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**ENERGY AND MINING SERIES** 

Harnessing Africa's potential to become the global leader in energy transition

In partnership with



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 African mining companies are shifting to cleaner energy for power. As energy transition accelerates, mining for critical minerals in the region will become increasingly essential.

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If The opportunity in Africa for developers of energy solutions, for energy generators, is massive, because you've got all the factors for what you would need to make a very successful and lucrative energy business. 11

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# Comprehensive legal services for energy and mining sectors in Sub-Saharan Africa

Webber Wentzel's energy and mining teams offer multi-disciplinary expertise, capability in several languages, dual-qualified advisers, and have acted in leading multi-jurisdictional and cutting-edge matters in these sectors across the continent.

The energy sector plays a critical role in developing and supporting Africa's growing economies and population, and we are the go-to team for clients with energy investments, projects, and operating activities across Sub-Saharan Africa.

Increasingly, energy and mining are inextricably linked. Mining is part of our DNA.

We have a history, dating back over a century, of delivering innovative solutions to our clients' most complex legal requirements in Sub-Saharan Africa's mineral-rich countries. We often act as the single point of contact drawing on our knowledge and relationships to seamlessly bring together the best expertise across the world.

Our relationships with law firms across Africa, as well as our alliance with global firm, Linklaters, ensures full-service coverage across all the main legal systems in Africa and worldwide support when investing into or out of Africa.

### **Executive Summary**

Africa is set to play a key role in global energy transition, so it's vital those looking to develop projects or invest in the continent are willing to have bold conversations and work with advisors with deep local expertise and understandings of the unique way things need to roll out in Africa, and the continent's distinct environments, challenges, and opportunities.

As the world adjusts to climate change, two notable trends are increasingly apparent in the infrastructure and energy sectors: the greater use of early warning systems, making better use of modern technologies; and more robust contractual provisions to address extreme climate events.

While oil, coal, and gas remain key energy sources, renewable energy consumption has grown almost tenfold since the 1990s. Africa is a key player in shaping the world's future energy mix, housing significant proportions of the rare earth minerals associated with the clean energy transition.

BHR is no longer a peripheral concern. It is a core driver of responsible growth, risk management and legitimacy in a rapidly evolving global and African energy ecosystem. Global renewable energy use is expected to expand exponentially in future years, which makes the African mining sector, with its critical minerals, a victor and absolutely vital. The renewable energy sector may hold the greatest space in the public imagination when it comes to the subject of future energy supply, but it is the mining industry on which the energy transition will be achieved.

South Africa is leading climate finance innovation through Just Energy Transition Partnership (JETP), an USD \$8.5 billion agreement with international partners to support coal-to-renewables transition. While the JETP signals progress, it can trigger investor-state arbitrations from fossil fuels investors.

To attract investment in mining and infrastructure projects, African governments must ensure regulatory certainty and improve the ease of doing business. Legislative requirements must be clear with definitive time periods for the grant of relevant licences and approvals.

Disputes are inevitable, but project failure isn't. The most successful projects are those that invest in risk mitigation early, with arbitration tailored to the project's specific needs.

# Cradle to grave solutions for Africa's key role in global energy transition

As the Africa Energy Forum comes to South Africa for the first time, experts Jonathan Veeran, Mzukisi Kota and Mlungisi Mahlangu talk with Craig Sisterson about the nexus between Africa's mining and energy sectors.

With Africa set to play a key role in the global energy transition, it's vital that anyone looking to develop projects or invest in the continent is willing to have bold conversations and work with advisors with local expertise and deep understandings of Africa's distinct environments, challenges, and opportunities.

"There's a unique way in which things need to roll out in Africa, and I think what gives our clients and investors comfort is that we know how the environment works," says Jonathan Veeran, Head of Mining Sector at Webber Wentzel. "You have to accept that our continent works differently in a number of ways. Coming to a firm like ours allows you to understand the nuances of dealing in a particular jurisdiction, like Zambia, which operates very differently from what you'd expect in London or Brussels. It's not a question of sophistication, just being different."

Mzukisi Kota and Mlungisi Mahlangu, the firm's Head and Deputy Head of Energy Sector, agree that Africa is uniquely placed for the global energy transition, and provides bountiful opportunities for those who can navigate its ecosystem.

"Africa is the least electrified of any continent, and the demand in Africa for energy is pretty massive," says Mzukisi. "At the same time, the critical minerals required for the energy transition are heavily present in Africa, and there's a great history of mining here. The opportunity for developers of energy solutions, for energy generators, is massive, because you've got all the factors for what you would need to make a very successful and lucrative energy business."

Similarly to what has occurred with mobile phone technology and innovative fintech solutions, say Jonathan, Mzukisi, and Mlungisi, African green energy projects also have a great opportunity to 'leapfrog' technologically, given the different stage of the continent's infrastructure development and industrialisation.

"It also required a bit of boldness around some of the conservation points and the developmental needs of the continent," says Mlungisi. "What our firm can do is help investors understand the jurisdictions that they're looking to do business in. Because we have experience doing work across most African jurisdictions. We have deep and meaningful relationships with key stakeholders, not just regulators but businesspeople. We're able to bridge the gap where there might be a deficit of either trust or knowledge or context. We've been there before."

The Webber Wentzel team is looking forward to having some bold, insightful conversations with various stakeholders as the Africa Energy Forum makes its first-ever visit to South Africa, being held in Cape Town on 17-20 June 2025.



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"AEF is always a great time for the whole energy market, with players across energy and infrastructure coming together," says Mzukisi. "It's jam-packed with meaningful conversations and meetings. It's a great time to do a lot of new business, connect different kinds of sponsors with money, or investors with developers. We have clients asking us to help with that kind of matchmaking, and to get a sense of where the market is heading. The magic is it's a space for everyone to come together, meet each other, and have these conversations."

Jonathan notes that a lot of future mining will be driven by energy transition, focused on a new set of critical minerals, which will be pertinent for AEF because a new grouping of African jurisdictions may be opened to mining, and there will be more exploratory activities for minerals many have never heard of before.

Tied to the growing nexus between energy and mining, and "the moment we're in" with energy transition in Africa, says Mzukisi, is a move towards Business Human Rights, and the socioeconomic and governance aspects of ESG.

"The human focus is far greater from a global perspective. So hopefully this new era will play itself out a little better in Africa, so there's greater local benefit and to ensure more economic development within countries and communities located around these critical minerals and rare earth minerals, and this means that it unfolds as a better story for Africa then previous mineral booms."

