SOAS Arbitration in Africa Conference 2018

The Role of Arbitration Practitioners in the Development of Arbitration in Africa

2 - 4 May 2018

Kigali Radisson Blu Hotel & Convention Centre
Kimihurura Roundabout
P O Box 6629
Kigali, Rwanda

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TABLE OF CONTENTS

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SOAS Arbitration in Africa Conference Series 2015-2018

This is the fourth conference in the series of four identified themes in our research project on transforming and enhancing the use of arbitration as the dispute resolution of choice within the African continent. The four-year research project itself is titled 'Creating a Sustainable Culture of Arbitration as a mechanism for Commercial Dispute Resolution in Africa'. The primary purpose of this research project is to "increase the visibility (of arbitration practitioners in Africa) and the viability of arbitration in the domestic, intra-Africa and international dispute resolution market". This goal has been pursued through the conference series and conference *Discussion Papers* which have aided our "knowledge sharing between researchers and academics, arbitration practitioners, and arbitration institutions outside and within the continent".[1]

Our first conference interrogated the role of arbitration institutions in supporting the development of arbitration in Africa and was hosted by the Office of the General Counsel of the African Union Commission in 2015.[2] It was apt to commence the conference series with the centres that administer arbitration in Africa. This is because prior to our conference series, there was no definitive list of the centres that operate on the continent.[3] We produced the first of such lists which has been built on by other organisations such as ICCA.[4] In addition, our Addis Ababa conference pulled together Africans engaged in arbitration in the same location in Africa and new relationships were formed. It is particularly gratifying that these relationships continue and have led to additional training and appointments for some colleagues. Some of these arbitration centres contributed to the edited collection by Dr Emilia Onyema, *Rethinking the Role of African National Courts in Arbitration*, (Kluwer Wolters, 2018).

Our second conference was hosted by the Lagos Court of Arbitration and it focused on the role of judges and courts in the promotion and viability of arbitration in Africa. The conference papers and discussions critically examined the disposition of various African courts towards arbitration.[5] Our Lagos conference was particularly interesting because several judges from different African countries, including the Chief Justice of Zambia, Her Ladyship, Justice Irene Mambilima, and Justice John Okoro of the Nigerian Supreme Court, were in attendance. The judges in attendance fully participated by listening to our arbitration practitioners and sharing from their own experiences.

Some of the successes recorded following our Lagos Conference include: (1) from Nigeria, a new Chief Justice Onnoghen, who wrote a letter admonishing the judges in Nigeria to honour arbitration agreements. (2) Judges in the various African countries continuing to receive different levels of training in arbitration. (3) The continued and intensified engagement of the African arbitration

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[1] Addis Ababa Conference Paper available at: http://eprints.soas.ac.uk/20421/ page 23.
[2] Our Addis Ababa conference held on 23 July 2015 and the conference papers are available for download at: http://eprints.soas.ac.uk/20421/ (Addis Ababa Conference Paper)
[3] The list of arbitral centres in Africa are available at: https://www.researcharbitrationafrica.com/arbitration-institutions-in-africa (accessed 16 April 2018).
[4] Link to enhanced list of arbitration centres in Africa on ICCA's website: http://www.arbitration-icca.org/media/9/32588234375195/list_of_arbitration_institutions_in_africa_-_emilia_updated.pdf (accessed 16 April 2018).
[5] Our Lagos conference held from 22-24 June 2016 and the Conference Booklet is available for download at: http://eprints.soas.ac.uk/22727/ (Lagos Conference Paper)

community with judges and attorneys-general and other government agencies. (4) The many arbitration conferences that the continent now hosts. These have all contributed to the more supportive judiciaries we now have across the continent. African judges now exhibit in their arbitration connected decisions, better understanding of the role of arbitration in their jurisdictions.

We are very proud that our conference series contributed to these engagements which collectively are leading to change in behaviour towards arbitration across the continent. This change in behaviour and attitude of national judiciaries in several African countries is interrogated in the most recent publication edited by Dr Emilia Onyema, *Rethinking the Role of African national Courts in Arbitration* (Kluwer Wolters, 2018) which features detailed analysis (with commentaries) of arbitration related decisions from eight prominent African jurisdictions.[6]

In 2017, our third conference was hosted by the Cairo Regional Centre for International Commercial Arbitration (CRCICA).[7] This conference examined the role of the legislative and executive arms of African governments in the development of arbitration. In addition to interrogating the substantive content of the arbitration laws of various African countries and the engagement of UNCITRAL with African states in this regard; the conference also examined the attitude of African governments towards investment arbitration; and non-legal factors relevant to making African countries attractive seats and venues for intra-Africa and Africa-connected international disputes. Extending our interrogation to such non-legal factors was, "to provide a holistic discussion of the gaps which need to be filled to produce a sustainable environment that will attract disputes for resolution on the continent".

Our Cairo conference was particularly special because it celebrated the engagement of North African countries with those of sub-Sahara Africa. This meant we interacted as a united African continent. This conference added the Arabic language to our conference languages which had hitherto being held in the English and French languages. Finally, it was at our Cairo conference that in response to a challenge thrown by Dr Emilia Onyema, Dr Nagla Nassar of NasserLaw, Cairo accepted to host one African candidate for a one month internship in Cairo. This offer attracted 82 applicants from 22 countries (10 of which were African countries). Ms Ossasiuwa Edomwande was chosen to spend one month in Cairo. Ms Edomwande, in her Report after the internship at NassarLaw, noted that,

> I was exposed to precedents and processes, learning more about how an arbitral panel thinks while it resolves disputes that come before it. I learnt more about the arbitration process, particularly how counsel and arbitrators work together to prepare for final hearings and how final awards are drafted.

She also spent some time at CRCICA, visited many of the ancient sites in Egypt which were organised by NassarLaw for her. In this way, she also learnt about the cultures and history of Egypt. She highly recommends the internship, "to anyone who has an interest in international arbitration especially on the African Continent".

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[6] These jurisdictions are: Ghana, Egypt, Kenya, Mauritius, Nigeria, Rwanda, South Africa, and Sudan.

[7] Our Cairo conference held from3-5 April 2017 and the conference Booklet is available for download at: http://eprints.soas.ac.uk/24243/ (Cairo Conference Paper)

Our fourth and last conference in this series is co-hosted by the Kigali International Arbitration Centre (KIAC) in Rwanda.[8] Our choice of Rwanda was to ensure we also took our message of 'developing arbitration in Africa' to the Eastern (and as far South as possible) part of the continent. This was particularly important since we started at the home of the African continent, the Africa Union Commission, went to West Africa (Lagos) and North Africa (Cairo). Our 2018 Kigali conference will examine the fourth identified stakeholder in the development of arbitration in Africa: the arbitration practitioner. It will particularly identify the arbitration practitioner and the various roles open to such individual in the arbitral process. Having identified the roles and their occupants, attendees at this conference will explore how such role occupants can support the development of arbitration in Africa.

At this Kigali conference, we shall launch the Report from our maiden edition of our SOAS Arbitration in Africa survey, *Domestic and International Arbitration: Perspectives from African Arbitration Practitioners*. This survey focused on collecting original data from African arbitration practitioners on their experiences in various aspects of arbitration. The Report from this survey (in addition to the publications from this conference) will be our legacy and contribution to the discourse on arbitration in Africa and its development.

Appreciation

Since we embarked on this project in 2015, we have had strong support from all those who have attended our conferences in Addis Ababa, Lagos, Cairo and Kigali. A number of these people have attended all four conferences while most have attended three or two. Such multiple attendance, for us, speaks to the value of the deliberations and content of our conferences to our attendees.

We have also enjoyed tremendous financial support from various organisations, firms and individuals at all our conferences. We thank: Faculty of Law and Social Sciences SOAS University of London; International Centre for Arbitration and Mediation Abuja (ICAMA); Stephenson Harwood LLP, London; Foley Hoag LLP, Washington D.C; Lagos Chamber of Commerce International Arbitration Centre (LACIAC); African Union Commission; Wilmer Cutler Pickering Hale and Dorr LP, London; Lagos Court of Arbitration (LCA); Ajumogobia & Okeke, Lagos; White & Case LLP, Paris; Aluko & Oyebode, Lagos; G. Elias & Co, Lagos; Sofunde Osakwe Ogundipe and Belgore, Lagos; Templars, Lagos; Royal Heritage, Lagos; Mrs Kate Emuchay; Cairo Regional Centre for International Commercial Arbitration (CRCICA); Youseff & Partners Attorneys, Cairo; Shahid Law Firm, Cairo; Jones Day, London; TMS Law Firm, Cairo; Shalakany Law Office, Cairo; Nour & Selim in association with Al Tamimi & Company, Cairo; Matouk Bassiouny, Cairo; Kigali International Arbitration Centre; Ms Alexandria (Xander) Kerr Meise; Baker McKenzie Habib Al Mulla, Dubai; APAA Afrique; Mayer Brown LLP, London; Mitchell, Silberberg & Knupp LLP, Washington D.C.; Shearman & Sterling LLP, London; APAA Afrique; and Bayo Ojo & Co, Abuja.

The administrative team at each of our conference co-host Centres (African Union Commission, Lagos Court of Arbitration, Cairo Regional Centre for International Commercial Arbitration; and Kigali International Arbitration Centre); and our administrators at the School of Law and the Faculty of Law and Social Sciences, SOAS University of London; all have our admiration for their professionalism and excellence in the execution of their tasks.

[8] Our Kigali conference hold from 2-4 May 2018.

We thank our media partners over the period: AILA, OHADA; ILFA; I-Arb; and TDM.

We thank all our keynote speakers, moderators, contributors, comperes, rapporteurs and attendees.

We believe that engagement on arbitration in Africa will continue to grow and there will be more exciting and interesting conferences on arbitration in the continent each year which we shall continue to contribute to and support.

Dr Emilia Onyema

KIGALI, RWANDA
2018

Group Photograph of Delegates at SOAS Kigali Arbitration in Africa Conference
2-4 May 2018

SOAS Kigali Arbitration in Africa Conference 2-4 May 2018

The Role of Arbitration Practitioners in the Development of Arbitration in Africa

Aim of the conference

This conference primarily aims to examine how African arbitration practitioners can better support the development of both domestic and international arbitration in their individual countries, regions and collectively across the African continent.

Format of the conference

The deliberations at this conference will be conducted in the form of open forum discussions. This will ensure that many voices can contribute freely in the discussions. Some colleagues have been requested to attend the conference prepared to kick off the discussions during each session. There will also be a debate of young arbitration practitioners versus more experienced arbitration practitioners which will give us a glimpse into the future direction of arbitral practice with reference to Africa.

Venue for the conference

This fourth SOAS Arbitration in Africa conference is co-hosted with the Kigali International Arbitration Centre (KIAC)[9] and holds here at the Radisson Blu Hotel and Convention Centre, Kigali.

Outline of the conference sessions

Each session is structured to interrogate particular roles (and their occupants) in arbitration. Each session will also interrogate how the particular role and its occupants can contribute to the development of arbitration in Africa. A special session is dedicated to celebrate the achievements of some of our world class arbitrators who are all Africans.

Session 1 will focus on the role of the arbitration practitioner as an administrator of an arbitral centre. This session will explore the skills required to run a successful arbitration centre in Africa; the challenges of the centres in Africa and how the administrators deal with such challenges; their plans for growth; and tips for budding practitioners who wish to pursue a career through arbitration centres. The session will also examine issues of particular interests to attendees such as: the criteria they apply in selecting and enlisting possible arbitrators on their panels; the issues they take into consideration in appointing arbitrators; the factors they take into consideration in deciding arbitrator challenge; their plans in growing their domestic arbitration market; their contribution to the development, understanding and practice of arbitration in their jurisdiction or region (eg providing internships; trainings; workshops; seminars, etc); and concrete examples of how the practices of the institution have improved since the first SOAS Arbitration in Africa conference in Addis Ababa.

This session will be **moderated by Ms Alexander Kerr Meise**, Partner, Mitchell Silberberg & Knupp LLP, Washington D.C. Xander will be joined by: Dr Fidele Masengo of KIAC; Dr Ismail Selim of CRCICA; Mr Narcisse Aka of OHADA, CCJA; Ms Khawla Ezatagui of the Libya International Arbitration Centre and Ms Marie-Camille Pitton of Aceris Law (formerly of ICC).

[9] Kigali International Arbitration Centre: http://www.kiac.org.rw/

Session 2 will examine the topical and central issue of **race and gender** in the appointment of arbitrators in international arbitration. This session will particularly examine the difficulties (or advantages) that these attributes pose in obtaining appointment as arbitrator and suggest measures for those wishing to be appointed and those making such appointments. The session will also explore issues of diversity in domestic arbitration. The need for the appointment of more women and younger arbitrators in African domestic arbitration references. This session will be **moderated by Ms Ndanga Kamau**, formerly of LCIA-MIAC, Mauritius. Ndanga will be joined by Mrs Doyin Rhodes-Vivour of DRV Law, Lagos; Dr Stuart Dutson of Simmons & Simmons LLP, London; Paul Ngotho, Nairobi; Dr Sylvie Bebohi Ebongo of APAA, Cameroon; Mr Isaiah Bozimo of Broderick Bozimo & Co, Abuja; and Ms Lise Bosman of the PCA (The Hague).

Session 3 will feature a debate between aspiring and experienced arbitration practitioners with four on each side to examine arbitrator appointment: the difficulties of getting the first appointment and strategies to overcoming the different hurdles; marketing strategies that will be within the accepted norm; dealing with arbitrator disclosure issues and challenge; continuous professional development matters; preferences for sitting ad hoc or institutional; interviewing of arbitrators; participating as counsel or tribunal secretary as a route into sitting as arbitrator; need for specialisation, etc. The debate will be **moderated by Mr Babajide O. Ogundipe** of Sofunde, Osakwe, Ogundipe and Belgore, Lagos. The debaters are: For more experienced practitioners: Mr Duncan Bagshaw, a barrister and member of the international arbitration and Africa groups at Stephenson Harwood LLP, London; Mr Kwadwo Sarkodie of Mayer Brown LLP, London; Ms Njeri Kariuki of NK Law, Nairobi; and Mr Mouhamed Kebe of GSK Law, Dakar. For the younger practitioners: Ms Chinenye Onyeamaizu of Abuja; Dr Sally El Sawah, of Cairo/Paris; Mr Tsegaye Laurendeau of Shearman & Sterling LLP, London; and Ms Rose Rameau of Accra/Geneva.

Session 4 will focus on academics, students, researchers and trainers in the law and practice of arbitration. This panel will discuss the interaction between the academic and professional stages of arbitration training; content of their training materials; teaching of arbitration/ADR in universities (as Undergraduate or Postgraduate module); whether we should form a group of arbitration/ADR academics and trainers across the continent to promote the culture of arbitration and to provide standardised training materials; whether we should compile a list of qualified trainers and provide trainers workshops in the Arabic, English, French and Portuguese languages; whether the training should include a practical element such as time spent understudying an arbitrator (a mentoring scheme) and targeted internship programmes. This session will be **moderated by Prof Walid Ben Hamida** of University of Paris-Sacly (Evry University). Walid will be joined by Dr Achille Ngwanza of University of Paris Sud II; Ms Yasmin Sabeh of Bahrain Polytechnic; Mrs Sola Adegbonmire of CIArb, Nigeria; and Mr Ike Ehiribe of CIArb London and visiting lecturer, SOAS University of London.

Session 5 will explore **other roles available for practitioners in arbitration**. These roles are: tribunal secretary; expert witness and counsel. This session will explore questions on the role of counsel in arbitration; the viability of co-counsel schemes across the continent and globally; marketing by counsel; counsel setting up boutique arbitration practices; issues of ethics of counsel in arbitration; the importance of the role of the tribunal secretary; internships; mentoring; specialisation; expert witness; among others. The open forum will be **moderated by Mr Baiju Vasani**, Partner Jones Day, and Senior Fellow, SOAS University of London.

Session 6 will feature an open discussion by seasoned African arbitrators who will share their experiences and tips from their practices over the years. **Chief Bayo C. Ojo**, SAN (Nigeria) will be **in conversation** with: Mrs Funke Adekoya, SAN (AELEX, Lagos); Dr Nagla Nassar (NassarLaw, Cairo); Prof David Butler (formerly of University of Stellenbosch, South Africa); Prof Paul Idornigie, SAN (Nigerian Institute of Advanced Legal Studies, Abuja); Prof Edward Torgbor (Chartered Arbitrator and Professor of Law, Ghana/Kenya); and Dr Gaston Kenfack Douajni (Arbitrator, Professor of Law, former Chair of UNCITRAL & Founder of APAA).

SOAS Arbitration in Africa Survey

The Report from the maiden edition of the SOAS Arbitration in Africa survey will be launched at the Welcome Reception on the evening of 2 May 2018 by Dr Emilia Onyema (the author of the Report) and Mr Isaiah Bozimo, whose law firm (Broderick Bozimo and Company, Abuja) co-funded the survey and Report. Mr Christophe von Krause of White & Case LLP, Paris will give a response to the Report.

Keynote Speaker

The conference **keynote address** will be given by Prof (Dr) Mohamed S. Abdel Wahab, Founding Partner & Head of the International Arbitration, Construction, Oil & Gas and Project Finance Groups of Zulficar Partners, Cairo. Mohamed is the Chair of Private International law and Professor of International Arbitration at Cairo University; Vice President of the ICC International Court of Arbitration; Court Member of the LCIA; President of LCIA's Arab Users' Council; Court member of the CIMAC, Vice President of the IBA Arbitration Committee; Member of the CIArb's Practice and Standards Committee; Member of the CRCICA Advisory Committee; Member of AAA-ICDR International Advisory Committee; and Member of the SIAC African Users' Council's Committee. Mohamed has sat as arbitrator in well over 170 cases under the arbitration rules of all the major arbitration centres. According to *Who's Who Legal*, Mohamed is, 'a *star arbitration practitioner'*. In 2017, Mohamed was selected to feature in the *GAR Global Guide for Future Leaders in International Arbitration* and the *GAR Guide on Thought Leaders in International Arbitration*. In 2018, Mohamed was awarded the 2018 ASA (Arbitration Association of Switzerland) prize for advocacy in international commercial arbitration.

Networking

Our conferences have garnered a reputation for providing excellent networking opportunities for attendees and this remains the same with this conference which will include several evening receptions and a closing dinner in addition to opportunities to network during the tea and lunch breaks.

Conference website

All information relevant to the main research project and all the connected conferences are available online at: http://www.researcharbitrationafrica.com/

Languages

The conference proceedings shall be conducted in the English and French languages with simultaneous translation. However, the *Discussion Paper* is published in three languages (Arabic, English and French) on the conference website. The translations are by: Dr Jean-Alain Penda (French) and Mr Ahmed Bannaga (Arabic).

PROGRAMME

Fourth SOAS Arbitration in Africa Conference co-hosted with the Kigali International Arbitration Centre (KIAC) at Radisson Blu Hotel & Convention Centre, Kigali, 2-4 May 2018

The Role of Arbitration Practitioners in the Development of Arbitration in Africa

Programme

02 May 2018: Arrivals

1200-1600: Registration at Radisson Blu

Anchor person: Ms Joyce Williams of Armooh-Williams, PLLC, Alexandria, Virginia

Rapporteurs: Dr Jean-Alain Penda and Dr Prince N.C. Olokotor

1800-2000: Welcome reception for delegates at Radisson Blu sponsored by Shearman & Sterling LLP London

Launch of SOAS Arbitration in Africa Report by Dr Emilia Onyema (SOAS) & Mr Isaiah Bozimo (Broderick Bozimo & Co, Abuja). **Response** by Mr Christophe von Krause, Partner and Head, Africa Arbitration Practice, White & Case LLP, Paris

Day 1: 03 May 2018

Conference Format: Open Forum Discussion
Languages: English/French

0830-0930: Registration and welcome

0930-0945: Welcome by Dr Fidele Masengo, KIAC

0945-1000: SOAS Arbitration in Africa Project by Dr Emilia Onyema, SOAS

1000-1020: Hon. Johnston Busingye, Minister of Justice and Attorney General of the Republic of Rwanda

1020-1040: Keynote address by Prof (Dr) Mohamed S. Abdel Wahab, Zulficar Partners, Cairo

1040-1055: Tea/Coffee Break sponsored by SOAS University of London & Stephenson Harwood LLP

Group Photo

1100-1245: Session 1 will focus on the role of the **arbitration practitioner as an administrator** of an arbitral centre. This session will be **moderated by Ms Alexander Kerr Meise**, Partner, Mitchell Silberberg & Knupp LLP, Washington D.C.; Dr Fidele Masengo of KIAC; Dr Ismail Selim of CRCICA; Mr

Narcisse Aka of OHADA, CCJA; Ms Khawla Ezatagui of the Libya International Arbitration Centre and Ms Marie-Camille Pitton of Aceris Law (formerly of ICC) will kick-off the discussions.

