Country's indebtedness as potential threats in doing business? The case of Democratic Republic of Congo and China vs Vulture funds!

It is normal to think that the indebtedness of Democratic Republic of Congo [DRC] and potential threats such Vulture Fund activity increase the cost of doing business in some countries such as the DRC.

In fact, the DRC has started thinking how to protect investors against such practices as Vulture Funds not only litigate against debtor countries, they also pursue solvent companies that have contracted to do business with the countries.

In order to protect themselves from Vulture fund litigation, most trading partners of countries targeted by Vulture Funds adjust the price of their contracts to insure against expensive litigation, and the competing claims of Vulture Funds.

We should say however that some countries, such as China, provide complete protection against Vulture Fund litigation. For example, when a Vulture Fund attempted to seize a payment from a Chinese company to the DRC in 2008, the government of China intervened in the case and took the position that under Chinese law, the assets of a foreign sovereign are absolutely immune. A Hong Kong court thereafter dismissed the Vulture Fund's case. [*FG Hemisphere Associates, LLC v. Democratic Republic of Congo, et al*. HCMP 928/2008 (High Court of Hong Hong, Dec. 12, 2008)]

This protection against creditor litigation enables China to successfully compete for natural resources around the world and that route need to be followed by the DRC.

There is also another threat. In fact, if the borrower is liable vis-à-vis third party, all its assets must meet the obligations and liabilities of the creditor. Including acquisitions and new financing good. Article 245 of the Law " Droit Foncier" states that: " Debtor properties constitute the general pledge of all its creditors".