There are challenges facing the energy and mining sectors in Africa, of course, note Mzukisi, Jonathan, and Mlungisi. Along with an infrastructure deficit that can hopefully be addressed by more regional cooperation in future, the biggest challenges are linked to (mis)perception of risk, and financing of energy projects.

"The perception of risk in different African jurisdictions often results in an over-reliance on government support in order to make projects happen, with investors requiring governments to put funding behind projects or sovereign guarantees," says Mzukisi "This is the single biggest hurdle because many governments simply don't have that room in their balance sheets, while focused on all the other socioeconomic challenges, to also support large-scale energy projects."

Recognising this hurdle, Webber Wentzel has been at the forefront of developing new products with the World Bank, to support unlocking energy financing without relying on sovereign guarantees. In South Africa, they've developed a credit guarantee vehicle for financing transmission infrastructure that they hope will soon be rolled out into other jurisdictions in southern Africa.

"Our firm has been sitting at the forefront of these kinds of innovations and the development of solutions in the same way we were at the forefront of developing the renewable energy IPP programme in South Africa and coming up with a new kind of solution of reverse auctioning energy projects that's now been applied throughout the world," says Mzukisi. "We're hoping some of what we're doing to unlock financing constraints will also have that kind of global rollout."

# Using modern technology and contractual tools to mitigate climate risk

## Webber Wentzel partners Shirleen Ritchie and Kirsten Wolmarans explore how climate risk is increasingly embedded and addressed in project planning.

Among the greatest threats facing infrastructure development today is climate change. To mitigate the associated risks for all sector stakeholders, there is a pressing need to make better use of modern technologies and to establish contractual frameworks that are appropriately structured from the outset.

KwaZulu-Natal's recent history is informative. Heavy rains and flooding in 2024 caused over 40 deaths and significant infrastructure damage. This followed extreme flooding in the province in 2022, which resulted in over 400 deaths in what has reportedly been described as among the worst floods ever recorded in the province's history. On both occasions, tens of thousands of people were displaced from their homes, with infrastructure damage caused by the 2022 floods alone estimated at over ZAR 15 billion.

As the world adjusts to climate change, two notable trends are becoming increasingly apparent in the infrastructure and energy sectors: the greater use of early warning systems and more robust contractual provisions to address extreme climate events.

A contracting party has a positive duty to take steps to mitigate risks and any resulting damages. This duty is particularly important within the suite of agreements that support major infrastructure and energy projects. In this context, early warning systems, especially to address the devastating effects of climate change, such as flooding, may play a critical role.

These trends are part of wider developments within the regulatory framework, with banks and insurers adjusting to changes in climate-related risks and disclosure obligations to ensure fund stability, and workplaces adapting to promote safety and sustainability.

## Early warning systems are a bulwark against climate change risk

A case study on the impact of early warning systems can be found in Somalia. Between 2023 and 2024, the Somali government partnered with the United Nations Office for Disaster Risk Reduction (UNDRR) and other stakeholders to establish a multi-hazard early warning system.

In 2023, flooding in Somalia reportedly affected 2.4 million people, displaced over 1.2 million, and caused more than USD 193 million (approximately ZAR 3.5 billion) in damages. In 2024, although flooding continued, the early warning systems enabled Somalia to significantly reduce the damage and displacement experienced in the previous year. According to the UNDRR, the 2024 floods affected only 160,000 people and displaced 37,000, with financial losses also significantly curtailed.

 As the world adjusts to climate change, two notable trends are... the greater use of early warning systems and more robust contractual provisions to address extreme climate events.

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If Clients are increasingly focused on two key areas: more precise allocation of liability, and clearly defined conditions for triggering force majeure clauses. II

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Closer to home, a study published in early 2025 focused on the Hennops River catchment area in Centurion, near Pretoria. Researchers applied flood hazard monitoring, modelling systems, machine learning, and geospatial tools to enhance climate change risk management in the area.

The study found that flood frequency has increased every two years, primarily due to climate change's impact on rainfall patterns, intensity, and frequency. It concluded that areas with "low elevations ranging from less than 1305 m to 1430 m in the catchment area are at a higher risk of flooding because of their proximity to the Hennops River".

Insurers may soon require institutional policyholders to implement early warning systems as a condition for coverage. This requirement is likely to extend to the broader infrastructure and energy sectors and should be considered during contract negotiations and risk assessment. Funders and investors may also mandate such systems to safeguard asset value, reduce project delays, and limit reliance on indemnity claims, which can give rise to costly and protracted litigation. Viewed through a dispute resolution lens, these developments underscore the importance of incorporating appropriate risk mitigation and monitoring obligations in infrastructure and energy project contracts.

## Infrastructure contracts are increasingly focused on risk mitigation

As stakeholders adapt to the growing risks posed by climate change, the contracting phase has become a critical point for effective risk management. Clients are increasingly focused on two key areas: more precise allocation of liability, and clearly defined conditions for triggering force majeure clauses and obligations that follow. The renewed emphasis on force majeure stems from its heightened relevance during the COVID-19 pandemic, when it was widely invoked to defer contractual performance.

Given the high costs, lengthy approval processes, and extended construction periods typical of infrastructure and energy projects, these ventures are particularly vulnerable to unforeseen disruptions – even before accounting for the increasing impact of climate change.

This raises key questions that parties should consider from the outset, such as:

- What force majeure, indemnity, and damages provisions are appropriate?
- Should environmental risks be proactively monitored using technology to mitigate potential loss of life or project damage?
- If early warning systems detect a flooding risk, does a duty arise to limit ensuing damage?
- What are the consequences if such technology fails?

As climate risk becomes increasingly embedded in project planning, lead times may lengthen as parties devote more time to assessing both the risks of entering into a contract and the consequences of potential climate-related events. These risks are likely to become more prevalent, making their proactive consideration during the contracting process a critical priority for all stakeholders.

# A cleaner future: 5 leading African mining projects driving the energy transition

## Webber Wentzel's expert mining team discuss how the mining industry will play a key role in achieving energy transition.

While oil, coal, and gas remain key energy sources, renewable energy consumption has grown almost tenfold since the early 1990s. Africa is an important player in shaping the world's future energy mix, housing a majority or significant proportions of the rare earth metals associated with the clean energy transition.

The continent also has other resources that fall outside renewable use. Over a quarter (27%) of the world's gold is mined on the continent, the highest by any region, while around 30% of all global mineral reserves are found in Africa.

Africa's share of rare earth metals—including copper, lithium, cobalt, manganese, and zinc—is causing China, the United States, and Europe to compete for mining projects across the continent, creating new growth opportunities for host countries.