1300-1400: Lunch sponsored by White & Case LLP, Paris

1410-1610: Session 2 will examine the central issue of **race and gender** in the appointment of arbitrators in international arbitration. This session will particularly examine the difficulties (or advantages) that these attributes pose in obtaining appointment as arbitrator and suggest measures for those wishing to be appointed and those making such appointments. This session will be **moderated by Ms Ndanga Kamau**, formerly of LCIA-MIAC, Mauritius. Ndanga will be joined by Mrs Doyin Rhodes-Vivour of DRV Law, Lagos; Dr Stuart Dutson of Simmons & Simmons LLP, London; Paul Ngotho, Nairobi; Dr Sylvie Bebohi Ebongo of APAA, Cameroon; Mr Isaiah Bozimo of Broderick Bozimo & Co, Abuja; and Ms Lise Bosman of the PCA (The Hague).

1610-1630: Tea/coffee break sponsored by Baker Mckenzie Habib Al Mulla; and APAA Afrique

1630-1815: Session 3 will take the form of a **debate** between four more experienced (Mr Duncan Bagshaw, a barrister and member of the international arbitration and Africa groups at Stephenson Harwood LLP, London; Mr Kwadwo Sarkodie of Mayer Brown LLP, London; Ms Njeri Kariuki of NK Law, Nairobi; and Mr Mouhamed Kebe of GSK Law, Dakar) and four younger (Ms Chinenye Onyeamaizu of Abuja; Dr Sally El Sawah, of Cairo/Paris; Mr Tsegaye Laurendeau of Shearman & Sterling LLP, London; and Ms Rose Rameau of Accra/Geneva) arbitration practitioners. This debate will be **moderated by Mr Babajide O. Ogundipe**, of Sofunde, Osakwe, Ogundipe and Belgore, Lagos.

1815-1900: Drinks Reception & Signing of Memorandum of Understanding between Cairo Regional Centre for International Commercial Arbitration (CRCICA) and Kigali International Centre for Arbitration (KIAC): sponsored by KIAC and CRCICA

Day 2: 04 May 2018

Conference Format: Open Forum Discussion
Languages: English/French

0900-1100: Session 4 will focus on **teachers and trainers** in the law and practice of arbitration. This session will be **moderated by Prof Walid Ben Hamida** of University of Paris-Sacly (Evry University). Walid will be joined by Dr Achille Ngwanza of University Paris Sud II; Ms Yasmin Sabeh of Bahrain Polytechnic; Mrs Sola Adegbonmire of CIArb, Nigeria; and Mr Ike Ehiribe of CIArb London, and SOAS.

1100-1120: Tea/coffee break sponsored by Sofunde, Osakwe, Ogundipe & Belgore, Lagos;

1130-1320: Session 5 will explore **other roles available for practitioners in arbitration**. These roles are: tribunal secretary; expert witness and as counsel. The open discussion will be **moderated by Mr Baiju Vasani**, Partner Jones Day, and Senior Fellow, SOAS University of London.

1330-1430: Lunch sponsored by Mayer Brown LLP, London; and Mitchell Silberberg & Knupp LLP, Washington D.C.

1435-1630: Session 6 will feature an open discussion by seasoned African arbitrators who will share their experiences and tips from their practice. **Chief Bayo C. Ojo**, SAN (Nigeria) will be **in conversation** with: Mrs Funke Adekoya, SAN (AELEX, Lagos); Dr Nagla Nassar (NassarLaw, Cairo); Prof David Butler (formerly of University of Stellenbosch, South Africa); Prof Paul Idornigie, SAN (Nigerian Institute of Advanced Legal Studies, Abuja); Prof Edward Torgbor (Chartered Arbitrator and Professor of Law, Ghana/Kenya); and Dr Gaston Kenfack Douajni (Arbitrator, Professor of Law, former Chair of UNCITRAL & Founder of APAA).

1640-1700: Close

1900-2100: Closing dinner at Radisson Blu sponsored by Bayo Ojo & Co, Abuja

Keynote Speaker

Prof (Dr) Mohamed S. Abdel Wahab

Prof. Dr. Abdel Wahab is the Chair of Private International law and Professor of International Arbitration at Cairo University; Vice President of the ICC International Court of Arbitration; Court Member of the LCIA; President of LCIA's Arab Users' Council; Court member of the CIMAC, Vice President of the IBA Arbitration Committee; Member of the CIArb's Practice and Standards Committee; Member of the CRCICA Advisory Committee; Member of AAA-ICDR International Advisory Committee; and Member of the SIAC African Users' Council's Committee. He served as 'Sole Arbitrator', 'Presiding Arbitrator', 'Party Appointed Arbitrator', or 'Counsel' in more than 172 cases involving parties from the Middle East, Europe, Asia, Canada, and the United States. He appeared in cases under the auspices of the AAA, AAA-BCDR, CRCICA, DIAC, DIFC-LCIA, ICC, ICSID, LCIA, LMAA, SCC,SIAC, as well as ad hoc UNCITRAL proceedings.

Recognized as a world leading expert on international arbitration, Arab Laws, and Islamic Shari'a. His expertise spans construction, oil & gas, telecommunications, finance and hospitality disputes involving cross border multi- jurisdictional and highly complex contracts and transactions, Prof. Dr. Abdel Wahab featured in proceedings governed by Bahraini, Egyptian, English, French, Jordanian, Kuwaiti, Libyan, New York, Omani, Pakistani, Qatari, Saudi, Spanish, Swiss, Syrian, Italian and United Arab Emirates law(s), as well as the general principles of law.

Prof. Dr. Abdel Wahab features in Who's Who Legal: Arbitration as a star arbitration practitioner and was selected to feature in the GAR Global Guide for Future Leaders in International Arbitration (2017) and the GAR Guide on Thought Leaders in International Arbitration (2017). He is regularly recognized and ranked as a world leading dispute resolution practitioner in all leading legal directories. The Legal 500 (2014-2016) stated that Mohamed Abdel Wahab is "one of the brightest of his generation, a strong thinker and excellent advocate who knows arbitration inside out". The Legal 500 (2017) stated that 'Sharp, focused and highly intelligent' head of international arbitration Mohamed Abdel Wahab is 'an exceptional practitioner'. The Chambers & Partners Global (2017) ranks Prof. Dr. Mohamed Abdel Wahab as the STAR individual in Egypt and states: "The 'top-notch' Mohamed Abdel Wahab retains his position as a distinguished leader in the market after receiving a wealth of praise from peers and clients alike. One market commentator added: 'He is extraordinary – a bundle of energy, and academically extremely strong'." Who's Who Legal (2016-2017) says: Mohamed Abdel Wahab impresses all he works with.

Dr Emilia Onyema

Dr Emilia Onyema is a senior lecturer in International Commercial Law at SOAS, University of London. She is a Fellow of the Chartered Institute of Arbitrators; qualified to practice law in Nigeria; a non-practising Solicitor in England; alternative tribunal secretary of the Commonwealth Secretariat Arbitral Tribunal (London); and is listed on various arbitrator-selection panels. She is a member of the court of the Lagos Chamber of Commerce International Arbitration Centre (LACIAC), and member of the Advisory Committee of the Cairo Regional Centre for International Commercial Arbitration (CRCICA). Her latest book published by Kluwer is an edited collection on, "Rethinking the Role of African National Courts in Arbitration" (2018).

Dr Fidele Masengo

Dr Fidele Masengo is Board member of Kigali International Arbitration Center (KIAC) who has been appointed to serve as KIAC Executive Director assuming temporary the duties of KIAC General Secretary. He has served as the Deputy Chief of Party and Senior Technical Adviser within USAID-Chemonics International- LAND Project since June 2012 up to May 2015. Before joining USAID-LAND Project, Fidèle worked and is still working as legal consultant. He also worked as independent Advocate registered with Rwanda Bar Association since 2005 and in various other key legal positions in Rwanda, most notably in Rwanda Ministry of Justice as the Director of Public Prosecution services and Relations with the courts (from 1999 to 2001) and as the Director of the Administration of Justice (from 2001 to September 2004).

DISCUSSION PAPER

The Role of Arbitration Practitioners in the Development of Arbitration in Africa

Discussion Paper

Dr Emilia Onyema

Introduction

This fourth conference in the SOAS Arbitration in Africa series interrogates the role of arbitration practitioners in the development of arbitration in Africa. The focus of this conference therefore, is the 'arbitration practitioner'. The key question that arises is who is an arbitration practitioner? The answer to this question will lead to examining the roles open to such practitioners in the arbitral process to enable a discussion on how the roles and their occupants can contribute to the development of arbitration in Africa.

The Arbitration Practitioner

A very broad description of an arbitration practitioner is any individual who participates, as a professional, in the determination of the dispute between the disputants in an arbitral reference. This description will encompass the many functions or roles open to individuals as participants in the arbitral process such as: arbitrator, counsel, tribunal secretary, and administrator of an arbitration centre. An expanded description can include an expert (in arbitration) witness (primarily relevant in litigation) and academics and trainers who research and teach arbitration and facilitate the formation of the arbitration practitioner. I shall adopt the expanded description and refer to these practitioners as the 'arbitration community'.

This broad based description implies that an arbitration practitioner needs to be an individual and not a legal entity. To this end, an institution, such as the KIAC or CRCICA, as a legal entity, cannot be an arbitration practitioner. It is therefore the individuals that, in a professional capacity, perform certain key functions that enable the arbitration reference to achieve its core purpose of dispute resolution, that are of primary relevance. The disputing parties or disputants are indispensable to any arbitration reference being the very reason there is an arbitration in the first place. However, the disputants are not 'practitioners' because their function or role in the arbitration is not to facilitate the resolution of their dispute. The disputants are the beneficiaries of the performance of the roles or functions of arbitration practitioners in any reference.

The Role of the Arbitration Practitioner in Arbitration

This being the case, it is useful to very briefly explore the roles occupied by these arbitration practitioners. The arbitrator is the most important arbitration practitioner because s/he determines the dispute between the disputants. The arbitrator is only second in importance to the disputants themselves, without who there will be no arbitration. This is because there cannot be any arbitration without the decision makers, the arbitrators or arbitral tribunal.

The administrator of the arbitration has over the years gained prominence in arbitration especially with the growth of institutional arbitration. Arbitration centres or institutions are run or managed by individuals. Broadly speaking, the primary function of the institution is to assure the smooth management of the arbitral reference. Institutions execute this task through efficient management of

the arbitral hearing which includes all participants in the process. It is therefore important that the individuals that manage arbitration centres understand the process and their clientele to provide them with efficient support and service. It can therefore be concluded that the very existence and continued survival of arbitration centres rests on the availability of disputes to be arbitrated, either under their bespoke arbitration rules or other rules, using their facilities. Thus, one of the most important tasks of arbitration centres is the generation of this workload for themselves and the other arbitration practitioners.

Counsel, who basically represents the interest of the disputants and presents the case of a particular disputant to the arbitrators for decision, participate in the arbitration as part of the legal services they provide to the disputants. Most counsel in arbitration therefore, provide the same services they provide to their clients in litigation. However, where counsel acts as legal advisors or transactional lawyers, they assume an even more important function as it relates to arbitration. They support the arbitral process by ensuring the inclusion of a valid arbitration agreement in the contractual documentation between the parties, even prior to the dispute arising. It is the conclusion of the arbitration agreement that generates the workload for arbitration practitioners.

The tribunal secretary is also becoming more popular. The individual who occupies this role acts as registrar to assist the arbitrator in the administration and other tasks relevant to the arbitral reference.

An expert in arbitration may be required to provide a national court with expert evidence on various aspects of arbitration usually under a particular law or legal system.

These participants are relevant in both domestic and international arbitration. There are several other individuals who may render various services for the smooth operation of the arbitration but most of such services may not be indispensable to the attainment of the core purpose of arbitration. Some of such individuals are the different staff of arbitration centres, translators and transcribers, etc.

The final group of arbitration practitioners are the academics and trainers who impact knowledge of arbitration to the various groups of practitioners. The vast majority of those who teach arbitration as an academic subject and those who conduct training for professional practice are themselves active as arbitrators, counsel, tribunal secretary or administrators.

I note the importance of judges to the efficient operation of the arbitral jurisdiction. However, judges are not (strictly speaking) members of this arbitration community. This is because judges operate outside of the arbitration community though their action affects the community and its activities.

It is helpful (particularly for budding arbitration enthusiasts) to note the different roles open to arbitration practitioners. The vast majority of arbitration practitioners combine two or more of these roles (e.g. sitting as arbitrator and teaching or appearing as counsel) in their practice. Each arbitration practitioner's role is legitimate and relevant to the operation of an efficient arbitration community in any jurisdiction, region and globally. It is for each practitioner to determine the role(s) they wish to pursue in their arbitral practice.

Identifying a professional community of persons raises several other issues such as ethics, community values and their enforcement, entry requirements and their operation, and standard setting in the community. These issues are not discussed in this short paper but may arise for discussion at the conference.

Participation of the Arbitration Practitioner in the development of Arbitration in Africa

It is self-evident that the 'golden thread' that binds the arbitration community together is the availability of disputes to be arbitrated. The task of generating arbitration work therefore falls on all members of the arbitral community. In addition, it is for each member of the community to abide by any community values or norms which have been generated or evolved, and which will keep the community attractive to users (disputants). This again is to ensure the continued survival of the community. It therefore means that each member of this community need to participate in and support the development of arbitration as an accepted dispute resolution process within the larger community from which its core commodity (disputes) will be generated. Therefore, all members of the community, in their respective roles, need to promote arbitration as a dispute resolution process and ensure that disputants conclude effective and valid arbitration agreements.

There are various ways individual groups in this community can support the development of arbitration in Africa. Some suggestions include:

Academics/trainers: need to develop qualitative curriculum that meets international standards, with a goal of equipping students and trainees with sound knowledge of arbitration, ability to think analytically and independently; excellent oral and written communication skills; ethics, and professionalism.

Arbitrators: should be trained to develop the ability to think analytically and independently; have excellent oral and written communication skills; ethics and professionalism; and ability to get along with other people and cultures.

Counsel: should extend their professional ethics and expertise from litigation to arbitration.

Tribunal secretary: should support the arbitrator within their mandate and act with professionalism.

Administrators: should put efficient systems in place to provide excellent professional services to the disputants and members of the arbitration community.

What makes Africa special in Arbitration?

As our SOAS Arbitration in Africa survey Report has found, the vast majority of African arbitration practitioners are under-represented in both domestic and international arbitration. Therefore, the vast majority of African arbitration practitioners are not fully participating in the different arbitral roles mentioned above. This finding is in addition to arbitration flight from the continent as has been noted by many commentators. However, according to the views of Respondents, domestic arbitration is growing in Africa. This view is supported by statistics from arbitration institutions such as ICC, LCIA, and ICSID, for which there is an increase in the number of African parties (as disputants) in international arbitration references under their auspices.

All these data therefore mean that Africa is a growth area for arbitration, both domestic and international. It is this growth prediction that makes Africa special in arbitration. There will be plenty of work generated for all categories of arbitration practitioners. The key question for each practitioner is whether they will participate in the distribution of this work. If yes, the capacity they wish to participate and how they will ensure their participation.

Summary

This fourth SOAS Arbitration in Africa conference aptly engages with these questions to prepare each attendee for the great possibilities that Africa holds for arbitration practitioners; enable each attendee think through how they can fully participate in this growth; and ways in which attendees can engage in the development of arbitration in Africa as **the** dispute resolution of choice in their different countries.

SPEECH FOR THE KIAC SG DURING KIAC SOAS MEETING

Dear Hon. State Minister of Justice of Rwanda in charge of Legal and constitutional affairs;

Dear Hon. Attorney General of the Republic of Zambia;

Distinguished guests and participants;

It gives me great pleasure to welcome you here in Kigali for the 4th edition of the SOAS arbitration in Africa. This big conference comes after a series of many other events organized during these past 7 days.

In fact, this has been a very hectic and busy time in which fivefold arbitration sub-events were organized: a Seminar on the role of lawyers in International and Domestic arbitration; an entry course leading to Associate of CIArb, a Young ICCA workshop, the ICCA 4th Consultative forum of arbitral institutions and the 4th edition of the SOAS arbitration in Africa.

This conference comes after the 5th East Africa International Arbitration Conference that was also hosted by Kigali International Arbitration Center last year on
28th-29th September. Last year we had over 130 participants from abroad. During this conference we are delighted to welcome around 200 people both from Rwanda and abroad participating in this event. This will no doubt ensure that we have an excellent opportunity to learn from and to interact and exchange viewpoints with our practitioners' counterparts from around the world.

As you are all aware of, this conference is the last of the four series of four identified themes of a research project by SOAS on transforming and enhancing the use of arbitration as the dispute resolution of choice within the African continent. The Theme for this Conference is" The **Role of Arbitration Practitioners in the Development of Arbitration in Africa"**
The theme of transforming and enhancing the use of arbitration in resolving business disputes in Africa is very critical.

Over the past few years, we have witnessed multiple encouraging signs that African economies are not only growing at a very fast rate, but also that nations are seeking integration for faster growth and cooperation.

Ladies and Gentlemen,

Africa therefore needs arbitration because there are all likelihoods that economic related disputes and conflicts are equally expected to be on the increase.

Arbitration provides a significant contribution to facilitating foreign investment and trade. Investor's confidence can only be raised knowing that any dispute they enter into will be effectively and efficiently resolved. It is upon us as Africa to view the importance of Arbitration and ADR not only from the justice angle but also as a factor that can influence the economy of our continent. Africa has the unquestionable potential to become the hub for International Arbitration, and these 4 series of SOAS conference should therefore send a powerful message to the international business community and the International arbitration centers- some whose members are represented in this conference. We need to set up ADR friendly policies, infrastructure and credible systems that are acknowledged by the business community as neutral, expeditious, flexible, cost-efficient, transparent and free of corruption.

Ladies and Gentlemen,

This conference couldn't have come at a better time and a better place than in Rwanda. In fact, this nation which is hosting the Conference, has set a high bar in terms of investment promotion policy and all policies relating to governance and development. Rwanda is amongst the fastest growing and most open

economies in the world. Rwanda has been ranked these last two years the 2nd easiest place to do business in Africa according by the World Bank's Doing Business index. The country is Politically stable with well-functioning institutions and a clear vision for growth through private investment; with Rule of law and zero tolerance for corruption among pillars that have favored Private sector growth.
Without taking much time informing you on what we have been doing these past years in Rwanda your host country during this conference, let me briefly introduce to you some facts and figures about the Kigali International Arbitration Center.

The Center was established by an act of parliament and launched in May 2012.

Within the past nearly 6 years now, when KIAC was launched, we have seen a rise in the use of arbitration as an alternative dispute resolution process. We have embraced modern international Arbitration and KIAC administers arbitration under its own Rules and UNCITRAL Rules. KIAC has now registered 86 cases of arbitration and 27 cases of mediation. In the past financial year alone, KIAC registered 26 cases. For this ongoing year we have already registered 20 cases. On top of cases involving Rwanda nationals, parties from USA, Kenya, Italy, Pakistan, Senegal, South Africa, Dubai, China, Germany, Uganda, India, France, Zambia and China have been in KIAC for arbitration. The international cases under KIAC administration are a statement of confidence that Rwanda is playing a key role in positioning Africa on the market of international Arbitration. This is testament of user confidence in KIAC services.

From this conference's theme, we all agree that Arbitration is an indispensable condition for the development of African economies. Together with our stakeholders, as arbitrators, litigators, academicians, judges, government officials and all other professionals gathered here today, we need to collectively reflect on how to create a more supportive pro-arbitration legal framework, improve the capacity of arbitrators and upgrade existing resources and infrastructure for alternative dispute resolution. We definitely need knowledge sharing platforms like this to remind us that the journey continues and also lay out solutions to possible hindrances that surround the use of arbitration.

Yesterday we agreed on the creation of a continental umbrella organization that will help African arbitral institutions and all practitioners in arbitration to strengthen their cooperation and insure advocacy for the rise of arbitration on the continent.

I believe that this conference will provide a learning space for all the participants to furnish their knowledge of how arbitration can be maximised to not only promote Africa as a hub for Arbitration and ADR but also as a tool of improving Africa's economy.

Let me take this opportunity to thank Prof. Emilia and the SOAS team for the collaboration in organizing this conference. Let me also thank the KIAC team that has worked tirelessly to make this event a success. Many thanks to our interns, to our former staffs and all our partners and sponsors for making this conference possible. Special thanks to Rwanda Convention Bureau for working with us in welcoming our guests.

We look forward to learning from the speakers and tapping from their wealth of experience that will no doubt encourage interactive deliberations and a fruitful conference. With these few remarks, allow me to welcome Hon. Minister of state officially open this conference.

REMARKS

BY

The Minister of Justice of Rwanda

AT THE

4TH SOAS ARBITRATION IN AFRICA INTERNATIONAL CONFERENCE

Hosted by the
Kigali International Arbitration Centre from 2nd - 4th May 2018

Radisson Blu Hotel and Convention Center,
KIGALI, RWANDA

Dear Hon. Attorney General of the Republic of Zambia;

Dear Secretary General of Kigali International Arbitration Center;

Distinguished guests and participants;

I would like to express, on behalf of the ministry of justice of Rwanda and indeed on my own behalf, our genuine appreciation for the presence of all who are in attendance at this conference. I for sure know all of you have left your hectic schedules to take part in this conference with us, and I would like to take this occasion to express our gratitude and appreciation for your commitment to be here.

