

Priority measures

Gabon responded quickly to Covid-19, leveraging off its experience with Ebola and Cholera. **Matthieu Le Roux, Olivier Bustin** and **Carolina Reis** of **Vieira de Almeida (VdA)** review the results of the government's actions and what the pandemic says about Gabon's future economic development

On March 12 2020, the Gabonese Republic announced its first coronavirus case in the country. From that day on, the government implemented a series of measures to curb the spread of the virus and mitigate its effects on the social and economic wellbeing of the nation.

This swift response can possibly be explained by the preparation the country has had in dealing with highly contagious diseases such as Ebola and Cholera. In fact, the social habits, organisation and infrastructure that were developed under these outbreaks can now be recycled and put back into operation to better respond to Covid-19.

State of emergency

On April 12 2020, the President of the Republic of Gabon declared a State of Emergency. The State of Emergency is provided for in the Gabonese Constitution and is further regulated by Law 11/90. This specific regime applies in exceptional circumstances and enables the government to restrict certain individual freedoms and extend police powers to address an imminent threat resulting from serious breaches of public order, or events which, due to their nature and gravity, have the character of a public calamity.

The regime may be imposed on parts of the country or the whole territory. In this case the restrictions that have been adopted are of various kinds.

Regarding the right of movement, the Gabonese government provided for the closure of land, air (except cargo) and sea borders; the prohibition of all domestic and international passenger flights, except in cases of force majeure, medical evacuation and cargo; a ban on passenger trains, except freight trains and petroleum products; a curb on all non-essential travel, except for defence and security forces, essential SEEG personnel and their vehicles, medical personnel and their essential vehicles (such as ambulances), funeral staff and their vehicles and media personnel and

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Prior to joining VdA, he was of counsel in the oil & gas practice at Miranda & Associados, where he advised on tax and legal matters to oil & gas companies and service contractors. Matthieu has also had senior legal, tax and management roles at PwC Gabon, Deloitte Gabon, PwC Chad and Landwell & Partners. He was a trainee with Norton Rose.

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Carolina has a law degree from the Universidade Nova de Lisboa's Law School, a modern literature degree from the Université Sorbonne Nouvelle- Paris 3 and a master's degree in forensic law, criminal law and criminal procedure from the Universidade Católica de Lisboa's Law School.

their vehicles; a curfew between 6pm and 6am throughout the national territory; and restrictions on transportation.

From April 12 to April 27, Greater Libreville (Libreville, Owendo, Akanda and Pointe-Denis) was under a total lockdown. This measure implied the containment of each territorial zone (*arrondissements*) and the restriction of trips inside each *arrondissement*

to ones required for essential activities related to food and health. Since April 28, Greater Libreville has been in a partial lockdown, with softened restrictions on circulation and the continuation of the 6pm and 6am curfew, subject to wearing a mask in public spaces. Nonetheless, travel between Greater Libreville and the rest of the country remains prohibited, except for supply and distress cases.

Businesses have been mandatorily closed, except for essential activities such as banks, petrol stations, grocery stores, bakeries, pharmacies, tyre fitters and garages, respecting social distancing rules imposing a one metre space between people.

In Greater Libreville, markets (supermarkets, grocery stores, and other) are open all week for the provision of food supplies

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in strict observance of barrier measures, social distancing and the wearing of masks and gloves. Private companies that have special dispensation, and public and para-public administrations, can continue with essential activities such as operating shops, health services, funerary institutions, household waste collection companies, security companies and pharmacies, among others.

Since the implementation of the partial lockdown, the progressive reopening of some businesses unrelated to the provision of food supplies, such as hairdressing salons, dry cleaners, garages and car parts, maintenance and tyre shops, is allowed.

The right of assembly and protest is equally restricted. In fact, meetings and gatherings are prohibited throughout the national territory while in case of *force majeure*, any gathering cannot exceed 10 people. The restriction on gatherings applies to all public events, including marches and meetings, concerts, leisure and recreation sites such as beaches and sports grounds, traditional ceremonies, funeral wakes, wedding celebrations and family events.

Both the freedom of worship and the freedom to learn and teach have been affected by the mandatory closure of all places of worship, specifically the closure of churches and mosques, where the government has recommended individual home prayer, and schools and universities, as well as the prohibition of religious celebrations and processions.

Finally, all acts of resistance to orders issued by public authorities as part of the state of emergency are prohibited. Any refusal to comply or any manoeuvre aimed at evading confinement constitutes the offence of endangering others, in accordance with article 384 of the Criminal Code, and exposes the perpetrator to legal proceedings.

Employment

On March 20 2020, the Gabonese Minister for Employment, Civil Service, Labour and Vocational Training, in charge of Social Dialogue, issued a statement imposing limits on the operation of business activities

to ensure that companies could function adequately and support the country's economy. The limits included the cancellation of all meetings, symposia and workshops of over 10 people, as far as possible; the implementation of a system of part-time, rotating and remote working practices, adapted as far as possible to the specificity of each sector; and the restriction and regulation of the flow of workers within companies. The supervision and regulation of working hours for workers in situations of vulnerability, disability and illness, as well as for pregnant women, has equally been encouraged.

These measures have been supplemented by Ministerial Order No. 0054/MEFPTFPDS which details the work conditions for private sector non-essential service businesses during the period of the Covid-19-induced State of Emergency. Pursuant to Ministerial Order No. 54, opening times for non-essential private sector services are fixed at Monday to Friday from 7.30am to 2pm. This corresponds to the normal legal working time, and in this way wages have been maintained at a normal level. However, staff whose work is reduced below the duration provided for above may be paid in proportion to the hours worked.

