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Uganda Invest in Foreign Markets: Uganda as a Case Study

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UGANDA INVEST IN FOREIGN MARKETS: UGANDA AS A CASE STUDY

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I. INTRODUCTION

Investment diversification is paramount for the success of an investment portfolio. Diversification distributes risk across multiple uncorrelated vehicles, thereby reducing overall risk to investors.[1] The logic underlying diversification is that uncorrelated assets independently survive industry and market turmoil while correlated assets rise and fall simultaneously.[2] An increasingly popular diversification technique is investment in foreign markets and developing countries.[3] This

[1] Investopedia Staff, *The Importance of Diversification*, INVESTOPEDIA, http://www.investopedia.com/articles/02/111502.asp (last updated Jan. 30, 2018, 4:53 AM).

[2] *See id.*

[3] Tarun Khanna et al., *Strategies That Fit Emerging Markets*, HARV. BUS. REV., https://hbr.org/2005/06/strategies-that-fit-emerging-markets (last visited Feb. 17, 2018). "Since the early 1990s,

is because global risk is currently decreasing for investors.[4] Similar to traditional diversification, investment in developing countries helps insulate investors from national market crashes by spreading risk over diverse regions.[5] Combining traditional sector- and industry-based diversification with sovereignty diversification can create a comprehensive portfolio that is well protected from market swings.[6]

Many recommend investing in foreign countries to diversify portfolios, explore emerging markets, and modify investment risk.[7] This suggestion begs the question: how does one find a ripe foreign market for investment? The purpose of this Comment is to develop a set of reliable criteria that can be used to identify promising foreign investment opportunities. Part II discusses a background of foreign investments and the United States and provides insight into the benefits of engaging in foreign direct investment.[8] Part III identifies and defines "Market Strength Factors," which indicate the strength of foreign investment opportunities, and applies them to Uganda as a case study.[9] Finally, Part IV brings the Comment to a close with key points and recommendations.[10]

II. BACKGROUND

A. History of United States and Foreign Investments

Since the colonial times, the United States has continuously engaged in foreign investment.[11] However, colonial foreign investment involved international money entering the United States.[12] The first instance of extraneous investment

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developing countries have been the fastest-growing market in the world for most products and services. Companies can lower costs by setting up manufacturing facilities and service centers in those areas, where skilled labor and trained managers are relatively inexpensive. Moreover, several developing-country transnational corporations have entered North America and Europe with low-cost strategies (China's Haier Group in household electrical appliances) and novel business models (India's Infosys in information technology services)." *Id.*

[4] Mark Kolakowski, *Why Global Risk is Falling for Investors*, INVESTOPEDIA, http://www.investo-pedia.com/news/why-global-risk-falling-investors/ (last updated Feb. 20, 2017, 6:00 AM).

[5] *See* Investopedia Staff, *supra* note 1.

[6] *Id.*

[7] *See e.g.* Justin Kuepper, *Should You Invest in Foreign Countries?*, THE BALANCE, https://www.t-hebalance.com/should-you-invest-in-foreign-countries-1978967 (updated Jan. 10, 2017); Brian Perry, *Evaluating Country Risk for International Investing*, INVESTOPEDIA, http://www.investopedia.co-m/articles/stocks/08/country-risk-for-international-investing.asp (last visited Feb. 17, 2018).

[8] *See infra* Part II.

[9] *See infra* Part III.

[10] *See infra* Part IV.

[11] *Foreign Investment in the United States*, ENCYCLOPEDIA.COM, http://www.encyclopedia.com/history/united-states-and-canada/us-history/foreign-investment-united-states (last visited Feb. 17, 2018).

[12] *Id.*

into the United States was in 1607 by the Virginia Company,[13] which funded the settlement of the English in Jamestown, Virginia.[14] The Virginia Company's stockholders were located in London, and they financed the Jamestown settlement in hopes that settlers would discover silver and gold and thus provide a return on the investment.[15] Until the Declaration of Independence was signed, the United States received foreign investments from trading companies, merchant investors, and others.[16] In 1803, twenty years after the American Revolution, the United States received substantial British investment that has continued to today, of course rebranded as the United Kingdom.[17]

During World War I, the United States transitioned from a debtor nation to a creditor nation,[18] with its foreign investments exceeding foreign interests in the United States.[19] After World War II, the United States became a major investor into the world market, shifting the flow of capital outwards.[20] The United States maintained its creditor status until the 1980s, when an increase of investment by Japan, the Netherlands, and the United Kingdom reversed the financial status of the United States to a debtor nation.

B. Current United States Investment Abroad

Modernly, "[t]he United States is the largest direct investor abroad and the largest recipient of foreign direct investment in the world."[21] About seventy-four percent of United States' direct investments abroad are concentrated in high-in-

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[13] The Virginia Company was essentially one of the earliest corporations. *Virginia Company*, HISTORIC JAMESTOWNE, http://historicjamestowne.org/history/virginia-company/ (last visited Feb. 17, 2018). "Wealthy London gentlemen would buy a share in The Virginia Company, thus giving it the capital monies to start and supply a colony, and they hoped the colony returned a profit to them." *Id.* The company's plan was to locate profitable natural resources in Virginia to repay its English investors. *Id.*

[14] ENCYCLOPEDIA.COM, *supra* note 11.

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] A creditor nation is one "with a cumulative balance of payment surplus. A creditor nation has positive net investment after recording all of the financial transactions completed between it and the rest of the world." *Creditor Nation*, INVESTOPEDIA, http://www.investopedia.com/terms/c/creditor_nation.asp (last visited Feb. 17, 2018). Debtor nations are characterized by "a cumulative balance of payments deficit. A debtor nation has negative net investment after recording all of the financial transactions it has completed worldwide." *Debtor Nation*, INVESTOPEDIA, http://www.investopedia.com/terms/d/debtor_nation.asp (last visited Feb. 17, 2018).

[19] ENCYCLOPEDIA.COM, *supra* note 11.

[20] ROBERT E. LIPSEY ET AL., THE UNITED STATES IN THE WORLD ECONOMY 475, 475 (Martin Feldstein ed., U. of Chicago Press 1998), http://www.nber.org/chapters/c6219.pdf.

[21] JAMES K. JACKSON, CONG. RESEARCH SERV., RS21118, U.S. DIRECT INVESTMENT ABROAD: TRENDS AND CURRENT ISSUES (2017).

come, developed countries that belong to the Organization for Economic Cooperation and Development,[22] and over half of the United States' investments in foreign countries are in Europe.[23] From 1996 to 2000, investment firms shifted their foreign investments from developing countries to highly developed economies.[24] As Figure 1 below indicates, the amount of both foreign investment into and out of the United States increased dramatically from 1990 to the present.

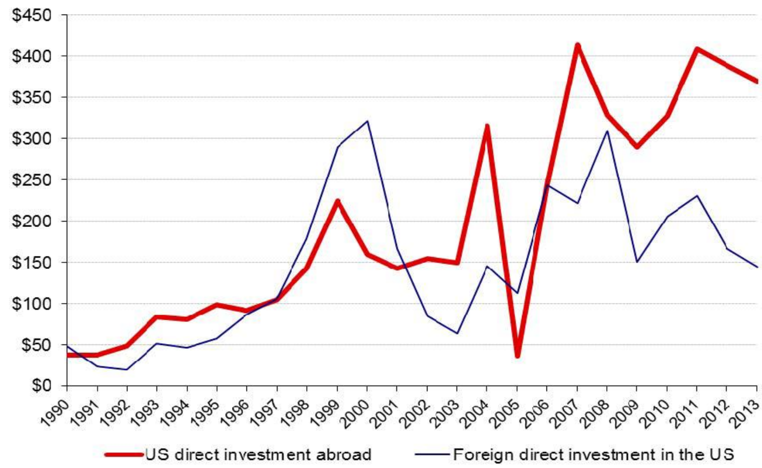

Figure 1[25]

Following the "2007 and 2008 global meltdown,"[26] institutional investors, endowments, and retail investors began to explore new territory by trading foreign currency.[27] Before the 1970s, trading currency was essentially reserved to large

[22] *Id.* at 4–5.

[23] *Id.* at 5.

[24] JACKSON, *supra* note 21.

[25] JAMES K. JACKSON, FOREIGN DIRECT INVESTMENT IN THE UNITED STATES: AN ECONOMIC ANALYSIS (2013), http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=2208&context=k-ey_workplace.

[26] "The 2008 financial crisis was the worst economic disaster since the Great Depression of 1929. It occurred despite aggressive efforts by the Federal Reserve and Treasury Department to prevent the U.S. banking system from collapsing. It led to the Great Recession. That's when housing prices fell 31.8 percent, more than during the Depression. Two years after the recession ended, unemployment was still above [nine] percent." Kimberly Amadeo, *2008 Financial Crisis: Causes, Costs and Could It Reoccur?*, THE BALANCE, https://www.thebalance.com/2008-financial-crisis-3305679 (updated Jan. 22, 2018).

[27] Aaron Levitt, *Diversify with Currency*, INVESTOPEDIA (May 20, 2009), http://www.investopedia.com/stock-analysis/2009/diversify-with-currency-grn-fxe-eu-cyb-cew-dbv-slv0520.aspx

companies who needed the conversion to deal with business in other countries.[28] In the modern market, brokers such as Charles Schwab advise investors to invest internationally and gain exposure to emerging markets.[29]

C. United States Investors Benefit from Investing Internationally

President Trump stresses the importance of reversing the current United States trade deficit.[30] This trade deficit is generated by an inflow of foreign money into the United States caused by failure to save enough to cover the cost of consumption.[31] The net effect of investing in foreign markets reduces the United States trade deficit and increases the strength of its economy.[32]

In addition to Trump's patriotic, trade deficit motivation for investing in assets across the world, investing expert Paul Merriman[33] compiled six reasons to hold as much as half of one's equity investments in international funds.[34]

Merriman's first reason for foreign investments is to promote diversification—he posits that it is "a bad idea to have more than half of your equities in stocks from any one country."[35] Other sources suggest a more conservative approach to international portfolios, such as a 20% exposure relative to domestic holdings.[36] The rationale for a more conservative approach is that foreign markets

[https://web.archive.org/web/20170110215612/http://www.investopedia.com/stock-analysis/2009/diversify-with-currency-grn-fxe-eu-cyb-cew-dbv-slv0520.aspx].

[28] *History of the Forex Market*, OANDA, https://www.oanda.com/forex-trading/learn/intro-to-currency-trading/currency-market/history (last visited Feb. 17, 2018).

[29] Michelle Gibley, *Why Invest Internationally?*, CHARLES SCHWAB (July 24, 2012), http://www.schwab.com/public/schwab/nn/articles/Why-Invest-Internationally. "International markets can offer growth opportunities that may not be available in the United States due to differences in household income, younger populations, availability of natural resources, export strength, and movement toward free-market economic policies." *Id.* "We recommend allocations to international stocks include a small exposure to emerging markets . . . ." *Id.*

[30] Michael R. Strain, *Why is President Trump Attacking Foreign Investment in the United States?*, THE WASH. POST (Feb. 16, 2016), https://www.washingtonpost.com/posteverything/wp/2017/02/16/why-is-president-trump-attacking-foreign-investment-in-the-united-states/?utm_term=.726be3b152d8. The thought process behind reducing the trade deficit, and thus the inflow of foreign money into the United States, is that "foreign countries are accumulating claims on future consumption." *Id.*

[31] *Id.*

[32] *Id.*

[33] Paul Merriman is nationally recognized for his knowledge relating to "mutual funds, index investing, asset allocation and both buy-and-hold and active management strategies." *Paul Merriman, Retired Financial Advisor*, PAUL MERRIMAN, http://paulmerriman.com/about/paul-merriman/ (last visited Feb. 17, 2018). Merriman began his work in the financial industry in the 1960s at a major Wall Street brokerage firm. *Paul A. Merriman*, WIKIPEDIA, https://en.wikipedia.org/wiki/Paul_A._Merriman (last visited Feb. 17, 2018). Paul Merriman founded Merriman, LLC in 1983, a company that currently manages over $1.5 billion. *Id.*

[34] Paul Merriman, *Six Reasons You Should Invest Internationally*, Market Watch (Apr. 22, 2015), http://www.marketwatch.com/story/six-reasons-you-should-invest-internationally-2015-04-22.

