

Legal Risk Prevention of Economic and Trade Cooperation between Hunan and Kenya

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Abstract

Kenya is the center of economic, trade, logistics, and transportation hub in East Africa, and one of the countries with the better economic foundation in sub-Saharan Africa. Since the establishment of the China-Kenya comprehensive strategic partnership in 2017 and the completion and opening of the Mombasa-Nairobi standard gauge railroad, Kenya has become an important pivot point of the "Belt and Road" initiative in Africa. The China-Africa Economic and Trade Fair is permanently located in Hunan, adding a new platform for Hunan-Kenya cooperation. Under the historical opportunity, there are more challenges. The close economic and trade relations make the legal risks such as labor, environment, bonding, etc. increase and new risks arise. Effective risk prevention is an important basis for promoting friendly economic and trade relations between the two countries. In the historical context, the development of Xiangkian trade and economic cooperation may become the leader of China-Kenya trade and economic development. The effective legal risk prevention of Xiang-Ken economic and trade cooperation will also provide a model for the risk prevention of China-Kenya economic and trade cooperation.

Keywords

Kenya; Investment Legal Risk; Risk Prevention; Legal Risk.

1. Background of Economic and Trade Cooperation between Hunan and Kenya

China is an important trade partner and source of engineering contracts and investment for Kenya, while Kenya has been one of the African countries attracting the most Chinese investment for many years. Hunan is a major province in equipment manufacturing, agriculture, and media industry, and its industrial structure matches Kenya's domestic demand. Under the historical background of the China-Africa Economic and Trade Fair permanently located in Hunan, Hunan-Kenya economic and trade exchanges have developed rapidly, and Hunan enterprises have collided with Kenya's local regional culture and complex regulatory system in investment cooperation with Kenya, which has given rise to various investment legal risks. An adequate understanding of Xiang-Kenyan investment background, including the Kenyan regional culture and local regulatory regulations, is a prerequisite for effective risk prevention.

1.1. Background of Economic and Trade Cooperation between Hunan and Kenya

According to the statistics of the Department of Commerce of Hunan Province, back in 2018, Hunan has invested more than 120 enterprises in Africa, with a total investment of nearly 1 billion dollars, and this number is still increasing [1].

Firstly, in terms of the objective background of economic and trade cooperation between China and Kenya, there are 15 important bilateral documents signed between China and Kenya, and the main laws involving economic and trade cooperation are the Agreement between the People's Republic of China and the Republic of Kenya on the Establishment of the Joint

Commission on Trade, Investment and Economic and Technical Cooperation (2011), the Treaty on Extradition between the People's Republic of China and the Republic of Kenya (2017), the Treaty between the People's Republic of China and the Republic of Kenya on Judicial Assistance in Criminal Matters (2017), the Agreement between the Government of the People's Republic of China and the Government of the Republic of Kenya for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (2017), the Memorandum of Understanding between the Government of the People's Republic of China and the Government of the Republic of Kenya on Jointly Promoting the Construction of the Silk Road Economic Belt and the 21st Century Maritime Silk Road (2018), and the Memorandum of Understanding between the Ministry of Commerce of the People's Republic of China and the Ministry of Finance and Planning of the Republic of Kenya on Jointly Promoting the Implementation of the Economic and Trade Initiatives of the Eight Actions of the Forum on China-Africa Cooperation Beijing Summit (2019), etc. Kenya is also a non-regional member of the Asian Infrastructure Investment Bank (AIIB) [2].

Secondly, in terms of the specific data background of China-Kenya economic and trade cooperation, according to the data of the China Economic Research Institute, the bilateral import, and export of goods between China and Kenya in 2020 was USD 556,190,000, up 7.2% year-on-year; also according to the statistics of the Department of Commerce, as of the end of 2019, the stock of China's direct investment in Kenya was USD 1.624 billion, and in the first half of 2020, Chinese enterprises directly investment amounted to USD 0.74 billion, newly signed contracted engineering contracts in Kenya amounted to USD 660 million and completed turnover of USD 1.19 billion. In addition, UNCTAD's World Investment Report 2020 shows that Kenya attracted US\$1.33 billion in foreign direct investment in 2019; the World Bank's Doing Business 2020 Global Report shows that Kenya ranks 56th among 190 economies in the world; the World Economic Forum's Global Competitiveness Report 2019 shows that Kenya ranks 95th among 141 of the most competitive countries and territories, ranking it 95th; and Transparency International's 2019 report shows that Kenya is ranked 137th out of 180 countries and territories worldwide with a corruption score of 28. As of 2020, Kenya is the third-largest economy in sub-Saharan Africa, behind Nigeria and South Africa.