Below are five leading mining projects on the continent that are part of the changing global energy mix landscape.

#### Sentinel Copper Mine, Kalumbila, Zambia

Global demand for copper is skyrocketing. The pinkish-orange metal is crucial to battery, wind turbine, and solar power technology, with demand possibly reaching 50 million metric tons by 2035. However, it has also been projected that global demand may exceed global supply by as early as 2025, with it taking around 20 years to

#### open a copper mine.

This makes Africa's 21% share of global copper supply crucial to the energy transition. Among the leading mines on the continent is the Sentinel Copper Mine, located in Kalumbila in northwest Zambia. It holds one of the biggest copper reserves in the world with operational continuity expected to continue till 2033, having begun production in 2016. Around 6,000 people work in the mine and produce around 300,000 tons of copper concentrate annually.

### Kamoa-Kakula Copper Mine, Muvunda, Democratic Republic of the Congo

The Democratic Republic of the Congo (DRC) already has a major stake in the green revolution, with the world's largest cobalt mine, Mutunda, located in the country (and discussed below). It is now becoming a leading player in copper too, surpassing China and the United States as the world's third-largest producer.

The Kamoa-Kaula Copper Mine is expected to become the largest copper mine on the continent, and the largest in the world, following the completion of its Phase 3 concentrator expansion, which began commercial production in Q3 of 2024. In 2023 alone, the mine produced 393,551 tonnes of copper. Interestingly, the mine is powered by hydroelectricity, making it among the least polluting copper mines worldwide.

Africa's share of rare earth metals—including copper, lithium, cobalt, manganese, and zinc—is causing China, the United States, and Europe to compete for mining projects across the continent. II

#### Webber Wentzel Mining Team



Around 70% of the world's manganese reserves are found in the Kalahari Desert, and the increasing use of electric vehicles has led to demand for manganese surging. II

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### Tshipi Borwa Manganese Mine, Kathu, South Africa

South Africa's long history in gold, iron ore, platinum, and coal mining helped make the country one of the leading mining nations on Earth, with a wealth of expertise and natural resources ripe for exploration. Manganese is another mineral South Africa has been blessed with.

Around 70% of the world's manganese reserves are found in the Kalahari Desert, and the increasing use of electric vehicles has led to demand for manganese surging. Demand from the battery sector is expected to triple to over 7% of consumption by 2040, with the steel industry accounting for over 80% of manganese demand.

The Tshipi Borwa Manganese Mine is the largest in South Africa by export volume, the largest in Africa, and the third largest in the world. In 2022, the shallow open-cast mine produced 3,3 million tonnes of ore. The application for the mining rights was approved in 2010, with construction taking around 20 months before the mine exported its first manganese ore.

### Mutanda Cobolt Mine, Kolwezi, Democratic Republic of the Congo

Cobalt is an important ingredient in battery manufacturing and solar panels. As a key component in cathodes of lithium-ion batteries, cobalt provides batteries with thermal stability, longevity, and promotes high-energy density, It also provides similar stability to the batteries used to store the energy produced by solar panel technology. As the need for renewable energy accelerates, cobalt demand is projected to rise between 60 and 70% in the next 20 years. Mutanda Cobolt Mine in the DRC is the largest cobalt mine in the world, and the DRC is the world's largest supplier of rare earth metals at 72%. The mine employs around 2,500 people and will produce 5.78 thousand tonnes of cobalt by the end of 2023. The mine began production in 2010 and is expected to keep operating till 2043. It is also located in a neighbourhood that includes the Deziwa and Kalumbwe cobalt mines.

Of interest will be whether cobalt will continue to hold an important place within the electric vehicle (EV) battery space. The proportion of EV batteries containing cobalt manufactured in China in 2024 dropped to 31% from 44% in 2022, with cobalt-free lithium iron phosphate batteries cheap to manufacture.

### Bikita Lithium Mine, Bikita, Zimbabwe

Similar to cobalt, lithium plays an important role in renewable energy technology, such as enhancing energy storage density, supporting long battery life cycles versus other battery types, and low self-discharge rate, which allows lithium batteries to maintain their charge for longer. Its wide use in battery technology spanning electric vehicles, wind power, and solar power makes it among the key minerals supporting the transition to renewable energy.

Between 2023 and 2030, global lithium demand will likely have increased by 350% and by 2029 is projected to outstrip supply. In the same year, more lithium will need to be mined than what was extracted globally between 2015 and 2022.

Bikita Lithium Mine in Zimbabwe is the world's largest known deposit of lithium, holding 11 million tonnes of the rare earth metal. The mine is a stalking horse for growing lithium exploration in the country, with seven different explorations at various stages of development in 2023 alone. Producing 412,000 tonnes per annum, Bikita began producing lithium in the 1950s but has been in operation since 1911, first as an open pit tin mine before transitioning to lithium and petalite, which is supplied to the glass and ceramics industries. These mines and others like them show Africa's growing role as the world economy transitions to renewable energy. The growth opportunities these mines represent and the interest shown by global investors to support further rare earth metal exploration is a possible inflexion point.

If African governments can create an enabling policy and regulatory environment that encourages wide-scale beneficiation, the clean energy era can mark a new beginning for millions of the continent's people.



If These mines and others like them show Africa's growing role as the world economy transitions to renewable energy.

Webber Wentzel Mining Team

# Powering progress: Why business and human rights must be at the heart of Africa's energy future

## With Africa poised to become one of the most dynamic frontiers for energy investment, Pooja Dela and Dylan Cron explore how BHR principles have become a core driver.

As Africa enters a critical decade of energy development and industrialisation, the demand for reliable power, sustainable infrastructure and clean energy sources is reshaping the investment landscape. At the same time, the imperative to transition responsibly — without infringing on the rights of individuals or communities — is more urgent than ever.

Business and Human Rights (BHR) offers a framework for managing this tension. Rooted in the UN Guiding Principles on Business and Human Rights (UNGPs), it sets out how businesses should respect human rights throughout their operations and supply chains, and how states must protect those rights through regulation, enforcement and access to remedy. For energy stakeholders governments, investors, developers and communities — BHR is no longer a peripheral concern. It is a core driver of responsible growth, risk management and legitimacy in a rapidly evolving global and African energy ecosystem.

### What is Business and Human Rights?

BHR is anchored in three foundational pillars of the UNGPs:

- The state duty to protect human rights through policies, regulation and enforcement;
- 2. The corporate responsibility to respect human rights by conducting human rights due diligence; and
- Access to remedy for individuals and communities affected by business-related harm.