[35] *Id.*

[36] John Christy, *How Much International Exposure Should You Have?*, THE BALANCE, https://w

tend to be more volatile than American markets, so they offer a larger risk-reward tradeoff.[37] At the end of the day, it boils down to the investor's risk appetite.

Merriman again stresses diversification in his second reason to invest internationally—foreign markets mean more industries and companies—and he notes that unlike the United States, foreign countries may offer emerging market[38] stocks.[39] One benefit of investing in emerging markets is that their growth potential tends to be much higher than developed markets.[40] Furthermore, emerging markets potentially have low correlation with other markets, offering greater diversification.[41] Suggested exposure to emerging markets varies from 5%–10% of a portfolio, but this figure may change depending on the vehicles an investor elects to utilize.[42] Finally, if one wishes to reap the benefits of emerging markets without directly investing in them, "[a] way in which some emerging-markets managers avoid overexposure to any particular country is by also investing in developed-world multinationals that sell into the emerging world."[43] It naturally follows, however, that multinational companies are more intercorrelated than are the emerging markets themselves.

Merriman's third reason for engaging in international investing is that "there are long periods when international stocks outperform U.S. stocks."[44] While Merriman may be correct, it appears that current emerging market exports have declined since their surge in the early 2000s.[45] Notwithstanding this reduction in the

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ww.thebalance.com/how-much-international-exposure-should-you-have-1979001 (updated Sept. 20, 2017).

[37] *Id.*

[38] "The term 'emerging markets' describes developing economies that have rapid economic growth and favorable demographics. The rising stock market capitalization and economic output of these countries have brought them into the spotlight. . . . There is no rigid definition for countries (or regions) to be called 'emerging,' but considerable part[s] of Asia, Eastern Europe, Latin America, the Middle East, and Africa are included in the list." Prableen Bajpai, *Should You Buy US Penny Stocks or Emerging Market Stocks?*, INVESTOPEDIA (Jan. 12, 2015, 2:01 PM), http://www.investopedia.com/articles/investing/011215/should-you-buy-us-penny-stocks-or-emerging-marketstocks.asp?ad=dirN&qo=investopediaSiteSearch&qsrc=0&o=40186.

[39] Merriman, *supra* note 34.

[40] Gibley, *supra* note 29.

[41] *See* Rebecca Patterson & Holly Macdonald, *Be Cautious About Emerging Markets in 2016*, BARRON'S, http://www.barrons.com/articles/be-cautious-about-emerging-markets-in-2016-1450298373 (updated Dec. 16, 2015).

[42] *See* Gibley, *supra* note 29; Tim Gray, *Emerging Markets, Even in Turmoil, Have a Place in a Portfolio*, The NY Times (July 15, 2016), https://www.nytimes.com/2016/07/17/business/mutfund/emerging-markets-even-in-turmoil-have-a-place-in-a-portfolio.html?_r=0.

[43] Gray, *supra* note 42.

[44] Merriman, *supra* note 34.

[45] Gray, *supra* note 42. The reduction in emerging market exports is attributable to sluggish global growth, but it seems emerging markets shrug off the international growth strain, meaning that "emerging countries remain healthier than developed ones. . . ." *Id. See also* MULTINATIONAL CORPORATIONS AND LOCAL FIRMS IN EMERGING ECONOMIES 26 (Eric Rugraff & Michael W. Hansen, eds.), file:///C:/Users/Morgan%20Lynch/Downloads/391375.pdf.

relative value of emerging markets, it appears that criticism of these markets may be exaggerated.[46]

Returning to the recurring theme of diversification, Merriman argues in his fourth point that the added benefit of currency diversification achieved by investment in foreign markets further insulates against unpredictable, vast market-wide changes.[47] In fact, Aaron Levitt of Investopedia touted currency diversification as part of the solution to the 2007 and 2008 global meltdown.[48] However, foreign investing presents an interesting double-edged sword. Americans ultimately transact in the United States dollar (USD), and many foreign companies borrow in dollars rather than their local currency.[49] Thus, an increase in the strength of the USD translates to a larger real cost of borrowing for those companies.[50] Furthermore, the value of revenue received by foreign companies in the form of their local currency is reduced as the local currency is translated into a stronger dollar.[51] Of course, the opposite is true when the dollar drops in value.[52]

Merriman's fifth reason for directly investing in international markets is that, as he phrases it, "U.S. multinationals don't give you much exposure to value, small-cap, small-cap value or emerging markets—every one of which can be a powerful return booster."[53] Investing in United States based high-cap multinational companies does certainly offer some residual diversification, but doing so "misses the point of investing internationally—to diversify into areas that *aren't* so highly correlated with the U.S. market."[54] Moreover, United States multinational companies may underperform relative to local companies due to cultural differences and an inability to modify products to suit local needs.[55] A relatable analogy is the American sentiment toward products made in China. In a study

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[46] *Id.*

[47] Merriman, *supra* note 34.

[48] Levitt, *supra* note 27.

[49] Gray, *supra* note 39.

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] Merriman, *supra* note 34. "Even in recent years, international stocks have provided more diversification benefits than U.S. multinational companies." Matt Godfrey et al., *5 Myths of International Investing* 7 (2016), https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/FiveMythsInternationalInvesting_Webinar.pdf.

[54] David Hunkar, *Why Investing In U.S. Multinationals Is Not The Same As Investing In Foreign Companies*, Seeking Alpha (Aug. 20, 2014), http://seekingalpha.com/article/2439205-why-investing-in-u-s-multinationals-is-not-the-same-as-investing-in-foreign-companies (quoting Michelle Gibley, *4 Mistakes to Avoid in International Investing*, Charles Schwab (May 29, 2014), http://www.schwab.com/public/schwab/nn/articles/4-Mistakes-to-Avoid-in-International-Investing) (emphasis in the original).

[55] Gibley, *supra* note 42. *But see* Vijay Govindarajan & Gunjan Bagla, *How Big Companies Beat Local Competition in Emerging Markets*¸ HARV. BUS. REV. (Aug. 28, 2012), https://hbr.org/2012/08/leapfrog-local-competition-in. "[M]ultinationals from rich countries who are already developing products for one emerging market possess unique advantages that can help them win in other emerging markets too." *Id.*

conducted by The Boston Consulting Group, 80% of American consumers indicated they were willing to pay a higher price for products manufactured in the United States than for products made in China.[56] Thus, investing in high-cap, U.S.-based multinationals may very well neglect the benefits offered by foreign markets.

Finally, in his sixth justification for holding foreign positions, Merriman posits that international stocks likely have more potential generally than United States stocks.[57] His reasoning for this statement is that the majority of the global capital can be found outside of the United States.[58] This potential outperformance is attributable to the fact that "[f]oreign investments, especially those in emerging markets, involve greater risk and may offer greater potential returns than U.S. investments."[59] Thus, while a prudent investor has the opportunity to reap tremendous benefits from investing abroad, those benefits do not come risk-free.

Resultantly, foreign investment can have a place in any investor's portfolio. Engaging in foreign investing can be a great way to diversify and reap the benefits of new, emerging markets that come with tremendous growth potential. Similar to the wide array of investment vehicles available in the United States, foreign investment opportunities vary greatly in terms of risk and potential reward.

III. MARKET STRENGTH FACTORS APPLIED TO UGANDA[60]

As of the end of 2015, many United States companies' foreign investments are in the UK and Canada, exceeding investment in Central America, South America, and Africa combined.[61] There is an argument that a wealthy federal government is primarily responsible for innovations that transform industries and promote economic growth by making critical investments in technologies that create new industries.[62] The rationale underlying this argument is that truly groundbreaking innovation is, by its very nature, surrounded by extreme uncertainty that would prohibit private investment.[63]

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[56] Kathleen Kim, *Study: Consumers Prefer 'Made in USA,'* INC., http://www.inc.com/kathleen-kim/consumers-prefer-products-labeled-made-in-the-usa.html (last visited Feb. 17, 2018).

[57] Merriman, *supra* note 34.

[58] *Id.*

[59] FIDELITY, *Determining Your Investment Mix*, U. OF NEBRASKA-LINCOLN, https://hr.unl.edu/Fidelity%20-%20Investment%20Mix.pdf (last visited Feb. 17, 2018).

[60] I chose Uganda for the case study in this Comment because I traveled there with Pepperdine School of Law's Global Justice Program. I worked with His Lordship Justice Geoffrey Kiryabwire at the Court of Appeal alongside my colleague and friend, Greg Lewis. During my short ten week stay, I fell in love with the East African country and its wonderful people.

[61] JAMES K. JACKSON, CONG. RESEARCH SERV., RS21118, U.S. DIRECT INVESTMENT ABROAD: TRENDS AND CURRENT ISSUES 5, 6 (2017).

[62] Charles M. Yablon, *Innovation, the State and Private Enterprise: A Corporate Lawyer's Perspective Reviewing the Entrepreneurial State: Debunking Public vs. Private Sector Myths, by Mariana Mazzucato*, 40 DEL. J. CORP. L. 1017 (2016) (book review).

[63] *Id.* at 1018.

Clearly, under the same logic, a national government with sufficient income or capital to invest in innovation-generating projects is a great factor. This is because national governments will invest in innovation more than private companies, and innovation creates new industries that generate market growth.[64] Innovation is driven by, among other factors, the innovation "network," the group of entities involved in, and motivated by, the development of a particular technology.[65] It appears that the UK[66] and Canadian[67] markets are already saturated with foreign investors, thus in the interest of discovering a new, untapped market, this Comment focuses on the country of Uganda as a case study for the application of the "Market Strength Factors"—expounded upon below—to determine the strength and risk of a foreign investment opportunity.

Westlaw[68] promulgates a checklist for companies designed to "spell the ultimate success or failure of a company's overseas investments."[69] The checklist offers insight into the strength of a country's investment opportunities generally.[70] This Comment builds on Westlaw's list to create the "Market Strength Factors" that are set forth below. Like any investment strategy, these factors cannot be used to find the perfect investment opportunity; rather, these factors are only one set of many tools available to investors to reveal investments that may satisfy their risk preferences.[71]

[64] *See How the US Government Makes Silicon Valley Innovation Possible*, NEXTGOV (Mar. 29, 2016), http://www.nextgov.com/cio-briefing/2016/03/how-us-government-makes-silicon-valley-innovation-possible/127034/.

[65] Yablon, *supra* note 62, at 1030.

[66] Szu Ping Chan, *Foreign investors rush to Britain, despite EU referendum uncertainty*, THE TELEGRAPH (May 24, 2016 12:04 AM), http://www.telegraph.co.uk/business/2016/05/23/foreign-investors-rush-to-uk/ ("The UK enjoyed record levels of foreign direct investment in 2015.").

[67] Chris Ausdenmoore, *2015 Investment Climate Statement – Canada*, U.S. DEPT. OF STATE, https://www.state.gov/e/eb/rls/othr/ics/2015/241511.htm (last visited Feb. 17, 2018) ("The United States accounts for over 51 percent of Canada's total stock of foreign direct investment . . . ."); *Canada: Foreign Investment*, SANTANDER, https://en.portal.santandertrade.com/establish-overseas/canada/foreign-investment (last visited Feb. 17, 2018) ("Canada's weak points are its excessive dependence on the United States and a financial system that is struggling to recover from the global financial crisis.").

