

OCTOBER 2013



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SmartLessons

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More than Just Words: How the Africa Round Table (ART) Is Enabling Meaningful Reforms across Africa

This SmartLesson showcases the lessons learned from the Africa Round Table, a collaborative forum that over the past four years has brought together countries from East, West, and Southern Africa. The forum has led to more than five distinct insolvency reforms that have helped strengthen countries' credit environments. By leveraging their joint capacities, IFC and the World Bank have helped Sub-Saharan African countries address the challenges of the financial crisis, strengthen ties across professions, and in the process create a guiding example for evoking lasting change in a country.

Background

"Nigeria state oil firm NNPC insolvent, says minister"

--BBC News, July 13, 2010

"In South Africa, a Consumer Debt Bubble Forms"

--The Wall Street Journal, December 26, 2012

"[In Rwanda], the country struggles on Insolvency Law"

--East African Business Week, March 13, 2012

"Huge Debt Pushes Kenya Broadcasting Company Closer to Insolvency"

--Business Daily, July 19, 2013

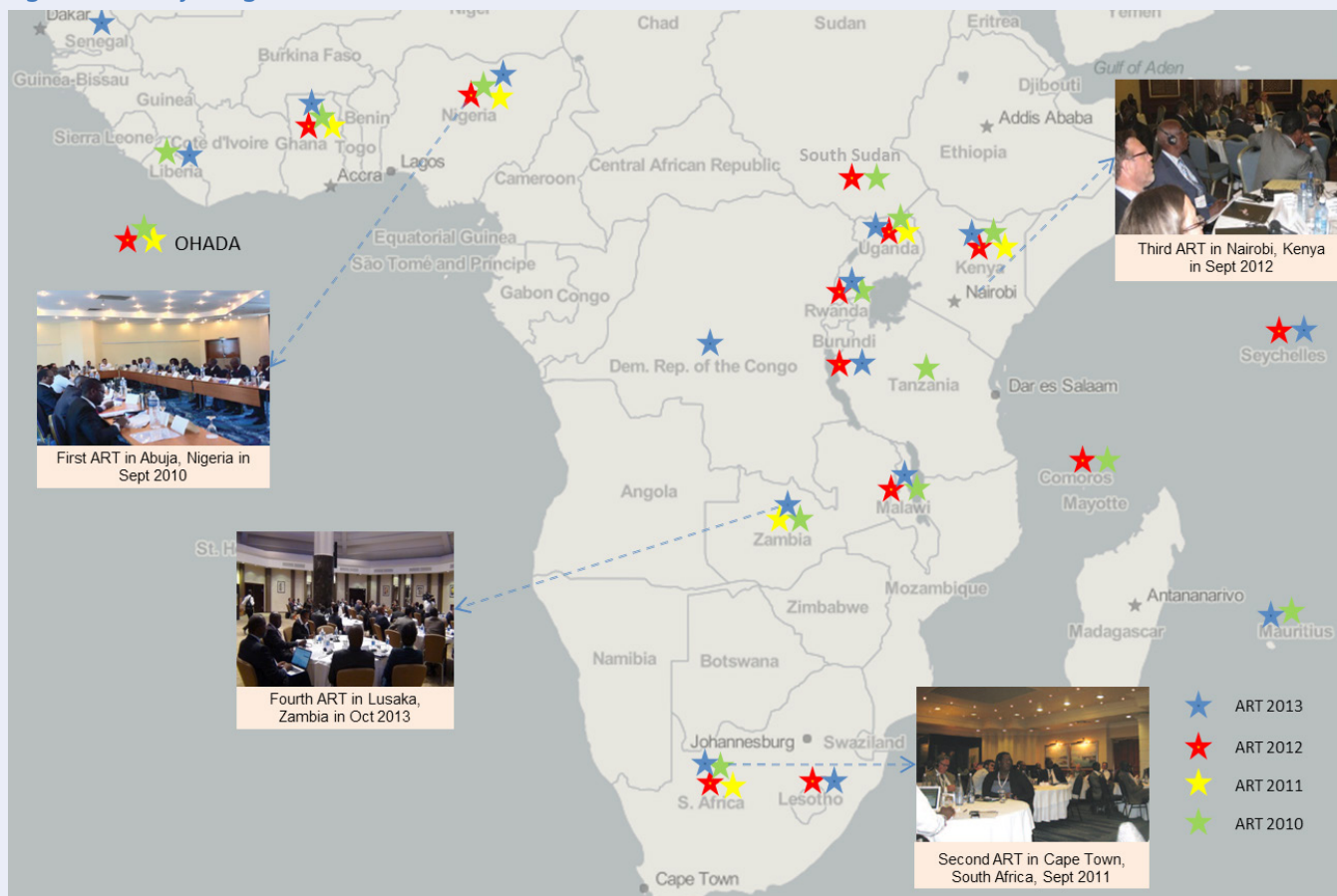
More than half a decade has passed since the onset of the global financial crisis; however, recent headlines on the state of the economy in Sub-Saharan Africa underscore the fact that a global recovery continues to be overshadowed by unsettled creditors, unstable economies, and an evidently endless stream of debt defaults and restructurings. On a continent where access to credit for small and medium enterprises (SMEs) has long been constrained, the inability to manage the risks associated with business downturns can cause lenders to place prohibitive risk premiums on lending.