While once viewed as a voluntary commitment, these principles are increasingly being entrenched in binding legal frameworks. Recent instruments such as the EU Corporate Sustainability Due Diligence Directive, Germany's Supply Chain Act, and France's Duty of Vigilance Law impose legal obligations on companies (including private enterprises) to identify, prevent and mitigate human rights and environmental risks across global value chains and create liability for failing to do so.

### Why BHR Matters in the Energy Sector

Energy projects — whether related to oil, gas, renewables or critical mineral extraction — have a disproportionately high human rights risk profile.

Common risks include:

- Displacement of communities through land acquisition or infrastructure expansion;
- Adverse impacts on indigenous peoples' cultural rights;
- Inadequate stakeholder engagement and lack of Free, Prior and Informed Consent;
- Labour rights violations in construction and mineral supply chains;
- Environmental degradation affecting water, health and livelihoods; and
- The use of excessive security forces or militarisation of project zones.

In an age of rising stakeholder activism, ESG litigation and reputational exposure, energy companies that fail to integrate BHR into their business models risk project delays, financing constraints, legal liability, and community opposition.

Conversely, companies that lead on BHR create resilience, de-risk investments and foster enduring partnerships with governments and communities.



In an age of rising stakeholder activism, ESG litigation and reputational exposure, energy companies that fail to integrate Business and Human Rights into their business models risk project delays, financing constraints, legal liability, and community opposition.

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#### "

### Africa's Energy Future: Unlocking Opportunity, Embedding Responsibility

Africa is poised to become one of the most dynamic frontiers for energy investment globally. The continent's population is growing rapidly, with urbanisation and industrialisation driving exponential energy demand. At the same time, Africa is richly endowed with renewable resources and critical minerals that are essential to the global clean energy transition.

Major energy investment opportunities include:

- Utility-scale solar, wind, and hydro projects powering urban growth;
- Off-grid and mini-grid solutions bringing electricity to underserved rural areas;
- Cross-border energy infrastructure that links regional power pools and boosts energy security;
- Hydrogen, green ammonia, and energy storage ventures attracting global partnerships;
- Local beneficiation and value addition of critical minerals such as cobalt, lithium, and graphite.

Countries such as Kenya, South Africa, Namibia, Egypt, and the Democratic Republic of the Congo are already hubs of activity. Projects such as Kenya's Lake Turkana Wind Power Project, South Africa's Renewable Energy Independent Power Procurement Programme (REIPPP), and Namibia's ambitions in green hydrogen are reshaping the narrative. However, several of these projects have encountered friction regarding land use, community engagement, and benefit-sharing. This underscores why BHR is not only relevant, it is essential. African energy development often intersects with vulnerable communities, informal land tenure, historical marginalisation, and weak governance environments. Failing to address these dynamics invites risk; integrating BHR offers a pathway to do better.

BHR can help companies:

- Build and maintain a social licence to operate;
- Secure funding from development finance institutions and ethical lenders that mandate human rights due diligence;
- Prevent litigation, protests and reputational harm; and
- Align with host government development goals and Africa's Agenda 2063.

Importantly, Agenda 2063 seeks to position Africa as a global powerhouse, one committed to inclusive and sustainable development. This mirrors the core language and aims of BHR.

For African states, embedding BHR into national energy policy enhances investor confidence and future-proofs infrastructure development. It also empowers governments to regulate more effectively and ensure that energy development is not only fast, but fair.

### Global Lessons: Litigation and BHR in the Energy Transition

While Africa is on the cusp of major energy and infrastructure development, recent legal developments in the Global North offer cautionary insights:

- Shell v Okpabi (UK): The UK Supreme Court confirmed that parent companies can be held liable for human rights harms caused by foreign subsidiaries. Although the case arose from alleged environmental damage in the Niger Delta, the precedent may apply well beyond that context.
- TotalEnergies climate litigation (France): NGOs sued the oil major under France's Duty of Vigilance Law, which creates binding obligations on entities (including parent companies) to identify, prevent, mitigate, and redress human rights and environmental impacts resulting from their own activities, as well as those companies under their control, subcontractors and suppliers.
- Fosen Wind Farm case (Norway): The Norwegian Supreme Court ruled that land expropriation and licensing for certain wind farms violated the rights of Sámi indigenous reindeer herders under international law, highlighting the importance of Free, Prior and Informed Consent, even in the context of renewable energy development.

These cases reinforce that the energy transition itself carries human rights risks. Whether in the Global North or South, renewable does not automatically mean responsible. If clean energy is built on compromised rights, it will not be sustainable in the long term.

## Conclusion: Charting a Rights-Respecting Path for Africa's Energy Sector

Africa has a unique opportunity to leapfrog not only in technology, but in governance. By embedding Business and Human Rights into the DNA of energy projects, the continent can avoid replicating extractive models of the past and build an energy future that is clean, inclusive and equitable.

For developers, investors and governments, the message is clear: modern considerations extend well beyond megawatts and minerals. Respecting human rights is not a constraint — it is a catalyst for sustainable growth.

Centurion, near Pretoria. Researchers applied flood hazard monitoring, modelling systems, machine learning, and geospatial tools to enhance climate change risk management in the area. consequences of potential climate-related events. These risks are likely to become more prevalent, making their proactive consideration during the contracting process a critical priority for all stakeholders.



Embedding BHR into national energy policy enhances investor confidence and future-proofs infrastructure development. It also empowers governments to regulate more effectively and ensure that energy development is not only fast, but fair. 11

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# Inseparable: The bond between energy and mining will drive future change

# Webber Wentzel's expert mining team discuss how the mining industry will play a key role in achieving energy transition.

Fossil fuels, such as coal and oil, and other forms of energy production, are primarily responsible for driving the advancement of modern civilisation and have provided the base power necessary to develop new forms of energy production.

In 1990, out of 95,533 terawatt-hours (TWh) of global energy consumed, 39.3% came from oil, 27.1% from coal, 20.3% from gas, 6.6% from hydropower, and 5.9% from nuclear, accounting for 99.2% of total global energy consumption. By 2023, global energy consumption had almost doubled to 172,119 TWh, with oil's contribution declining to 31.7%, coal steady at 26.4%, gas rising to 23.2%, and nuclear and hydropower combined dropping to 10.3%.

The coal and oil industries continue to provide the world with a reliable source of power, with the mining sector part of that energy supply chain. Yet, from 0.8% in 1990, wind, solar, biofuels and other renewables represented 8.1% of global energy consumption in 2023, an increase of 913%. Coal and the mining sector that supports it remain crucial to global energy production, but the energy transition is firmly underway at scale.