[68] Westlaw is one of the legal industry's preferred online legal research services. *Thomson Reuters Westlaw*, THOMSON REUTERS, http://legalsolutions.thomsonreuters.com/law-products/westlaw-legal-research/ (last visited Feb. 17, 2018).

[69] Mod. Corp. Checklists § 14:2.

[70] *See id.*

[71] Investment Planning, Saylor Academy 12.2 (2012) https://saylordotorg.github.io/text_personal-finance/s16-02-investment-planning.html. Stated another way, there are three categories of risk tolerances. *Risk Tolerances*, INVESTOPEDIA, http://www.investopedia.com/terms/r/risktolerance.asp (last visited Feb. 17, 2018). Those categories are Aggressive Risk Tolerance, characterized by positions with high risk in volatile markets; Moderate Risk Tolerance, comprised of moderate risk positions with a moderate term goal of ten years; and Conservative Risk Tolerance, clearly a category with low risk positions, often held by retirees. *Id.*

A. Economic Factors

1. Size of the Foreign Country's Gross National Income

An excellent metric that countries use to determine the strength of a company's economy is the size of the country's gross national income (GNI). In the past, many countries evaluated economic strength using the country's gross national product (GNP),[72] but that metric was abandoned in favor of GNI.[73] GNI is defined as "gross domestic product (GDP) plus net receipts of primary income (employee compensation and investment income) from abroad."[74] A ten-year sample is an appropriate time scale on which to view a country's GNI to get a view of the current trend.[75]

In 2015, Uganda's GDP was $21.15 billion USD[76] or $27.5 billion depending on the source,[77] and its GNI was $27.1 billion USD.[78] Figure 2 below depicts Uganda's GNI over a ten-year period in billions of USD.[79]

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[72] *See e.g.* Mod. Corps. Checklist, *supra* note 69. GNP is defined as gross domestic product (GDP) plus its net income inflow from abroad less its net income outflow to foreign countries. Jeffrey Glen, *How to Calculate* GNP, INVESTOR GUIDE, http://www.investorguide.com/article/15784/how-to-calculate-gnp-d1412/ (last visited Feb. 17, 2018). GNP quantifies the size of a country's economy factoring in both what is produced within its borders and what is generated by its citizens abroad. *Id.* GNP is typically calculated as:

GNP = Gross Domestic Product (GDP) + Net income inflow from abroad – Net income outflow to foreign countries

Where typically GDP is calculated as:

GDP = Consumption + Investment + Government Spending + Exports – Imports. *Id.*

[73] Tejvan Pettinger, *Difference Between GNP, GDP, and GNI*, ECON. HELP (July 8, 2017), http://www.economicshelp.org/blog/3491/economics/difference-between-gnp-gdp-and-gni/.

[74] *GDP-GNI-Definitions*, GLOBAL FIN., https://www.gfmag.com/global-data/glossary/gdp-gni-definitions (last visited Feb. 17, 2018).

[75] *See* Mod. Corps. Checklist, *supra* note 69.

[76] *Uganda GDP*, TRADING ECONOMICS, http://www.tradingeconomics.com/uganda/gdp (last visited Feb. 17, 2018).

[77] *Gross Domestic Product for Uganda*, FRED, https://fred.stlouisfed.org/series/MKTGDPUGA646NWDB (updated July 7, 2017).

[78] *Id.*

[79] *Id.*

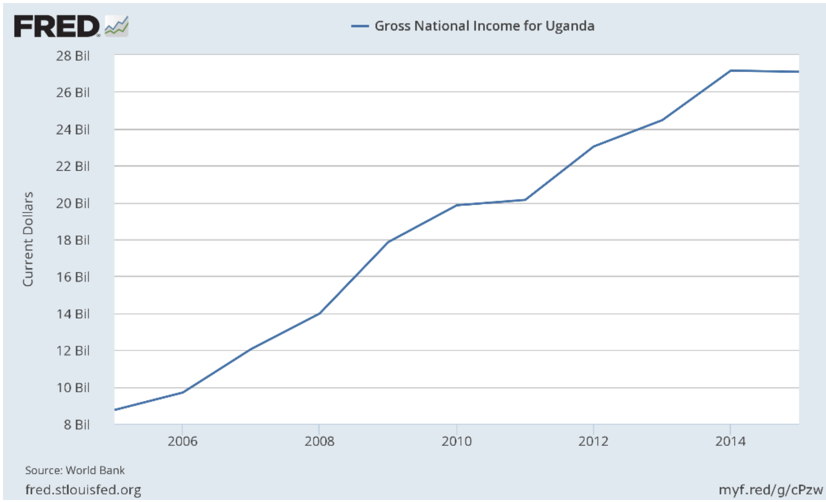

Figure 2[80]

Figure 2 clearly reflects a positive trend in Uganda's GNI, and thus its economic strength.[81] From 2007 to 2013, the country's GNI doubled and then maintained its positive slope. It does appear that the country may plateau in the ensuing short term or even experience some degree of a retracement,[82] but the GNI trend for Uganda has been very strong since the 1960s.[83]

2. *Existence of a National Development Plan*

National development plans are designed to analyze a country's objectives and priorities that relate to wealth building and other goals.[84] These plans contemplate a plethora of national goals such as creating wealth through tourism, natural resources, and agriculture; human capital development via stronger educational systems, science and technology development, and increasing access to basic necessities; and infrastructural development.[85] "A well-researched and thoughtful

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[80] *Gross National Income for Uganda*, FRED, https://fred.stlouisfed.org/series/MKTGNIUGA646NWDB (last updated Jan. 5, 2017).

[81] *Id.*

[82] "A retracement is a temporary reversal in the direction of a stock's price that goes against the prevailing trend. A retracement does not signify a change in the larger trend. On a chart where a stock's price is generally headed upward, retracements are the small dips in price that the stock experiences during its overall upward trend." *Retracement*, INVESTOPEDIA, http://www.investopedia.com/terms/r/retracement.asp (last visited Feb. 17, 2018).

[83] FRED, *supra* note 78.

[84] Fisheries & Agriculture Department, *The Objectives of National Planning*, http://www.fao.org/docrep/S4862E/s4862e02.htm (last visited Feb. 17, 2018).

[85] The Republic of Uganda, *Second National Development Plan* (June 2015), http://npa.ug/wp-content/uploads/NDPII-Final.pdf.

national development plan is invaluable for anticipating and understanding a country's decisions on allocation of its scarce resources.[86]

Uganda disseminated a 344-page National Development Plan that envisions "[a] transformed Ugandan society from a peasant to a modern and prosperous country within 30 years."[87] If the National Development Plan for the current period, 2015–2020, is successfully followed, Uganda will experience growth in its production, competitiveness, human capital development, and mechanisms for enhanced service delivery.[88]

3. *Strength of the Economy*

The third Economic Factor, strength of the economy, is a bit more difficult to define because a plethora of theories exist on the proper method to calculate a country's economic strength.[89] Since this set of factors is strictly financially focused, the strength of a country's Economy Factor will exclude the social value of economy and hone in on the economy's productivity by utilizing a per capita GDP value.[90] Per capita GDP "is calculated by either adding up the annual incomes of all working-age citizens or by totaling the value of all final goods and services produced in the country during the year."[91] One may also analyze the country's business cycle history, its resistance to recession and world cyclical trends, its foreign exchange position, its reliance on exports, and the balance of its economy in terms of industry, agriculture, trade, and service.[92]

The Uganda government began to pursue a series of stabilization and pro-market structural reforms in the late 1980s.[93] The resulting large-scale economic stability and investment response sustained a high growth period from 1987 to

[86] *Id.*

[87] THE REPUBLIC OF UGANDA, *supra* note 85.

[88] *Id.* ("This plan has four objectives, namely: 1. Increase Sustainable Production, Productivity and Value Addition in Key Growth Opportunities, 2. Increase the Stock and Quality of Strategic Infrastructure to Accelerate the Country's Competitiveness, 3. Enhance Human Capital Development, and 4. Strengthen Mechanisms for Quality, Effective and Efficient Service Delivery."). *Id.*

[89] *See e.g.* Mike Taylor, *Very Basic Politics #4: How do we Measure the Strength of the Economy?*, THE REINVIGORATED PROGRAMMER (Oct. 2, 2015), https://reprog.wordpress.com/2015/10/02/very-basic-politics-4-how-do-we-measure-the-strength-of-the-economy/. (Sum the square root of incomes or combine GDP with the Gini coefficient); Joe Miller, *Move Over, GDP: How Should you Measure a Country's Value?*, BBC NEWS (Apr. 3, 2014) http://www.bbc.com/news/business-26682206. (Social Progress Index); *Per Capita GDP*, INVESTOPEDIA, http://www.investopedia.com/terms/p/per-capita-gdp.asp (last visited Feb. 18, 2018) ("The per capita GDP is especially useful when comparing one country to another, because it shows the relative performance of the countries. A rise in per capita GDP signals growth in the economy and tends to reflect an increase in productivity.").

[90] *Id.*

[91] *Per Capita GDP*, *supra* note 89.

[92] Mod. Corps. Checklist, *supra* note 69.

[93] *Overview*, THE WORLD BANK, http://www.worldbank.org/en/country/uganda/overview (updated June 7, 2017).

2010.[94] The growth in Uganda's GDP "averaged 7% per year in the 1990s and the 2000s, placing Uganda among the 15 fastest growing economies in the world."[95] The current Ugandan GDP growth rate is 3.91%.[96] This rate is on a downward trend relative to the past three years and is moving towards a more stable rate[97]—the ideal GDP for an economy is around 2% to 3%.[98] This ideal rate is high enough to provide for corporate profit and an increase in jobs, but low enough to prohibit inflation.[99]

The population of Uganda increased at a rate of at least 3% annually throughout this period of GDP growth deceleration, and per capita income growth also experienced a decline from a rate of 3.6% from the 1990s and 2002 to approximately 2%.[100] The country's large public investment program and resumption of private sector economic activity is expected to drive growth in the ensuing years.[101] Notwithstanding the volatile global market, the Ugandan economy is forecasted to grow at a rate of approximately 5.9% in the 2016 to 2017 financial year.[102] That rate will likely continue to increase to 6.8% the next financial year "and thereafter stay on an upward trajectory into the medium term, if major infrastructure projects are implemented as planned, and private investment intensifies with oil-related activities."[103]

4. *Significance of Monetary Considerations*

The final Economic Factor, the significance of monetary considerations, looks at the conversion rate of the country's currency relative to USD, the base currency used in the majority of exchange.[104]

The current conversion rate of the Ugandan currency, the Ugandan Shilling (UGX), for USD is 3,652[105] This conversion rate allows for an investor to acquire a rather large amount of equity in a Ugandan company. As such, the investment

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[94] University of Virginia, *Health Care, Education and Entrepreneurship*, http://www.darden.virginia.edu/mba/darden-worldwide/immersion/uganda/ (last visited Feb. 17, 2018).

[95] *Id.*

[96] *Uganda GDP Annual Growth Rate*, TRADING ECON., http://www.tradingeconomics.com/uganda/gdp-growth-annual (last visited Feb. 17, 2018).

[97] *Id.*

[98] Ryan Barnes, *Economic Indicators: Gross Domestic Product (GDP)*, INVESTOPEDIA, http://www.investopedia.com/university/releases/gdp.asp (last visited Feb. 17, 2018).

[99] *Id.*

[100] UNIV. OF VA., *supra* note 94.

