

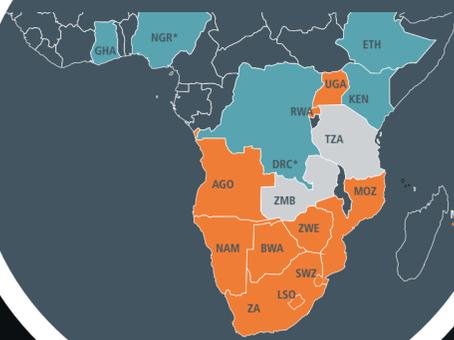
# TRACKING SUB-SAHARAN AFRICA'S RESPONSE TO COVID-19

## THE IMPACT ON PEOPLE, MOVEMENT AND TRADE

Business is facing a number of challenges as set out in the analysis of fourteen Sub-Saharan African jurisdictions below. This raises key issues which are pertinent across all jurisdictions.

### 9 APRIL 2020

#### LOCKDOWN



A countrywide lockdown is in place

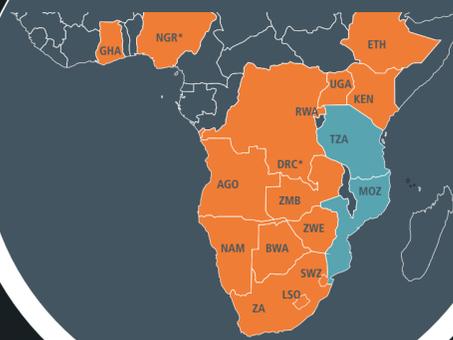
There is substantial restriction on movement, and/or lockdowns in certain areas

Schools are closed and large gatherings are banned

**DRC**  
\* Gombe in Kinshasa has gone into strict lockdown. Travel between Kinshasa and the other 25 provinces of the DRC is also banned.

**NGR**  
\* A focused lockdown is in place in Abuja, Lagos and Ogun.

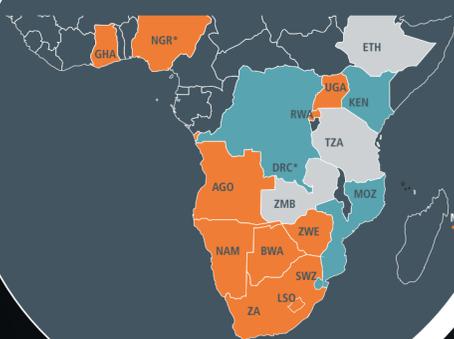
#### BORDERS



Borders are closed to travellers with limited exceptions

Mandatory quarantine periods and/or visa restrictions are in place

#### BUSINESS

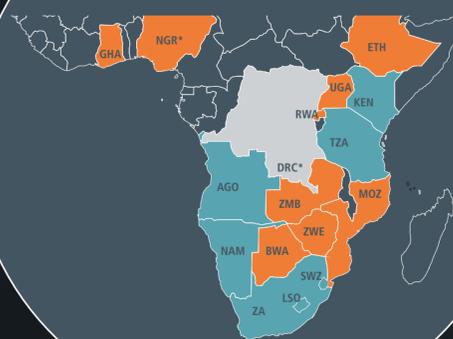


Businesses are required to operate remotely, with the exception of certain essential goods and services

Businesses must implement mandatory precautionary measures such as social distancing and restrictions on the size of gatherings which may impact the scale of operations

No mandated shutdown, but businesses are being severely impacted by the global crisis

#### COURTS



Court proceedings have been suspended, subject to limited exceptions

Courts continue to operate, subject to certain restrictions

## KEY ISSUES TO CONSIDER FOR YOUR BUSINESS

### CRISIS AND REPUTATION MANAGEMENT

Failure to maintain public and stakeholder trust is likely to result in significant adverse and longer-term consequences for business.

Aspects to be considered include: appropriate oversight and monitoring; regular and accurate communication with key stakeholders to achieve trust and clarity; consideration of staff arrangements and appropriate outsourcing arrangements; maintaining client service delivery and infrastructure capacity; addressing any reputational issues promptly and fully and finally ensuring senior members of staff are in-charge of business continuity planning and that there is clear delegation to facilitate decision-making and communication to all levels of the business.

### CONTRACTUAL OBLIGATIONS

The pandemic has caused significant operational and public disruption with many contractual obligations potentially unmet or partially met.

Supply chains may be disrupted and financial distress may lead to defaults in performance. The contractual and common law principles of force majeure and supervening impossibility may impact contractual obligations. Force majeure may excuse one or both parties from performance of the contract due to circumstances beyond the reasonable control of the party concerned. Supervening impossibility arises if a party is prevented from performing by irresistible force or unforeseeable accident. The standard as to what constitutes force majeure or supervening impossibility are impacted by public policy and equity considerations and will differ per jurisdiction, heightening the need for careful consideration of all relevant factors, the relevant facts and legal principles when assessing this issue.

Care must also be taken when interacting with counterparties that are reporting difficulties performing their contractual obligations to ensure that you do not make promises or provide assurances that could later be argued to amount to a variation of contract or a waiver of rights.

### INSURANCE

Businesses are assessing the adequacy of their insurance coverage in light of the pandemic.

Disputes may arise as to whether an insurance policy covers losses suffered during the COVID-19 outbreak, such as by reason of border control or transport disruption or even disruption of business due to illness or quarantine of employees. Some insurance policies exclude losses caused directly or indirectly by an epidemic, but a careful analysis is required to check whether and when an exclusionary clause is indeed triggered.

### EMPLOYMENT

Across the continent businesses should balance their obligations and rights as employers. Whether business is subject to disruptions or a complete shut down, employers may need to implement a policy or protocol to manage COVID-19 in the workplace. In each jurisdiction in which you have employees, you may need to consider the following questions:

- Are employers obligated to pay employees during a lockdown?
- What are the alternatives to the "no work no pay" principle?
- What special steps must be taken by employers who can continue operating during the lockdown?
- What steps can the employer take to support seconded employees in other jurisdictions?
- Can the employer require an employee to undergo a test for COVID-19?