### This transition is due to several factors:

- Shift away from fossil fuels to reduce the impact of global warming and climate change.
- New governance frameworks such as ESG becoming entrenched in the energy sector and those adjacent to it, which has also impacted how new energy projects are financed.
- Declining cost of renewable power and its inputs.
- Increased efficiency of renewable power sources and battery technology.

The indelible growth of the renewable energy sector has led to the increased use and reliance upon the key rare metals that are driving the energy transition, including copper, nickel, manganese, cobalt, lithium and zinc. Without them, off and onshore wind energy would not be possible, nor solar energy and even nuclear energy. The electric vehicle would cease to exist.

Global renewable energy use is only expected to expand exponentially in the coming years, which makes the mining sector a "victory" condition if the energy transition is to succeed.

If The indelible growth of the renewable energy sector has led to the increased use and reliance upon the key rare metals that are driving the energy transition, including copper, nickel, manganese, cobalt, lithium and zinc.

Webber Wentzel Mining Team



In the coming years, the relationship between the mining and energy sectors will only deepen ...
Mining companies are becoming energy companies.

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## The mining industry is set to meet the world's need for rare earth metals (and more)

In the next 30 years, the mining sector will need to extract more minerals from the earth than humanity has mined in the previous 70,000 years. This increased demand for rare earth metals is creating supply pressures within the industry. The International Energy Agency in 2024 warned of a looming copper shortage that will significantly affect the energy transition as discussed above.

It predicted that by 2030, the world's existing copper mines and projects currently under development will only meet 80% of global project demands, a significant problem with copper mines taking on average 23 years to open.

Furthermore, as the world transitions away from fossil fuels, that does not mean the coal, oil and gas sectors will cease operating. It would be impossible to meet the globe's energy needs today without coal, oil, and gas. Between 2015 and 2023, 343 new coal mines were opened, including 12 in South Africa. Five of the world's largest fossil firms were projected to be spending USD 15 million an hour, every hour, until 2030 to produce more oil and gas.

In the coming years, the relationship between the mining and energy sectors will only deepen, with the diversification of the mining sector a consequence of this close relationship.

Mining companies are becoming energy companies

Global hunger for rare earth metals and the mining industry's proximity to the energy sector have led global energy companies to increasingly diversify their revenue streams where possible. Political events have also led some companies to adopt solar power to support their operations.

In South Africa, by 2022, five of the country's largest mining companies were producing a combined 355 megawatts of solar power to circumvent the loadshedding (rolling blackout) crisis that had gripped the country. The crisis is now easing with these companies poised to sell excess power back into the market.

China Shenhua Energy is the largest state-owned coal miner in the world. The company is vertically integrated, selling and refining coal, using it to produce power and also operates an integrated coal transportation network, in addition to transporting other commodities.

Seriti Green, a subsidiary of South African mining company Seriti Resources, launched a USD 1.3 billion wind farm in Mpumalanga province in July 2024, with 900 megawatts of wind energy to be constructed over three years. The first phase of the project will supply Seriti Resources with 75% of its coal mine power needs.

The future of global energy production is renewable resources. The renewable energy sector may hold the greatest space in the public imagination on the subject of future energy supply, but it is the mining industry on which the energy transition will be achieved.

New technological developments will prove crucial to the evolution underway as the mining industry expands its exploration efforts, which if assessed holistically, is the sector's contribution to the modern world coming full circle.

# Lights, arbitration, action: South African perspectives on Africa's energy transition

Ahead of this month's Africa Energy Forum, Webber Wentzel partner Garyn Rapson and international dispute resolution specialist Anel De Meyer discuss arbitration's vital role in Africa's evolving energy landscape.

Africa finds itself at a defining moment grappling with the need to meet soaring energy demand, uphold critical economic growth objectives, and adhere to global decarbonisation imperatives. Within this complex trifecta, arbitration has emerged as a pivotal mechanism for resolving disputes arising from energy transitions, particularly as countries revise legal and policy frameworks to support climate goals.

No nation exemplifies this tension more vividly than South Africa - a country whose energy landscape reflects the broader challenges and opportunities of the continent, while offering key insights into arbitration's evolving role.

#### The African Energy Conundrum: Promise and Paradox

As of 2023, only 68% of Africa's population had access to electricity, with vast disparities between countries. The continent, home to nearly 18% of the global population, accounts for just 2% of global electricity generation.

This discrepancy underscores a fundamental reality: Africa's energy transition must address energy poverty and development gaps while simultaneously embracing a decarbonised future. Africa possesses immense renewable energy potential. It holds 60% of the world's best solar resources yet contributes less than 2% to the global solar photovoltaic (PV) capacity. Wind and green hydrogen capacities are similarly underutilised. In 2022, Africa accounted for just 1% of global onshore wind capacity and less than 0.5% of green hydrogen production. These figures reflect the continent's historically marginal role in global renewables investment, receiving just 2% over the past two decades. In 2021 alone, Africa attracted only USD 2.6 billion in renewables finance out of a global total of USD 434 billion.

Encouragingly, this trend is beginning to shift. Africa's total renewable energy capacity stood at approximately 62 GW in 2023, with projections indicating a fivefold increase to 300 GW by 2030. Forecasts suggest that solar PV, onshore wind, and green hydrogen will reach 70 GW, 51 GW, and 50 GW respectively by 2035.

The growth is not limited to traditional powerhouses like Egypt and South Africa. Large-scale projects in Morocco, Algeria, Ethiopia, Mauritania, and Namibia - including German-backed hydrogen initiatives - are expanding the continent's renewable geography.

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Anél De Meyer, International Disputes Specialist

## Infrastructure Investment and the Transmission Bottleneck

Despite its resource endowment, Africa's energy transition is severely constrained by inadequate electricity transmission and distribution infrastructure. Between 2010 and 2020, transmission projects received just 0.5% of Africa's total energy investment. Without modernised grids, even the most ambitious renewable energy projects risk becoming stranded assets. This infrastructural deficiency not only undermines energy access but also deters potential investors due to integration challenges and regulatory uncertainty.

### South Africa's Transition: A Case Study in Complexity

South Africa presents a microcosm of Africa's broader transition challenges. The country remains heavily reliant on coal, which accounts for around 85% of electricity generation. Chronic underinvestment and operational failures at Eskom, the national utility, have resulted in widespread load-shedding, with over 300 days of power outages recorded in 2023.