More importantly, as a key region for China's economic and trade cooperation with Africa, Hunan-Kenya economic and trade cooperation is also supported by the provincial government in various aspects: firstly, the supporting attitude is indicated in the high-level government annual work report and the provincial government foreign affairs plan and specific guidelines are issued; secondly, many financial policies are supported, and several policy banks also provide sufficient financial support for Hunan enterprises; finally, the Build various specialized platforms through the construction of China (Hunan) Pilot Free Trade Zone, aiming to provide a full guarantee for Xiang-Africa economic and trade cooperation.

2. Main Legal Risks of Economic and Trade Cooperation between Hunan and Kenya

The Kenyan government has introduced a series of preferential policies for foreign investment and encouraged investment in industrial parks and special economic zones to attract foreign investment. However, in reality, the overall investment facilitation in Kenya is not high, the implementation of preferential policies is insufficient, the efficiency of government departments is low, the regulation and transparency are low, the logistics and transportation capacity are insufficient, the industrial supporting capacity is poor, the financing cost is high, terrorist attacks and security incidents occur from time to time, etc., forming a greater risk for investment in Kenya.

2.1. Labor Legal Risk

The Kenyan government restricts the entry of unskilled laborers and has a strict work permit approval system. There is a lack of labor, a lack of general vocational training, a very shortage of skilled workers, and lower work efficiency than Chinese employees. Local employees cannot be dismissed directly on the spot, but should be given a written warning for the first and second time, and can be dismissed for the third offense. In 2012 and 2013, the Kenyan Ministry of Labor raised the minimum wage by 15% and 14% in succession. On the one hand, most Chinese companies do not sign labor contracts with their local employees. Many Chinese companies are willing to hire local employees due to the lower labor costs and to further promote localization, but they do not know enough about local employees' personalities and habits. Many Chinese companies generally say that local workers are lazy, often working a few days without a few days, and the company can only pay them by the day, so it is not very meaningful to sign a contract. But the fact is that in Kenya, regardless of whether a contract is signed or not, if there is an actual employment relationship, the employees are protected by local labor laws.

On the other hand, due to the lack of understanding and knowledge of local labor laws and regulations, labor disputes often occur in the areas of informal employment, wage standards, welfare benefits, union relations handling, etc. In addition, due to the differences in language, culture, religious beliefs, and values, some enterprises do not invest enough in the local area and work with a single means, and disputes cannot be solved in time, and strikes often occur.

2.2. Contract Legal Risk

First of all, Kenyan countries generally use FIDIC contract conditions to set general terms and conditions, and special terms and conditions are formulated by the owners themselves. The statute of limitations for claims is an important provision for foreign investment, but in the Xiangkeng economic and trade contracts, the statute of limitations for claims is a general clause and the more stringent FIDIC provisions apply by default. For example, Article 20 of the FIDIC contract stipulates that "the time limit for the contractor to give notice of claim to the owner is 28 days, and the time limit for submission of claim report is 42 days"[3], but very few Xiang enterprises can comply with this time limit. The harsh terms and conditions make the outcome of the claim unfavorable. This aspect of the contract risk also includes the transfer of risk to the contractor by the owner through the setting of contract terms and conditions, and the adverse consequences of the unclear and incomplete description of some contract terms[4].

Secondly, the typical embodiment of contract legal risk is in the bidding module of Xiangken Engineering Contracting. Although the setting of the contract is mainly a legal risk in the physical sense, its reasonableness and foreseeability also directly affect the legal risk in the procedure. For example, in the bidding process, the Kenyan owner will designate subcontractors for some professional projects at a fixed price in the form of a contract, or designate subcontractors for a certain part or professional project during the contractor's implementation on the ground that the contract agreement is unclear. This behavior not only confuses project management but also increases various risks.

For example, in early June 2020, the Kenyan Court of Appeal found that the Kenyan government's contract with China Road and Bridge Corporation (CRBC) for the \$3.2 billion Standard Railway (SGR) project was illegal, one of the main bases being that the bidding process was not public[5]. The China Road and Bridge Company on the SGR project has long been completed. Therefore, the procedural performance of engineering-type contracts and the stop-loss agreement governing the fixed option are the major prerequisites for dealing with unspecified risks. Contract terms set unreasonable and incomplete will make it more difficult to defend the rights.