We are here today for the 4th SOAS Arbitration in Africa Conference that is being co-hosted by the Kigali International Arbitration Centre. The recurrence of this SOAS arbitration in Africa conference is meaningful and obvious testimony of SOAS cooperation with various arbitral institutions in Africa to promote international arbitration in Africa. The promotion of International arbitration is really needed in Africa. In order to let you understand its necessity, let me take the example of the current reality in East Africa. The five Member countries of the East Africa Community all have different legal systems largely inherited from the former colonial regimes and therefore managing cross border disputes through the Court system can be difficult.

Investors in the region may also have a hard time grasping the various laws in each state.

Parties in the region may feel that litigation does not guarantee fair administration of justice for a number of reasons including: slow pace of litigation, corruption, lack of expertise, complexity of procedures, different legal systems, underdeveloped jurisprudence.

Commercial arbitration, however, provides a reliable mechanism for managing commercial disputes in the region. Parties control the pace of the process; it is adversarial, parties can choose an arbitrator, can choose the applicable law for the determination of the dispute, the seat of the arbitration, the venue for the hearing of the dispute and can also select an expert in the area of the dispute, the process is confidential and so on. Commercial Arbitration is thus embraced in the region as a viable method of dispute resolution and this is evident from the tremendous developments in the region.

In so far as arbitration is concerned, Rwanda acceded and ratified the New York Convention. In 2008, it adopted the law on arbitration and conciliation in commercial matters based on the UNCITRAL Model Law. In 2010, an independent body tasked with promoting Rwanda as a venue for efficient arbitration services and a centre of excellence for research and training of professionals in ADR (Kigali International Arbitration Centre) was established.

Rwanda also signed a number of bilateral investment treaties (BITs), which all include an arbitration clause, and thus proving that international arbitration has so far been beneficial to Rwanda not only in the justice sector, but also to all other business sectors. I believe many African countries have also signed BITs incorporating arbitral clauses. This 4th SOAS Arbitration in Africa Conference has the theme of discussing the Role of Arbitration Practitioners in the Development of Arbitration in Africa.

In the past years, African countries faced complex legal matters concerning dispute resolution. Some of these disputes were the result of economic growth, which to some extent required us to hire foreign experts for the settlement of such disputes. But today, a clear support for arbitration for the resolution of those disputes by our own experts can be noticed by everyone.

This conference offers a good opportunity whereby participants will take a pragmatic look at how to position African seats for international arbitration.

Frankly speaking, in Rwanda international arbitration enjoys a favorable environment. Nevertheless, there still is a need to keep revising the existing legal instruments and policies in order to attain the best arbitration system.

Hopefully, this conference will result in the establishment of a lifelong collaboration between African arbitration institutions, African arbitrators, legal practitioners and all other stakeholders involved in arbitration. And I would like to call upon the different partners to participate in the implementation of continental programs that will lead to transforming arbitration in Africa, and encourage them to explore the potential chances available on our continent.

As I conclude, I thank the organisers of this conference (SOAS University of London), who through their initiative engaged their efforts to gather government institutions and the private sector to share ideas and commit to mutual partnership between the African states and private sector in different programs.

After all, I would like to extend my innermost thanks to you all the participants for your commitment to attend this vital conference in Rwanda.

Thank you very much.

African Voices in International Arbitration – Towards an AFRICAN PLEDGE

SOAS Arbitration in Africa Conference 2018

"The Role of Arbitration Practitioners in the Development of Arbitration in Africa"

03 – 04 May 2018

Kigali, Rwanda

Prof. Dr. Mohamed S. Abdel Wahab

Outline

- ★ **Prologue**: Introduction.
- ★ The African Arbitration Landscape: **Status Quo – Facts & Figures**.
- ★ Towards an **AFRICAN Pledge**.
- ★ **Epilogue:** Prospects, Challenges, Observations and Predictions.

INTRODUCTION

- The African Continent comprises 54 countries and is the **second largest continent** and **most populous** after Asia.
- Arbitration of business disputes in Africa continues to grow annually. This upward trajectory in disputes is, in large part, the corollary of **vigorous economic growth** in many African jurisdictions. According to a 2015 World Bank report, '***Sub-Saharan Africa's growth was projected at an average of 3.7% due to continuing infrastructure investment***'. (*General overview of the World Bank, 2015, available at http://www.worldbank.org/en/region/afr/overview*)
- The disputes involving Africa relate to various sectors, mainly **construction/infrastructure**, **telecommunications**, **energy**, **media & entertainment**, **services** and others.
- The disputes are settled through arbitration, whether under the auspices of **international**, **regional** and **local** arbitral institutions.

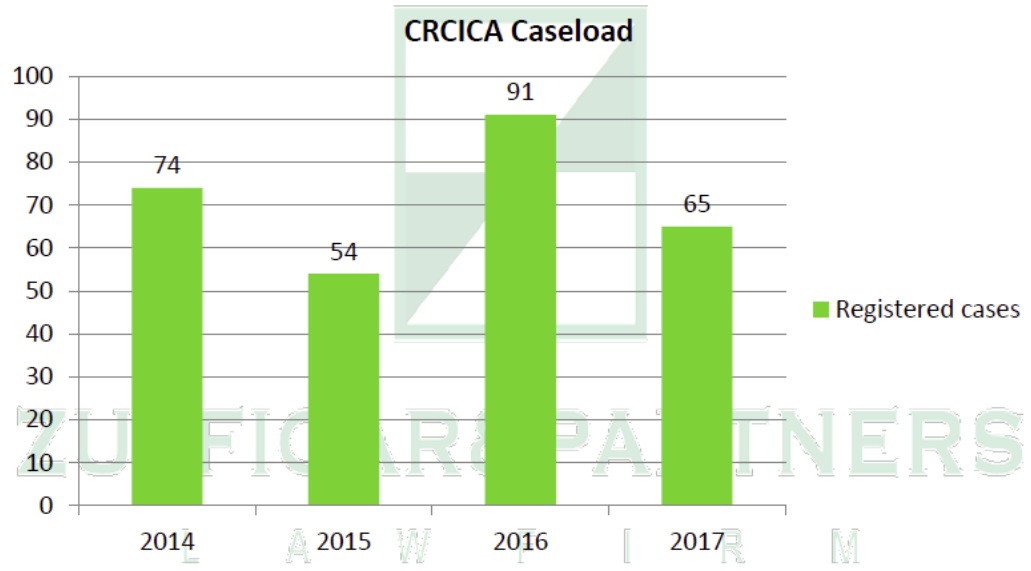
INTRODUCTION

- Investment in Africa continues to attract investors not only in new sectors, but also from different jurisdictions. **China** became the key player for investment into Africa, with a budgeted spending of over USD 1.3 billion under the Africa '***Belt and Road Initiative***', and the China Africa Joint Arbitration Centre (**CAJAC**) was established to resolve disputes involving Chinese and African parties, with centers in Shanghai and in Johannesburg.
- The past decade has also witnessed an increase in the number of BITs signed by African States, as well as an increasing number of investment legislations. However, in November 2015, **South Africa** concluded its process for the termination of its BITs on the premise that ISDS outcomes were labelled as '*inconsistent* and *unpredictable*' as per **South Africa's Trade Minister**.

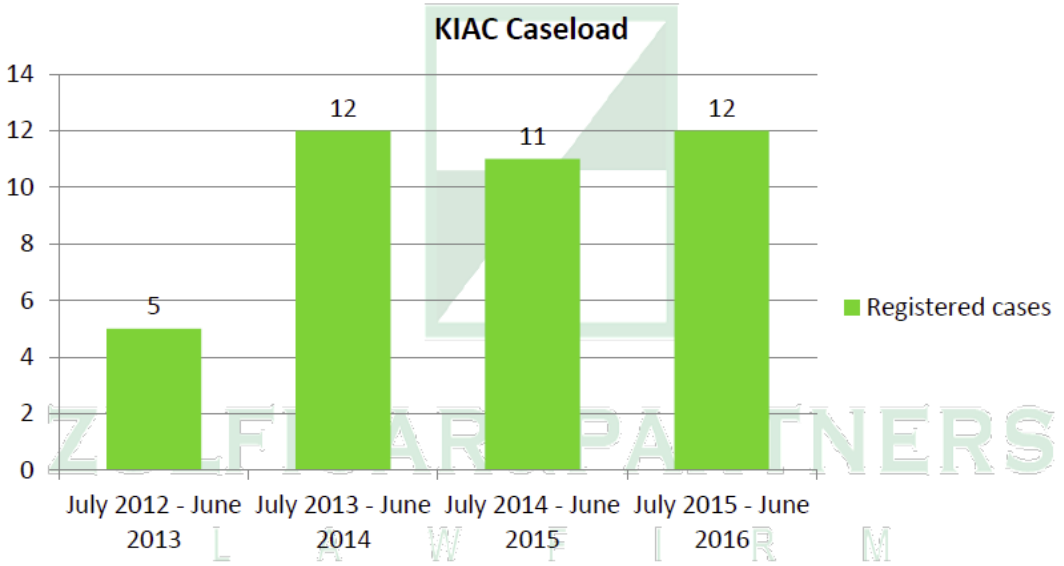
INTRODUCTION

There is a considerable number of dispute resolution institutions in Africa. Some of the *most known* institutions within the African Continent are the following: the Cairo Regional Centre for International Commercial Arbitration (**CRCICA**); the Kigali International Arbitration Centre (**KIAC**); the Nairobi Centre for International Arbitration (**NCIA**); the Arbitration Foundation of Southern Africa (**AFSA**); and the OHADA's Common Court of Justice and Arbitration (**CCJA**).

ARBITRATION INSTITUTIONS IN AFRICA



ARBITRATION INSTITUTIONS IN AFRICA



The African States adopting the UNCITRAL Model Law

Nigeria (1990)
Tunisia (1993)
Egypt (1994)
Kenya (1995)
Zimbabwe (1996)
Madagascar (1998)
Uganda (2000)
Zambia (2000)
Mauritius (2008)
Rwanda (2008)
South Africa (2017)

111 jurisdictions adopted the UNCITRAL Model Law, including **11 African States.**

This represents **9.9%** of the UNCITRAL Model Law Countries

The OHADA Member States

17 OHADA States

Benin
Burkina Faso
Cameroon
Central African Republic
Chad
Comoros
Congo
DR Congo
Equatorial Guinea
Gabon
Guinea
Guinea-Bissau
Ivory Coast
Mali
Niger
Senegal
Togo

The New York Convention signatories

38 African States

1959: (2)
1960s: (6)
1970s: (4)
1980s: (6)
1990s: (9)
2000s: (11 including Rwanda)

The ICSID Convention signatories

48 African States

1965: (18)

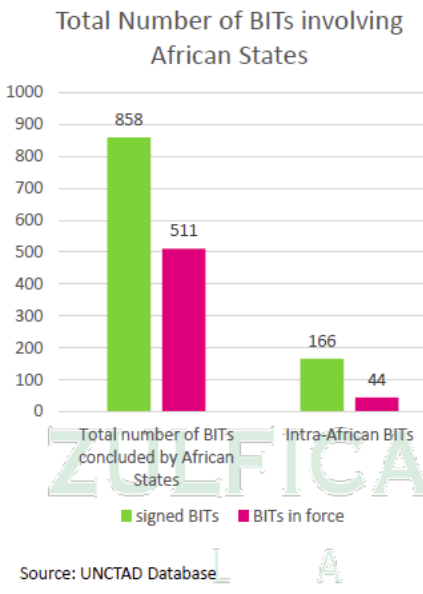
1966-1969: (13)

1970s: (8 including Rwanda)

1990s: (7)

2010-2012: (2)

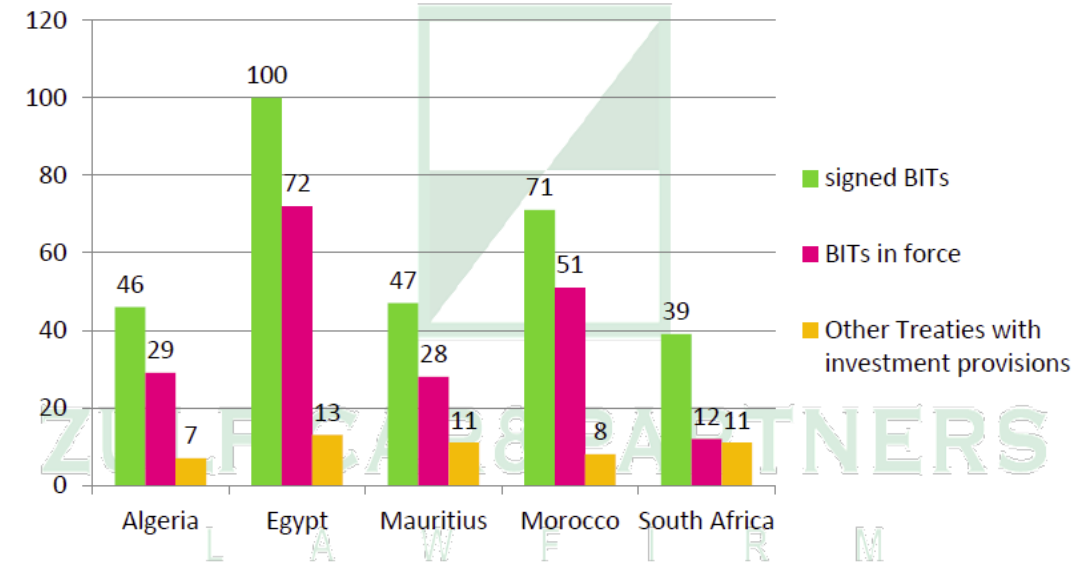
African BITs Share



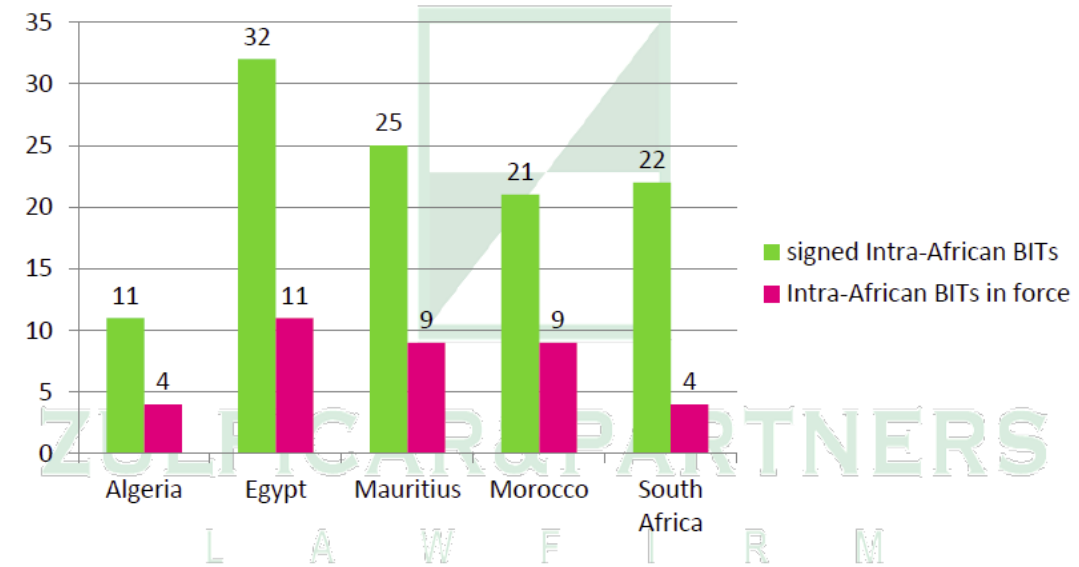
Source: UNCTAD Database

Latest BITs that entered into force since 2016

Top 5 African States Concluding Investment Treaties



Top 5 African States Concluding Investment Treaties (Share of Inter-African BITs)

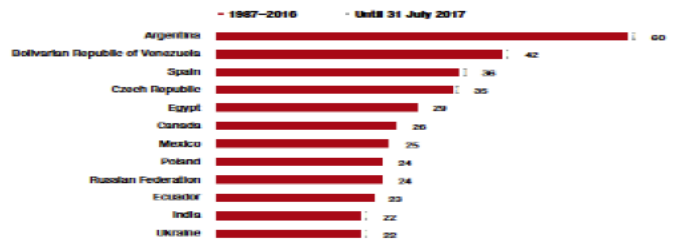


Trends in ISDS

Respondent States

The ISDS cases in 2017 were commenced against 32 countries. With two known cases each: Algeria, **Chile** and **Iraq** were the most frequent respondents until July 2017. Five countries and economies – **Bahrain**, Benin, **Iraq**, **Kuwait** and Taiwan – faced their first (known) ISDS claims. Looking at the overall trend, Egypt features amongst the top 5 countries faced with ISDS cases.

Figure 2. Most frequent respondent States, 1987–31 July 2017 (Number of known cases)



Source: ©UNCTAD, ISDS Navigator.

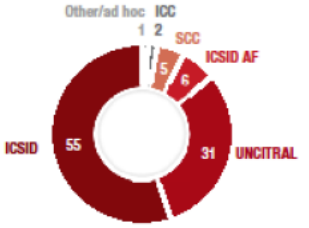
PDF File

Trends in ISDS

Arbitral fora and rules

Between 1987 – July 2017, 61% of all known cases have been filed under the ICSID Convention or the ICSID Additional Facility Rules (figure 7). The UNCITRAL Arbitration Rules were the second most used procedural basis, followed by the Arbitration Rules of the SCC.

Figure 7. Known ISDS cases filed by arbitral rules, 1987–31 July 2017 (Per cent)

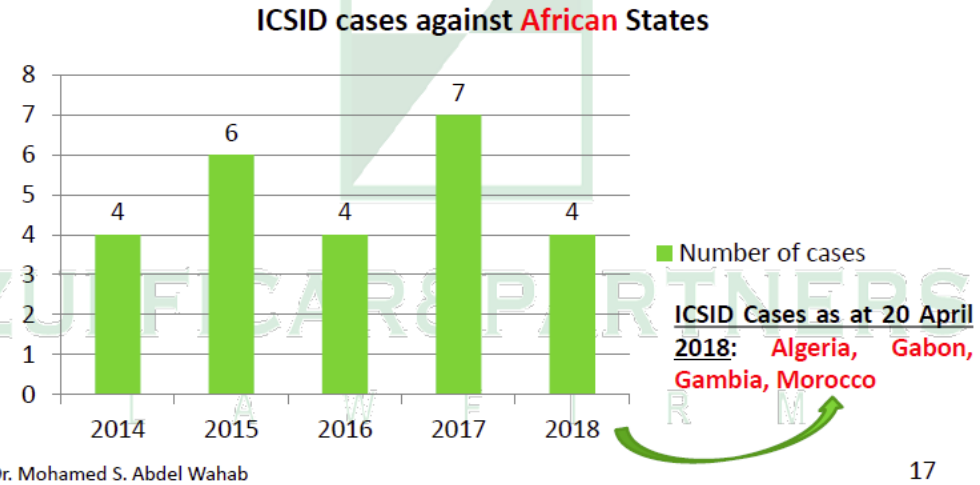


Source: ©UNCTAD, ISDS Navigator.
Note: Excluding five cases on which such information was not available.

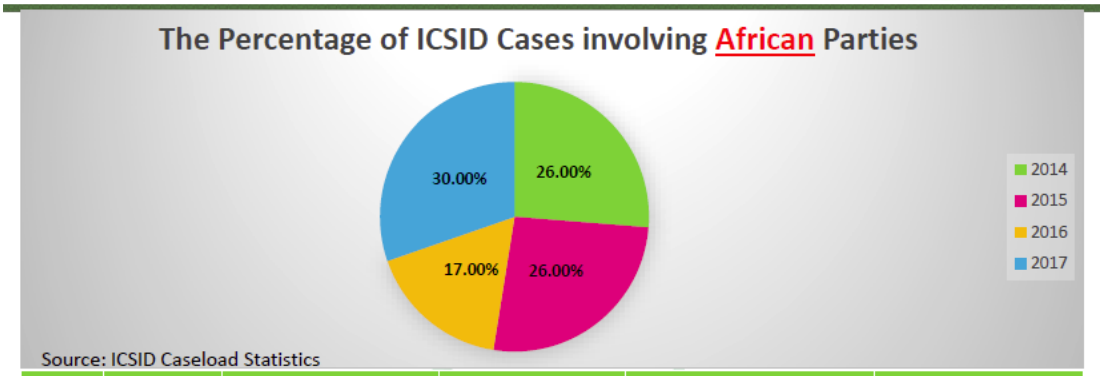
PDF File

Share of African disputes

- As at 20 April 2018, a total of 73 **ICSID** cases were brought against African States as Respondents (**Egypt's** share is **41%** of these cases: **30 cases**).