To mitigate the crisis, South Africa has adopted a dual strategy: expanding renewable energy and securing international finance. A new credit guarantee vehicle is expected to launch in 2026 to de-risk grid investments, while more than ZAR 440 billion has been earmarked over the next decade for transmission infrastructure upgrades. The Renewable Energy Independent Power Producer Procurement Programme (REIPPPP) has attracted investment, catalysed over 100 renewable energy projects, and injected significant capacity into the grid. However, it has also given rise to disputes concerning bid processes, pricing revisions, delays, and local content requirements. Recent government announcements around grid funding instruments may also serve as templates for future public-private participation, potentially reducing investor uncertainty and arbitration risk.

South Africa is also leading climate finance innovation through the Just Energy Transition Partnership (JETP), an USD 8.5 billion agreement with international partners, including the EU, UK, and US, to support the country's coal-to-renewables transition. While the partnership signals progress, it may also trigger investor-state arbitrations, particularly where fossil fuel investors invoke investment protections or stabilisation clauses in response to accelerated decommissioning or regulatory reforms.

### The Role of Arbitration in Energy Disputes

Arbitration has long been central to resolving energy disputes in Africa, particularly in oil, gas, and infrastructure projects. As the energy transition accelerates, arbitration is becoming increasingly relevant in renewable-related disputes.

The continent's evolving "protean" regulatory environment, overlapping legal frameworks, emerging technologies, and shifting public-private dynamics generate fertile ground for conflict. As disputes around Power With surging demand in Europe and hydrogen's potential to decarbonise heavy industry, Africa could become a major global exporter. 11

Purchase Agreements (PPAs), feed-in tariffs, and construction delays continue to rise, arbitration offers a confidential, neutral, and enforceable pathway for resolution.

South Africa once again offers a compelling example. In the Thabametsi coal plant case (Earthlife Africa Johannesburg v Minister of Environmental Affairs, where the courts halted a major coal project after ruling that its environmental impact assessment failed to consider climate risks) the intersection of domestic litigation and international arbitration became particularly clear. Investors may seek recourse under bilateral investment treaties (BITs) or contracts containing arbitration clauses where regulatory changes threaten the viability of their projects.

#### Paris Arbitration Week 2025: Key Insights

At Paris Arbitration Week 2025, the panel discussion titled "Energy Transition in Africa: Arbitration at the Crossroads of Sustainability and Development" spotlighted several emerging legal and commercial challenges. Legal experts highlighted that the transition requires the renegotiation of legacy contracts and the management of rising costs linked to new technologies and infrastructure needs. Such developments may activate change-in-law clauses, stabilisation provisions, or give rise to taxation-related disputes.

Panellists also addressed the emergence of green hydrogen as a game changer. While the focus was primarily on green hydrogen, it was noted that blue and grey hydrogen technologies continue to play a significant role in the broader energy mix, particularly in

jurisdictions where full decarbonisation is being pursued incrementally. These alternative hydrogen pathways may offer transitional value and are likely to shape future infrastructure and arbitration considerations.

With surging demand in Europe and hydrogen's potential to decarbonise heavy industry, Africa could become a major global exporter. However, this will necessitate cross-border infrastructure, supply chain integration, and complex contractual agreements; all of which are likely to give rise to high-stakes arbitrations.

It was emphasised that while arbitration is well-suited to commercial disputes - such as those relating to mergers and acquisitions or joint ventures - it may be less appropriate for disputes of a deeply public nature, such as those involving constitutional or community rights. In such instances, litigation or hybrid mechanisms may be more appropriate.

### Strategic Recommendations: Enhancing Arbitration's Role in Africa's Transition

Drawing on insights from South Africa's experience, the following recommendations are key:

- Develop clear and predictable regulatory frameworks: Governments must provide legal certainty through well-defined energy policies, consistent application of regulations, and transparent decision-making processes.
- Invest in local arbitration capacity: Strengthening institutions such as the Arbitration Foundation of Southern Africa (AFSA), and similar bodies across the continent, is essential. Local arbitration reduces costs, fosters trust, and ensures cultural and jurisdictional relevance.
- Promote capacity building and specialisation: Governments, bar associations, and academic institutions must invest in training arbitrators, judges, and practitioners in energy law, investment protection, ESG factors, and cross-border dispute resolution.
- Prioritise social equity in dispute resolution: Arbitration must evolve to reflect the imperatives of a just transition. Dispute resolution processes should be inclusive, consider community impacts, and advance environmental justice.
- Leverage international collaboration: Africa can benefit from partnerships with established arbitral centres and legal frameworks. Knowledge transfer, technical support, and legal harmonisation can enhance the credibility and effectiveness of arbitral regimes across the continent.

### Arbitration as a Bridge, Not a Battlefield

Africa's energy transition is not merely a technological challenge; it is a legal, commercial, and socio-political transformation. As the continent seeks to light up homes, power industries, and meet climate targets, disputes are inevitable. When strategically deployed, arbitration can serve as a bridge between investor confidence and public interest, and between national policy and international obligations. South Africa's energy narrative characterised by regulatory reform, international financing, grassroots resistance, and institutional evolution - offers a lens into what the future of arbitration in Africa may look like. With the right investment in infrastructure, legal capacity, and inclusive frameworks, arbitration can help write the script for a greener, fairer, and more resilient energy future.



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### Fostering relationships and future-proofing African mining

Webber Wentzel is committed to helping shape a future where the industry fosters economic growth and social sustainability. Four of their mining experts discuss how stakeholders can work together and navigate key challenges for modern mining.

For the past 30 years, Investing in African Mining Indaba conference has gathered mining professionals and stakeholders in the industry, becoming the premier event for mining companies, investors, industry leaders, legal advisors, and government officials looking to stay up to date with technological innovations, new mining practices, and investment opportunities, and to work together to shape the future by harnessing some of the massive opportunities on and for the African continent.

The theme of this year's Mining Indaba, held in Cape Town during the first week of February, was "Future-Proofing African Mining, Today".

With the industry "on the precipice of a transformative era", Africa Legal asked four leading experts from Webber Wentzel's mining team for their insights and solutions for some challenges facing the modern mining sector.

### How can lawyers help foster relationships between mining companies and governments or regulators for new mining, energy, and infrastructure projects?

Nomsa Mbere is a Webber Wentzel partner who advises on a wide range of corporate and private equity transactions. She has deep expertise in mining related commercial matters, including offtake agreements, integration of socio-economic development initiatives and renewable energy projects.

Nomsa shared eight ways lawyers can help foster good relationships.

 Negotiating Agreements: Lawyers can help both parties (mining companies and governments) negotiate clear and mutually beneficial contracts, including mineral rights agreements, Power Purchase Agreements and related Eskom agreements, structuring of joint ventures and partnerships, and development agreements. Such contracts ensure the interests of both parties are represented and the terms are transparent, reducing potential for future conflicts.