These measures do not apply to companies working on a permanent basis and those belonging to essential sectors as defined in Decree No. 106/PR/MEFPTFPDS of April 10 2020, which designates the essential services and personnel of the public, para-public and private sector during the period of the State of Emergency related to Covid-19.

Ministerial Order No. 54 also urges employers to enforce the compulsory wearing of masks by all workers and to implement all preventive and protective measures in the workplace by providing thermo-flashes, hydro-alcoholic gels at the entrance to offices, shower rooms equipped with soaps, posted information notes on the respect of barrier set ups and social distancing in the workplace.

Anticipating the difficulties that businesses would inevitably encounter, Order No. 0052/MEFPTFPDS (Order 52) was adopted on April 10 2020 by the Gabonese Minister for Employment, Civil Service, Labour, Vocational Training, in charge of Social Dialogue. It provides a set of specific measures relating to temporary lay-off periods that may be implemented by employers, following government decisions to combat the spread of the Covid-19 pandemic.

Companies are required to make a submission to the appropriate Labour Inspector, requesting the latter's opinion on the temporary lay-off. Each file must include (i) information on the company (*fiche circuit*, turnover, payroll, quarterly declarations of salaries to the CNSS and CNAMGS) and on the industry sector concerned; (ii) the impact of the measures on the continuity of the activity; (iii) the total headcount of the company; (iv) employees affected by the measure, with indication of their surname, name, seniority, age and pay slips; and (v) the cost of the temporary lay-off (temporary lay-off allowance payment). The Labour Inspector then has 72 hours to give his opinion. Failing that, the opinion shall be considered positive by operation of law.

The grounds for implementing temporary lay-offs must exclusively result from the protection and prevention decisions made to stop the spread of the Covid-19 pandemic.

Employees affected by the protection and prevention measures to combat the spread of Covid-19 pandemic are entitled to receive an allowance of at least 50% to 70% of their gross monthly salary, excluding bonuses and allowances. This allowance shall be paid under the same conditions as regular salaries. Furthermore, salaries of low-income employees with monthly salaries between XAF80,000 (\$133) and XAF150,000 shall be maintained in full.

During the entire period of inactivity, employees are required to remain on standby and employers reserve the right to use them if required and according to their job. Any employees who refuse to do so forfeit their right to the allowance during the temporary lay-off period.

Despite the provision of specific measures on temporary lay-off, employers are encouraged, during this period, to give preference to maintaining salaries; promoting remote working, shift-work or

part-time work at the company's expense; resorting to the recovery time mechanism; and asking employees to take their annual leave ahead of schedule.

Tax obligations and financial measures

The Gabonese government has reduced the business license tax (*patente*) and of the summary tax (*ISL – impôt synthétique libérateur*) by 50% for small businesses and introduced tax rebates (CIT) for companies preserving jobs and showing solidarity and exemplarity in the current crisis situation. It has also granted tax exemptions on exceptional bonuses to employees who work during the lockdown period and postponed the deadline for the submission of tax returns (DSF), annual salary statements (DAS), transfer pricing returns (DPT), personal income tax returns for taxpayers under the categories *Bénéfices Industriels et Commerciaux* (BIC), *Bénéfices Non Commerciaux* (BNC) and *Bénéfices Agricoles* (BA) to July 31. The government also provided relief on corporate income tax (IS) and personal income tax (IRPP) payments, with the option of paying in three equal monthly instalments on April 30, May 31 and June 30.

Gabon introduced a penalty-free moratorium on the due dates on debts owed to banks by any company that has ceased its activities or is in serious financial difficulty due to the crisis. The government also

established an emergency financing desk, backed by XAF225 billion, to provide immediate relief, in the form of bank loans offered on preferential terms, to the urgent cash flow needs of businesses – subject to being up to date with their tax and social security obligations and to maintaining jobs.

To help contain the social effects of Covid-19, the government established a state fund endowed with XAF25 billion. The fund will support the most fragile and economically weak members of society by helping them pay water and electricity bills; suspending rents for people without income; providing free public ground transportation; granting food aid to people in distress and in emergency situations; compensating the losses of the small landlords resulting from the suspension of the payment of the rents; topping up salaries of between XAF80,000 and XAF150,000; and providing financial aid to Gabonese nationals stranded abroad.

Additionally, economically weak policyholders with National Health and Social Security Fund insurance will benefit from an exemption from co-payments/user charges for a six month period as of April 27.

Pandemic learnings

With the implementation of these measures from an early stage, Gabon has been able to defy the more calamitous predictions of the virus's impacts and avoid the situation faced in Europe and America. Two months after the first case of Coronavirus in the country,

and at the time of writing, there were 1,004 infected people and nine dead in the country, with 162 recoveries. It seems clear that the measures implemented have helped contain the crisis from an early stage.

Nonetheless, a big challenge still lies ahead for the Gabonese economy as Gabon, an oil-exporting country, is facing a double blow from the impact of Covid-19 and from the drop in oil prices. Gabon must therefore simultaneously overcome these two challenges: one health-related and the other economic, with the latter being aggravated by the former.

In any event, the Covid-19 crisis has confirmed the need to rethink regional specialisation driven by globalisation. In fact, some countries have specialised in agricultural production, others in the export of natural resources, others in industrial production, or services, etc. Covid-19 demonstrates perfectly that this well-oiled approach could be jeopardised in the event of a pandemic as supply chains can be disrupted, potentially resulting in shortages of food supplies in some parts of the world and of equipment in others.

Should this approach change and economic diversity be prioritised at regional level, Gabon would certainly become a destination of choice for investment, insofar as it has set up free zones for industrialisation and still has under-exploited agricultural and fishing potential.