

ICF Contract Enforcement Projects

The Challenge:

Difficulties with enforcing contracts and obtaining commercial justice are often cited as reasons for low levels of investment in Africa. Court cases are costly, involve multiple and complicated procedures, often take years to resolve and many are decided in the absence of any accurate or recorded precedents. Most judiciaries are dependent on outdated administrative systems, with records being handwritten and files documented and catalogued manually. Such manual procedures increase the likelihood of court records being misplaced or interfered with. Investors need assurance that any disagreements or conflicts they get into will be resolved quickly and transparently. Without these assurances, businesses often end up working with a small group of associates they trust, thereby limiting growth in their sector, reducing trade activities and investment, and ultimately stifling economic growth. Similarly, financial institutions may also reduce lending activities due to uncertainty of collecting on loans.



The Solution:

Access to commercial justice in Africa can be improved by modernizing judicial systems, establishing dedicated commercial courts and creating alternative methods for resolving disputes. These practical solutions are not prohibitively expensive and can be achieved in a short period of time. However, these require explicit commitment from Government to undertake judicial reform that reduces the number of procedures, time and cost associated with enforcing contracts and enhances the predictability of the system. Facilitating improvements to the continent's commercial justice systems and administrative frameworks therefore has a very positive impact on investment climate and is a key focus for ICF.

The Impact:

Providing access to commercial justice is imperative to fostering the growth of the private sector. This is achieved through a robust commercial judicial system which increases the confidence of large investors and empowers the SME sector, enabling it to contribute to job and wealth creation. Government also benefits through greater transparency of business activities and increased private sector adherence to fiscal and tax policies, with important implications for revenue collection.

The Projects:

- As of March 2016, ICF had 19 completed and ongoing projects in 10 countries and 2 regional blocks in the contract enforcement sector with a total funding commitment of US\$ 30.90m.

Project Name	Expected Results
Mali – Alternative Dispute Resolution Phase I and II	<ul style="list-style-type: none"> Reduced the time from trial to judgement for a commercial case from 860 days to an average of 120 days; working to further reduce this to 90 days Increased the number of arbitration cases from 2 cases within three years (2005-2008) to 19 cases within three months (March – May 2014) Increased the number of sectors seeking arbitration from 2 (energy and mining) to 8 (energy, mining, trade, consultancy, telecommunications, construction, service and agriculture)
Mauritius – Modernization of the Judiciary	<ul style="list-style-type: none"> Reduced the time from trial to judgement of a commercial case to 100 days if filed in the Commercial Division of the Supreme Court, and 36 days if filed in the Fast Track of the Commercial Division Reduced the number of procedures in a full trial from 13 procedures to 9 Established the Commercial Division of the Supreme Court
Nigeria – Lagos Alternative Dispute Resolution	<ul style="list-style-type: none"> Reduce the time taken to enforce a commercial contract from 457 days to 180 days Reduce the number of contract enforcement procedures from 40 procedures to 6 Reduce the fee for resolving a commercial case from 32% to 20% of the value of the disputed amount
Zambia – Modernization of the Judiciary Phase I and II	<ul style="list-style-type: none"> Computerized 10 courtrooms with real time digital transcription equipment and audio backup Modernized 13 registries with electronic case and record management systems and digitized over 10,000 court records, eliminating instances of record misplacements

The Future:

ICF continues to engage in the contract enforcement sector and demand for new projects in this area remains high. As ICF moves towards its Phase II status, particular attention will be paid to contract enforcement project interlinkages with other priority areas such as PPPs, trade facilitation, taxation, and SME development.