 Lawyers with deep knowledge of the industry can advocate for policy changes or improvements to regulations that may benefit both mining companies and governments.



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- **Regulatory Compliance**: A key role of lawyers is to help mining companies navigate complex and evolving regulatory landscapes to ensure compliance with the relevant laws, and help prevent disputes with governments and regulators. This proactive approach builds trust and fosters a cooperative relationship.
- Environmental and Social Responsibility: Lawyers assist in ensuring that mining projects meet environmental regulations and social and community obligations. This could involve working with governments to establish clear environmental impact assessments (EIAs), ensuring local communities' rights and concerns are addressed, and helping to avoid any legal roadblocks or delays that could arise from environmental issues.
- Facilitating Communication: Lawyers act as a bridge between mining companies and government entities, helping to clarify each side's legal, technical, and financial expectations. By ensuring effective communication, lawyers can ease misunderstandings and prevent conflicts from escalating.
- Risk Management and Dispute Resolution: Lawyers help mitigate risks by identifying potential legal issues early in the project, and addressing them. They can also help resolve conflicts or disputes through mediation, arbitration, or litigation, ensuring any disagreements are managed in a way that minimises disruption to the project.
- Advocacy and Policy Influence: Lawyers with deep knowledge of the industry can advocate for policy changes or improvements to regulations that may benefit both mining companies and governments. They might also engage in lobbying efforts, work on drafting new laws, or help the government shape mining policy to ensure that it is conducive to economic growth, environmental protection, and sustainable development.

- Project Financing and Joint Ventures: Lawyers can help structure project financing agreements and joint ventures between governments and private companies, ensuring that all legal aspects of these collaborations are properly managed. This helps in creating stable, long-term relationships for large-scale infrastructure projects, including energy and mining.
- **Conflict Prevention**: Through careful drafting of legal documents and advising both parties on potential areas of concern, lawyers can prevent conflicts from arising. This could involve things like handling land rights, addressing labour issues, or ensuring that all regulatory permissions are in place before a project begins

### What are some of the ways mining companies and African governments could work together to help overcome the infrastructure deficit?

Rita Spalding is a Webber Wentzel partner who specialises in corporate transactions, mergers and acquisitions and restructurings in the mining industry.

Her expertise extends to specialised drafting of commodity supply, mine development, infrastructure and logistics agreements as well as providing regulatory advice on compliance with applicable legislation.

Rita says, "Collaboration is key to overcoming the infrastructure deficit. Government and mining companies must engage in respect of long-term planning initiatives as well as maintenance of existing infrastructure to ensure that existing bottlenecks are addressed, and resource allocation is optimised whilst reducing duplication and eliminating wasteful expenditure."

"To attract investment, governments must ensure regulatory certainty and improve the ease of doing business. Legislative requirements must be clear with definitive time periods for the



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grant of relevant licences and approvals. Mining companies and governments must collaborate on eradicating corruption and the opportunities giving rise to such conduct."

"For purposes of joint initiatives/PPPs, the contracting parties must be duly authorised and empowered to act. Red tape, which causes untold delays, must be reduced. Technology and innovation should be employed to ensure that all decisions are based on accurate available data. Mining companies house significant skills and knowledge, which governments can leverage off through collaboration."

As global demand for critical minerals accelerates in the transition to a low-carbon economy, the mining sector must confront one of its most pressing challenges: ensuring that growth is not achieved at the expense of human rights. What steps can mining companies take to futureproof their operations, balancing critical mineral demand and human rights?

Pooja Dela is a Webber Wentzel partner who specialises in all aspects of dispute resolution, including mining and mineral law. She has also conducted significant business and human rights related risk and impact assessments and has expertise in reviewing governance structures and policies, conducting regulatory and institutional framework mapping as well as human rights due diligence.

Pooja says mining companies can future-proof their operations by taking several practical steps to balance critical mineral demand with human rights:

Conduct Human Rights Due Diligence (HRDD): Regularly assess human rights risks (including in relation to workers, communities, human rights defenders) within the operational footprint and across the supply chain, and implement mitigation strategies aligned with international standards like the UNGPs and OECD guidelines;

Meaningful engagement with communities: Adopt Free, Prior, and Informed Consent (FPIC) principles, particularly with Indigenous and marginalised groups, and build long-term partnerships for shared benefits with an aim of building resilient and thriving communities long after mining ceases;

Strengthen Worker Protections: Ensure fair wages, safe working conditions, and effective grievance mechanisms for employees and subcontractors.

Safeguard Human Rights Defenders: Develop policies to protect whistleblowers and human rights defenders, and work in collaboration with other institutions, law enforcement agencies and civil society organisations to enhance safety and advocacy;

Adopt Sustainable Practices: Reduce reliance on new extraction through recycling and recovery of critical minerals, and invest in technologies that minimise environmental and social impacts.

Be Transparent: Publish ESG reports, commit to independent audits, and participate in initiatives which promote transparency in the extractives industry.

Collaborate on Governance: Work with governments, civil society, and global organisations to combat systemic issues like corruption and weak regulation, ensuring sustainable and responsible practices. These steps, Pooja says, ensure ethical operations while meeting global mineral demand in a way that respects human rights and supports sustainable development.

# What are some ways mining GCs and external counsel can facilitate the speedy and efficient resolution of legal disputes?

Merlita Kennedy is a Webber Wentzel partner and commercial dispute resolution and litigation specialist. She has extensive experience advising on mining related matters, including being seconded to the leading South African Mining Houses' Group Legal team and helping the client develop an expedited dispute resolution model to facilitate the speedy and efficient resolution of their legal disputes.

Merlita says that Mining GCs and External Counsel are partners with a common purpose to achieve speedy and cost-efficient resolution of legal disputes in the best interest of the mining house in a procedurally fair and reasonable manner.

With this in mind, she proposes the following:

Well drafted contracts which are clear and easy to understand by all the contracting parties;

Address disputes promptly to avoid escalation;

- Establish a dispute resolution process which is incorporated into all contracts utilizing dispute resolution clauses;
- Continually review the dispute resolution process to ensure that it is fit for purpose and achieves speedy and efficient resolution of disputes;
- Foster open communication to address issues promptly whilst ensuring that the appropriate stakeholders are engaged;
- Embrace technology throughout the process either to interview witnesses, store and analyse data and where appropriate to adjudicate matters virtually;
- Explore Alternative Dispute Resolution Methods and not be solely reliant on litigation as this is time consuming and the courts may not always be the appropriate forum for the issue in dispute and the parties involved. Court proceedings are also generally open to the public as are court documents.