The Africa Round Table (ART) is an annual, joint initiative between the International Association of Restructuring, Insolvency and Bankruptcy Professionals (INSOL) International and the World Bank Group. Established in 2009, the Africa Round Table brings together policy-makers, judges, insolvency practitioners, lawyers, and banks to discuss the importance of insolvency reform and improved access to credit in Africa. Participants share their reform experiences, and aim to build capacity across the region. The event, which is delivered in both French and English, has seen an increasing growth of countries, from six countries in 2010 to 16 in 2013. This demonstrates an increasing awareness and interest in these issues across Africa, as illustrated in Figure 1. Some of the lessons learned from this event are set out below.

Lesson 1: Start the conversation.

The benefits of an improved insolvency regime, and how debt recovery can improve access to credit, have not always been well appreciated in Sub-Saharan Africa. In part, for this reason, reforms in this area have generally been slow. Between 2006 and 2013, for instance, 46 Sub-Saharan African countries recorded 15 reforms in the insolvency space, compared with 39 in the Eastern Europe and

Figure 1: Country delegations at the Africa Round Table for 2010–2012



Central Asia (ECA) region and 48 in the countries of the Organization of Economic Cooperation and Development (OECD). All of this is in a region where domestic credit provided by the banking sector, as a percentage of GDP, is less than 50 percent, which is significantly less than the worldwide percentage, which is over 150 percent. Poorly performing insolvency regimes such as these make it more difficult for businesses to restructure and continue as going concerns or exit the market.

In contrast, a strong insolvency regime provides lenders with the needed certainty and predictability required to accurately price the risk of lending to businesses, particularly SMEs, and helps improve access to credit.

The ART has helped “start the conversation”, and is an important tool in combating the lack of awareness surrounding insolvency reform in the region. These events have helped elevate insolvency reform on the policy agenda by allowing policymakers to hear, first hand, about the importance of saving viable businesses and the jobs that can concurrently be saved, and ultimately leads to concrete reform. Through the Peer Discussion session, where delegates share their countries’ developments in the insolvency space, to the out-of-court simulation, where delegates run their own restructuring, an understanding of how reforms impact credit is developed across the region.

Since the first ART in 2010, the number of reforms in the region has steadily increased from 7 to 15.¹ For instance, Uganda passed a new insolvency law in 2012 and Seychelles in 2013 (with the assistance of the World Bank), and delegates from these countries have confirmed that the ART helped articulate best practices that were ultimately enshrined in the law. The Permanent Secretary of the 17 OHADA countries has been attending the ART since 2010 and provided a strong voice for particular problems in the region, such as access to credit for micro and small businesses and the difficulties of enforcing debt. In 2012, the OHADA Uniform Act on Secured Lending was passed (with the support of the IFC), which seeks to reassure creditors that they will be able to enforce their security in the event of debt default on a loan.