2.3. Environmental Legal Risk

Kenya's environmental laws and regulations include the Environmental Management and Coordination Act and the Environmental Impact Assessment Regulations, etc. In 2010, Kenya's environmental laws were constitutionalized and listed in Article 42 of the Constitution of Kenya. Kenya's environmental laws are similar to those of most African countries in that they have a variety of provisions and different implementation effects, ranging from a single declaratory provision to a comprehensive provision that combines the rights and obligations of citizens with the responsibilities of the state and judicial remedies[6]. The EIA process is as time-consuming, demanding, and complex as in other African countries.

Kenya's environmental legislative and institutional framework is relatively sound, but the implementation effect is less than ideal. On the one hand, environmental protection awareness and its judicial protection have been enhanced through the constitutionalization of environmental rights, but the environmental administrative enforcement functions are relatively centralized and the ministerial power is too large; on the other hand, the laws are poorly coordinated in the disposal of environmental violations and there are too many enacted laws about environmental protection, which easily lead to conflicts in the application of laws in the process of environmental enforcement and justice and increase the burden of interpretation and application of laws. Accordingly, by analyzing the Kenyan environmental legal system and its problems, it can provide countermeasure suggestions for Chinese investors to avoid the environmental legal risks of investing in Kenya.

2.4. Legal Risk of Letter of Guarantee

First of all, it is difficult to identify and claim independent letters of guarantee. Almost all of the bonds issued to Kenya are independent bonds, and the types are mainly focused on tender bonds, advance payment bonds, and performance bonds under contracted projects, and the language of the bond issuance is English.

Secondly, there are geographical restrictions on the issuance of letters of guarantee. African countries generally require that letters of guarantee be issued through local financial institutions, and Kenya also more often issues letters of guarantee through local banks. And the counter-guarantee letter and main bond of the Kenyan owner and bank mainly apply to URDG758, which means the law applicable to the main bond is Kenyan law and is under the exclusive jurisdiction of Kenyan courts, so there are legal risks and judicial risks.

Finally, there is the risk of currency selection in a counter-guarantee bond. The currency of our domestic guarantee is USD or EUR, and the currency of Kenya's partial guarantee opening is shilling. Under the premise of the geographical restriction of the bond, the realistic transfer bond usually consists of the transferring bank paying the beneficiary the Kenyan shilling, and the counter-guarantee bank paying the equivalent in USD/EUR to the transferring bank, and the counter-guarantee letter usually agrees to pay the Kenyan shilling in USD/EUR at the exchange rate at the time of the claim. Therefore, when the Kenyan shilling appreciates, the exchange rate risk is borne by the counter-guarantor bank and the contractor.

2.5. Other Legal Risks

2.5.1. Legal Policy Risk

Some laws in Kenya are not sound enough, for example, the government has introduced the PPP Public-Private Partnership Act 2013, which lists 13 modes of cooperation. It has also established a PPP department to promote the PPP model to be able to be applied in the field of infrastructure construction such as energy and transportation. 10,000 km of roads were planned to be built in three phases using the PPP model in fiscal years 2014/15, 2015/16, and 2016/17, but this has not yet been carried out due to the lack of specific implementation rules and other aspects[7].

2.5.2. Legal Policy Risk

When a Chinese company traded with a Kenyan company, the goods were stranded at the port of Mombasa due to trade fraud. Due to high demurrage charges and goods being withdrawn without payment, companies suffer serious losses. The main methods of fraud include: fraudulent use of the name of a well-known company (or its subsidiaries), forging documents, signatures, and staff identities, and signing false contracts. Require the use of credit (O/A) and other sellers' risky payment method transactions. Refusing to pay or even losing contact after picking up the goods.

2.5.3. Exhibition Risk

During the exhibition in Kenya, the exhibits of Chinese exhibitors violate the trademark law of Kenya, resulting in being taken away for investigation. Exhibitors going to Kenya must fully understand the relevant local regulations and policies, and make a good docking with the exhibition organizers to ensure that the exhibits do not violate the local intellectual property laws, etc.

2.5.4. Security Risk

Terrorist attacks, robbery and theft, and other security cases occur in Kenya. In 2017, many robberies and thefts of Chinese enterprises' projects and personnel occurred due to the general election. January 2019, Somalia Al-Shabaab created a terrorist attack in Nairobi Duhay Hotel, killing 21 people. In early 2020, Al-Shabaab in Somalia staged consecutive attacks in Kenya.

