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TRADING WITH MALAWI: LEGAL ADVICE FROM THE FRONT LINES

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As smart investors know, business in Africa is granular. Lawyers advising clients on trade and investment opportunities need to possess not only legal acumen and creativity, but also know-how regarding real-world implementation, mustered from experience on the front lines.

How, for example, should an attorney respond to a request for trade advice regarding export opportunities for Malawi? First, the attorney should advise that thousands of export products from Malawi garner duty-free access to the U.S. and European markets, under preferential trade programs, and to a number of African countries including South Africa and Egypt under regional trade agreements.

To encourage investment, Malawi waives duties on the importation of capital equipment used to produce export items. Malawi has low trade compatibility with its neighbors and, due to a trade deficit with South Africa, trucks from there arrive full and return with unused cargo capacity. Exporters use three overland routes to transport goods



from Malawi: two to ports in Mozambique and one to the port in Durban, South Africa. Despite added expense, it is recommended that perishable or time-sensitive goods be routed through Durban, the friendliest port logistically.

The Malawian economy is predominately agricultural with about 80 percent of the population living in rural areas. Malawi's main exports include tobacco, tea, sugar and cotton. English is spoken widely in urban areas, and labor costs are low. Malawi boasts a stable banking system and democratic government, and recent devaluation of the Malawian Kwacha has doubled the buying power of U.S. dollars. Although the electrical grid can be unreliable, the Millennium Challenge Corporation has committed \$350 million to improving the country's power supply.

Approximately 70 percent of Malawi's export revenue comes from tobacco, much of which is grown and cured by smallholder farmers. Tobacco revenues are so critical to the economy that commentators have labeled Malawi the most tobacco-dependent country on Earth.

In fact, Malawi's history of producing non-perishable agricultural goods reveals an intriguing opportunity. Every year, 50 to 80 percent of Malawi's fruit harvest spoils due to lack of local demand and preservation. Spoiled fruit is precious lost income for

Malawi and a business opportunity for an enterprising company.

Unlike water-laden fresh fruit, dried fruit is economical to transport and easy to preserve without refrigeration. By organizing cooperatives of fruit dryers, providing them with equipment and training and piggybacking on existing transport infrastructure, a dried fruit company could prosper and inject much-needed foreign exchange into the Malawian economy.

On the demand side, certain varieties of dried fruit are more valuable per pound on international markets than the burley tobacco grown in Malawi. Furthermore, unlike fruit juices, dried fruit is not subject to phytosanitary inspection upon entry into the United States. According to the U.S. Department of Agriculture, dried fruit is eligible for release into the U.S. market after inspection by U.S. Customs and Border Protection – no permits are required.

A company keen to invest in dried fruit in Malawi would find enticing partnership opportunities. Malawi Mangoes Limited, a UK company, recently invested \$25 million in a factory and plantation in Salima, Malawi, to produce mango and banana fruit juices for export. Never Ending Food is a non-profit that promotes fruit drying in villages. The Malawi Ministry of Agriculture supports several research centers selling hybrid tree seedlings that produce viable fruit quickly.

Malawi offers exciting business opportunities. Seizing such opportunities requires experienced counsel who appreciate not only the law, but the nuances of African markets, and understand what it takes to succeed in the next global business frontier.

Adduci, Mastriani & Schaumberg, L.L.P. provides thorough, expert counsel to meet clients' unique legal needs in the fields of international trade, intellectual property litigation and customs transactions. Beau Jackson and Michael Buckler, attorneys at Adduci, Mastriani & Schaumberg, served as Peace Corps Volunteers in Africa.