[101] *Id.*

[102] *Id.*

[103] *Id.*

[104] *Exchange Rate*, INVESTOPEDIA, http://www.investopedia.com/terms/e/exchangerate.asp (last visited Jan. 20, 2017) ("Most exchange rates use the US dollar as the base currency and other currencies as the counter currency.").

[105] *XE Currency Converter: UGX to USD*, XE (last visited Jan. 20, 2017), http://www.xe.com/currencyconverter/convert/?Amount=1&From=UGX&To=USD. $1 USD = UGX 3,584. *Id.*

would be very sensitive to minute changes in the underlying asset's market movements. Of course, this can be scaled back according to an investor's risk preferences and total investable capital.

B. *Political Factors*

1. *Government Analysis*

An analysis of a country's Political Factors first requires a governmental analysis. A governmental analysis considers the system of government and its stability.[106]

The Ugandan government has faced great turmoil over the past century.[107] Early Uganda saw the formation of various kingdoms throughout the seventeenth and eighteenth centuries.[108] In 1905, Uganda fell under the control of the British.[109] The British control over Uganda ended in 1921, but the African nation was not fully self-governed until 1962 when Benedicto Kwanuka was appointed as its first Prime Minister.[110] A military coup organized by Idi Amin Dada overthrew the subsequent leader, Milton Obote, in January 1971.[111] In 1978, after he established an authoritarian leadership, Amin invaded Tanzania, and Tanzania responded by marching into Uganda supported by the Uganda National Liberation Front, a group of exiled Ugandans.[112] After various other usurpations, Obote gained power, but struggled with fighting the National Resistance Army led by Yoweri Museveni, who eventually became president in 1986 after the carnage of civil war began to wane.[113]

The Constitution of Uganda in its current form was adopted on October 8, 1995.[114] The 1995 Constitution defines the "three main organs of the government, namely, the legislature, executive and judiciary."[115] The long-standing conflicts within Uganda caused its economy to suffer, resulting in limited resources for the government as a whole.[116] Museveni has maintained his executive control over

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[106] Mod. Corps. Checklist, *supra* note 69.

[107] *See Uganda: History,* THE COMMONWEALTH, http://thecommonwealth.org/our-member-countries/uganda/history (last visited Feb. 17, 2018).

[108] *Id.*

[109] *Id.*

[110] *Id.*

[111] *Id.*

[112] *Id.*

[113] *Id.*

[114] *The Constitution*, THE STATE HOUSE OF UGANDA, http://www.statehouse.go.ug/government/constitution (last visited Feb. 17, 2018). The 1995 Constitution is Uganda's fourth constitution since Uganda obtained its independence from the British. *Id.*

[115] *Id.*

[116] *See* THE COMMONWEALTH, *supra* note 107.

the country to date.[117] To accommodate for President Museveni's extended presidential stay, Uganda's parliament amended the country's constitution in 2005 to remove a two term limitation on the executive.[118] "Museveni, now 71, would be ineligible to seek re-election in 2021 because the constitution bars anyone older than 75 to serve."[119] Parliament is, thus, again considering revisions to the constitution to eliminate the seventy-five-year age limit on presidents.[120]

Uganda is a member of the African, Caribbean and Pacific Group of States, African Union, Common Market for Eastern and Southern Africa, East African Community, Non-Aligned Movement, Organisation of Islamic Cooperation, United Nations and World Trade Organization.[121] Uganda was a member, along with Kenya and United Republic of Tanzania, of the East African Community, which from 1967 had a common market and many shared services but collapsed in 1977.[122] The three countries again embarked on developing regional cooperation in 1993, bringing about progressive harmonization of standards and policies across a wide range of activities, and launching a new East African Community in January 2001 and East African Customs Union in January 2005.[123] The Community was enlarged in July 2007 when Burundi and Rwanda became members.[124] Uganda is also a member of the Intergovernmental Authority on Development, which was established in 1986 by the six countries in the Horn of Africa to combat drought and desertification and promote food security in the region.[125]

2. *Social Considerations*

The second Political Factor, social considerations, requires an analyst to delve into financial ethics, morals, and politics.[126] "The financial sector is often in the news for the wrong reasons—for falling short on ethics and hurting society."[127] While there are many social considerations involved in determining the political strength and stability of a country, the most salient are human rights,

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[117] *Yoweri Museveni - Uganda's President Profiled*, BBC (Feb. 17, 2016), http://www.bbc.com/news/world-africa-12421747.

[118] Allen Cone, *Resolution Allows Ugandan President Yoweri Museveni to Run Again in Age-Limit Change*, UPI (Aug. 3, 2016, 11:01 AM), http://www.upi.com/Top_News/World-News/2016/08/03/Resolution-allows-Ugandan-President-Yoweri-Museveni-to-run-again-in-age-limit-change/8951470225731/.

[119] *Id.*

[120] *Id.*

[121] THE COMMONWEALTH, *supra* note 107.

[122] *Id.*

[123] *Id.*

[124] *Id.*

[125] *Id.*

[126] Usman Hayat, *Integrating Social and Environmental Issues in Investment Decisions*, 70TH CFA INSTITUTE ANNUAL CONFERENCE (May 7, 2013), https://annual.cfainstitute.org/2013/05/07/integrating-social-and-environmental-issues-in-investment-decisions/.

[127] *Id.*

worker rights, safety, labor relations, child labor, community relations/development, and indigenous rights.[128] These particular factors are particularly relevant for determining the political strength of a sovereignty because they describe the public's perception of a country.[129]

The human rights situation in Uganda has improved since the previous Universal Periodic Review by the United Nations Human Rights Council in 2011, but countries engaging in the 2016 review were encouraged to reject "the government rhetoric on progress while key accountability bodies remain toothless or ignored."[130] The reviewing countries were also encouraged to "urge Uganda to do more to change the entrenched climate of impunity that is leaving victims with nowhere to turn."[131] Examples of recent human rights violations in Uganda include "failure to effectively investigate a November 2016 military assault in Kasese where over 100 people, including children, were killed,"[132] various instances of abrogation of the rights to freedom of expression, association and assembly.[133]

"Uganda has a history of ethnically-based discrimination promoted by governments that divert resources to the resolution of problems that face specific ethnic groups to the exclusion of others."[134] However, despite its history of discrimination, the country's government put in place "a number of legislative provisions, policies and programmes that could be exploited to promote the rights of indigenous and tribal peoples."[135] Notwithstanding the implementation of legislative framework that offers an avenue to fight ethnic-based discrimination, more work is needed in this area to promote the human rights of all Ugandans.[136]

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[128] CTR. FOR FIN. MKT., INTEGRITY, ENVIRONMENTAL, SOCIAL, AND GOVERNANCE FACTORS AT LISTED COMPANIES 5 (2008) (ebook).

[129] *See id.*

[130] Maria Burnett, *Uganda's Deteriorating Human Rights Record Up for Review*, HUMAN RIGHTS WATCH (Nov. 2, 2016), https://www.hrw.org/news/2016/11/02/ugandas-deteriorating-human-rights-record-review. An example of the current human rights position in Uganda is the 2012 criminalization of torture, but with no officials standing trial and a failure to compensate two families for the killing of children by security forces at protests. *Id.*

[131] *Id.*

[132] *Uganda*, HUMAN RIGHTS WATCH, https://www.hrw.org/africa/uganda (last visited Oct. 8, 2018).

[133] For a more in-depth account, see *Uganda 2017/2018*, AMNESTY INT'L, https://www.amnesty.org/en/countries/africa/uganda/report-uganda/ (last visited Oct. 8, 2018). *See also Statement on emerging human rights issues in the country*, THE UGANDA HUMAN RIGHTS COMM'N (Aug. 24, 2018), https://www.uhrc.ug/statement-emerging-human-rights-issues-country-following-arua-municipality-election-held-wednesday-0 ("We are deeply concerned about the recent developments in the country that directly or indirectly curtailed the full enjoyment of human rights, particularly personal liberty, right to life, freedom of assembly, expression and media freedoms, as well as freedom from torture.")

[134] C Mbazzira, UGANDA: CONSTITUTIONAL, LEGISLATIVE AND ADMINISTRATIVE PROVISIONS CONCERNING INDIGENOUS, at 61, (2009), http://www.chr.up.ac.za/chr_old/indigenous/country_reports/Country_reports_Uganda.pdf.

[135] *Id.*

[136] *Id.*

3. *Country's Attitude Toward Business*

The third Political Factor is difficult to measure, since a country's attitude towards business is manifested differently internationally, but some potential means of objectively evaluating attitude include "the level of business and entrepreneurship skills and experience in a country, an economy's administrative framework for entry and growth, and bankruptcy regulations, as they shape perceived barriers and risks to business start-ups."[137]

The level of entrepreneurship in Uganda is incredibly high.[138] However, according to the United States Embassy, Ugandan businesses face challenges for market entry including, corruption, limited infrastructure, lack of affordable financing, lack of specialized skills, inefficient government services, and complex land laws.[139] However, many of the challenges cited by the United States Embassy fail to take account of the fact that many issues faced by the country are generally not present in every Ugandan city.[140] For example, Kampala, the capital city of the country, experiences fewer blackouts than other areas of the country.[141]

Uganda enacted the Insolvency Act in 2011.[142] The Insolvency Act was enacted to protect the assets and interests of employees, creditors, suppliers, and other entities influenced by the financial stability of individuals and companies.[143] The World Bank rates Uganda's insolvency framework a six out of sixteen.[144]

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[137] *Attitudes Towards Entrepreneurship*, THE INNOVATION POLICY PLATFORM, https://www.innovationpolicyplatform.org/content/attitudes-towards-entrepreneurship (last visited Feb. 17, 2018).

[138] A report promulgated by the Global Entrepreneurship Monitor named Uganda as the most entrepreneurial nation. Mark Hay, *Why Uganda Is the World's Most Entrepreneurial Nation*, GOOD (Oct. 2, 2015), https://www.good.is/articles/why-uganda-is-the-worlds-most-entrepreneurial-nation.

[139] *Uganda - Market Challenges*, EXPORT.GOV (June 14, 2016), https://www.export.gov/article?id=Uganda-Market-Challenges.

[140] *See id.* ("Although the Ugandan government is investing heavily in infrastructure, its systems of roads, rail, electricity, and water are generally poor. Access to electricity countrywide is a meager 15 percent, and only six percent of the rural population has access to power.").

[141] *Id.*

[142] Insolvency Act, 2011, Act no. 14, promulgated Aug. 8, 2011 (Uganda), https://www.ulii.org/search/ulii/insolvent%20act.

[143] Taddeo Bwanbale, *Government is Finalising Regulations to Operationalise a Law that Will Guide Individuals or Companies Seeking to Declare Bankruptcy*, NEW VISION (Sept. 28, 2014, 5:57 PM), http://www.newvision.co.ug/new_vision/news/1310984/law-rescue-bankrupt.

[144] *Resolving Insolvency in Uganda*, THE WORLD BANK, http://www.doingbusiness.org/~/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB15-Chapters/DB15-CaseStudy-Resolving-Insolvency.pdf (last visited Feb. 24, 2017). This figure was reached by evaluating the country's "commencement of proceedings, management of debtor's assets, reorganization proceedings and creditor participation." *Id.*

4. *Government Ownership*

The final Political Factor is the Government's ownership in businesses, i.e. the threat of governments taking possession of private assets in a sector[145] and national favoritism toward local investors in terms of taxation or otherwise.