By way of example and having regard to (i) the nature of the dispute; (ii) the quantum; (iii) the parties to the dispute; and (iv) the impact of the dispute operationally, financially and reputationally; then negotiation, mediation and/or arbitration could successfully be utilised.



Mining GCs and external counsel are partners with a common purpose to achieve speedy and cost-efficient resolution of legal disputes in the best interest of the mining house in a procedurally fair and reasonable manner.

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### Energy disputes are inevitable - delays don't have to be

Ahead of Africa Energy Forum 2025, partner Kirsten Wolmarans explores how the long-term sustainability of energy projects is significantly impacted by how disputes are resolved.

The money is spent, the project is built, but the turbines stand idle. A several hundred-million-dollar wind farm, ready to supply much-needed power, is left stranded, waiting on grid access delayed by a contractual dispute. The parties are deadlocked, and the matter is heading to court, where resolution will take years.

This is not an unlikely hypothetical. It's a worst-case scenario that plays out too often in large energy infrastructure projects across Africa.

Disputes in these projects are not rare exceptions – they are structural risks. In a sector where timelines are long, stakeholders are many, and public interest is high, effective dispute resolution isn't just good legal planning; it's vital to a project's success.

Central to the United Nations' 2030 Agenda for Sustainable Development are its 17 Sustainable Development Goals, with Goal 7 focused on the provision of affordable, reliable, sustainable, and modern energy for all.

From an African perspective, Goal 7's focus on energy provision is particularly relevant on a continent where around 600 million people lacked access to energy in 2022. Access to energy goes beyond electricity; it is a necessity for societal and economic development.

While the need for energy infrastructure is clear, creating an enabling environment for such projects remains a challenge. Adding to this complexity is the time it takes to complete these projects, often years, or even decades.

These conditions embed infrastructure development with inherent risk, making contractual disputes inevitable. Like the structures themselves, large energy projects are intricate and composed of hundreds of moving parts, making them highly sensitive to disruption.

How disputes are resolved has a significant bearing on an energy project's long-term bankability and sustainability. Work stoppages are the least desirable outcome for all parties.

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It is crucial that dispute resolution clauses in an energy infrastructure contract, or any large project, are drafted specifically for the project at hand. II

## Causes of disputes in energy infrastructure projects

Large energy infrastructure projects across Africa – like all complex, long-term undertakings - face a range of challenges that routinely give rise to disputes.

These challenges include:

- Regulatory and licensing changes within a jurisdiction;
- Misalignment between regulatory frameworks and the complexities of operating across borders;
- Procurement delays, irregularities, or fraud;
- Labour disputes and industrial action;
- Security risks, including terrorism and local criminal activity;
- Social unrest and political volatility;
- Currency fluctuations and shifts in financing conditions; and
- Critically, actual or alleged breaches of contract, often arising relating to scope changes, performance delays, non-compliance, or disputes over interpretation

Overlaying all of this is the fact that each jurisdiction has its own legal system, rules of contract interpretation, enforcement norms, and dispute resolution mechanisms. These localised differences form the legal risk landscape within which energy infrastructure projects must operate. Just as thinking is evolving around the use of force majeure in climate change-related events, operators in the energy infrastructure space are entering the contracting phase with dispute resolution firmly in mind.

### The challenges of resolving disputes through courts

One key reason why operators in the energy sector focus intently on dispute resolution is the limited effectiveness of court-based processes.

Take this example: A company constructs a wind farm on Mozambique's coast and requires access to the local electricity grid. The grid owner refuses to provide facility handover, alleging that the wind farm company has failed to meet contractual obligations.

There is no agreement to arbitrate, so the matter must go through the local courts. However, court systems across the continent face significant challenges. In South Africa, for instance, it can take two to three years to secure a trial date, after the matter is ready. Judgment may take several additional months, and appeals can extend the process even further.

As a firm operating across multiple African jurisdictions, we have seen disputes take over a decade to resolve. Fair outcomes are also not guaranteed, with judges often under administrative and political pressure. These disputes in large infrastructure projects are highly technical, and judges may lack subject-matter expertise.

Returning to our example, if the wind farm supplies power to both Mozambique and Zambia, the cross-border nature of the project may force the disputing parties to launch a separate legal process in a different jurisdiction, with findings in one jurisdiction not necessarily enforceable in the other.

For these reasons, depending on the circumstances, we will often advise our clients to stay away from using courts to resolve disputes and rather focus on agreeing to resolve a dispute through arbitration or, more specifically where there is a cross-border element, international arbitration.

### Arbitration allows for nuanced dispute resolution, where attention to detail is crucial

The ideal time to agree to arbitration is during the project's contracting phase.

Arbitration offers a number of advantages to resolve disputes, including:

- The selection of a neutral "home" for the arbitration, as well as a well-recognised arbitral institute, such as the Arbitration Foundation of Southern Africa, London Court of International Arbitration, or the ICC Court of Arbitration.
- Arbitrators can be selected based on expertise, without prejudice.
- Cross-border complexity is built into the arbitration process, with superior enforcement mechanisms.
- Arbitration is significantly faster and more cost-effective, disputes can be resolved in months, instead of years.

That said, it is crucial that dispute resolution clauses in an energy infrastructure contract, or any large project, are drafted specifically for the project at hand. Generic or "copy-paste" clauses can cause more problems than they solve.

We have seen projects disrupted by ill-fitting dispute clauses. Clients frequently tell us they wish they had paid more attention upfront. Ultimately, your dispute clause must account for every identifiable risk and create mechanisms to respond to each scenario.

Equally important is ensuring consistency across all project-related contracts. Dispute resolution clauses must be aligned across stakeholders to avoid conflicting processes. This requires oversight and coordination, something specialists and legal advisors like Webber Wentzel are well-positioned to offer.

#### Conclusion: Invest in prevention, not repair

Disputes are inevitable, but project failure isn't. The most successful projects are those that invest in risk mitigation early, with arbitration tailored to the project's specific needs.

As a disputes lawyer, we don't want to be your grudge purchase. If you listen now, you might avoid needing our services later. In the energy and infrastructure sector, this could mean helping to secure a stronger return on your investment.

### About Webber Wentzel

We are the leading full-service law firm on the African continent, providing clients with seamless, tailored and commercially minded business solutions within record times. Our alliance with Linklaters and our relationships with outstanding law firms across Africa ensure that our clients have the best expertise wherever they do business.

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