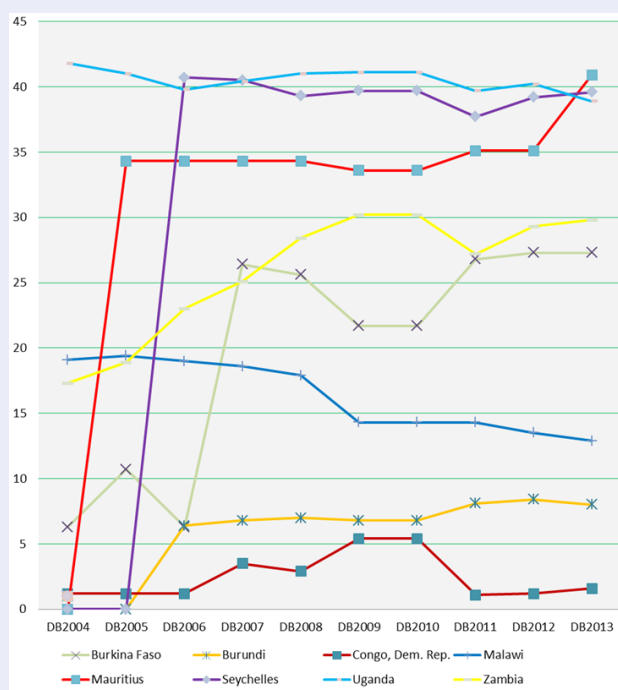
Access to credit is problematic in Liberia, with only 14 percent of firms reporting a line of credit or loans from financial institutions, compared to a regional average of 22.7 percent. Liberian representatives have been attending the ARTs (with support from the IFC), and have proceeded with reforms to create a best practice regime for insolvency and debt recovery, with wide stakeholder consultation. At the recent ART 2013, it was agreed that a study tour between a Liberian commercial court judge and the Uganda commercial court would take place, emphasizing how effective ties and peer-to-peer learning can develop within the right forum.

¹ Doing Business database, reforms by region.

This suggests that engagement, in and of itself, is useful. As policymakers begin to have a more focused dialogue on insolvency issues, their ability to raise these issues on the policy agendas in their respective countries grows. This, in turn, can lead to concrete reform action. Indeed, the agenda for each successive ART has been shaped more and more by the expressed needs of policymakers in attendance.

Nevertheless, divergent practices still exist across Sub-Saharan Africa. While the general trend is that countries are tending to improve their recovery rates for creditors, countries such as Botswana and Namibia are leading (with 64.8 cents on the dollar and 42.3 cents on the dollar, respectively) compared to countries such as Mauritania and Zimbabwe (with 10.3 cents on the dollar and 0.1 cent, respectively). A sample of recovery rates is set out in Figure 2.

Figure 2: Reported Recovery Rates in a Sample of Sub-Saharan African Countries for 2013



Source: Doing Business 2013, Resolving Insolvency Indicator (recovery rates)

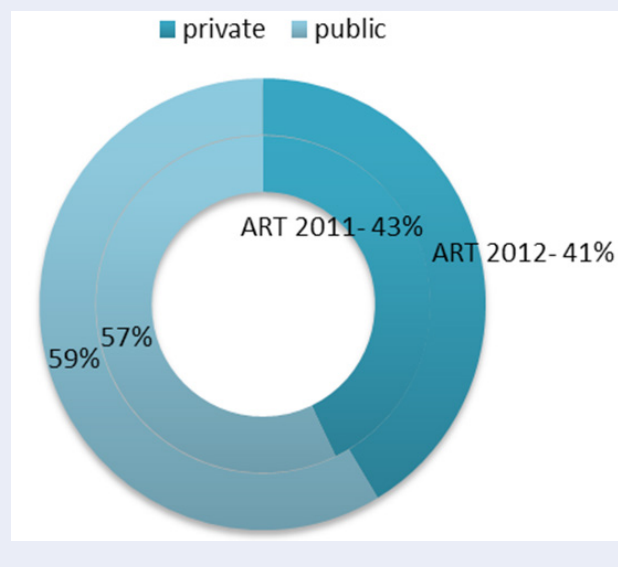
Lesson 2: Give the private sector a voice.

The ART is helping to overcome the bias of overlooking the private sector in planning economy-wide reforms. On the surface, engaging in private sector development without actually engaging the private sector seems destined for failure. Yet far too often, this is the approach taken. Insolvency reform is unlike many reforms to the business climate that seek to reduce the “compliance burden” on private firms. Rather, insolvency reform is about creating a set of tools that the private sector can access and use semi-independently. Therefore the involvement of the private

sector in both the substance and design of these reforms is critical. In most OECD countries, banks, judges and policymakers regularly meet to discuss the efficacy of the insolvency framework and to share concerns about how it may need to be reformed. In Africa, prior to the ART, these types of public-private meetings rarely happened outside South Africa.

The ART brings together bankers, lawyers, and other private sector professionals to discuss bottlenecks in the debt enforcement and recovery processes with policymakers who set the reform agenda. Just under half of the delegates at the ART are from the private sector, as seen in Figure 3, which shows the percentages for both 2011 and 2012.