It appears that, in Uganda, there was a recent exchange of ownership of service-oriented duties. First, in 2015, the Kampala Capital City Authority licensed three private companies to absorb the responsibility of waste management.[146] That same year, the Ugandan government considered a plan to buy back the Bujagali hydropower dam in an attempt to "reduce the cost of power it generates and to increase government market share in the electricity generation market."[147] This project started as a public-private joint venture to reduce the burden on the Ugandan public related to an electricity crisis.[148] Second, in 2016, the Ugandan government overtook a Libyan-Ugandan held National Housing and Construction Company to make "the company . . . more effective and [to] help solve the housing challenges the country faces."[149] Overall, it appears the Ugandan government does not acquire private companies like the United States government has and for the Ugandan government to do so, "would constitute a major reversal in public policy."[150]

C. *Government Factors*

1. *Fiscal and Monetary Policies*

Fiscal and monetary government policies comprise the first Government Factor. This factor asks how sound the government's fiscal and monetary policies are in light of its history of policies.[151]

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[145] For example, the United States' federal government nationalized Fannie Mae and Freddie Mac in 2008. *A History of Corporate Nationalization*, CBS NEWS (June 2, 2009 6:51 AM), http://www.cbsnews.com/news/a-history-of-corporate-nationalization/.

[146] Ashraf Saif-llah, *Private Companies to Take over City Garbage Collection*, NEW VISION (May 7, 2015, 1:35 AM), http://www.newvision.co.ug/new_vision/news/1325510/private-companies-city-garbage-collection.

[147] Daniel K. Kalinaki, *Uganda in Secret Plan to Buy Back Bujagali Hydropower Project from Investors*, THE EAST AFRICAN (Mar. 7, 2015, 11:28 AM), http://www.theeastafrican.co.ke/news/Uganda-quietly-plans-takeover-of-Bujagali-dam/2558-2645286-xywg8vz/index.html.

[148] *Id.*

[149] *Uganda Government to Takeover of National Housing and Construction Company*, CONSTRUCTION REVIEW ONLINE (Oct. 9, 2016), https://constructionreviewonline.com/2016/10/uganda-government-to-takeover-of-national-housing-and-construction-company/.

[150] Kalinaki, *supra* note 147.

[151] *See* Mod. Corps. Checklist, *supra* note 69.

Uganda's fiscal and monetary policies are created by the Bank of Uganda, which works closely with the Ministry of Finance, Planning, and Economic Development.[152] The Bank of Uganda is completely owned by the Ugandan government.[153] The Bank is charged with fostering "price stability and a sound financial system" and its vision is "[t]o be a centre of excellence in upholding macroeconomic stability."[154]

The Bank of Uganda reformed its fiscal policy in July 2011 to keep up with the demands of a changing economy.[155] "The reform entailed the introduction of an inflation targeting lite (ITL) monetary policy framework, which replaced the previous framework that involved the targeting of monetary aggregates."[156] Under the reform, the Bank of Uganda also took on the responsibility of setting a national interest rate, the Central Bank Rate.[157]

2. *Quality of Government*

The next factor, quality of government, considers national bureaucracy, its history of governmental fairness and transparency,[158] and whether prior commitments are honored by new governments.[159]

The national bureaucracy of Uganda has chilled business in the past, but the government took notice of this fact and put forth an effort to cut red tape.[160] Organizations like Private Sector Foundation Uganda speak on behalf of the private sector to encourage the Ugandan government to further reduce bureaucracy and make the government more business friendly.[161]

Uganda's history of governmental fairness and transparency is rocky at best.[162] That notwithstanding, "Uganda has transformed itself from a country with a troubled past to one of relative stability and prosperity."[163] Unfortunately for the country, "[c]orruption in Uganda is widespread and seen as one of the greatest obstacles to the country's economic development as well as to the provision of

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[152] *About the Bank*, BANK OF UGANDA, https://www.bou.or.ug/bou/about/who_we_are.html (last visited Feb. 17, 2018).

[153] *Id.*

[154] *Id.*

[155] *Monetary Policy*, BANK OF UGANDA, https://www.bou.or.ug/bou/monetary_policy/Monetary_Policy_Overview.html (last visited Feb. 17, 2018).

[156] *Id.*

[157] *Id.*

[158] *Id.*

[159] *Government Effectiveness Indicator*, MCC, https://www.mcc.gov/who-we-fund/indicator/government-effectiveness-indicator (last visited Feb. 17, 2018).

[160] Ismail Musa Ladu, *Government Bureaucracy Affecting Investment - PSFU Boss*, DAILY MONITOR (Nov. 12, 2014), http://www.monitor.co.ug/Business/Markets/Government-bureaucracy-affecting-investment---PSFU-boss/688606-2518906-138dk95z/index.html.

[161] *Id.*

[162] *Uganda Country Profile*, BBC (Dec. 15, 2016), http://www.bbc.com/news/world-africa-14107906.

[163] *Id.*

quality public services."[164] The corruption in Uganda touches the political sphere, public financial management, law enforcement, and various other areas.[165]

In 1996, the Ugandan Judiciary established the Commercial Court Division of the High Court with the goal of rendering expeditious resolutions to commercial disputes to "help attract foreign investment in Uganda through improving investor confidence in Uganda's legal system."[166] The courts of Uganda generally honor contracts, but there is concern about the effect of judicial corruption on the sanctity of contracts.[167]

3. *Legal Factors*

The final Government Factor, legal factors, looks at the level of fairness of the judiciary, clarity and level of protection of investment laws, patent systems, employee compensation controls, and restrictions on, or difficulties relating to, foreign ownership.[168] Courts are often enthusiastic about upholding private exchanges to protect commerce, the business community, and the efficiency of the marketplace. Underlying this practice is the belief that legal enforcement of voluntary exchanges is "essential to the smooth functioning of the economic system," in that "a legal system that enforces contracts reliably and efficiently plays an important role in economic growth."[169]

Again, the corruption in the judiciary is a serious issue in Uganda.[170] "Ugandan policies, laws, and regulations are generally favorable towards foreign investors, although poorly enforced legislation . . . and corruption hamper trade development."[171] Sources disagree over the pervasiveness of the corruption within the legal industry, but all concur that corruption is a grave concern.[172] This corruption

[164] Maira Martini, *Uganda: Overview of Corruption and Anti-Corruption*, TRANSPARENCY INT'L (Apr. 8, 2013), http://www.transparency.org/whatwedo/answer/uganda_overview_of_corruption_and_anti_corruption.

[165] *Id.* In response to this mounting corruption, the Ugandan government created the Anti-Corruption Court in 2008. *Id.* The Anti-Corruption Court "was a deliberate step by the Judiciary, in response to demands by Government and other institutions engaged in fighting corruption, to take drastic action against the corrupt by strengthening the adjudicatory mechanism for fighting corruption." *Anti-Corruption Division*, THE JUDICIARY, http://www.judiciary.go.ug/data/smenu/19/Anti-Corruption%20Division.html (last visited Feb. 17, 2018).

[166] *Commercial Court Division*, THE JUDICIARY, http://www.judiciary.go.ug/data/smenu/17/Commercial%20Court%20Division.html (last visited Feb. 17, 2018).

[167] Stella Kasansula, *2015 Investment Climate Statement - Uganda*, U.S. DEPT. OF STATE (May 2015), https://www.state.gov/e/eb/rls/othr/ics/2015/241780.htm.

[168] Mod. Corp. Checklist, *supra* note 69.

[169] Deborah Zalesne, *Enforcing the Contract at All (Social) Costs: The Boundary Between Private Contract Law and the Public Interest*, 11 TEX. WESLEYAN L. REV. 579 (2005).

[170] Ladu, *supra* note 160.

[171] *Policies Towards Foreign Direct Investment*, EXPORT.GOV (Aug. 3, 2017), https://www.export.gov/article?id=Uganda-Openness-to-Foreign-Investment.

[172] *See, e.g.*, *id.*; Martini, *supra* note 164.

is largely concentrated in the lower courts, and "[n]early half of Ugandans perceive the judiciary as corrupt," with approximately half of litigants in the past year indicating having paid a bribe.[173]

In 1991, Uganda enacted the Investment Code Act to provide incentives to investors and establish a Uganda Investment Authority.[174] The Uganda Investment Authority is "responsible for promoting and facilitating investments in Uganda, both local and foreign."[175]

On paper, the patent system in Uganda is rather similar to the United States' patent system,[176] but it also offers a region-wide patent system called ARIPO[177] patents. ARIPO is a member of both the International Convention and the Patent Cooperation Treaty (PCT).[178] Thus, it is advisable for applicants to pursue ARIPO or international patents to preserve their international intellectual property rights.

Employee compensation controls, essentially minimum wage laws, are a tremendous legal issue in the country that will likely need to change in the near future. The Ugandan minimum wage is 6,000 UGX per month, *less than two U.S. dollars per month*.[179] The minimum wage for a Ugandan citizen is one of the lowest of all countries world-wide.[180]

D. Geographic Factors

1. Availability and Quality of Necessities

The next set of Market Strength Factors, Geographic Factors, considers the availability and quality of necessities, such as transportation facilities; port facilities; raw materials; water, power, and gas; and waste disposal facilities.[181]

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[173] *Uganda Corruption Report*, BUS. ANTI-CORRUPTION PORTAL, http://www.business-anti-corruption.com/country-profiles/uganda (last updated Aug. 2017).

[174] Investment Code Act, 1991, c. 92, https://ulii.org/ug/legislation/consolidated-act/92.

[175] United Nations, *An Investment Guide to Uganda*, ICC 15 (2004), http://unctad.org/en/Docs/iteiia20043_en.pdf.

[176] The requirements for obtaining a patent in Uganda mirror those found in 35 U.S.C. §§ 101–03 (2016). *See Patents and Utility Models*, UGANDA REGISTRATION SERVICES BUREAU, http://ursb.go.ug/services/intellectual-property/patents/ (last visited Feb. 17, 2018). The requirements for a Ugandan patent are that the invention be novel, nonobvious, useful, and that the invention be of patentable subject matter. *Id.*

[177] ARIPO stands for African Regional Industrial Property Organisation for English-speaking Africa. *ARIPO Patent Registrations*, HAHN & HAHN, INC., http://www.hahn.co.za/index.php/en/aripo/patent-registrations (last visited Feb. 17, 2018). "The member countries are Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, São Tomé and Principe, Sierra Leone, Sudan, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe." *Id.*

[178] *Id.*

[179] *Minimum Wages in Uganda with Effect from 01-01-1984*, WAGEINDICATOR.ORG, http://www.wageindicator.org/main/salary/minimum-wage/uganda (last updated June 13, 2016). This minimum wage is *long* overdue for a change, considering it remained unchanged since 1984. *Id.*

[180] *Uganda Minimum Wage*, MINIMUM-WAGE.ORG, https://www.minimum-wage.org/international/uganda (last visited Oct. 8, 2018).

[181] *Id.*

The geographic factors in Uganda provide for an interesting analysis. This is because of the tremendous variation between the availability of resources in rural Uganda and urban Uganda. In the rural areas, poverty is rampant and transportation infrastructure suffers as a result. "Some 70,750 kilometers of roads radiate from Kampala, 23% of which are paved.[182] The railway network extends over some 260 kilometers.[183] At the end of 1993, passenger services between Kampala and Kenya were resumed after a break of 15 years.[184] Entebbe International Airport is 35 km south-west of Kampala."[185]

Many Ugandans do not have access to basic necessities. "High population growth—nearly triple the global average—stressed the water and sanitation services that [already] exist."[186] In 2013, the population of Uganda reached 37,579,000 people.[187] The east African country has experienced power energy scarcity since about the 1980s,[188] but Germany recently offered Uganda 93.5M euros in aid to address the energy, employment, income and food security needs.[189] Current waste disposal in the country is rather poor, but "[p]lans are underway by the government to establish a waste recycling plant that will produce fertili[z]ers, generate power and a host of other materials."[190]

2. *Site Location*

Second, one must inquire into the quality of the geographic location of the country by analyzing its proximity to export markets, suppliers and customers, raw materials, and its ability to easily import and export.[191]

Uganda is a landlocked country,[192] and thus relies heavily on the Port of Mombasa, Kenya's principle sea port; about 80% of Uganda's imports pass

[182] *Uganda*, EAC, https://www.eac.int/eac-partner-states/60-about-eac (last visited Feb. 17, 2018).