Statistical Share of African disputes in International Arbitral Institutions

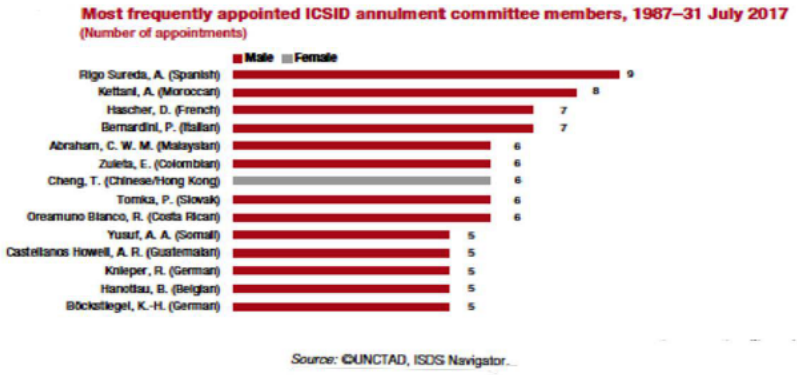


Source: ICSID Caseload Statistics

Year	Registered cases	Percentage of cases involving Sub-Saharan Africa	Percentage of cases involving MENA	Combined Percentage Sub-Saharan Africa & MENA	Number of African appointed Arbitrators
2014	35	21%	5%	26%	4 (4%)
2015	50	15%	11%	26%	3 (5%)
2016	42	6%	11%	17%	5 (5%)
2017	49	15%	15%	30%	4 (10%)

Trends in ISDS (ICSID Annulment)

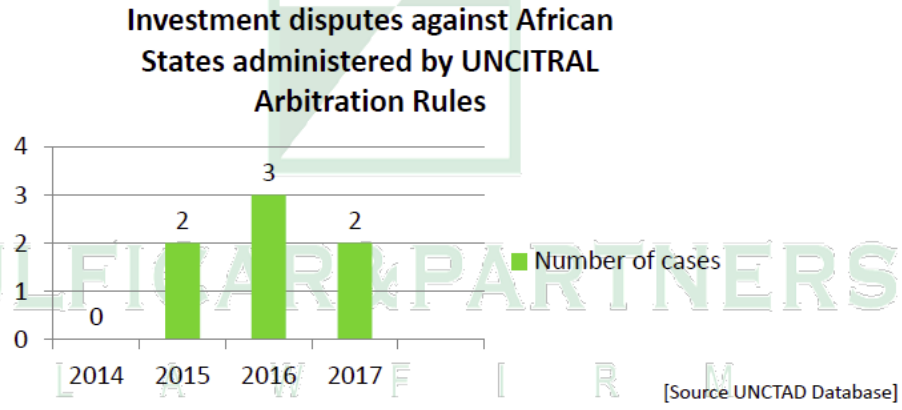
Between **1987 – July 2017**, in ICSID annulment proceedings related to treaty-based ISDS cases, a total of **95 individuals** have been appointed, with **2 Africans** featuring amongst the **top 10** receiving most appointments on such committees, namely: **Azzedine Kettani (Moroccan) [8 cases]** and **H.E. Judge Yusuf (Somali) [5 cases]**.



Source: ©UNCTAD, ISDS Navigator.

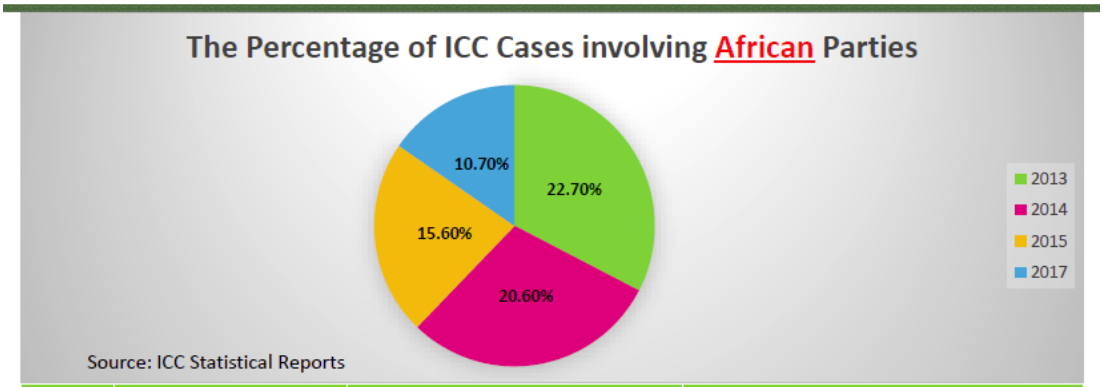
Share of African disputes

- There is a total of 14 investment arbitration cases brought against African States as Respondents, based on the UNCITRAL Arbitration Rules.



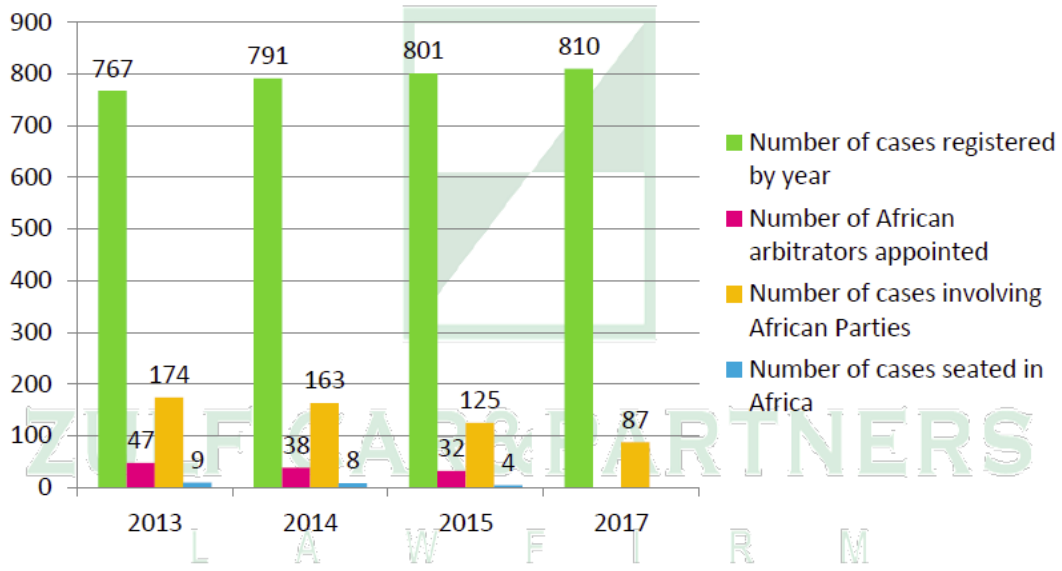
[Source UNCTAD Database]

Statistical Share of African disputes in International Arbitral Institutions

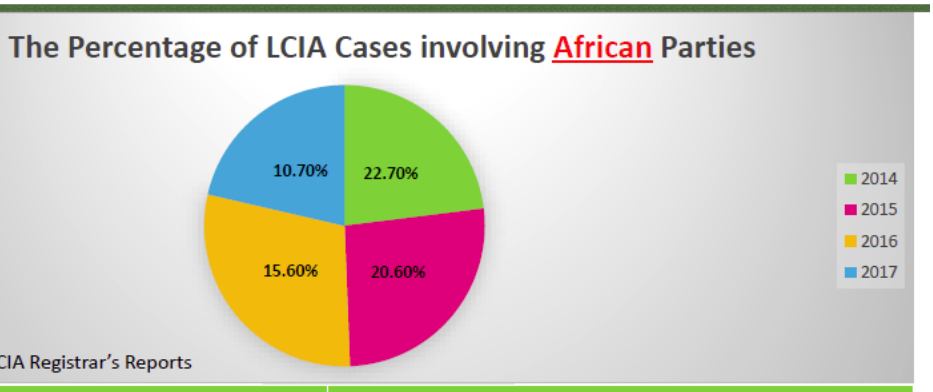


Year	Total Number of registered cases	Number of cases involving African Parties	Percentage of cases involving African Parties
2013	767	174	22.7%
2014	791	163	20.6%
2015	801	125	15.6%
2017	810	87	10.7%

Statistical Share of African disputes in the ICC

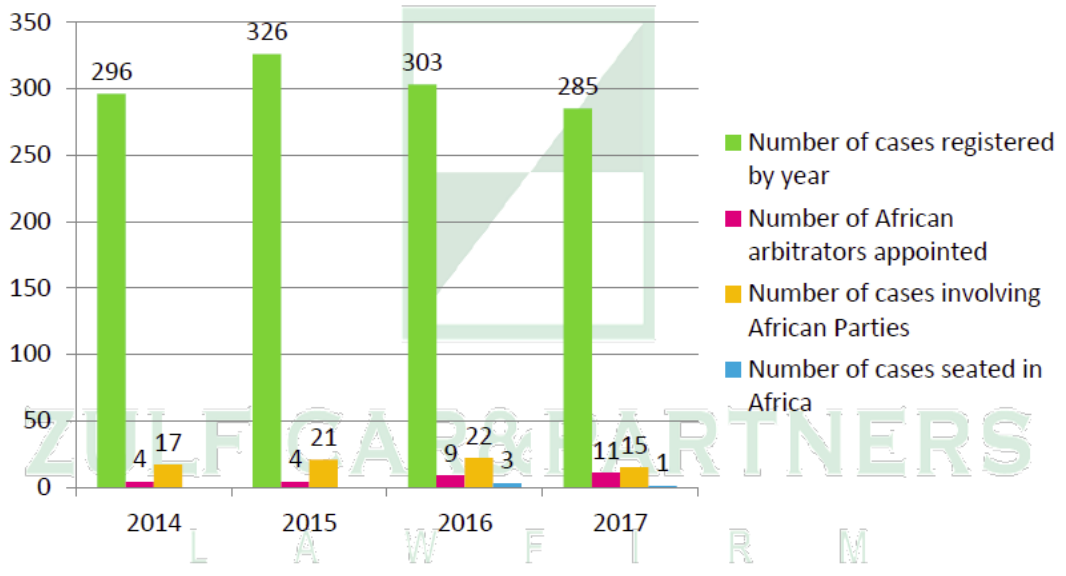


Statistical Share of African disputes in International Arbitral Institutions

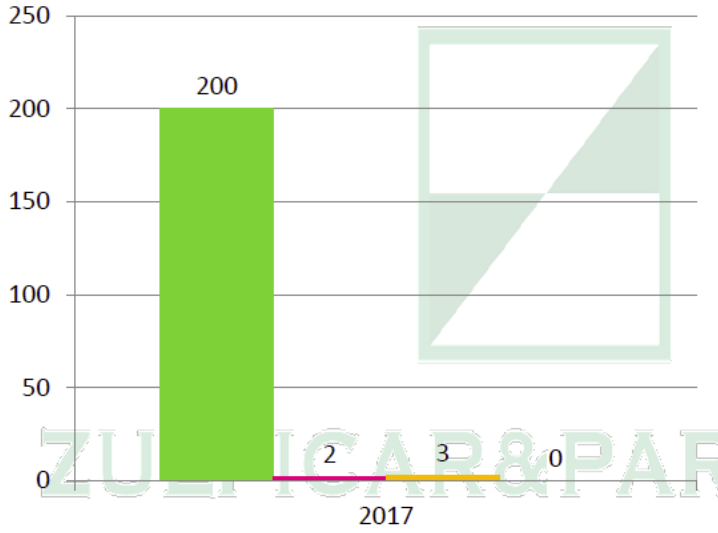


Year	Total Number of registered cases	Percentage representing cases involving African Parties
2014	296	5.6%
2015	326	6.4%
2016	303	7.1%
2017	285	5.2%

Statistical Share of African disputes in the LCIA

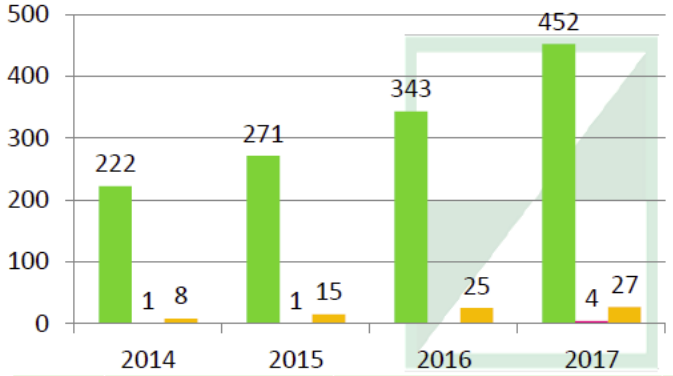


Statistical Share of African disputes in the SCC



3 cases were involving African Parties (Benin (2) and Mauritius (1)). There were **2 African arbitrators** appointed from a total of 247 appointed arbitrators.

Statistical Share of African disputes in the SIAC



Source: SIAC Annual Report

Year	Total Number of registered cases	Number of cases involving African Parties	Number of African arbitrators appointed
2014	222	8	1
2015	271	15	1
2016	343	25	N/A
2017	452	27	4

An African Pledge

- Diversity should **not** be ***practically reduced*** to its gender component. Even on 'gender basis' African female arbitrators should be amongst the ***primary beneficiaries*** of the general pledge.
- **Inter-African/Intra-African disputes** primarily be handled by ***qualified*** and ***competent*** African practitioners and arbitral tribunals must ***primarily*** be constituted with at least **one/two Africans**. [*It is unthinkable that a Continent with more than 1.28 Billion people cannot offer qualified practitioners and arbitrators?*]
- In **African related disputes**, **tribunal secretaries** should be ***primarily*** appointed from Generation "Y" [**Young African practitioners – below 40**]
- African States to exert ***serious*** efforts to: (1) participate in global dialogues on ISDS and international arbitration through ***qualified African experts and practitioners***, and (2) adopt the "**CIArb's Safe Seat Principles**" (2015) <http://www.ciarb.org/docs/default-source/ciarbdocuments/london/the-principles.pdf?sfvrsn=4>

Conclusion

- Africa is now experiencing not only **exponential economic growth** and **well-deserved global attention**, but is also witnessing a **proliferation in arbitral institutions**. African arbitration is maturing. **African** domestic and regional arbitral institutions are proliferating and attracting some disputes, although **international** arbitral institutions remain dominant.
- Africa is a **talent-rich continent** with **diverse cultural practices** and **traditions** and African arbitration is no exception to such richness. If afforded reasonably equal opportunity, Africa can positively contribute to the edifice of international arbitration. This is **not** a mere speculation, but an established fact.
- Statistics show that the number of disputes involving African parties tend to *change* annually and that African practitioners are now being considered more respectfully in a manner befitting their arbitration skills and talent as counsel, arbitrators and experts.

Conclusion

- Whilst the appointment of African arbitrators and the number of cases seated in African States are increasing, this is **not taking place at an acceptable pace**. **[The SOAS Arbitration in Africa Survey 2018]**

"At present, the **African arbitration landscape** appears like an **African football match** that is **consistently played abroad** by **foreign players** and **foreign referees**!"

Africa's Challenges

(a) Political, economic and social changes/instabilities.

(b) Not every institution will get a share in cases, so the challenge remains as to **which institutions will manage to administer cases and which will simply focus on training, other forms of ADR and ADR awareness**.

(c) Diversity in practices and traditions can sometimes be a **recipe for division**, yet we should transform this to **symbiotic cooperation**.

(d) Scarcity of funds and inaccessibility to adequate technology and infrastructure despite richness in resources (*including human resources*)!

(e) Inability to retain talent for obvious reasons.

(f) Continued **linguistic and regional alienation/division** amongst African countries.

Observations and Predictions

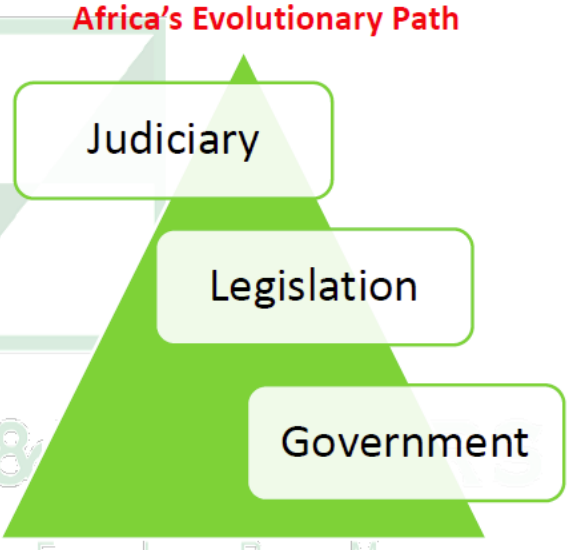
(1) Visibility of African arbitrators: the African **pool** of qualified arbitrators is not **poor**; it is simply not visible. The issue is not one of scarcity, but rather the absence of **trust** and **visibility**. According to ***H.E. Judge Abdulqawi Yusuf***, the President of the ICJ, '***African states have failed to appoint an African arbitrator or conciliator in 69 out of 85 existing ICSID disputes involving the continent***'. *(Lacey Yong and Alison Ross, 'Africa must have more representation on tribunals, says Somali judge', GAR, vol. 10, iss. 6, 15 October 2015)*

(2) Global and Continental Partnerships and Regional Collaboration: Partnerships across regions and institutions will continue to flourish and 2018 will witness more institutional/strategic partnerships.

(3) Increased Accessibility to International Arbitration: time and costs are under scrutiny. Expedited Procedures will increasingly become normative.

Observations and Predictions

(4) System Stabilization and Evolution: The international arbitration system will not experience radical '**revolutionary**' shifts; it will adapt to the '**evolving**' demands of the international community despite the increased nationalism and protectionism. The System will '**evolve**', but at an **accelerated pace** owing to the integration and use of **ICTs** and **AI**.



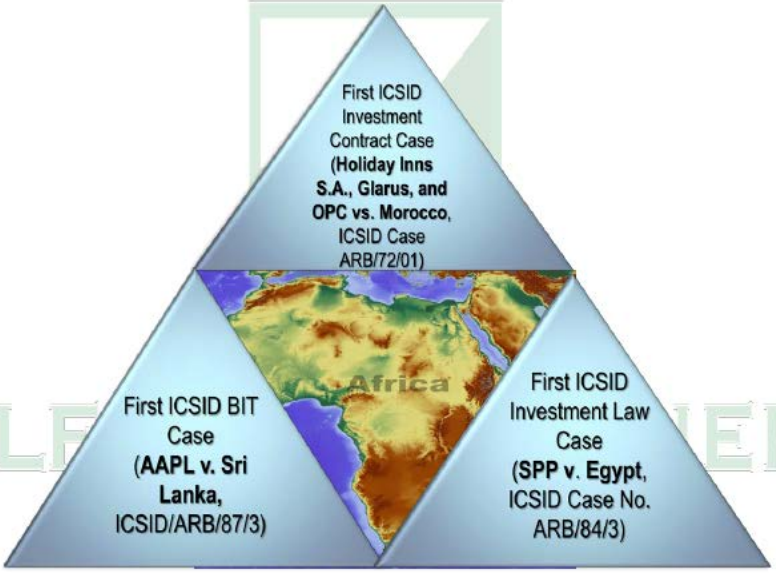
Observations and Predictions

(5) Educating Generation "Y" of Arbitration Practitioners will continue and will be at the forefront of hot topics. My advice to my younger colleagues is that: "***You can stay on the continent and excel globally; it is not where you are, but what you do that makes a real difference***." Challenging and difficult but doable!

(6) Technology driven and Innovation oriented initiatives will transform the way we conduct proceedings and predictive decision making technologies will proliferate.

(7) Will African disputes continue to be *remotely* managed? Will the international arbitration system continue to overlook the African wisdom and charm that helped shape components of the system?

The African Triangle – An Interim Temporal Flash?