2.5.5. Foreign Direct Investment (FDI) is Highly Restricted

Kenya has a low level of FDI facilitation, poor infrastructure, and long lead times. Kenya has significant debt obligations, including the need to share overpayments on external loans and refinance short-term domestic loans, most of which are due at the end of June 2020. "Kenya's current rating has been affected by the impact of the epidemic, tribal tensions, low GDP per capita, and high fiscal deficit and debt.

3. Legal Risk Prevention of Economic and Trade Cooperation between Hunan and Kenya

Chinese enterprises should carefully analyze Kenya's resources and markets, formulate development plans, understand local policies and regulations, effectively choose the right areas of cooperation, do a good job in the pre-investment feasibility study and formulate a positive and prudent medium- and long-term development strategy, and at the same time, conduct field visits to understand the environment and transportation services and even customs and manners.

3.1. Prevention of Category Risk

3.1.1. Labor Legal Risk Prevention

3.1.2. Improve Labor Management System

First, strengthen the management of local labor and be familiar with the local labor policy. Do not dismiss local employees at will; those who make mistakes can be warned in writing, and can only be dismissed after two warnings. Maintain close communication and contact with the Ministry of Labor and the larger local labor unions, and participate in the training and education organized by them [8].

Secondly, when recruiting and employing workers, the candidates should be vetted in various ways to gain an in-depth understanding of the background and character of the candidates. Those who are introduced through labor intermediaries should also ask the hires to provide copies of ID cards, letters of recommendation from former employers, character certificates, and other materials to avoid hiring employees with bad character. In case of labor disputes,

employers can also communicate with employees through third parties of labor intermediaries. When employing employees, Chinese employers can establish employee files to record employee behavior, attendance, salary income, and expenses, etc., so that they can have evidence to follow in case of labor disputes.

3.1.3. Proper Application of Local Labor Law Procedures

On the one hand, it is important to communicate and understand the legal process on time. When the Ministry of Labor of Kenya receives a labor dispute case, it will call both the employer and the employee together for a labor arbitration meeting, where both sides will present their reasons and the Arbitration Commissioner of the Ministry of Labor will determine the responsibility of both sides after understanding the complete facts. Chinese investors can communicate with the employer directly to solve the problem when they know the employees are treated unfairly, and then go to the Ministry of Labor or trade unions to file a complaint if they think it cannot be solved.

On the other hand, full use is made of Kenya's alternative dispute resolution system. Article 159 of the Kenyan Constitution requires the courts to facilitate alternative forms of dispute resolution including settlement, mediation, arbitration, and traditional dispute resolution mechanisms, and Section 59 of the Civil Procedure Code provides for the transfer of proceedings to any other method of dispute resolution where the parties agree or where the court considers the case suitable for transfer. Any other alternative dispute resolution method shall be subject to procedures agreed to by the parties themselves or ordered by the court in its discretion, and any result of a proceeding referred to any other alternative dispute resolution method by the court or by agreement of the parties shall be enforced as a judgment of the court. Judgments rendered according to alternative dispute resolution are not subject to appeal [9].

Finally, proper handling of relations with trade unions. The central labor union of Kenya has an important influence on the social, economic, and political life of Kenya, and once labor disputes occur in enterprises, the labor union organization will step in to defend labor interests. Chinese enterprises should establish normal communication channels with the relevant trade union organizations, handle the relationship with the trade unions, and seek the intervention of the government or the judiciary in the case of fruitless negotiation with the trade unions [10].

3.1.4. Contract Legal Risk Prevention

Firstly, pay attention to the approval of special matters involved in the contract. Find out in advance whether the construction project has been approved by the environmental assessment report. River water extraction and river diversions must be approved by local government departments and implemented only after the approval is granted[11].

Secondly, we will keep an eye on major matters and important contracts by hiring local lawyers or through consulting services. If you are following up on special projects that are not currently supported by relevant legal documents or where the law is not yet clear, you must study and consider them carefully to avoid the impact of the long and difficult time required for approval by the parliament.

