenya** governor **Patrick Njoroge** tells an investor forum that his country supports the **International Monetary Fund's** "solid policies", which have in the past been challenged by some **African** governments;

18 Sep 2019 **Nairobi (Kenya)** *The Star*. Parliament's **Committee on Finance and National Planning** blocks the **National Treasury's** move to scrap a 4% cap on commercial lending rates above the benchmark central bank rate imposed by lawmakers in 2016;

17 Sep 2019 **Nairobi (Kenya)** *Reuters*. Energy minister principal secretary **Joseph Njoroge** says that the power grids of east and southern **Africa** will be interconnected in two to three years;

17 Sep 2019 **Nairobi (Kenya)** *The Standard*. **Kenya Airways** chairman **Michael Joseph** warns about the dangers of electing board directors based on political allegiances instead of commercial competence as the airline prepares to re-nationalise;

16 Sep 2019 **Nairobi (Kenya)** *Africanews*. The **World Health Organisation** congratulates the government for launching a malaria vaccine programme, becoming the third **African** country to do so;

16 Sep 2019 **Nairobi (Kenya)** *Business Daily Africa*. The military will receive six new **United States**-made light attack helicopters by the end of 2019 as part of an order for 12

²⁰ Reuters, 17 Sep 2019

helicopters;

11 Sep 2019 **Addis Ababa (Ethiopia)** *BBC*. Security officials says it arrested members of the **Islamic State (IS)** group in towns close to the **Somalia** and **Kenya** borders, the first time IS members have been found outside of Somalia;

10 Sep 2019 **Addis Ababa (Ethiopia)** *Daily Nation*. President **Uhuru Kenyatta** bans foreigners from adopting local children and asks the ministry of labour and social protection to draw up a new policy on foreign adoptions;

10 Sep 2019 **Addis Ababa (Ethiopia)** *The Star*. Part government-owned, loss-making **Kenyan Airways** announced that it cancelled 91 flights in the first two weeks of August due to a shortfall in the required pilot numbers;

9 Sep 2019 **Nairobi (Kenya)** *FT*. **Kenya**-based **Equity Bank** says it plans to acquire a controlling stake in **Democratic Republic of the Congo (DRC)** bank, **Banque Commerciale du Congo**;

8 Sep 2019 **Nairobi (Kenya)** *Daily Nation*. **Kiharu MP Ndindi Nyoro** storms a fundraising event at **Gitui Catholic Church** in **Murang'a County** and vows to preside over the ceremony which was attended by **Jubilee Party** leaders affiliated to the **Kieleweke Group**;

6 Sep 2019 **Nairobi (Kenya)** *Capital FM*. The **African Union (AU) Peace and Security Council** tasks AU chairperson **Moussa Faki** to resume talks between **Kenya** and **Somalia** to resolve a maritime boundary dispute;

2 Sep 2019 **Nairobi (Kenya)** *The Star*. The **Central Bank of Kenya** approves **KCB Group's** takeover of the **National Bank of Kenya**;

26 Aug 2019 **Paris (France)** *Reuters*. **France**-based sugar maker **Tereos** announces it will close its offices and halt sugar trading in **Kenya** and **South Africa** by the end of March 2020 as part of a global review of its strategy;



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Getting in touch

Please contact us by email info@africariskconsulting.com or call + 44 (0) 20 7078 4080

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