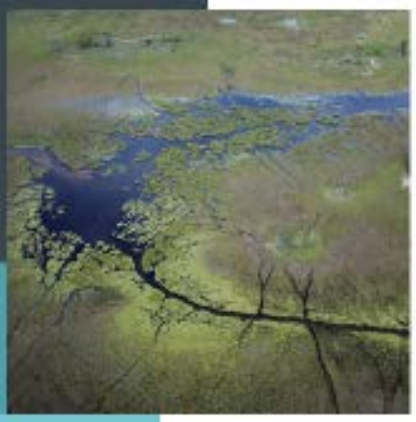


Simmons & Simmons

The Pledge for Africa

Reflecting the diversity of international arbitration

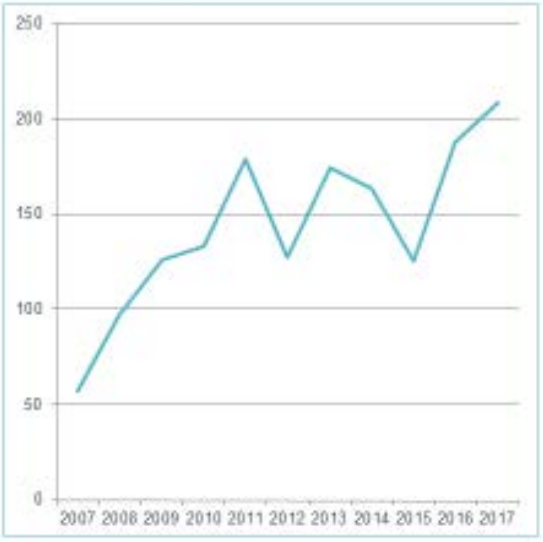
Dr Stuart Dutson



03 May 2018

Simmons & Simmons

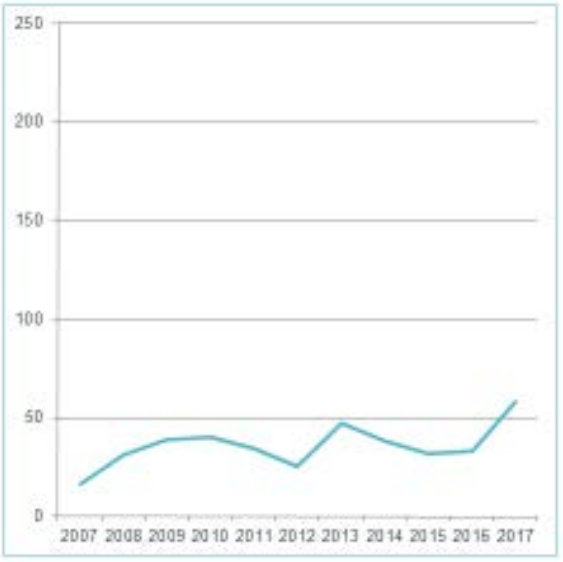
Growth in the number of African parties in international arbitration



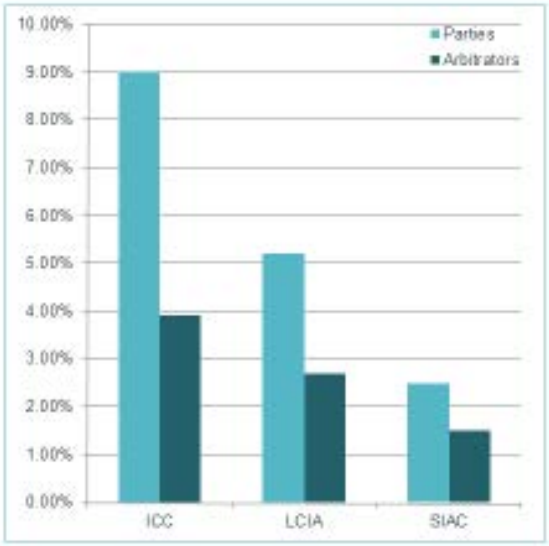
- The number of African parties involved in ICC arbitration has increased by c.115% since 2008
- The global increase in the number of parties over the same period has only been around 32%
- The SIAC has reported an even more dramatic increase from 5 to 27 parties (540%) since 2010

Growth in the number of African arbitrators in international arbitration

- At the same time there has only been modest growth of 87% in the number of African arbitrators appointed in ICC arbitrations since 2008 (from 31 to 58 arbitrators)
- Comparable figures are not available for SIAC or the LCIA



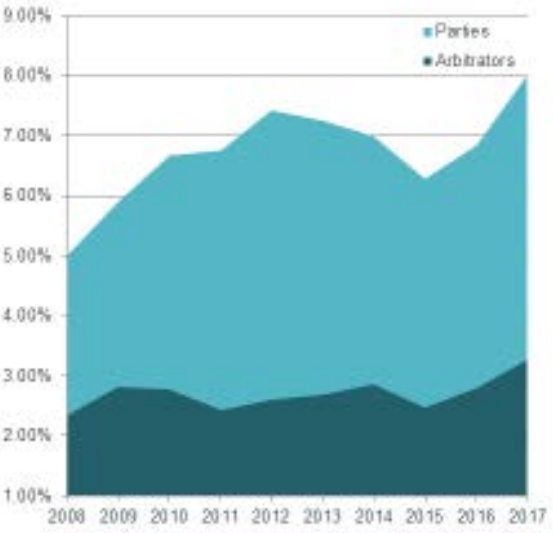
The number of African parties and arbitrators compared



- The percentage of arbitrators from Africa remains significantly lower than the percentage of parties
- Roughly one African arbitrator is appointed for every three African parties, despite the fact that tribunals typically comprise three arbitrators
- For ICSID, 26% of State Parties but only 6% of arbitrators were from Africa and the Middle East

A divergent trend

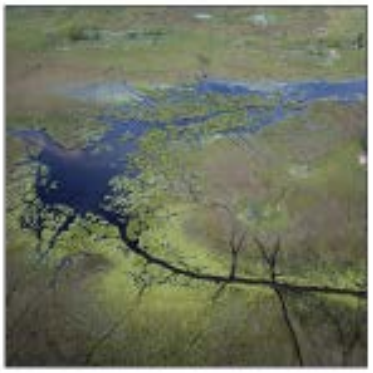
- The representation of Africans on arbitral tribunals has stagnated over the last decade



Why does this matter?

Benefits of a more diverse pool of arbitrators

- Aside from any principled reasons, there are good practical reasons to promote diversity in international arbitration:
  1. Greater competition and choice should lead to broader expertise among arbitrators
  2. Evidence that arbitrators' decisions are not independent of policy preferences, education, career history and life experience
  3. African arbitrators will generally be more familiar with local issues that arise in African arbitrations
  4. A diversity of views may help achieve fair process and outcome



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The Pledge for Africa

In recognition of the under-representation of Africans on international arbitral tribunals especially in arbitrations connected with Africa, we have drawn up a pledge to take action (the Pledge for Africa). The Pledge for Africa seeks to increase the number of Africans appointed as arbitrators especially in arbitrations connected with Africa in order to achieve a fair representation as soon practically possible.

The introductory paragraph of the Pledge for Africa sets out two general objectives:

i. to improve the profile and representation of African arbitrators; and

ii. to appoint Africans as arbitrators especially in arbitrations connected with Africa.

The Pledge for Africa establishes concrete and actionable steps that the arbitration community can and must take towards achieving these general objectives. It is, however, acknowledged that in some cases, some stakeholders may not reasonably be able to carry out each and every commitment. For this reason, the words 'wherever possible' were introduced to preface each of the specific commitments.

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The Pledge for Africa

As a group of counsel, arbitrators, representatives of corporates, states, arbitral institutions, academics and others involved in the practice of international arbitration, we are committed to improving the profile and representation of African arbitrators especially in arbitrations connected to Africa. In particular, we consider that African arbitrators should be appointed as arbitrators on an equal opportunity basis. To achieve this, we will take the steps reasonably available to us – and we will encourage other participants in the arbitral process to do likewise – to ensure that, wherever possible:

- committees, governing bodies and conference panels in the field of arbitration include a fair representation of Africans;
- in arbitrations connected with Africa lists of potential arbitrators or tribunal chairs provided to or considered by parties, counsel, in-house counsel or otherwise include a fair representation of African candidates;
- states, arbitral institutions and national committees include a fair representation of African candidates on rosters and lists of potential arbitrator appointees, where maintained by them;
- where they have the power to do so, counsel, arbitrators, representatives of corporates, states and arbitral institutions appoint a fair representation of African arbitrators especially in arbitrations connected with Africa;
- statistics for appointments (split by party and other appointment) of African arbitrators especially in relation to arbitrations connected with Africa are collated and made publicly available; and
- senior and experienced arbitration practitioners support, mentor/sponsor and encourage Africans to pursue arbitrator appointments and otherwise enhance their profiles and practice.

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INTERNATIONAL ARBITRATION

BENEFITS OF ARBITRATION COMPETITIONS & ROLE OF UNIVERSITIES -YASMIN SEBAH

OBSTACLES TO PARTICIPATION

- Ginsburg, in the 'The Culture of Arbitration' describes arbitration practitioners as a '**network**' in which there are incentives in creating a closed arbitration culture.
- There is a lack of understanding of international law
- There is a lack of visibility
- The majority of respondents (Queen Mary Survey 2006) indicate that the choice of the arbitrators is a matter very much dependent on the recommendation and advice of the parties' lawyers/ external counsel.

BENEFITS

- The MacCrate Report (American Bar Association Task Force on Law Schools and the Profession), identified ten fundamental lawyering skills:
- (1) problem solving; (2) legal analysis; (3) legal research; (4) factual investigation; (5) communication; (6) counselling; (7) negotiation; (8) familiarity with comparative litigation and alternative dispute resolution processes; (9) organisation and management of legal work; and (10) recognition and resolution of ethical dilemmas

TWO INTERNATIONAL ARBITRATION COMPETITIONS

- 1- Commercial Arbitration – Willem Vis Moot
- 2- Investment Treaty Arbitration - Frankfurt Investment Arbitration Moot Court

IMPORTANCE OF INTERNATIONAL COMPETITIONS
WILLEM C.VIS COMMERCIAL ARBITRATION MOOT

Willem C.Vis Commercial Arbitration Moot

- Internationally recognised commercial arbitration competition
- What is it about?
  - Sales problem
  - CISG, UNCITRAL, NYC

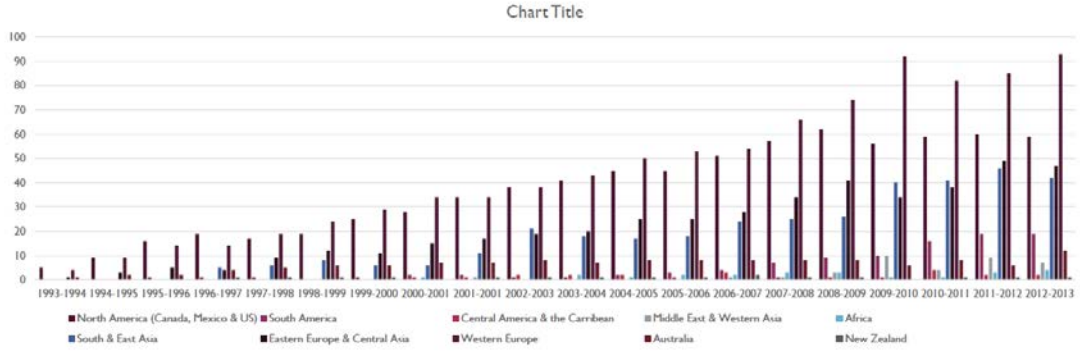
FRANKFURT INVESTMENT ARBITRATION MOOT COURT

- The Frankfurt Investment Arbitration Moot Court is the oldest and most prestigious student competition in the area of investment protection law.

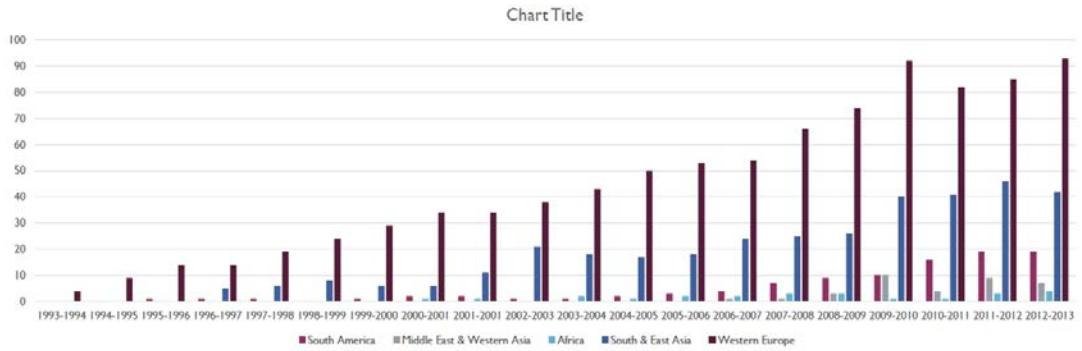
1- LACK OF UNDERSTANDING OF INTERNATIONAL LAW

- Legislation based on the Model Law has been adopted in 80 States from a total of 111 jurisdictions. Some countries in this region have adopted arbitration laws based on the UNCITRAL Model Law.
- 35 countries in Africa are members of the NYC.
- ICSID Convention
- BITs

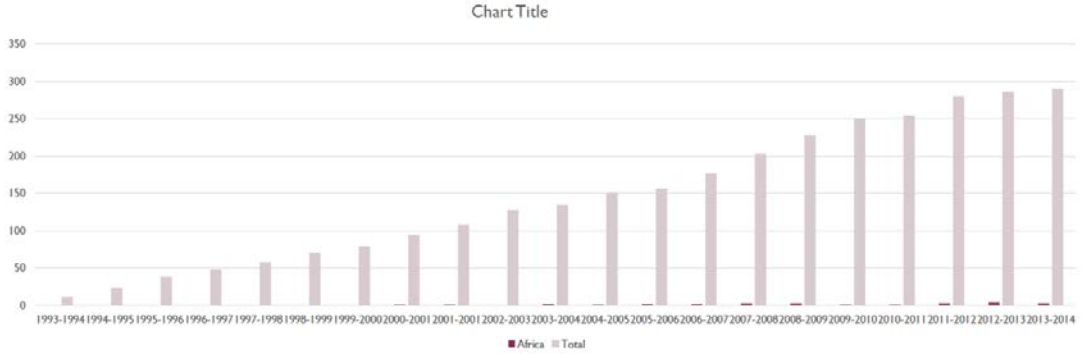
2- LACK OF VISIBILITY -PARTICIPATING UNIVERSITIES



AFRICAN UNIVERSITIES



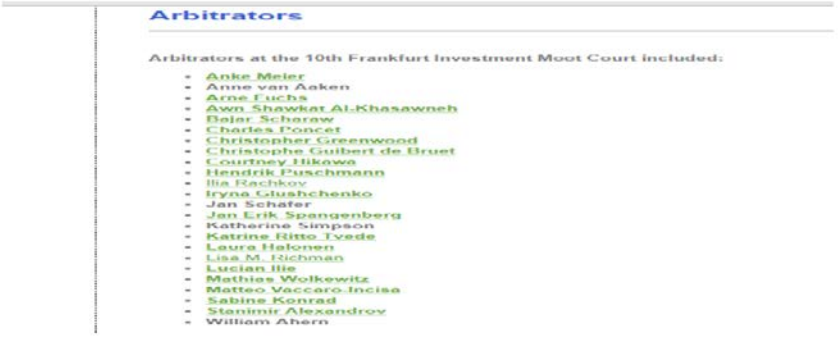
AFRICAN UNIVERSITIES



3- APPOINTMENT BY COUNSEL- PARTICIPATING ARBITRATORS

- Benefits to young professionals acting as arbitrators in the vis moot networking/exposure
- 25th Vis Moot March 2018 had a total of **1,347 arbitrators**
- Only 7 African arbitrators participated.
- Frankfurt Competition- 2008-2018 over 30 arbitrators each year – Only 1 African.

VISIBILITY OF ARBITRATORS



Arbitrators

Arbitrators at the 10th Frankfurt Investment Moot Court included:

- Anke Meier
- Anne van Aaken
- Arne Fuchs
- Awn Shawkat Al-Khasawneh
- Bejar Scharaw
- Charles Poncet
- Christopher Greenwood
- Christophe Guibert de Bruet
- Courtney Hikawa
- Hendrik Puschmann
- Ilia Rachkov
- Iryna Glushchenko
- Jan Schafer
- Jan Erik Spangenberg
- Katherine Simpson
- Katrine Ritto Tvede
- Laura Halonen
- Lisa M. Richman
- Lucian Ilie
- Mathias Wolkewitz
- Matteo Vaccaro-Incisa
- Sabine Konrad
- Stanimir Alexandrov
- William Ahern

http://www.investmentmoot.org/archive/8th-moot-2-2/arbitrators-2/

INITIATIVES TO ENHANCE AFRICAN PARTICIPATION

- Vis Pre- Moot Middle East
- Vis Pre -Moot Africa
- Cost Benefit
- Sponsorships
- Investment Treaty Moot - Africa

UNIVERSITY INITIATIVES

- New Elective/Programmes
- Internships
- Mentorships

PRE-MOOT

- 10 February 2018 in **Moscow, Russia** (hosted by the Arbitration Center at the Institute of Modern Arbitration);
- 19 February 2018 in **Geneva, Switzerland** (hosted by LALIVE);
- 22 February 2018 in **Hong Kong** (hosted by the HKIAC);
- 23 February 2018 in **Paris, France** (hosted by the ICC);
- 28 February 2018 in **Washington, D.C., USA** (hosted by McDermott)

The Significance and Importance of Training Arbitrators in Africa[i].

By Ike Ehiribe[ii]

Introduction:

Once again it is with great pleasure and gratitude to both the conveners of the SOAS Africa Survey project [iii] and our hosts the KIAC[iv] that I stand before you to share one or two ideas with this august gathering. The title of my discussion could be rephrased in the following manner. "Training of Arbitrators in Africa why bother? After all, we are told repeatedly: "*anybody can be an arbitrator*." Or *"That the arbitration field is all sown up and controlled by a Mafia like Cabal* ". In none of these much bandied around myths or half-truths, does the need for training get any mention. More so, as there is a burning sense of entitlement to act as arbitrator from the following categories of professionals namely, retired judges, retired diplomats, senior lawyers, experienced litigators, eminent QCs and SANs, retired professors and lecturers of law, senior accountants and auditors, consultant engineers, architects and surveyors and – *surprise surprise* even, traditional rulers. This short presentation will endeavour to highlight the benefits and advantages of embarking upon training of arbitrators in Africa and at the same time draw attention as to how the lack of training could cause serious problems for both the aspiring arbitrator and parties in any given arbitral reference or indeed any other alternative dispute resolution (ADR) mechanism.

2) **Types of Training**; But first of all, let us examine further the meaning of training within the arbitration and ADR context. Clearly, there are a number of arbitral institutions and professional bodies that provide different types of training for arbitrators and other ADR practitioners. Training for arbitration can be broadly divided into two parts: (1) Specific subject- matter – training and (2) General Arbitration training. Then General Arbitration training can again be sub-divided into two parts, namely, International Arbitration and Domestic Arbitration training. Good examples of subject- matter training in the public domain are the United Nations backed World Intellectual Property Organisation Arbitration and Mediation Centre (WIPO) based in Switzerland that trains periodically, aspiring arbitrators and mediators in the resolution of intellectual property and domain name infringement disputes. The Society of Maritime Arbitrators based in New York (SMA) conducts a two-day training workshop for aspiring arbitrators in Maritime and shipping related disputes. The Court of Arbitration for Sports (CAS) based in Lausanne in Switzerland is another institution that trains aspiring arbitrators for sports related disputes. For instance, the Royal Institute of Chartered Surveyors (RICS) in London is another institution that trains arbitrators concerned with domestic property related matters. So also would one find the specialist engineering institutes[v] that also provide some form of construction related arbitration and adjudication training programs.

For general arbitration training, the acknowledged foremost training institution is the Chartered Institute of Arbitrators (CIARB) in London, which came into existence in March 1915 and established by two solicitors, an accountant, a surveyor, and an architect. According to the recently launched SOAS Arbitration in Africa Survey 2018, at page 23 thereof it is stated that 72% of the 81.7% of respondents who indicated that they had undergone some formal training in arbitration revealed they had undertaken such training with the Chartered Institute of Arbitrators[vi].

Reasons for Training:

.

Training and more training is crucial and essential for any aspiring arbitrator or any experienced arbitrator's development and expertise. Hence there is a justifiable emphasis placed on continuous professional development by most training institutions otherwise known as CPD. It is pertinent to observe that with some arbitral institutions, a failure to provide any credible track record of continuous training or CPD will result in a failure to progress to the next professional stage. As at the year 1915, when the Chartered Institute of Arbitrators is said to have been established, one of the reasons for its establishment was said to be because it was discovered then, that the necessary number of experienced and professional arbitrators were inadequate to give effect to the newly promulgated Arbitration Act of

1889[vii]. It has been stated further that one of the original objects of the institute at the time, was to support and protect the character, status and interests of the arbitral profession [viii]. This was to be achieved by testing through, the examination of the qualifications of candidates for membership, by encouraging the practice of settling disputes by resolution and by promoting the study of law and practice relating to arbitration and where necessary supporting its reform. Now let us pause here and critically re-examine these objectives.

Query, how does one identify areas for reform in the arbitration practice or aspects that require protection, and or prescribe standards for the examination of qualifications of those who would describe themselves as arbitrators? Some indication is provided by a statement credited to the late Lord Justice Kerr made after the 1996 English Arbitration Act came into existence. Following the successful promulgation of the 1996 English Arbitration Act, described as one of the best attempts at modernizing English Arbitration Law and harmonizing same with international arbitral practice, [ix] Sir Michael Kerr, is quoted as stating as follows: ***"effective arbitration also requires appointment of high caliber arbitrators, and enlightened lawyers representing the parties. Arbitrators must be cosmopolitan and international in their outlook, not adversarial and never advocates. They should represent the embodiment of personalized justice.*** "

Ladies and Gentlemen, note the emphasis on the phrases: *"high Caliber arbitrators"* and "*enlightened lawyers.*" Once again the question arises how does one become a *high caliber arbitrator* and or an *enlightened lawyer*? I therefore assert that an active training regime is essential for the successful aspiring arbitration and ADR practitioner including the experienced arbitration and ADR practitioner, if there is to be any chance of attaining the description of a: "high caliber arbitrator" and or an "enlightened lawyer," in order as to keep abreast with international best practices and current developments. Any arbitrator or aspiring arbitrator or advocate, is exposed to the avoidable risk of being wrong footed sooner or later if training is ignored or treated as an irritating and burdensome requirement. In my view, and from what has been said above, the necessity of training should also extend to advocates who represent parties in arbitration or other ADR specialisms. So let us at this stage examine from decided cases emanating from the African continent as to how things can go so horribly wrong where those acting as arbitrators and the parties representatives appear to have not paid adequate attention to training. The first case concerning an arbitrator is from Sierra Leone and the second case is from Nigeria and is slightly different in context as it is more relevant to when it is inappropriate to seek an order from the Courts to remove an arbitrator from an arbitral reference.