Third, pay attention to the issue of contract performance. On the one hand, strive to sign the project contract with the FIDIC contract conditions template, the rights of both the owner and the contractor are fairer. Familiarize yourself with the special terms and conditions of the contract, and do a good job of risk prevention in advance. In the process of performance, hire or consult local senior and excellent lawyers and engineers to take advantage of their language and familiarity with local practices and legal terms, etc., to do a good job of contract risk control and prevention. On the other hand, it should pay attention to the definition of the scope of construction of its subcontracts, using subparagraphs, subparts, or sub-regions to sign, and consider whether to renew the contract in the next step according to the performance and the quality of construction completion, to avoid the risk arising from the lack of construction

capacity and the inability to exit the site. According to the statistics of the Ministry of Labor of Kenya, the most common types of labor dispute cases are waging below the minimum wage and unfair dismissal. Chinese companies should have an in-depth understanding of local labor laws, summarize and learn from the experience of other companies in dealing with local labor issues, pay attention to minimum wage standards, labor unions, dismissal procedures, holidays, housing, medical, and other benefits stipulated in labor laws, comply with local labor laws, act following the law, and establish a positive overseas image of Chinese companies.

3.1.5. Environmental Legal Risk Prevention

First, the environmental impact assessment procedure should be substantially implemented. According to the Environmental Management and Coordination Act, all infrastructure projects invested by China in Kenya are subject to EIA, and the basic law and regulations provide strict and detailed regulations on EIA procedures. As an investor, you should take the initiative to fulfill all the procedures of the EIA, especially the public participation procedures, the scope and form of public consultation and the content of public opinion should be reflected in the EIA report to avoid the public affected by the project from filing lawsuits after the project starts. lawsuit after the start, causing interruption and stop loss to the project.

Second, it should take the initiative to verify the ownership of environmental resources. China's project investment in Kenya is mainly infrastructure construction, which involves a large amount of use of land, water, and other environmental resources. Kenya has a private land ownership system, and individuals are not allowed to fight against the ownership of the land they enjoy. In practice, due to the negligence of the host country's environmental and land legal system, Chinese companies tend to overlook this issue when signing investment contracts with the Kenyan government. The environmental resources used in the project construction process may unintentionally and illegally use other people's private property, resulting in property litigation and forced environmental restoration, which will lead to compensation or cause the project to be interrupted or stopped. Therefore, Chinese enterprises should check the ownership of the environmental resources to be used and accurately estimate the project cost before investing, to avoid unnecessary disputes and investment losses.

Again, environmental lawsuits should be actively addressed. Although "most Kenyan citizens cannot afford the high financial cost of environmental litigation," [12] since the establishment of the Environment and Land Court, there has been a significant increase in the number of environmental infringement cases, and those who can afford to do so are actively defending their environmental rights through litigation. Of course, some analysts believe that "environmental litigation will lead to a reduction in incentives for foreign investment in Kenya" [13], but as a responsible enterprise of a large country, it is important to comply with Kenyan law while also actively defending its rights. Chinese companies should carefully study the environmental laws and their specialized trial system to check whether their previous actions were not in compliance with the law if environmental disputes arise during project operations. Due to the lack of detailed provisions in Kenyan environmental law, the courts may directly invoke the environmental rights provisions of the Constitution as the basis for their decisions, and as of today, there is still no uniform definition of what "clean and healthy" means [14]. Therefore, there is a lot of room for interpretation by the courts. Chinese companies should pay attention to this feature and be prepared for legal disputes to obtain the support of judges.

Then, we should actively prevent NGOs from abusing environmental public interest litigation. At present, there are many environmental public interest lawsuits filed by NGOs in Kenya, and there are many cases involving China. In Kenya, the threshold of eligibility for environmental public interest litigation under the constitution is low, and the scope of subjects who can bring a lawsuit is broad. When environmental rights are infringed, not only the aggrieved person himself can bring a lawsuit to the court, but other people can also bring a lawsuit in the public

interest or if they meet certain conditions, including representing another person who cannot act in his name, a member of a group or a person who can represent the interests of the group, a person who represents the public interest, and a group representing the interests of one or more of its members. At the same time, the judicial practice of environmental protection in Kenya shows that most cases are based on claims of public participation, information disclosure, and other procedural rights remedies, combining environmental rights with citizens' rights to information and participation through the constitution, environmental law, and administrative law. The Fang government has given a series of safeguard measures such as policy support, financial support, and platform construction for Xiang enterprises' engineering contracting in Africa, but the legal risks of Xiang enterprises in different countries in Africa are complex and diverse. To guarantee that Xiang enterprises can carry out engineering contracting projects in Africa smoothly, at the provincial government level, there is a need to further improve the information exchange and safeguard mechanisms.

3.1.6. Legal Risk Prevention for Letters of Guarantee

First, by paying attention to the analysis of the key issues such as the criteria for determining the attributes of the independent bond, the criteria for determining fraud, and the criteria for determining consistent claims in the decisions of the Kenyan Court of Appeal and the Supreme Court, it can be predicted that the independent bond issued by us can be protected and supported by the Kenyan law.