Figure 3: Breakdown of ART Participation 2011 and 2012



Not only does this mix of delegates give the parties an opportunity to share concerns, but it also allows policymakers to meet the experts in their countries. For instance, the Zambian Government is in the process of reforming its insolvency law, and the ART 2011 gave the Zambian private sector representatives an opportunity to present their opinions on certain elements of the draft bill, with Zambian policymakers then able to respond.

Part of the reason the ART has been so successful at reflecting private sector views is that it is designed with the largest private-sector representative of insolvency professionals. INSOL International represents over 9,000 bankers, judges, lawyers, and accountants in over 43 member associations in 31 countries, representing the voice of the private sector on insolvency matters. In Africa alone, INSOL practitioners in numerous countries have been able to leverage this membership to not only ensure private sector funding support for the ART but to also ensure that the true binding constraints in the insolvency system, as articulated by the private sector, are discussed during the ART.

The World Bank Group is able to complement INSOL's private sector reach with its extensive dialogue with

Box 1: The ART Is Making a Difference on the Ground: The Example of Mauritius

Following the enactment of an insolvency law in 2009, the Mauritius Insolvency Services (under the Ministry of Finance and Economic Development) was seeking to strengthen implementation of the law. Following discussions at the ART, the joint Bank/IFC Investment Climate Department, working with the Financial & Private Sector Development (FPD) Africa region of the World Bank, assisted in providing technical assistance under a World Bank Development Policy Loan that targeted the improved regulation of insolvency practitioners and implemented a more flexible out-of-court restructuring regime. Regulations and Rules were published in the Government Gazette in September 2012 relating to insolvency practitioner registration and a code of conduct. Since these reforms, 31 insolvency practitioners have registered and are now subject to this code of conduct. In order to encourage the business rescue of financially distressed but viable businesses, an out-of-court workout framework was developed with the endorsement of the Mauritius Bankers' Association and the Bank of Mauritius, and was published in January 2013. PwC has reported successful restructurings using this framework. Mauritian representatives are now key players in the organizing committee of ART, and they are using the event as a forum to disseminate their "lessons learned" across the region.

policymakers and knowledge of reform initiatives. The partnership has therefore worked extraordinarily effectively in enhancing public-private dialogue and promoting transparency in these countries, with both sides better able to understand the processes and considerations at stake.

Lesson 3: The World Bank Group: The whole is greater than the sum of its parts.

In addition to leveraging external relationships, including those with INSOL, the IMF, UNCITRAL, and the African Development Bank, the ART has showcased a truly cross-institutional approach for the entire World Bank Group. Delegates to the ART include both IFC and IBRD client counterparts, and the reforms inspired by the ART have been facilitated by both IBRD and IFC country-level projects. IBRD and IFC colleagues have participated in panel discussions to share their experiences, not only at a technical level but with a wider development perspective, and this has helped enrich discussions and deepened analysis.

This approach has helped strengthen the way the World Bank Group presents itself, demonstrating shared objectives and a unified approach to addressing problems, albeit with complementary and varied

expertise. The 2013 ART is scheduled to take place in Zambia in October, and it proposes to take this collaboration even further by leveraging IFC's private-sector relationships in the banking sector and the World Bank's financial sector dialogue with governments around the region to bring banks, business, and the government together in a rare fashion.

Conclusion

Most conferences and workshops have their place in building capacity and expertise. However, very few events can be shown to lead to lasting reform and improved dialogue across an entire region. The ART has resulted in all of these outcomes in Sub-Saharan Africa. Reforms in Mauritius, the Seychelles, Uganda, Liberia, and the OHADA group of countries illustrate that the ART has been a conduit that enables discussion and encouragement among stakeholders. Ultimately, the power of the ART lies in encouraging the translation of best practices into real reforms, and showcases how the World Bank Group can catalyze lasting change. More of these events are needed. As Professor Githu Muigai, Attorney General of Kenya, emphasized in his keynote address last year, it is essential for African policymakers to "learn from others and to reflect that learning in practice."



The Africa Round Table...has evolved over the years into an authoritative continental think tank of best practices across the African continent for practitioners and jurists alike. This is critical when it comes to harmonization of insolvency reforms in Africa."

-Justice Geoffrey Kiryabwire, Court of Appeal of Uganda



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