Examples of what can go so horribly wrong:

1) The first case is the case of ***Sierra Fishing Company & 2 Ors v. Hasan Faran & 2 Ors***[x] The Claimants in this case sought an order for the removal of the sole arbitrator (AZ) appointed by the parties; in an application predicated on section 24 of the English Arbitration Act 1996 in that there were circumstances in existence that give rise to justifiable doubts as to the impartiality of the arbitrator. The grounds for removal *inter alia* ranged from: (1) the arbitrator had accepted to act as sole arbitrator in a case concerning a breach of loan agreement, where the lending bank had been represented in the recent past by a law firm in which the arbitrator's father was a founding partner and the arbitrator himself had acted as managing partner; (2) the arbitrator had been involved in the negotiation and drafting of series of settlement agreements regarding repayment of the loan by the defendant and defaulting borrower, to the Claimant; (3) the arbitrator's failure and or refusal to postpone the publication of the award in the arbitral reference, pending the outcome of the application to remove the arbitrator as requested by both parties to the arbitration; and (4) the tone of the arbitrator's responses to letters from the court which suggested that the arbitrator was advancing arguments on behalf of the Defendants which the Defendants had not raised themselves, and supported by detailed exposition and citation of authority, to assert that the Defendants had lost the right to object to the arbitrator's determination of the reference under section 73 of the English Arbitration Act 1996. In essence, the arbitrator in question appeared to be acting as advocate for the Defendants. After a detailed reference to the 2014 IBA

Guidelines on Conflict of Interest in international arbitration, Mr Justice Popplwell had no difficulty in ordering the removal of the arbitrator as sought by the Claimants. Once again, let us pause here and imagine how the arbitrator must have felt, and or the parties in the arbitration would have felt after this outcome. Particularly, in terms of wasted resources and wasted valuable time. **Query**, could this outcome have been avoided, if the arbitrator had reminded himself of the key principles of *impartiality*, *fairness* and *independence* upon which the arbitral process is based which would be repeated at any training program worth its salt?

2) A case that underscores the importance of training for advocates who represent parties in arbitration cases, in that there is an appropriate time to seek the removal of an arbitrator and there is an inappropriate time to do so, is exemplified by the case of ***NNPC v. Lutin Investment Ltd***.[xi] In this case counsel for the appellant sought by way of an appeal from the lower courts, an order to remove the arbitrator in that the arbitrator acted without authority and beyond the scope of the arbitration agreement between the parties and against public policy when he ordered that the arbitration move to and sit in London at the expense of the parties to take evidence from the Claimant's witness on the basis that the arbitrator had misconducted himself. In a unanimous decision the application to remove the arbitrator was dismissed by the Supreme Court but with one of the judges castigating the appellant and his counsel in really very negative, harsh, and excoriating terms. After reviewing the relevant statutory provisions i.e. section 16 of the 1988 Nigerian Arbitration Act, the Supreme Court Judge in question had this to say: "*I, with respect, regard the said charge /accusation of misconduct by the Appellant and his learned SAN*[xii] *as made in very bad faith and unjustified in all the circumstances of this case*". Other negative words and phrases used were: "*discourteous*", and "*distasteful*" and "*an insult*" to the arbitrator who happened to be a retired Court of Appeal Judge. It is one thing to lose an application to remove an arbitrator in all applications up to the Supreme Court, it is worse when such an application is dismissed with such excoriating terms. **Query**, perhaps this outcome could have been avoided, I mean the dismissal of the application with such negative terms, if and only if proper attention was paid to the right time and circumstances within which to seek the removal of an arbitrator.

Conclusion:

In concluding, I therefore sincerely hope I have succeeded within the short time allotted, in some measure, to draw attention to the importance and significance of training for both aspiring and experienced arbitrators in the African region. I thank you all for listening.

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[1] A Presentation made on 4th May 2018 at the Kigali International conference centre during the 4th SOAS Africa Survey Project.
[1] The author is a Visiting Professor at the Centre for International Legal Studies in Salzburg, a Senior Teaching Fellow at SOAS, University of London and an approved Assessor, Tutor and Trainer at the Chartered Institute of Arbitrators in London.
[1] Led by Dr E.O. Onyema, Reader in International Commercial Law at SOAS, University of London.
[1] Led by Dr Fidele Masengo Hon Sec –General of the Kigali International Arbitration Centre (KIAC).
[1] The Institute of Civil Engineers in England.
[1] This is not surprising as there are a number of vibrant branches of the chartered institute of arbitrators in Africa such as the Egyptian, Kenyan, Nigerian and Zambian branches.
[1] See A history of The Chartered Institute of Arbitrators by Nigel Watson at page 35.
[1] Same citation at page 37.
[1] Same citation at page 72-73.
[1] 2015 EWHC 140 Comm delivered on 30/01/15.
[1] 2006 SC S.C.57/2002
[1] Senior Advocate of Nigeria.

SOAS Kigali Conference 5-6 May 2018

David Butler: Notes on participation in Panel Six

I would like to commence by paying tribute to Dr Emilia Onyema and SOAS for organising these four conferences, which have provided timely and valuable support for the promotion of arbitration in Africa, as most recently demonstrated by the publication by the SOAS Arbitration in Africa Survey, during this conference. These conferences will continue to deliver important tangible outcomes in the years ahead.

It is an honour to be asked to participate on this distinguished panel. Our moderator, Chief Bayo Ojo SAN has asked me how I first developed an interest in arbitration. The short answer is that I was given the opportunity to participate as attorney for the claimant in an important domestic arbitration, which took place in Cape Town, South Africa during the 1970s.

1700 hectares of land belonging to our client, a cement company, was expropriated for housing development by the City of Cape Town. The land was situated near Cape Town's airport and is known as Mitchell's Plain. The senior partner of the firm for which I worked, Mr HPJ Boehmke, had acted for the cement company for many years. Then in his early eighties, he had no hesitation in taking on his first arbitration, but needed a young assistant. He chose me, the firm's most junior professional assistant, in that role.

The arbitration concerned the compensation payable for the expropriation. The cement company contended that a private developer could profitably develop the land for housing development, after first extracting the low-grade limestone which our client had planned to use in its cement factory. Our client contended that the land was worth R 27 million, at a stage when one South African rand was worth US $1.12. The arbitration was a statutory arbitration, rather than consensual, and the land was expropriated under the Housing Act, which offered tactical advantages for the City of Cape Town. (Interest was only payable from the date of the award and costs were only recoverable on the Magistrates' Court scale.) In terms of the legislation, the arbitral tribunal consisted of two arbitrators and an umpire – a quaint English custom not appropriate to commercial arbitration, where the parties pay the umpire, as the most experienced person on the panel, to attend the proceedings and listen to the evidence, in case the two arbitrators cannot agree. In this case, the arbitrators did agree, so the umpire was not required to act. Because of the public interest involved, hearings were open to the public and to the press, so nothing that I say today breaches any duty of confidentiality.

South Africa had and still has a divided bar, so both parties, in addition to their attorneys, were represented by senior and junior counsel. The hearing started in June 1975, and after two unscheduled and expensive postponements, the hearing concluded in November 1976. During this time, the tribunal sat for over 150 days to hear evidence and argument. Following another quaint English practice, the tribunal was not required to give reasons for its award. The arbitration was the biggest in Cape Town during the 1970s. It was lucrative for the counsel involved to the point of causing professional jealousy among their colleagues at the bar and former colleagues serving on the judiciary.

Unfortunately in around April 1976, Mr Boehmke, then aged 84, passed away. By then, the matter was too complex for one of the partners in the firm to take over, so on the recommendation of our senior counsel, I assumed the role of instructing attorney. At times during 1976, senior counsel and I worked on that case for 6½ days in the week. Senior Counsel took Saturday afternoon off to play tennis, while I dealt with administrative aspects in my office. On Sunday mid-morning I would join him in his chambers to assist with preparing cross-examination, after I had first attended Church, to pray for both of us. This was my introduction to arbitration and it was very much a case of learning on the job.

Chief Bajo asked me if I was not disappointed by the duration and the delays in this arbitration. The honest answer is that I had no knowledge or experience of arbitration so I did not know what to expect. Certainly, since I started teaching arbitration to law students and to professionals in the construction industry many years ago, I have been aware of the lessons of that experience for addressing the three

main problems associated with old-style English adversarial proceedings. These are ineffective pleadings which fail to properly identify the true issues in dispute; the unnecessary expense and delay which is inevitable if the arbitral tribunal fails to control disclosure of documents ("discovery") effectively and the need to avoid protracted and inefficient hearings. Here, the need to avoid repetitive and badly prepared cross-examination of expert witnesses can be a key factor. Modern arbitration practice, as exemplified by the IBA Rules on Receiving Evidence in International Arbitration, offers a number of effective alternatives for addressing this issue.

Having listened to the experiences of my fellow panellists, it is clear that least one of us was privileged to start from the top, for example with a PhD in arbitration law. As fellow panellists emphasised, this does not dispense with the need for more practical training in international arbitration. I was one of those who started from the bottom. Since then I have had the privilege to be involved in teaching and practical training regarding domestic and international arbitration for many years.

A recurrent theme expressed by several speakers at this conference is that it takes time, possibly as much as ten years, to develop a practice as an international arbitrator. I can appreciate the reasons for the impatience which this view evokes among the younger delegates to this conference.

Since I started in practice and later started teaching arbitration and drafting proposals for arbitration legislation and rules, the arbitration world has changed almost beyond recognition. In the first place, law schools in many parts of the world, including some African countries, are producing graduates with an LLM by Coursework, which includes a module in International Commercial Arbitration. This module will have dealt with recent developments in law and practice, which gives these graduates a huge advantage compared to those of us who had basically to acquire much of our knowledge through our own (private) studies. One of several reasons why I personally find international arbitration so stimulating to teach is that it is a rapidly developing field, which continues to present new challenges and problems. The internet and electronic sources have meant that much more important information is readily available. (When I first started working on a new International Arbitration Act for South Africa in 1996, one was dependent on the hard-copy UNCITRAL Yearbooks for reports on the work of UNCITRAL's committees.)

During Panel 5 at this conference the following question was discussed: "Which would you choose when advising a client: African seat and European (substantive) law OR European seat and African (substantive) law?" The question evoked lively discussion, but I was acutely disappointed that two European-based practitioners unhesitatingly opted for the latter option. Why then have I worked and campaigned for the enactment of the South African International Arbitration Act 15 of 2017? Is the fact that eleven African jurisdictions, including South Africa, have the Model Law not relevant? Surely the European practitioner would not usually claim a familiarity with the African jurisdiction's substantive law? This view could indicate a reluctance to travel to Africa or the hope that the African party will be deterred from bringing a claim by the cost of arbitrating in Europe.

There are several initiatives raised at this conference for developing access to international arbitration for young African lawyers that I would support being taken further. The first is an African pledge to promote African seats and African arbitrators for international arbitration. The second is the development of an Arbitration Moot Competition open to teams from African universities and to be held in Africa. The participation in prestigious international moots is beyond the financial resources of most African law schools. Moots on the continent provide opportunities for promising young law students to show-case their talents and for African arbitrators and practitioners to network and interact, with input from experienced arbitrators from elsewhere. Thirdly, University Law Schools need to develop exchange programmes relating to international arbitration, both within the continent and involving the African diaspora in Europe and elsewhere. Fourthly, on this panel, Dr Gaston Kenfack Douajni shared his experiences on how to make internships and mentorship a practical reality. Finally, conferences like those organised by SOAS in Cairo and Kigali are also invaluable. These two conferences rightly put the emphasis on interactive discussion rather than the presentation of papers. Two Nigerian delegates could recall my presence at the first international conference which I attended in Africa, outside South Africa,

namely the LCIA Conference in Nairobi, Kenya in December 1994.

Over the years I have found, as an academic, the immense value of participating at arbitration conferences in Africa. They provide opportunities to share knowledge on recent developments and concerns, provide an understanding of shared problems and potential solutions, to build networks of friends and colleagues in many jurisdictions and to benchmark what I am teaching my students with knowledge and insight shared by leading practitioners.

The commitment for further conferences in Sudan and the OHADA countries over the next two years is therefore an encouraging development.

Summary of the SOAS/KIAC Arbitrating in Africa Conference on the Role of Arbitration Practitioners in the Development of Arbitration in Africa. 2-4 May 2018

DAY 1: 3 May 2018

The day started with a number of welcome addresses:

Dr. Fidèle Masengo, Secretary General and Board Member of the Kigali International Conference (KIAC): He welcomed the delegates to Kigali for the fourth edition of "SOAS Arbitration in Africa Conference Series". He emphasised that the KIAC remains committed to promoting Arbitration and ADR at national, regional and international levels. He also noted that based on KIAC's latest data, the Centre is fast becoming a hub for regional and international arbitration in the continent. Fidèle concluded that KIAC is very happy to host the fourth SOAS Arbitration Conference Series and wished delegates successful deliberations at the conference.

Dr. **Emilia Onyema**'s welcome address briefly reminded the participants of the theme of the research project that resulted in the conference series. She further elaborated on the background, issues and reasons behind the choice of the hosting institutions, as well as the results and impacts of each of the three previous conferences. The first conference was hosted by the office of the General Counsel of the Africa Union, at Addis Ababa (Ethiopia), followed by the second conference hosted by the Lagos Court of Arbitration (LCA), Lagos (Nigeria) and the third conference hosted by the Cairo Regional Centre for International Commercial Arbitration CRCICA), Caïro (Egypt). She also noted the positive and constructive collective changes the previous conferences brought to arbitration in African. Emilia concluded by setting out the purpose of the conference as contained in the conference Discussion Paper (available at: https://www.researcharbitrationafrica.com/)

Mr. **Evode Uwizeyimana,** Minister of State in the Ministry of Justice, on behalf of the Rwandan Government welcomed delegates to Kigali, Rwanda. He noted that the timing and importance of promoting domestic and international arbitration in Rwanda and the East African community could not be more appropriate. According to Evode, arbitration plays a significant role in solving cross-border disputes arising between the East African Community member countries. In his closing remark, the minister challenged the delegates at the conference to reinforce ties and ensure collaboration amongst African arbitration institutions, African arbitrators, legal practitioners and all other stakeholders involved in arbitration in Africa that will lead to transforming African arbitration institutions into more attractive venues for international disputes resolutions.

The keynote address was delivered by **Prof. Mohammed S. Abdel Wahab, Zulficar Partners, Cairo**. His address centred on the pledge of African arbitration practitioners in International Arbitration. Mohamed presented to the audience an overview of a well researched analysis of arbitration connected to the African continent within the last two decades where he established that the continent is witnessing a continuous increase in the annual growth of disputes submitted to arbitration.

He analysed the caseload of the well established domestic, regional and international arbitration institutions on the continent (CRCICA, KIAC, NCIA, AFSA, CCJA) and described the speed of modernisation and implementation of domestic legislation as well as international conventions and treaties in arbitration in the continent. He focused on intra- African BIT's (signed and in force) before analysing the trend in Investor-state dispute settlement (ISDS) where Egypt features amongst the top 5 countries faced with ISDS, with 30 ICSID cases. He also discussed the data on African disputes in other international arbitration institutions such as ICC, LCIA, SCC, SIAC; and concluded that current findings suggest clearly that African arbitration is held in majority outside the continent, by foreign institutions and foreign arbitrators. Nevertheless, he noted, in agreeing with the statistics published by the "SOAS Arbitration in Africa Survey 2018", that the appointment of African arbitrators and the number of cases seated in the African States are increasing, although this is not consistent and taking place at an acceptable pace.

Mohamed reminded the audience that the first ICSID investment contract, the first ICSID investment law

contract each had an African arbitrator representing the parties in dispute; also the first ICSID BIT case had an African as the president of the tribunal. Based on these facts, in his opinion, the issue is not one of scarcity of qualified African arbitrators with expertise, but rather the absence of trust and visibility. Mohamed also advocated that African practitioners and arbitral tribunals must primarily be chosen in disputes involving African States or African parties. He urged African countries to exert determined efforts to (i) participate in global dialogues on ISDS and international arbitration through qualified African experts and practitioners, and (ii) adopt the "CIArb's Safe Seat Principles". As arbitration continues to grow on the continent, Mohamed's suggestion to younger colleagues (who he defined as 40 years and below) is that: "You can stay on the continent and excel globally; it is not where you are, but what you do that makes a real difference". His keynote address was very well received by the conference participants.

Session 1 held in the format of a discussion forum, was moderated by **Ms. Alexandra Meise.** The discussion centred on the role of the *arbitration practitioner as an administrator of an arbitral centre*. The session gathered the following arbitration institutions as principal discussants; Kigali International Arbitration Centre (KIAC); Ghana Arbitration Centre (GAC); Lagos Court of Arbitration (LCA); International Centre for Arbitration and Mediation Abuja (ICAMA); Nairobi Centre for International Arbitration (NCIA); the Centre for Arbitration and Dispute Resolution, Kampala and the Zambia Centre for Dispute Resolution. The audience also actively contributed.

After an overview of the previous conference discussions, the discussants went on to update delegates of the improvements they have made in their respective institutions/centres as a result of suggestions made at the Cairo conference. Delegates were informed of new relationships existing between centres and appointments of some African arbitrators by some centres. KIAC for instance, briefed delegates of the increasing number of references, capacity building events and opportunities for young practitioners. Other institutions/centres also reported on their on-going initiatives undertaken to improve on their services, training and visibility.

The session also delibrated on how the various centres/institutions resolve the issue of conflict of interest of arbitrators when raised by a disputing party. The various centre representatives painstakingly explained how such issue is determined to ensure a transparent system of arbital justice. On the issue of capacity building especially, amongst young African arbitration practitioners, the representatives of the centres promised to increase their efforts in the training and appointment of young African arbitrators below the age of forty years. They also promised to support young African arbitrators to increase their efforts to ensure visibility in both national and international arbitration-related events.

Session 2 focused on the issue of *race and gender in the appointment of arbitrators in international arbitration.* The session was moderated by Ms. **Ndanga Kamau** and held as a roundtable discussion with six discussants as follows: Mrs. Doyin Rhodes-Vivour (Nigeria), Dr. Stuart Dutson (England), Paul Ngotho (Kenya), Dr. Sylvie Bebohi Ebongo (Cameroon), Mr. Isaiah Bozimo (Nigeria) and Ms. Lise Bosman (Netherlands).

Ndanga Kanau introduced the session in the broader context of diversity and inclusiveness in international arbitration before narrowing it down to race and gender. The session addressed the difficulties (or advantages) that these elements constitute in obtaining appointment as arbitrators and proposed methods for those wishing to be appointed and those making such appointments. Upon opening the discussion, the discussants were given the opportunity to explain why the topic matters to them and to the broader system and say from which perspective they will be looking at the race and gender concerns.

Isaiah Bozimo shared his experience as a young practitioner on the continent where he missed an opportunity to be appointed as an arbitrator because he was young, black and an African. He added that a lot still needs to be done to give opportunities to young arbitrators. For instance, the senior

professionals can pledge and ensure that committees, governing bodies and conference panels in the field of arbitration include a fair representation of Africans. Besides, he added that there is no guarantee that well-qualified arbitrators will provide quality arbitration expertise. A young arbitrator might well be capable of delivering quality expertise; age and less experience do not define the quality of knowledge. He urged African arbitrators and particularly, young African arbitrators, to increase their visibility and not give-up from hunting for their first appointment.

Lise Bosman looked at the issue as a scholar with institutional experience. She observed that there is a considerable number of women dropping out of arbitration practice, especially from commercial law firms. According to Lise, data have shown that the disparities in the appointment of women arbitrators compare to the number of women that graduate from law schools and those that make it and succeed in law firms is extremely low.

Sylvie Bebohi addressed the issue of linguistic diversity. She noted that although there are many languages on the continent, arbitration in Africa has being predominantly dominated by English speakers and no efforts are made to reduce the language barrier. As an example, she pointed the on-going conference, and the SOAS Arbitration Conference series in general where French and other language speakers are underrepresented. She noted that this language problem extends to the OHADA countries. This constitutes a challenge for the OHADA regime to operate a multilingual organisation were the French language predominates other languages spoken on the continent such as: Arabic, English, Spanish and Portuguese. A notable effort from the OHADA organisation is made to reduce that challenge, although more still needs to be done. Also, OHADA institutions and local arbitration institutions in most, if not all francophone countries, display an underrepresentation of women and young aspiring professional in arbitration.

Dr. Stuart Dutson through the eyes of an international arbitrator, broached the subject of diversity in arbitration, using the findings in the SOAS Arbitration in Africa Survey of 2018. He compared it to other data and noted that the statistics speak for themselves. The issue of the representation of African arbitrators on arbitration tribunals especially in disputes related to Africa is not happening as frequently as it should. Stuart suggested to set up a pledge for Africa that would operate along the lines of the so far highly successful, ERA Pledge (http://www.arbitrationpledge.com/). According to him, this would ensure the increase of visibility of the profile and representation of African arbitrators. As an example of the pledge, Stuart noted that states, arbitral institutions and national committees should include a fair representation of African candidates on rosters and lists of potential arbitrator appointees, where they have the power to do so. Also, counsel, arbitrators, representatives of corporate organisations, states and arbitral institutions should ensure the appointment of a fair representation of African arbitrators especially in arbitrations connected to Africa.