[183] *Id.*

[184] *Id.*

[185] *Uganda: History*, *supra* note 107.

[186] *Uganda's Water and Sanitation Crisis*, WATER.ORG, http://water.org/country/uganda/ (last visited Feb. 17, 2018).

[187] *Uganda: History*, *supra* note 107.

[188] *Energy in Uganda*, WIKIPEDIA, https://en.wikipedia.org/wiki/Energy_in_Uganda (last visited Feb. 24, 2017).

[189] Pascal Kwesiga, *Germany gives Uganda sh365b for energy, agriculture*, NEW VISION (Oct. 6, 2016), http://www.newvision.co.ug/new_vision/news/1437015/germany-uganda-sh356b-energy-agriculture.

[190] Lucy Styles, *Uganda Waste Management and Disposal Providers*, LOGISTICS CAPACITY ASSESSMENT (June 25, 2015), http://dlca.logcluster.org/display/public/DLCA/3.7+Uganda+Waste+Management+and+Disposal+Providers;jsessionid=AF659DD3BAA3C7848629C7BD8FD99DD3.

[191] *Id.*

[192] Lily Kuo, *Landlocked Uganda Has Finally Decided Which Neighbor Will Host Its Oil Pipeline to the Sea*, QUARTZ AFR. (April 25, 2016), https://qz.com/669228/landlocked-uganda-has-finally-decided-which-neighbor-will-host-its-oil-pipeline-to-the-sea/.

through the port.[193] Uganda's main exports are coffee, fish and fish products, tea, cotton, flowers, horticultural products, and gold.[194]

E. Labor Factors

1. Availability of Labor

A country's availability of labor considers the present workforce, the potential for an increase in the workforce, and the level of skill in the workforce.[195]

Uganda's labor force is 18.42 million people.[196] In 2015, the labor force of Uganda was comprised of 50% services generally, 10% industry, and 40% agriculture.[197] There is a potential for an increase in the Ugandan workforce, "[b]y accelerating transformation [from production to higher productivity activities], jobs in the manufacturing and services sectors could reach 8 to 12 million by 2030."[198]

2. Quality

The quality of labor in a country is determined by average worker productivity and the availability and quality of education facilities.[199]

The quality of Uganda's labor force is somewhat low now due to its low worker productivity[200] and limited educational facilities. However, it is projected that worker productivity will increase with an influx of private investment in the

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[193] *The Maritime Port of Mombasa*, N. CORRIDOR TRANSIT & TRANSP. COORDINATION AUTH., http://www.ttcanc.org/page.php?id=27 (last visited Feb. 24, 2017). *But see* Dominic Omondi, *Why Kenya has lost its most precious market, Uganda*, STANDARD DIGITAL (Jan. 17, 2017), https://www.standardmedia.co.ke/business/article/2000230141/why-kenya-has-lost-its-most-precious-market-uganda (indicating a decline in Uganda's use of the port of Mombasa and a transition to Chinese-manufactured goods).

[194] *The World Factbook*, CIA, https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html (last updated Jan. 12, 2017).

[195] *See* Nicolas Pologeorgis, *Employability, The Labor Force and the Economy*, INVESTOPEDIA, http://www.investopedia.com/articles/economics/12/employability-labor-force-economy.asp (last visited Jan. 20, 2017).

[196] CIA, *supra* note 194.

[197] *Id.*

[198] *Transforming Uganda's Economy for More and Better Jobs*, THE WORLD BANK (Aug. 13, 2013), http://www.worldbank.org/en/news/press-release/2013/08/13/transforming-ugandas-economy-for-more-and-better-jobs.

[199] *See* Mod. Corps. Checklist, *supra* note 69.

[200] *Uganda Economic Update: Fifth Edition*, THE WORLD BANK (March 3, 2015), http://www.worldbank.org/en/country/uganda/brief/uganda-economic-update-fifth-edition-the-growth-challenge-can-ugandan-cities-get-to-work-fact-sheet.

country[201] and "Uganda has achieved remarkable successes in the field of education during the last decade to date."[202]

3. *Industrial Relations*

The third Labor Factor is industrial relations, which evaluates the workers' voice, freedom to hire and fire, compulsory and voluntary fringe benefits, and the level of social security taxes.[203]

Uganda has a strong legal framework for the establishment of unions.[204] "The Constitution of Uganda provides for freedom of association while Labor Unions Act allows the workers to establish and join unions."[205] Ugandan law prohibits employers from interfering with the formation of unions and provides various other protections for union members.[206] Fringe benefits in Uganda are permitted and are subjected to taxation by the Uganda Revenue Authority (URA).[207] Uganda experienced a steady 15% social security tax rate since at least 2007.[208]

4. *Cost*

Labor Factors analysis concludes with an accounting of costs associated with labor in the country with an eye towards the amount and stability of costs over time.[209]

The cost of labor in Uganda is incredibly low, with an average yearly salary of $2,042.41, or UGX 7,320,000.[210] While the average Ugandan wage is very low, the average monthly income nearly doubled from 2005 to 2009.[211] The urban average monthly income saw significantly more growth than that of income in rural Uganda.[212]

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[201] World Bank, *supra* note 200.

[202] *Education Sector Policy Overview Paper* 8 (ENABLE, Working Paper, 2006), http://chet.org.za/manual/media/files/chet_hernana_docs/Uganda/Other/Education_Policy_Overview_Uganda.pdf.

[203] Mod. Corps. Checklist, *supra* note 69.

[204] *Trade Unions*, Mywage, http://mywage.ug/home/labour-laws/legal-advice (last visited Feb. 24, 2017).

[205] *Id.*

[206] *Id.*

[207] Brian Mayanja, *URA Enforces Tax on All Employee Benefits* (Apr. 6, 2013, 11:23 AM), http://www.newvision.co.ug/new_vision/news/1316832/ura-enforces-tax-employee-benefits.

[208] *Uganda Social Security Rate*, TRADING ECON., http://www.tradingeconomics.com/uganda/social-security-rate (last visited Feb. 24, 2017).

[209] *Id.*

[210] *See Cost of Living in Uganda*, NUMBEO, https://www.numbeo.com/cost-of-living/country_result.jsp?country=Uganda (last updated Feb. 2018).

[211] *Uganda National Household Surveys Report 2009/2010*, UGANDA BUREAU OF STAT, http://www.ubos.org/UNHS0910/chapter7.Average%20Monthly%20Household%20Income.html (last visited Feb. 17, 2018).

[212] *Id.*

F. *Tax Factors*

1. *Tax History*

Tax history asks what the present taxation levels are, what the taxation trend is, and what future tax rates will likely be.[213]

"In 2009, the Uganda Revenue Authority (URA) introduced an 'E-Tax' system which improved its efficiency, boosted transparency, and increased tax compliance."[214] The current corporate tax rate is 30%, but the taxation laws of the country are obfuscated by the URA's arbitrary enforcement.[215] The corporate tax rate has remained unchanged for over ten years, and future taxation in Uganda seems unlikely to change.[216] However, personal tax rates increased from 30% to 40% in 2012 and have maintained since.[217]

2. *Tax Environment*

The tax environment considers the general tax morality and the morality of tax enforcement authorities.[218]

Taxes in Uganda are viewed with extreme distaste, not unlike many other countries, but a perception of governmental corruption combined with country-wide ignorance leads to allegedly high rates of criminal tax evasion.[219] According to Peter Wandera, the Executive Director of Transparency International Uganda, corruption in the Uganda Revenue Authority has decreased, though many other public sectors remain corrupt.[220]

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[213] *Id.*

[214] *Uganda - Openness to and Restriction on Foreign Investment*, EXPORT.GOV, https://www.export.gov/article?id=Uganda-Openness-to-Foreign-Investment (last visited Aug. 11, 2016). [https://web.archive.org/web/20160928235921/https://www.export.gov/article?id=Uganda-Openness-to-Foreign-Investment].

[215] *Id.*

[216] *Uganda Corporate Tax Rate*, TRADING ECON., http://www.tradingeconomics.com/Uganda/corporate-tax-rate (last visited Feb. 18, 2018).

[217] *Uganda Personal Income Tax Rate*, TRADING ECON., http://www.tradingeconomics.com/uganda/personal-income-tax-rate (last visited Feb. 18, 2018).

[218] Mod. Corps. Checklist, *supra* note 69.

[219] Alan G. Nkonge, *Ugandans Evade Taxes Because of Corruption and Ignorance*, DAILY MONITOR (June 28, 2013), http://www.monitor.co.ug/OpEd/Commentary/Ugandans-evade-taxes-because-of-corruption-and-ignorance/689364-1897668-jwv8jk/index.html.

[220] Flavia Nassaka, *Uganda Ranked Among Most Corrupt Nations*, THE INDEPENDENT. (Dec. 13, 2015), https://www.independent.co.ug/uganda-ranked-among-corrupt-nations/.

3. Tax Law Provisions

Third and finally, the tax law provisions factor looks at the country's income tax laws, whether there are tax incentives for new businesses, rules regarding depreciation rates, regulations regarding tax-loss carryforward and carryback, existence of joint tax treaties, the duty and tax drawbacks of imported goods that are exported, and the availability of tariff protection.[221]

The Uganda Revenue Authority's mandate is to "assess, collect[,] and account for Central Government Tax Revenue (includes Non-Tax Revenues) and to provide advi[c]e to [the] government on matters of policy relating to all revenue sources."[222] The two pieces of legislation that govern income taxation for Ugandans are The Income Tax Act and The Value Added Tax Act.[223] Tax legislation in Uganda provide for four categories of tax depreciation assets, each with different depreciation rates that range from 20% to 40%.[224] Losses can be carried forward to determine a taxpayer's taxable income for the following fiscal year.[225] Furthermore, these "losses can be carried forward indefinitely."[226] However, the country does not permit tax carrybacks.[227] Uganda signed tax treaties with Denmark, India, Mauritius, Norway, South Africa, the UK, Italy, and the Netherlands.[228]

Uganda provides tremendous tax benefits for particular industries, specifically tax exemption for the following industries "religious, charitable or educational institutions of a public character, trade unions, employees' associations, association of employers, and certain associations established for the purpose of promoting farming, mining, tourism, manufacturing, or commerce and industry and amateur sporting associations."[229] Additionally, small businesses with income less than UGX 50 million annually run by Ugandan residents need not file tax returns.[230] It does not appear that Uganda offers protections from tariffs, rather, it

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[221] *Id.*

[222] *Mandate, Strategic direction, Mission, Vision & Core Values*, UGANDA REVENUE AUTH., https://www.ura.go.ug/readMore.do?contentId=999000000000199&type=TIMELINE (last visited Feb. 18, 2018).

[223] *Tax Legislation Uganda*, UGANDA REVENUE AUTH. (2015), https://www.ura.go.ug/Resources/webuploads/GNRART/Domestic%20Tax%20Laws_2015.pdf.

[224] *Id.*

[225] *Id.*

[226] *Id.*

[227] *Uganda, Corporate – Deductions,* PWC, http://taxsummaries.pwc.com/ID/Uganda-Corporate-Deductions (last visited Dec. 14, 2017).

[228] *Uganda Individual – Foreign Tax Relief and Tax Treaties*, http://taxsummaries.pwc.com/ID/Uganda-Individual-Foreign-tax-relief-and-tax-treaties (last reviewed Dec. 17, 2017).