Second, it requires payment bonds, export buyer's credit under CITIC Insurance Buyer's Credit Insurance, accounts receivable financing under CITIC Insurance Export Deferred Payment Contract Refinancing Insurance, and project financing under CITIC Insurance Overseas Investment (Debt) Insurance to protect the interests of enterprises.

Third, the choice of banks. For local banks in Kenya, the ones that cooperate more closely with domestic banks are Commercial Bank of Kenya (the largest state-owned commercial bank in Kenya), Cooperative Bank of Kenya, and Fair Bank of Kenya; for foreign banks, you can choose large foreign banks with more overseas branches and more stable international ratings, such as Standard Chartered Bank, Barclays Bank, Standard Bank, and Citibank.

3.1.7. Legal Risk Prevention of Engineering Projects

First of all, we should focus on the prior assessment of engineering projects. Engineering projects are the main direction of Hunan's investment in Kenya. In the risk prevention of engineering contracting projects, the project theme should be made consistent with Kenya's national development strategy, and priority should be given to the projects assisted by international financial institutions. In addition, the payment capacity of the owner should be examined in detail, and be ready to convert from traditional EPC mode to EPC+F and EPC+I mode.

Secondly, we should focus on the dynamic control of the project. Focus on the changes in the local political situation and adjust the construction plan and management strategy at the right time. Pay attention to the owner's credit status, engineering construction capacity, and construction qualification changes in the whole process. Pay attention to the financial budget of Kenya from time to time and follow up on the relevant approvals and allocations to collect the progress payment of the project in time. Standardize the management of foreign employees' work permits and handle the renewal of foreign employees' permits in advance.

Finally, make full use of the contract to create an enabling environment. For example, the contract can agree to adopt Chinese or international common construction standards and include security factors in the duration and cost. Specify in the contract the choice of currency for the main bond and counter-guarantee bond, and agree on the maximum guarantee amount, etc. The amount of the counter-guarantee letter can be converted by a certain rate of appreciation according to the current level of the Kenyan shilling exchange rate, and the

exchange rate risk of the excess will be borne by the sub-development bank. For joint contracting or the existence of subcontracting, the scope of project execution, responsibilities, and obligations of each contractor and subcontractor can be clarified in the contract.

3.2. Other Legal Risk Prevention

First, effective response to the risk of remote trade fraud. First, avoid the use of high-risk payment methods in the transaction, you can reduce the risk in the form of letters of credit; second, carefully identify the information of trading partners, multi-channel understanding of the creditworthiness of the other party to the transaction, including telephone contact with the other party's headquarters to verify the authenticity of its branch information and related orders; third, after the occurrence of the risk, timely legal measures to protect their rights and interests. You can report the case to China Interpol and at the same time, assign special personnel to handle the return or transit of goods and reflect the situation to the competent department and the embassy's business office in order to stop the loss and rights and remedies in time.

Second, reasonably deal with the risk of complex regulations. On the premise of properly handling relations with the Kenyan government, parliament, and trade unions, Chinese enterprises can fully understand the duties of relevant government authorities, office procedures, working hours, names of key office workers, and other information to master each other's office habits and rules and improve office efficiency. Pay attention to the important social, economic and political influence of the central labor union in Kenya, and establish normal communication channels with the relevant labor organizations to reduce the loss of labor disputes.

Third, actively guard against exchange rate risks. The central bank of Kenya implements a free-floating exchange rate system, and the Kenyan shilling depreciates by 20% from 2014 to 2019. When investing in Kenya, you can strive for payment of works by RMB or USD, but when purchasing locally, try to use the Kenyan shilling for payment.

4. Conclusion

Based on the important geographical location and economic influence of Kenya in Africa, the economic and trade exchanges between China and Kenya will be more diversified. As a window area for trade with Kenya, Hunan should raise the awareness of risk prevention and control of investment in Kenya, fully understand the main legal risks of the investment in Kenya, enrich various risk prevention and control means, optimize the path of precaution and post-event relief, and put the whole control of risks into practice. With the effective prevention and control of Hunan-Kenya economic and trade legal risks, it will be conducive to the good development of Hunan Pilot Free Trade Zone, to promote the healthy and sustainable economic and trade cooperation between China and Kenya, and to continue to maintain the good development trend of China's investment in African countries.

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