For **Mrs. Doyin Rhodes-Vivour,** the issue of diversity (race, gender and age) is an international problem. The system is not particularly rigged against Africa, but instead, the problem lies in the way the appointments are arranged. Therefore, different approaches to solving the problem at domestic and international arbitration levels should be devised. For instance, in the process of identification, efforts should be made to ensure equal opportunity about gender, age and regional representation if necessary. Hence, a pledge should be made among professionals that there is no legitimate system if diversity is not carefully taken into consideration with transparency of information. Also, openness by arbitration institutions is needed regarding the selection of arbitrators, particularly the list of selected arbitrators which should also indicate race, gender and age, besides the name and titles as opposed to the traditional list of most, if not all, arbitral institutions so far published. The implementation of these processes should start at the national level while expecting some changes to reflect in the selection at the international level. Doyin also suggested that another method to ensure diversity is to have arbitrators' CV presented to parties without their names and dates of birth in other to ensure that candidates are selected based on their experience and qualification.

Session 3 was held in a debate format. It was moderated by **Mr. Babajide O. Ogundipe** and featured two

teams, the aspiring and experienced arbitration practitioners. The team of expereinced practitioenrs: Mr Duncan Bagshaw (UK), Ms Njeri Kariuki (Kenya) and Mr Kwadwo Sarkodie (UK) and for the aspiring or younger arbitrators: Ms Chinenye Onyeamaizu (Nigeria), Dr Sally El Sawah (Egypt); Mr Tsegaye Laurendeau (UK); and Ms Rose Rameau (Switzerland).

Babajide opened the session by describing the debate as one exploring all the routes to help aspiring arbitrators to sit as arbitrators through the questions and answers between the teams. This was done via examining the difficulties of getting the first appointment; strategies of overcoming the different hurdles; and marketing strategies that are within the accepted norms. Also examined were efforts and measures that experienced arbitrators should undertake to pave the way and to help their younger colleagues to have the chance to get their first-time experience or opportunity as arbitrator. He also noted that the conference attendees will vote for a winning team.

Sally (Captain of the young practitioners team) addressed the barriers young arbitrators face based on a system where repeat appointments of older and more experienced arbitration practitioners give little or no room for the young arbitrators. She also addressed the pros and cons of appointment under ad hoc arbitration and institutional arbitration for young arbitrators. Sally proposed that local arbitration institutions could create an internal mechanism for appointments in arbitration references brought before them. For example, where a case is delivered to the institution and a tribunal is to be set up, one of the members of that tribunal should be a young arbitrator. She further suggested that in small arbitration cases requiring a sole arbitrator, a young arbitrator should be appointed. She cited the scrutiny process of the ICC recognised as effective and inclusive by most people in the profession and which could be adopted by domestic arbitration Institutions where the award is brought to the Institution for scrutiny, primarily when it was handled by a inexperienced arbitrator (old or young).

Tsegaye raised the issue of experience and expertise of young aspiring arbitrators when they are faced with the fact that they have no experience and therefore no knowledge to practice as arbitration practitioners. Further, he remarked that when young arbitrators do not get appointments they cannot gain experience, and without experience, they cannot become experts. He added that the assistance of the experienced arbitration practitioners and that of prominent arbitration firms are needed by young arbitration practitioners' groups ready to set up sensitisation programs with the goal of sensitising their local business communities.

Chinenye shared her personal experience on the issue of diversity in domestic arbitration. According to her, it seems the system of appointment of arbitrators in both domestic and international arbitration is a rigged system. She added that young aspiring arbitrators are willing to take up arbitration pupillage, by offering themselves to the more experienced practitioners to study under them. Chinenye further added that, aspiring arbitration practitioners are ready to act as tribunal secretary to get the tribunal experience.

Rose emphasised the issue of visibility of aspiring and young arbitration practitioners. She remarked that young aspiring arbitrators are committed to ensuring their visibility through training, attending conferences, joining young arbitrator active groups. According to Rose, these events are used by the aspiring and young arbtration practitioners to engage and under-study seasoned arbitration practitioners with the hope that the seasoned arbitrators will pledge to help them by creating opportunities that will enable them acquire the arbitration skills.

Njeri (Captain of the experienced practitioners team) noted that when the challenge of sitting as an arbitrator, is given to an aspiring arbitrator, race, gender, age do not matter at all, the selected candidate should be able to deliver. She noted that what matters is whether the person is qualified or experienced enough to be given the role or whether they are up to the task. She added that when looking at recruiting young counsel in her law practice, her primary focus is to determine how the young counsel can manage and how far s/he might be capable of doing the job required. **Njeri** noted that young aspiring arbitrators should not give-up despite the obstacles they encountered to get their first appointment. They should

continue to strive harder to get visible, get better known with published articles, making conference contributions and make their name known by all means necessary, because no one will appoint them if they are unknown. She admonished that endurance is part of the process. On the issue of engaging directly with the business community, she noted that it is not necessary to bypass senior arbitrators and established firms. She further added that it is not the quantity of experience that is expected from an aspiring arbitrator nor particular age nor gender but their quality and capability tools to deliver: this is not patronising but guidance she added.

Duncan started with a summary of what an arbitrator should be. He noted that no matter the time it takes to have your first appointment, you should first love your job, and your focus should be your primary job only, while waiting to be equipped enough to get the arbitrator appointment opportunity. He further noted that it is essential for aspiring arbitrators to understand that arbitration is not a business, it is not a position where you make money, nor to expect to be enriched, nor a market for clients.

To **Kwadwo**, an aspiring arbitrator is not ready for the position if s/he has not thoroughly understood that arbitration is designed to meet the needs of the parties and those needs have to be the focus of their counsel, nothing more as this is often the focus when interviewing an arbitrator. Also, when the pupil has not acknowledged that there are barriers, tricks and hard decisions to make in the process, as an arbitrator, the interviewer will not be convinced to offer the opportunity to the candidate. He noted that aspiring arbitrators should focus on enjoying their practice as a lawyer or invest more on becoming knowledgeable in their primary job**.** As a result, most reputed arbitrators acceded to the profession because they were expert, indispensable in their primary field of expertise.

In its rebuttal, the speakers of the aspiring arbitrator's team noted that the young are indispensable in the field as much as the experienced. The young are better exposed than the senior arbitrators to understand better and faster the information technology and so, useful as a team member for the experienced arbitrators. Further, they noted that arbitration is not a business but it is an investment, and like any other investment, a return is expected when all the stages of the process are met. They also pointed out that all of today's experienced arbitrators were given the opportunity at some point. Therefore, they have the natural and moral obligation to return the favour and provide the opportunity for aspiring arbitrators when they meet the qualification.

The experienced arbitrator team in rebuttal noted that having regard to diversity and the number of appointment, do not justify the quality of the job to be delivered by an appointee, so that their younger colleagues must continue training and acquiring quality knowledge. Further, they noted that understanding of information technology would get to come to the seniors as well. That it does not necessarily make the aspiring arbitrator indispensable. Aspiring arbitrators should continue the quest for their first appointment with endurance while ensuring their continued visibility and expertise to be known in their domestic jurisdiction to start with, before joining the international arbitration marketplace.

Following the rebuttal from the two teams, Babajide asked the audience to vote on the winning team. Based on the majority count in favour of the aspiring squad, Babajide declared the aspiring arbitrators' team the winner before closing the debate.

This debate ended the deliberations of Day 1.

Day 2 started with **Session 4** with discussions focused on *teachers and trainers in the law and practice of arbitration* and was moderated by **Prof Walid Ben Hamida**. Walid was joined by: Dr. Achille Ngwanza (Paris), Ms. Yasmin Sabeh (Bahrain), Mrs. Sola Adegbonmire (CIArb Nigeria) and Mr. Ike Ehiribe (CIArb UK).

Dr. Achille Ngwanza addressed issues relating to the teaching of arbitration in African universities as a means of training future African arbitrators. Achille also discussed the qualification desirable for lecturers to possess to teach arbitration and the specific area of arbitration where the curriculum should focus. As a lecturer and arbitration practitioner in France and most OHADA member countries, Achille remarked that very few francophone academic institutions have arbitration as a course in their syllabus. However, Cameroonian educational institutions are currently making changes to include the subject in their curriculum. He also noted that there is no specific master degree programme in arbitration nor its effective teaching in any of the OHADA member States. He suggested that moot arbitration competition and other training should be incorporated into the teaching of arbitration as a subject in African universities.

Ms. Yasmin Sebah spoke on the benefits of participating in arbitration competitions and the role of universities. Yasmin identified the Willem Vis Moot for International Commercial Arbitration and the Frankfurt Investment Arbitration Moot Court for the investment treaty Arbitration as two internationally recognised arbitration competitions for university students. She discussed the benefits of participation in such arbitration competitions to African students. These benefits include: learning and applying skills of problem-solving, legal analysis, legal research, fact investigation, communication, counselling, negotiation, familiarity with related litigation and alternative dispute resolution processes, organisation and management of legal work and recognition and resolution of ethical dilemmas. She noted that regrettably, African universities participation over the years in these moot competitions has remained very low. Yasmin recommended these competitions for young arbitrators (to sit as arbitrators) as the place to gain trust and visibility with law firms and experienced arbitrators from around the world. To university institutions in the continent, she also recommended that arbitration law and practice be included in their syllabus as an elective course in other to equip African students with the necessary arbitration skills.

Mrs. Sola Adegbonmire addressed the issues of training and the importance of being well trained whether as an experienced or inexperienced arbitration practitioner. She noted that young practitioners have to be aware that there is no credential requirements to become an arbitrator. Nevertheless, to become an arbitrator, it is essential to ensure knowledgeability of all the relevant rules and procedures in the field of arbitration. She noted that an individual does not necessarily have to be a lawyer to be an arbitrator. Opportunities for non-lawyers do exist and deemed to be even more accessible than those in connection with the profession of a lawyer which is increasingly becoming over-crowded and so challenging. She urged the aspiring arbitrators to opt for those scarce fields to become attractive both as an expert and specialised arbitrator, which is very attractive in the arbitrator market/industry. She noted the challenges associated with visa and finances by African students, which hinder their ability to participate in international arbitration competitions, and suggested that the African arbitration community should set up in campus competition, or competition between domestic institutions or between arbitration associations across the continent.

Furthermore, while engaging directly with the audience, she shared a personal experience encountered with some students that set up an ADR association in an African University. After a semester of engaging in self-training, the students decided to move forward with their project to studying ADR mechanisms and started inviting senior arbitrators to share their experience and give them guidance. The idea was welcome on both sides and has so far produced quality arbitrators in the country. Hence, Sola recommended young and senior arbitrators or those group of students interested in ADR to form groups of arbitration/ADR academics and trainers across the continent to promote the culture of arbitration and to provide standardised training materials. It is an alternative to the international arbitration competition which students on the continent may not be able to attend. Furthermore, she reminded senior arbitrators in her closing remarks that they do have the moral responsibility to make the world better for the future generation in ensuring opportunities are given out whenever possible.

Mr. Ike Ehiribe addressed the significance of selective training as an arbitrator in Africa. Unlike Mrs. Sola Adegbonmire's position, Ike believes that certification in the field of arbitration, although not

compulsory, remains relevant to stay competitive in our current fast moving and fast-changing society. Ike further expanded on the reasons why it is essential to get trained and be selective in the type of training available. For instance, it is crucial to choose either domestic or international arbitration training, or even both, depending on the individual's career goal. Furthermore, Ike recommended to aspiring arbitrators, to set their goal in choosing the content of course needed, the trainer institution, time to invest, the cost and therefore avoid unnecessary certification. Referring to sports arbitration as a specific area with an institution on its own, it can lead to becoming an excellent sports expert and qualified arbitrator. There are many other particular fields which can also lead to faster growth as an expert arbitrator upon completing the training. Ike also emphasised the need for continuous education and training even for the high-profile arbitrators because the field is continuously evolving. He added that as SOAS Arbitration in Africa Survey of 2018 (available at: http://eprints.soas.ac. uk/25741/) suggests at page 23, training and certification as an arbitrator remain an essential piece to get appointed.

Session 5 discussions focused on *other roles available for practitioners in arbitration* and was moderated by **Mr. Baiju Vasani** who had circulated a long list of possible questions earlier from which attendees could raise questions for discussion. There were varieties of questions such as, whether a counsel could also act as an arbitrator in investor states disputes and the dangers of the issue of conflict? Can counsel interview prospective arbitrators? Can counsel help draft witness statement of facts? Can arbitrators sanction lawyers for their conduct, if so how? Do African lawyers need to have practised in a major law firm in Europe or North America and studied there to have a successful career in international arbitration? African seat and European law or European seat and African law? Which would you trade in that negotiation and why? Is the growth of tribunal secretaries good, and does it includes the cost of the arbitration and train junior lawyers? Or it is dangerous because it allows busy arbitrators to delegate their work, therefore, taking on more appointments? And more. The interaction was stimulating, and the discussion saw the contribution of almost everyone in the audience. All arguments raised were well posed and substantiated. The debate was both stimulating and a learning exercise for delegates, the vast majority of who thoroughly enjoyed the session.

Session 6 was the last session and structured as an open discussion with **Chief Bayo C. Ojo, SAN,** in conversation with the following seasoned African arbitrators: Mrs. Funke Adekoya, SAN, Prof David Butler, Prof Paul Idornigie, SAN, Dr. Gaston Kenfack Douajni and Mr. Nene Abayaateye Amegatcher (who is was recently elevated as a Jugde of the Supreme Court of Ghana). The discussants with over two decades of domestic and international arbitration practices under their belts shared their experiences with delegates. The discussants reiterated the following themes:

- The need for African arbitration practitioners to distinguish themselves through their work product. They emphasised the need for young African arbitrators, as new entrants to the arbitration market, to contribute to the making of the rules, regulations, and laws of arbitration. They remarked that African arbitration practitioners cannot make an impact in the practice of arbitration if African arbitrators continue the practice of 'copy and paste' in preparing their briefs or their awards.
- Understand that the framework of arbitration practice as it exists, does not promote inclusion of newcomers and as a result, African practitioners need to work towards breaking the resistance by showing up and demonstrating their skills and knowledge in the field. Prof Butler noted that this can be achieved through a comprehensive curriculum which focuses on international arbitration in law schools, the participation in arbitration moot competitions, conferences and publications.
- Continental level initiatives to build a significant body of arbitration practitioners. Mr. Amegatcher and Dr. Gaston recalled a period when through institutional funding such as the World Bank initiatives, several members of the legal profession in Africa were able to receive training in the United States and Europe on arbitration. In this era, Mrs. Funke Adekoya advised that lawyers interested in arbitration should take advantage of resources online to educate themselves, to publish and join professional associations to leverage those opportunities

available to build capacity and training in arbitration. Prof Paul Idornigie noted his trajectory into arbitral practice, which arose from the different roles he had occupied in his professional career (supporting the view by Duncan, Njeri and Kwadwo for practitioners to excel in their primary jobs).

The delegates responded to the shared experiences of the discussants by calling for mentorship from seasoned arbitrators, the recommendation and involvement of young arbitrators in appropriate arbitration references. The delegates also called for seasoned arbitrators, who in the past enjoyed access to finance from institutions like the World Bank to further their training in arbitration, to advocate for such opportunities for young African arbitration practitioners. Finally, there was a call for governments to have confidence in legal practitioners in their countries and select local law firms to provide lead counsel positions in their arbitrations.

The proceedings ended with a motion raised by Dr. Jean-Alain Penda Matipe, for the continuation of the SOAS Arbitration in Africa conferences (even following the end of the underlying research project) which was unanimously supported by attendees. Dr. Onyema accepted this mandate and invited Centres to volunteer to host subsequent conferences. This was followed by a short presentation by Mr. Ahmed Bannaga from Sudan inviting attendees to the fifth SOAS Arbitration in Africa conference which will be hosted by the arbitration community in Sudan in Khartoum from 12-14 February 2019. The conference ended with a conference dinner hosted by Bayo Ojo & Co, Lawyers in Abuja, Nigeria.

Dr. Jean-Alain Penda Matipe and Dr. Prince C.N. Olokotor

SEEING THE FUTURE OF ARBITRATION IN AFRICA:

DINNER SPEECH BY CHIEF BAYO OJO, SAN CON AT THE SOAS ROLE OF ARBITRATION PRACTITIONERS IN THE DEVELOPMENT OF ARBITRATION IN AFRICA CONFERENCE IN KIGALI, RWANDA 4TH MAY 2018 AT RADISSON HOTEL KIGALI.

Choosing a title for my dinner speech tonight proved a bit problematic. This was so because at the first SOAS Conference on The Role of Arbitral Institutions in the Development of Arbitration in Africa at Addis Ababa, Ethiopia on 23rd July 2015 at the Hilton Addis, I gave the dinner speech titled "The Imperatives Before Africa". I had cause to refer to some parts of that speech on Wednesday 2nd May 2018 during the ICCA African Arbitration Consultative Meeting where we were trying to harmonise two proposed continental bodies to promote arbitration in Africa. I crave your indulgence to reproduce the part of that speech.

> "My task tonight therefore is really to celebrate what we have achieved at this one-day event. I am not to provide new learning curve but rather, like a good dessert wine, aid the digestion of the numerous topics discussed earlier today.
> The theme of this conference "The role of Arbitration Institutions in the Development of Arbitration in Africa" cannot be more apt. This conference is part of a project focused at promoting the growth of Arbitration in Africa. Perhaps other themes that we should deal with in the future are: "the role of courts and judges in supporting arbitration in Africa" and "the role of states in supporting arbitration in Africa". These thematic areas cover the broad spectrum of the issues that must be addressed to ensure that arbitration practice grows in Africa and for Africa to become a destination for international arbitration.
> Imagine a situation where we have a uniform arbitration rules in Africa. Imagine a situation where we have an arbitral association known as the African Arbitration Association which all African arbitrators and any other person outside Africa can belong, to promote arbitration in Africa. These are the imperatives that we should be thinking about."

You might now be wondering what is the relevance of this to making a dinner speech tonight? The relevance is that four years ago, it was as if I saw what we have now used these SOAS series of conferences to achieve two days ago when we agreed to establish the African Arbitration Association (AfAA). Hence my difficulty in finding an appropriate title for my speech tonight. While I was still pondering about it, Dr. Fidele Masengo who was sitting near me at the time, fortuitously said to me that with the establishment of the AfAA, he can now see the future of arbitration in Africa. And that did it. Eureka. I told him that I was going to adopt what he said as the title of my dinner speech tonight and he kindly obliged. So, the title of my speech tonight is "SEEING THE FUTURE OF ARBITRATION IN AFRICA." And I ask the question: What is the future of Arbitration in Africa? In the United Nations Conference on Trade and Development (UNCTAD) World Investment Report 2017, five host economies namely Angola, Egypt, Nigeria, Ghana and Ethiopia posted a foreign direct investment (FDI) of $59.4 Billion Dollars in 2016. This did not include South Africa. This is expected to increase to $65 Billion Dollars when the 2017 statistics compilation are completed. Only recently on March 21, 2018, 44 African countries out of 54 signed the African Continental Free Trade Area Agreement (AfCFTA) here in Kigali. It is an initiative of the African Union. What these developments mean in real terms is that as Africa witnesses increased inflow of FDI and the full implementation of the Free Trade Agreement, disputes are inevitably bound to arise which need to be settled by arbitration or other alternative dispute resolution methods. We therefore need to engage the diverse perspectives and experiences of African Arbitrators and other stakeholders outside Africa, in addressing the critical challenges and exploring the prospects and opportunities that lie in the horizon. This is important because arbitration is fast becoming the preferred mechanism for oiling the wheel of economic growth; it is the big idea of the times in every clime and every jurisdiction. We therefore have no other alternative than to key in. It is the only way to go.

Let me conclude by congratulating Dr Emilia Onyema, the co-convener Justice Edward Torgbor and all those who have been involved in putting these four conferences together for their initiative and hard

work. Permit me to also specially thank Ms Lise Bosman of ICCA for all she has been doing and still doing to promote arbitration in Africa. As I did say at the Consultative Meeting two days ago, when the history of African Arbitration will be written, the names of Dr Emilia Onyema and Ms Lise Bosman will be written in gold.

To everyone present here tonight and all those who could not be here but have attended one or more of the SOAS Arbitration Conferences, particularly our keynote speaker Professor Mohammed Salah Abdel Wahab who gave a very thought provoking, well researched and inciteful speech, all the panellists and discussants, I say thank you for being part of this. To all those who have sponsored the conferences, as it is said in Africa, may your pocket never dry up.

To Dr Fidele Masengo and his team from within and without the Kigali International Arbitration Centre (KIAC), thank you for making this conference a very memorable one. I have no doubt that what has been achieved and the memories of this conference will live with us for a very long time to come.

Finally, I recall that when the American Mission Commander of the Apollo 11 Neil Armstrong stepped on the moon on 20th July 1969, he said the following words: “A short step for man and a greater leap for mankind.” What we have all collectively achieved through the four series of the SOAS Arbitration Conferences is though a short step for us all, it is however a greater leap for Arbitration in Africa.

Thank you for listening.