[229] Celia Becker, *Uganda Tax System in a Nutshell*, ENS AFR. (Aug. 6, 2014), https://www.ensafrica.com/news/Uganda-tax-system-in-a-nutshell?Id=1521&STitle=tax%20ENSight%20.

[230] PKF, UGANDA TAX GUIDE 2013 5 (2013), http://www.pkf.com/media/1959023/uganda%20pkf%20tax%20guide%202013.pdf.

is a signatory to the East African Community Agreement which establishes up to a 25% duty for out-of-country products.[231]

G. Capital Sources Factors

1. Availability

The Capital Sources Factors begin with a general inquiry into the availability of capital: the amount of available local capital, availability of convertible currencies locally, the availability of export financing and insurance, whether developed countries favor loans in the country, the quality of the local banking system, and the availability of government credit aids for new businesses.

The amount of local capital is rather limited in Uganda, evidenced by a need for foreign firms to manage large-scale projects for the country's government.[232] With regard to exporting, entities such as the African Trade Insurance Agency may provide insurance,[233] and companies like the Bank of Africa offer financing.[234] It seems no developed country has commented on the risk associated with Ugandan loans, but there are several institutions that offer corporate loans.[235] Many locals perceive the commercial banking system as unreliable, but that perception appears to be largely influenced by a dearth of branches and teller employees.[236] The Ugandan government does not offer aid or credits for new businesses, but it does offer tax exemption for small cap companies.[237]

2. Cost

The costs associated with capital sourcing include the costs of local borrowing.[238] The reasoning behind determining this cost is that foreign investments

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[231] *Uganda – Import Tariffs Uganda – Import Tariffs*, EXPORT.GOV (Aug. 3, 2017), https://www.export.gov/article?id=Uganda-Import-Tariffs.

[232] Martin Luther Oketch, *Uganda: Government Calls Joint Local Capital Accumulation*, ALL AFR. (June 13, 2016), http://allafrica.com/stories/201606130468.html.

[233] *Investment Insurance*, AFRICAN TRADE INS. AGENCY, http://www.ati-aca.org/our-solutions/our-products/investment-insurance/ (last visited Feb. 18, 2018).

[234] *Trade Finance*, BANK OF AFR., http://boauganda.com/trade-finance.html (last visited Feb 18, 2018).

[235] *See e.g. Corporate Loans*, BANK OF AFR., http://boauganda.com/corporate-loans.html (last visited Feb. 18, 2018); *Business Loan*, FINCA, http://www.finca.ug/products/business-loan/ (last visited Feb. 18, 2018).

[236] Joji Chandran & Tebajjukira Annet, *An Evaluation of Customer Perception towards Commercial Banks Service Quality in Uganda*, XIBA BUS. REV. (2016), http://publishingindia.com/XBR/105/an-evaluation-of-customer-perception-towards-commercial-banks-service-quality-in-uganda/464/3316/.

[237] PKF, *supra* note 230.

[238] *Id.*

likely must have a lower capital cost than domestic capital cost for it to be a valuable asset.[239] To determine the cost of local borrowing, one must consider the interest rate, type of interest, compound frequency, applicable fees, and any discounts for foreign investors.[240]

The Bank of Uganda lowered interest rates for loans to 11.5% in February of 2017 in an attempt to spur economic growth in the country.[241] The interest rate dropped from 17% in early 2016.[242] Of course this rate stands to be reduced for foreign investors who may carry less risk.[243] Another interesting consideration with Ugandan borrowing is the fact that the "charges and rates – covering 25 commercial banks – are published by Bank of Uganda to 'promote transparency and enhance competition in the provision of banking services.'"[244]

H. Business Factors

1. Morality of Business in the Country

This factor is rather difficult to quantify, especially in light of the fact that, "[w]hen we leave home and cross our nation's boundaries, moral clarity often blurs."[245] In fact, Westlaw neglected to include clarification for this factor.[246] In determining a country's level of morality in business, one should be guided by the following principles: (1) "[r]espect for local traditions" and "for core human values" and (2) an acknowledgement that "context matters when deciding what is right and what is wrong."[247] Considerations may include civil and political rights violations, discriminatory employment practices, and relaxed environmental and health regulations.[248]

It appears that the morality of Uganda business leaves much to be desired. In fact, "[i]n Uganda over the years there has been a decline in the morals of society especially manifesting in personal and corporate greed, materialism, short-term

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[239] *The Cost of Capital for Foreign Investments* 21 (Ga. State Univ., PowerPoint), www2.gsu.edu/~wwwmms/8040fall07/Notes/ch14.ppt.

[240] *The Cost of Borrowing*, GRANITE STATE MGMT. & RES., https://www.gsmr.org/pay_costof-borrowing.asp (last visited Feb. 18, 2018).

[241] *Uganda Interest Rate*, TRADING ECONOMICS, http://www.tradingeconomics.com/uganda/interest-rate (last visited Feb. 18, 2018).

[242] *Id.*

[243] *See Interest Rate Risk*, INVESTOPEDIA, http://www.investopedia.com/terms/i/interestraterisk.asp (last visited Feb. 18, 2018).

[244] *Commercial Bank Interest Rates and Charges As at 01 July 2016*, UGANDA BUSINESS NEWS (Aug. 11, 2016), http://ugbusiness.com/710/data/commercial-bank-interest-rates-and-charges-as-at-01-july-2016.

[245] Thomas Donaldson, *Values in Tension*: *Ethics Away from Home*, HARV. BUS. REV., https://hbr.org/1996/09/values-in-tension-ethics-away-from-home (last visited Feb. 18, 2018).

[246] *See* Mod. Corps. Checklist, *supra* note 69.

[247] Donaldson, *supra* note 245.

[248] *Id.*

gains mentality, the pressure to deliver[,] and absence of a sufficient number of good role models."[249]

2. *Efficiency and Profitability*

In its elaboration on efficiency and profitability, The Model Corporations Checklist directs readers to consider the simplicity and effectiveness of administrative procedures, the state of marketing and distribution systems, normal industry profit margins[250] for the country, and whether the industry is "cartelized[251]."[252] Other considerations for determining profitability include return on investment, overhead ratio, and asset turnover.[253]

Individualized considerations make this factor difficult to apply to Uganda generally, i.e., what sort of return a particular industry can expect in the East African country. However, Uganda does provide the infrastructure for several different marketing systems.[254]

3. *General Characteristics*

General characteristics contemplate whether United States government insurance is available, the foreign antitrust and restrictive practice laws and whether they conflict with related United States laws, and whether there are amenities available for United States executives and families.[255]

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[249] Jimmy Walabyeki, *Corporate Governance and Ethics in Uganda*, LION CORPORATE SOLUTIONS (2016) (citations omitted).

[250] If a company neglects to provide its profit margin, it can be calculated by dividing the company's net income by its annual sales and multiplying that quotient by 100. Marguerite Madison, *How to Evaluate a Company's Profitability,* CHRON, http://smallbusiness.chron.com/evaluate-companys-profitability-10401.html (last visited Feb. 18, 2018).

[251] Cartelization is essentially when a group forms for the purpose of exerting a monopoly over the production or sale of a commodity. The Editors of Encyclopædia Britannica, *Cartel*, ENCYCLOPÆDIA BRITANNICA, https://www.britannica.com/topic/cartel (last updated Aug. 25, 2006). "The most common arrangements are aimed at regulating prices or output or dividing up markets. Members of a cartel maintain their separate identities and financial independence while engaging in common policies." *Id.*

[252] Mod. Corps. Checklist, *supra* note 69.

[253] Andrew Blackman, *How to Measure Your Business's Profitability,* TUTS+ (Apr. 22, 2014), https://business.tutsplus.com/tutorials/how-to-measure-your-businesss-profitability--cms-20674. Return on investment can be calculated by dividing net income by (long-term debt plus equity). *Id.* One can determine overhead ratio by dividing operating expense by (operating income plus interest income). *Id.* Finally, asset turnover may be calculated dividing total revenue by total assets. *Id.*

[254] *E.g.* digital marketing, *see* https://www.burtsystem.com/; television marketing, *see Television / TV / Movie Marketing Companies in Uganda*, PRODUCTIONHUB, https://www.productionhub.com/directory/profiles/television-tv-movie-marketing-companies/intl/uganda (last visited Mar. 28, 2017); and billboard advertising, *see* http://www.alliancemedia.com/countries/uganda.html.

[255] Mod. Corps. Checklist, *supra* note 69.

It appears that the United States government does not offer insurance for foreign companies in Uganda, but the country itself does offer corporate insurance.[256] With regard to antitrust laws, Uganda is a signatory to the East African Community Competition Act of 2006, which was "a regulatory response to the intensification of competition."[257] The African country offers many different hotel options that may house United States executives and their families.[258]

I. Marketing Environment

1. Import Regulations

The import regulations factor consists of import licenses, quotas, and exchange allocations; customs methods for valuing imports; available preferential tariffs; the need for and presence of trade agreements; import and turnover taxes on imports; and antidumping laws and practices.[259]

In Uganda, the degree to which imported goods are regulated depends on whether they qualify as "regulated products" for the purposes of the Uganda National Bureau of Statistics (UNBS) Act of 1983.[260] Regulated products include meat, agricultural goods, alcoholic beverages, tobacco, minerals, and many others.[261] Regulated products are subject to UNBS's Pre-Export Verification of Conformity (PVoC) program in which a third-party company, Intertek, ensures that the products "comply with the relevant Ugandan technical regulations and approved standards."[262] Assuming the products conform with the appropriate regulations, Intertek will issue a Certificate of Conformity "to ensure smooth Customs clearance of shipments in Uganda."[263]

With regard to the valuation of imports, the default rule employed by the URA is the transaction value method, which considers the price paid for the good

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[256] *See Corporate Insurance Co. Ltd.*, YELLOW, http://www.yellow.ug/company/7921/corporate-insurance-co-ltd (last visited Feb. 18, 2018).

[257] Anne Brigot-Laperrousaz, *East-Africa & Antitrust*, AFRICAN ANTITRUST & COMPETITION LAW NEWS & ANALYSIS, https://africanantitrust.com/category/uganda/ (last visited Mar. 29, 2017).

[258] *Uganda Hotels*, AFRICAN PEARL SAFARIS, http://www.africanpearlsafaris.com/uganda-hotels.html (last visited Feb. 18, 2018).

[259] Mod. Corps. Checklist, *supra* note 69.

[260] *Trading with Uganda*, INTERTEK, http://www.intertek.com/uploadedFiles/Intertek/Divisions/Oil_Chemical_and_Agri/Media/pdfs/Ugandaflyer.pdf (last visited Feb. 18, 2018); *see also Uganda – Pre-Export Verification of Conformity*, SGS, http://www.sgs.com/en/public-sector/product-conformity-assessment-pca/uganda-pre-export-verification-of-conformity (last visited Feb. 18, 2018).

[261] *Exporting to Uganda - Update to Regulated Product List and Fees*, INTERTEK, http://www.export2uganda.com/news/exporting-to-uganda-update-to-regulated-products (last visited Feb. 18, 2018) (follow "Click here for details" under "**Products Subject to PVoC**").

[262] *About PVoC – Pre-Export Verification Of Conformity*, INTERTEK, http://www.export2uganda.com/about (last visited Feb. 18, 2018).

[263] *Id.*

when it is sold in the importing country.[264] Customs must be paid in Ugandan shillings, and the exchange rate for foreign currency is based on the rate set for the month by the Bank of Uganda.[265] The average Most-Favored Nation tariff[266] for Uganda in 2015 was 12.8%.[267] Uganda is a signatory to the Economic Partnership Agreement with the EU, which permits the trade of various goods internationally.[268] On the anti-dumping front, Uganda has authorized waste collection centers, but 60% of the waste in the capital city, Kampala, is dumped in unauthorized areas.[269]

2. *Port and Transport Facilities*

In selecting a foreign vehicle for investment, one ought to determine the major ports; the availability, cost, and regulations of warehousing; the presence of, and laws regarding, free-trade zones; port taxes, fees, and related costs; and the status of internal road and rail transport systems.[270] Other possible port and transport systems are marine transport systems, consisting of waterways and other "inter-modal land-side connections that allow the various modes of transportation to move people and goods to, from, and on the water."[271] Finally, it seems the future holds the possibility of intelligent transport systems, or wireless vehicular networks, that can offer monitoring capabilities to ordinarily manually-intensive logistical procedures.[272]

Uganda maintains several logistics companies that offer comprehensive services for transportation and warehousing.[273] These companies offer general cargo

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[264] *Customs Valuation*, URA, https://www.ura.go.ug/Resources/webuploads/INLB/Customs%20Valuation%20English.pdf (last visited Oct. 8, 2018).

[265] *Id.*

[266] "In current usage, MFN tariffs are what countries promise to impose on imports from other members of the WTO, unless the country is part of a preferential trade agreement (such as a free trade area or customs union). This means that, in practice, MFN rates are the highest (most restrictive) that WTO members charge one another." *Types of Tariffs*, WORLD BANK, http://wits.worldbank.org/wits/wits/witshelp/content/data_retrieval/P/Intro/C2.Types_of_Tariffs.htm (last visited Feb. 18, 2018).

[267] WTO, ITC & UNICAD, WORLD TARIFF PROFILES 2016, 172 (2016), https://www.wto.org/english/res_e/booksp_e/tariff_profiles16_e.pdf. The cited report offers a comprehensive overview of tariffs in Uganda and many other countries for ease comparison. *Id.*

[268] *Trade Picture*, EUROPEAN COMM'N, http://ec.europa.eu/trade/policy/countries-and-regions/regions/eac/ (last visited Feb. 18, 2018).

[269] KOMAKECH ET AL., *Characterization of municipal waste in Kampala, Uganda*, J. OF THE AIR & WASTE MGMT. ASS'N, 340–48 (2014).

[270] Mod. Corps. Checklist, *supra* note 69.

[271] *Marine Transportation System*, MARAD, https://www.marad.dot.gov/ports/marine-transportation-system-mts/ (last visited Feb. 18, 2018).

[272] *See* Coronado Mondragon et al., *Intelligent Transport Systems in Multimodal Logistics*, 137 INT'L J. OF PROD. ECON. 165 (2012).

[273] *See e.g. Home*, EXPRESS LOGISTICS GRP. LTD., http://www.expresslogistics.ug/index.html (last visited Feb. 18, 2018).

transportation, distribution, and clearing and forwarding.[274] Again, Uganda is a landlocked country, and therefore, it relies on other countries for sea transport.[275] Additionally, Uganda resolves the land-lock issue with its international airport situated directly on the equator, forty kilometers outside Kampala.[276] Uganda has not implemented any automated logistic initiatives.

3. *Distribution Patterns*

Distribution patterns contemplate the nature and types of importers; import practices; marketing channels; regional distribution centers; compensation methods of entities that handle goods and salespersons; nature and number of retail outlets; profitability and competition between wholesaler and retailers; and local or foreign bias of government and consumers.[277] This factor is largely contextual based on the industry in which one seeks to invest.

4. *Credit*

Local credit practices correlate well with investment success in foreign countries because "[c]redit is simply the correlative of debt,"[278] and outstanding debt greatly impacts the profitability of an asset.[279] A valuable item to consider regarding local credit practices is the typical set of credit terms that are extended to importers, local manufacturers, and retailers.[280] Additionally, prudent investors look at a foreign country's credit-rating agencies, the extent of competition across credit suppliers, and the level and nature of installment buying.[281]

The Uganda branch of the Bank of Africa offers up to 70% contract financing with varying repayment periods, but unfortunately, it appears that the terms of these loans also vary, as there is no prototypical contract available.[282] Uganda re-

[274] *Freight Logistics Systems Ltd.*, YELLOW, http://www.yellow.ug/company/40235/freight-logistics-systems-ltd (last visited Feb. 18, 2018); EXPRESS LOGISTICS, *supra* note 273.

[275] N. CORRIDOR TRANSIT & TRANSP. COORDINATION AUTH., *supra* note 193.

[276] *Air Transport*, FORTUNE OF AFR., http://fortuneofafrica.com/ug/air-transport-2/ (last visited Feb. 18, 2018).

[277] Mod. Corps. Checklist, *supra* note 69.

[278] Joseph Huber, *The Relation of Money to Credit and Debt*, SOVEREIGN MONEY, https://www.sovereignmoney.eu/33-relation-of-money-to-credit-and-debt/ (last visited Feb. 18, 2018).

[279] *See How to Improve the Profitability of Your Company by Paying Invoices Quickly*, COMMERCIAL CAPITAL LLC, http://www.comcapfactoring.com/blog/how-to-improve-the-profitability-of-your-company-by-paying-invoices-quickly/ (last visited Feb. 18, 2018).

[280] Mod. Corps. Checklist, *supra* note 69.

[281] *Id.*

[282] *See Contract Financing*, BANK OF AFR., http://boauganda.com/contract-financing.html (last visited Feb. 18, 2018).

cently experienced a change in the credit industry to accommodate small businesses.[283] This change is known as microfinancing and is intended to foster micro enterprises by curbing the "moral hazard and adverse selection [that] severely affect their ability to access formal credit hence limiting their growth potential."[284] The competition among microfinance institutions appears to be on the rise.[285] Credit rating agencies are very new in the country—the 2016 amendment to the Capital Markets Authority Act, 2011 was the first Ugandan legislation to establish credit rating agencies—and therefore, little information is available about them.[286]

5. *Advertising and Sales Promotions*

When evaluating a country's fitness for advertising and sales promotions, investors assess the responsiveness of buyers; local manufacturer, wholesale, and retailer attitudes; the percentage of sales spent on advertising; placement of advertising; sales promotion; and the cost of advertising.[287] Other potential metrics of advertising and sales promotion prospects include the maturity of products, customer awareness of advertising, language barriers, media infrastructure, and advertising regulations.[288]

An analysis of the effectiveness of advertising for a particular company or product is not possible without having such a product or company to analyze. Makerere University, a renowned Ugandan university, disseminated a report in 2008 suggesting consumer sensitization was low with regard to e-shopping and supermarkets, suggesting that the Ugandan consumer base is relatively desensitized to modern transactional mechanisms in the western markets. [289]

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[283] WINIFRED TARINYEBA-KIRYABWIRE, THE DESIGN OF MICRO CREDIT CONTRACTS AND MICRO ENTERPRISE FINANCE IN UGANDA (2014) (abstract).

[284] *Id.*

[285] *See generally* CRAIG MCINTOSH, ALAIN DE JANVRY & ELISABETH SADOULET, HOW RISING COMPETITION AMONG MICROFINANCE INSTITUTIONS AFFECTS INCUMBENT LENDERS (2014); *see also List of Microfinance Institutions in Uganda*, GLOBAL BRANDS (Sept. 11, 2013), http://www.globalbrandsmagazine.com/list-of-microfinance-institutions-in-uganda/ (listing ninety-nine microfinance institutions in 2013).

[286] CMA Regulatory Notice on the Implications of the Amendment to the Capital Markets Authority Act, Cap 84 as Amended, Regulatory Notice No. 1/2016 (2016) (Uganda). *Compare* The Capital Markets Authority (Amendment) Act, 2011 *with* The Capital Markets Authority (Amendment) Act, 2016.

[287] BANK OF AFR., *supra* note 282.

[288] Lars Perner, *International Promotion*, USC MARSHALL, https://www.consumerpsychologist.com/intl_Promotion.html (last visited Feb. 20, 2018).

[289] Ahmad Walugembe, *Customer Awareness, Trust, Perception and Readiness to Accept E-Shopping*, 2 J. OF EDUC. POL'Y & ENTREPRENEURIAL RES. 23 (2015) (noting that "in Uganda, customers seem not to be ready to accept e-shopping.").

6. *Laws Concerning Marketing*

Laws can chill advertising in specific circumstances by encouraging alternative forms of advertising or expressly proscribing marketing techniques.[290] To hedge against the risk that an asset may engage in illegal advertising, one must consider local laws relating to competition, retail price maintenance, product quality, packaging, warranty, and intellectual property.[291]

Uganda lacks a comprehensive law that governs advertising—the legislation and regulations that cover commercial advertising is disjointed and spread across many other laws.[292] Additionally, an understanding of national response to advertising in a particular industry and utilizing a particular medium requires a tailored analysis.

7. *Market Statistics*

"Understanding customers is the key to giving them good service . . . . [G]reat customer care involves getting to know your customers so well that you can anticipate their needs and exceed their expectations."[293] In the interest of understanding a company's customer base, and thus their likely success, one must consider the target population, i.e. customer age, income and other socioeconomic factors, such as occupation, language, religion, and ethnic group.[294]

Again, this factor is difficult to analyze without a specific company or product in mind, but the median Ugandan age is sixteen years old.[295] The average annual income for Ugandans is $2,042.41,[296] and the vast majority of the labor force is agricultural.[297] "English has been Uganda's lone official language since independence in 1962."[298] Approximately 80% of the Ugandan population practices

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[290] *See e.g.* CAN-SPAM Act of 2003 15 U.S.C. § 7701; 23 U.S.C. § 131 (2016).

[291] Mod. Corps. Checklist, *supra* note 69.

[292] Busiku Peter, *Advertising & Marketing Law in Uganda*, ANGUALIA BUSIKU & CO. ADVOCATES, https://www.hg.org/article.asp?id=38173 (last visited Mar. 31, 2017).

[293] *Understanding Your Customers*, MARKETING DONUT, https://www.marketingdonut.co.uk/customer-care/understanding-your-customers/understanding-your-customers-overview (last visited Feb. 23, 2017).

[294] Mod. Corps. Checklist, *supra* note 69.

[295] *Uganda Population*, WORLDOMETERS, http://www.worldometers.info/world-population/uganda-population/ (last visited Mar. 31, 2017).

[296] NUMBEO, *supra* note 210.

[297] *Labor Force by Occupation*, NATION MASTER, http://www.nationmaster.com/country-info/stats/Labor/Labor-force/By-occupation (last visited Mar. 31, 2016).

[298] Joshua Wanyama, *English Rules in Uganda, but Local Languages Shouldn't be Sidelined*, THE CONVERSATION (Nov. 4, 2015, 10:55 PM), http://theconversation.com/english-rules-in-uganda-but-local-languages-shouldnt-be-sidelined-49381. Other languages spoken in Uganda include Swahili, Luganda—"thought to be the most widely-spoken vernacular language"—and approximately thirty-seven other languages. *Facts About Uganda*, KATUTANDIKE, http://www.katutandike.org/facts-about-uganda (last visited Mar. 31, 2017).

some Christian denomination, with the majority identifying as Roman Catholic or Protestant.[299]

IV. CONCLUSION

Diversification is a cornerstone of investing. International investment offers multilevel diversification and scalable risk factors to fit all risk preferences. Identifying and evaluating the strength of a foreign financial prospect can be overwhelming, especially for those inexperienced in the global market. The Market Strength Factors provide for consistent and objective analyses of prospective foreign investment opportunities. Armed with the Market Strength Factors, investors can confidently navigate the arduous process of selecting from seemingly countless markets. While many of the Market Strength Factors weigh against Uganda, the old adage "buy low, sell high" makes the east African country an interesting and strong contender for any well-diversified portfolio.

[299] *Religion*, ENCYCLOPEDIA BRITANNICA, https://www.britannica.com/place/Uganda/Religion (last visited Feb. 20, 2018).