LIST OF PARTICIPANTS

List of Participants			
No.	First Name	Surname	Country
1	Yasmin	Sebah	Bahrain
2	Edward	Fashole-Luke II	Botswana
3	Cynthia Akueya	Nchaw	Cameroon
4	Gaston		Cameroon
5	Jean Samuel	Omgba Beyene	Cameroon
6	Marie-Andrée	Ngwe	Cameroon
7	Mukete	Tahle Itoe	Cameroon
8	Jean Alain	Penda	Canada
9	Narcisse	Aka	Cote D'Ivoire
10	Koyo	Sylvere	Cote D'Ivoire
11	Abayazid	Mohamed	Djibouti
12	Ahmed	Abdourahman	Djibouti
13	Ali	Daoud	Djibouti
14	Ayman	Said	Djibouti
15	Mohamed	Abayazid	Djibouti
16	Abdallah	Eknokaly	Egypt
17	Ahmed	Sallam	Egypt
18	Ismail	Selim	Egypt
19	Mohamed	Abdel Wahab	Egypt
20	Nagla	Nassar	Egypt
21	Leyou	Tameru	Ethiopia
22	Achille	Ngwanza	France
23	Christophe	von Krause	France
24	Marie-Camille	Pitton	France
25	Mounia	Larbaoui	France
26	Sylvie	Bebohi Ebongo	France
27	Ama Kokwe	Asare Korang	Ghana
28	Bobby	Banson	Ghana
29	Diana	Dapaah	Ghana
30	Emmanuel	Amofa	Ghana
31	Esine	Okudzeto	Ghana
32	Fui	Tsikata	Ghana
33	Kizito	Beyuo	Ghana
34	Lauraine	Ghartey	Ghana
35	Matilda	Idun-Donkor	Ghana
36	Michael Gyang	Owusu	Ghana
37	Monica Naa Sarku	Nettey	Ghana
38	Nene	fidele	Ghana
39	Patrice	Caesar-Sowah	Ghana
40	Victoria	Barth	Ghana
41	Albert	Mukasa	Kenya
42	Calvin	Nyachoti	Kenya
43	Jill Obuchunju	Barasa	Kenya
44	Maulline	Gragau	Kenya
45	Mercy	Okiro	Kenya

List of Participants			
No.	First Name	Surname	Country
46	Ndanga	Kamau	Kenya
47	Ndeto	Jennifer	Kenya
48	Ng'ania	Melissa	Kenya
49	Njeri	Kariuki	Kenya
50	Noreen	Kidunduhu	Kenya
51	Paul	Ngotho	Kenya
52	Peter	Mwaura	Kenya
53	Rubin	Mukkam-Owuor	Kenya
54	Samuel	Nderitu	Kenya
55	Sarah	Wambua	Kenya
56	Tim	Muiruri	Kenya
57	Alex	Mwaniki	Kenya
58	Abdulwahab	Shaglouf	Libya
59	Anand	Juddoo	Mauritius
60	Mohammad Mushtaq	Namdarkhan	Mauritius
61	Kimani	Susan	Netherlands
62	Lise	Bosman	Netherlands
63	Agada	Elachi	Nigeria
64	Bashman	Mohammed	Nigeria
65	Abigail	Nnadikwe	Nigeria
66	Adedeji	Adekunle	Nigeria
67	Adelayo	Oriekun	Nigeria
68	Augusta	Yaakugh	Nigeria
69	Babajide	Ogundipe	Nigeria
70	Babatunde	Ajibade	Nigeria
71	Babatunde	Fagbohunlu	Nigeria
72	Busola	Ojo	Nigeria
73	Chidi Mark	Agbo	Nigeria
74	Chidiebere Angela	Chinweike	Nigeria
75	Chinenye	Onyeamaizu	Nigeria
76	Christopher	Ojo	Nigeria
77	Chukwuemeka	Monyei	Nigeria
78	Diane	Okoko	Nigeria
79	Doyin	Rhodes-Vivour	Nigeria
80	Eme	Tola-Lawal	Nigeria
81	Emeka	F	Nigeria
82	Emmanuel	Enna	Nigeria
83	Funke	Adekoya	Nigeria
84	Gladys	Olotu	Nigeria
85	Ikpeme	Nkebem	Nigeria
86	Isaiah	Bozimo	Nigeria
87	Joe-Kyari	Gadzama	Nigeria
88	Kathleen	Okafor	Nigeria
89	Kolawole	Mayomi	Nigeria

List of Participants			
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90	Lateef	Yusuff	Nigeria
91	Lucy	Gakaria	Nigeria
92	Michael Onoja	Ekoja	Nigeria
93	Muhammad Dele	Belgore	Nigeria
94	Ofonmbuk Esther	Ekong	Nigeria
95	Okey	Akobundu	Nigeria
96	Olusola	Adegbonmire	Nigeria
97	Olusola	Ephraim - Oluwanuga	Nigeria
98	Oluwakemi	Omojola	Nigeria
99	Omoniyi	Odeyemi	Nigeria
100	Osasiuwa	Edomwande	Nigeria
101	Paul	Idornigie, SAN	Nigeria
102	Racheal	Osibu	Nigeria
103	Richard	Akintunde SAN	Nigeria
104	Seyilayo	Ojo	Nigeria
105	Sunday	Ameh, SAN	Nigeria
106	Theodore	Maiyaki	Nigeria
107	Tolu	Obamuroh	Nigeria
108	Yakubu	Maikyau SAN	Nigeria
109	Asiimwe	Frank	Not known
110	Baelo Kikuni		Not known
111	Denis	Abisai	Not known
112	Dima Dima	Wilson	Not known
113	Gohongerwa	Goretti	Not known
114	Irangena	Josephine	Not known
115	Kamwange	Mary	Not known
116	Kansayire	Christiane	Not known
117	Karemera	Frank	Not known
118	Karuru	Michael	Not known
119	Mcharo	Pauline	Not known
120	Mucyo	Donathien	Not known
121	Mukangabo	Aurea	Not known
122	Saidi	Saleh Saleh	Not known
123	Sally	El Sawah	Not known
124	Vane	Akana	Not known
125	Jonathan	Nshuti	Rwanda
126	Maggie	Baingana	Rwanda
127	Aimé Sinkwakwe	Kabandana	Rwanda
128	Alexis Dushimire	Hategekimana	Rwanda
129	Annette	Tamara Mbabazi	Rwanda
130	Annick	Gitare	Rwanda
131	Apollo	Nkunda	Rwanda
132	Asiimwe	David	Rwanda
133	Beatrice	Nyirahategekimana	Rwanda

List of Participants			
No.	First Name	Surname	Country
134	Bernadette	Uwicyeza	Rwanda
135	Bizimana Shoshi	Jean Claude	Rwanda
136	Byiringiro	Bajeni	Rwanda
137	Calvin	Mitali	Rwanda
138	Cyridion	Nsengumuremyi	Rwanda
139	Désiré	Kamanzi	Rwanda
140	Faustin	Mbundu	Rwanda
141	Francis	Rudasingwa	Rwanda
142	Fred K.	Nkusi	Rwanda
143	Gahongayire	Myriam	Rwanda
144	Gasarabwe	Claudine	Rwanda
145	Gasominali	Olivier	Rwanda
146	Gatariki	Gisele	Rwanda
147	Geoffrey	Mwine	Rwanda
148	Germain	Bwasisi Mugabo	Rwanda
149	Habimana	Pie	Rwanda
150	Harrison	Mutabazi	Rwanda
151	Isaac	Ndahiro	Rwanda
152	Kabibi	Specioza	Rwanda
153	Kamere	Emmanuel	Rwanda
154	Kayihura Muganga	Didas	Rwanda
155	Kibuka	Jean Luc	Rwanda
156	Linda Kalimba	Mulenga	Rwanda
157	Marcelllin	Rugwizangoga	Rwanda
158	Masengo	Fidele	Rwanda
159	MBarushimana	Kavuna Aime	Rwanda
160	Mbonigaba	Eulade	Rwanda
161	Moise	Nkundabarashi	Rwanda
162	Mumbere Kavusa	Serge	Rwanda
163	Mutabazi	Harisson	Rwanda
164	Naila	Umubyeyi	Rwanda
165	Ndayambaje	Yamuremye Simon	Rwanda
166	Ngiruwonsanga	Jean Damascene	Rwanda
167	Nshimiyimana	Eric	Rwanda
168	Patrick	Gashagaza	Rwanda
169	Paul	Bugingo	Rwanda
170	Richard	Balenzi	Rwanda
171	Riziki	Mgeni	Rwanda
172	Sandra	Rwamushaija	Rwanda
173	Spencer	Bugingo	Rwanda
174	Theophile	Sugira	Rwanda
175	Thierry	Ngoga	Rwanda
176	Umwali	Claire	Rwanda
177	Uwanyagasani	Jerome	Rwanda
178	Uwera	Immaculate	Rwanda

List of Participants			
No.	First Name	Surname	Country
179	Wilberforce	Ninsiima	Rwanda
180	Mouhamed	Kebe	Senegal
181	Ahmed	Bannaga	Sudan
182	Bakri	Mohammed Abaker	Sudan
183	Faisal	Hassanain	Sudan
184	Faroug	Adam	Sudan
185	Mutaz	El Kashif	Sudan
186	Gabrielle Kaufmann	Kohler	Switzerland
187	Anthony	Kazikold	Tanzania
188	Faustin	Nteziryayo	Tanzania
189	Geraldine	Umugwaneza	Tanzania
190	Godson	Nyange	Tanzania
191	Happiness	Mchaki	Tanzania
192	Kefa	Peter Elias	Tanzania
193	Madeline	Kimei	Tanzania
194	Christina	Ilumba	Tanzania
195	Khawla	Ezatagui	Tunisia
196	Walid Ben	Hamida	Tunisia
197	Benson	Otim	Uganda
198	Franklin	Uwizera	Uganda
199	Jimmy	Muyanja	Uganda
200	Baiju	Vasani	UK
201	Chrispas	Nyombi	UK
202	David	Butler	UK
203	Duncan	Bagshaw	UK
204	Emilia	Onyema	UK
205	Eunice	Shang-Simpson	UK
206	Gerald	Kobobo Afadani	UK
207	Ike	Ehiribe	UK
208	Julius	Nkafu	UK
209	Krystle	Lewis	UK
210	Kwadwo	Sarkodie	UK
211	Massey	Andrew	UK
212	Obiajunwa	Ama	UK
213	Prince	Olokotor	UK
214	Rukia	Baruti	UK
215	Stuart	Dutson	UK
216	Tsegaye	Laurendeau	UK
217	Alexandra (Xander)	Meise	USA
218	Joyce	Williams	USA
219	Kemi	Ayodele	USA
220	Rose	Rameau	USA
221	Nathania	Ustun	USA
222	Bwalya	Lumbwe	Zambia

List of Participants			
No.	**First Name**	**Surname**	**Country**
223	Charles	Kajimanga	Zambia
224	Dickson	Jere	Zambia
225	Mary	Kamwengo	Zambia
226	Mary	Ncube	Zambia
227	Nigel Kalonde	Mutuna	Zambia
228	Paulman	Chungu	Zambia
229	Suzanne	Rattray	Zambia
230	Davison	Kanokanga	Zimbabwe

SOAS ARBITRATION IN AFRICA CONFERENCE SERIES IN PICTURES 2015 -2018

ADDIS ABABA, ETHIOPIA
2015

THE IMPERATIVES BEFORE AFRICA:

DINNER SPEECH BY CHIEF BAYO OJO, SAN CON AT THE SOAS ROLE OF ARBITRATION INSTITUTIONS IN THE DEVELOPMENT OF ARBITRATION IN AFRICA CONFERENCE IN ADDIS ABABA ETHIOPIA ON 23RD JULY 2015 AT HILTON HOTEL ADDIS ABABA.

Distinguished colleagues, it gives me great pleasure to have been asked to give the dinner speech at an auspicious event such as this one on a subject so dear to my heart.

I will like to state however that a dinner speech usually comes with its challenges. Some of you have had a grueling day discussing serious issues and are looking forward to this dinner to unwind. Others just want to have a good time and may be willing to surrender only a little of their evening to a very short dinner speech. Thus, I shall try to balance the varying interests here. In trying to balance the said interests, I recall what my teacher in Psychology told me years ago as a young student. He said anytime I am invited to give a speech, I should remember a lady's skirt. You all know what a good lady's skirt looks like. It's usually short enough to be attractive, and long enough to cover the subject matter.

It can be argued however, that by registering to participate in this conference, you have all signed a submission agreement to be bound by every aspect of the conference programme, hence you are compelled to listen to me whether I am boring or not, and request for an arbitration hearing after the dinner.

The importance of ADR in Africa has been underscored by a story once told about a lawyer in Nigeria. When it was decided that he should proceed to the UK in the late fifties to acquire legal education, his community had to tax themselves to train him on the assumption that when he got back, he would deploy his legal skills to assist the members of his community who would need legal services. He qualified as a lawyer from the Lincoln's Inn in 1960 and came back home to set up shop in his community. Shortly after he started his practice, he landed an intractable land matter. By the way, he is from the Eastern part of Nigeria where land cases are very protracted. The case remained in court for about 25 years during which period he got married and had a son whom he eventually trained as a lawyer from the proceeds of his fees from the land matter which kept being recharged from time to time. When his son later joined his practice, he decided to go on vacation. The land matter came up while he was away and his son who was ADR compliant put a call through to the other counsel in the matter for them to have a meeting. At the end of the meeting, they were able to knock out a settlement which was eventually filed in court and made a judgment of the court. Elated, he put a call through to his Dad who was vacationing in the UK to give him the good news. When his father came on the line, he was speechless for a few minutes before telling his son that he just killed the goose that laid the Golden egg.

Shortly after the first ICAMA Biennial African Arbitration Roundtable Conference at Abuja, Nigeria in May 2014, Emilia sent out an email proposing to have a conference of arbitral institutions in Africa. Having sowed the seed, the idea thereafter germinated and the result is what we are witnessing today.

My task tonight therefore is really to celebrate what we have achieved at this one day event. I am not to provide new learning curve but rather, like a good dessert wine, aid the digestion of the numerous topics discussed earlier today.

The theme of this conference "The role of Arbitration Institutions in the Development of Arbitration in Africa" cannot be more apt. This conference is part of a project focused at promoting the growth of Arbitration in Africa. Perhaps other themes that we should deal with in the future are, "the role of courts and judges in supporting arbitration in Africa", the role of states in supporting arbitration in Africa". These thematic areas cover the broad spectrum of the issues that must be addressed to ensure that arbitration practice grows in Africa and for Africa to become a destination for international arbitration.

Imagine a situation where we have a uniform arbitration rules in Africa. Imagine a situation where we have an arbitral association known as the African Arbitration Association which all African arbitrators and any other person outside Africa can belong, to promote arbitration in Africa. These are the imperatives that we should be thinking about.

Let me conclude by congratulating the AU, Dr Emilia Onyema, the co-convener Justice Edward Torgbor and all those who have been involved in putting this conference together for their initiative and hard work in making it a reality. It is clear that this is the way to go if Africa will take its pride of place on the world stage. It is reassuring to note that Africa is the new bride in terms of commercial activities and growth. Arbitration institutions and practitioners must work assiduously to continue to promote the business of arbitration here in Africa.

Thank you for your kind attention.

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LAGOS, NIGERIA
2016

Group Photograph of Delegates at Lagos Court of Arbitration International Centre for Arbitration and ADR, Conference Hall, Lagos 22-24 June 2016


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SOAS
University of London


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SOAS
University of London


SOAS Arbitration
in Africa
Conference
Rethinking the Role of Courts and Judges
in Supporting Arbitration in Africa
22-24 June, 2016
Lagos, Nigeria


EXIT
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SOAS
University of London


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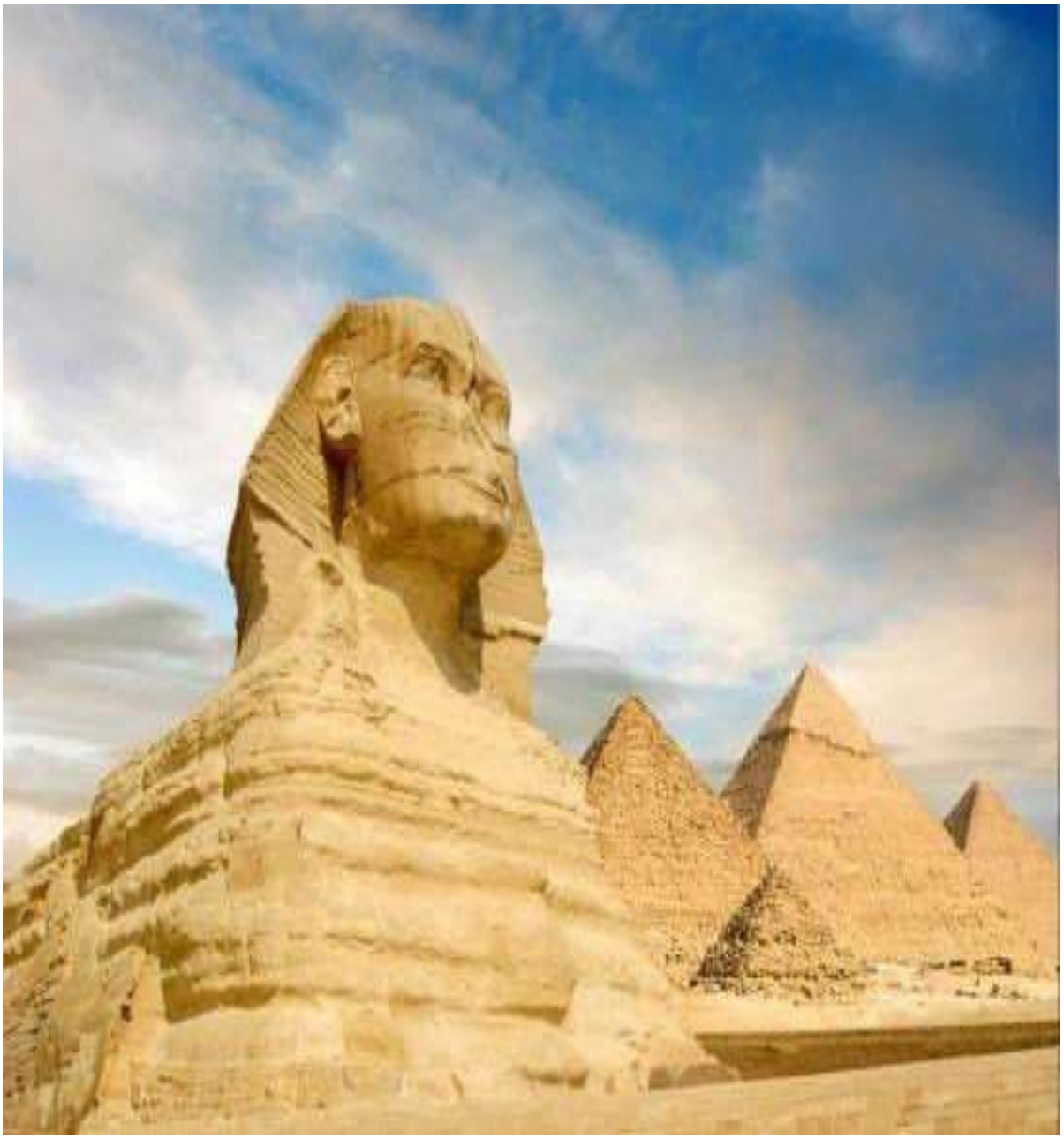
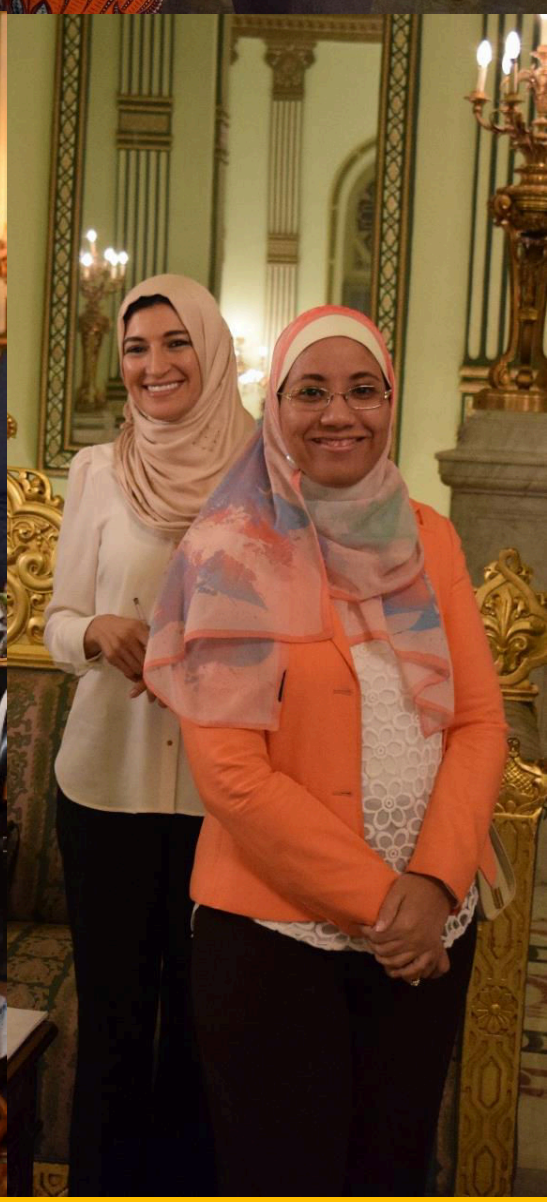
LCA
LAGOS COURT OF ARBITRATION

CAIRO, EGYPT
2017



Group Photograph of Delegates at Cairo Regional Centre for International Commercial Arbitration (CRCICA) 3 April 2017

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The Transformation of Arbitration in Africa
The Role of Arbitral Institutions
Wolters Kluwer


SOAS


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SOAS


Duncan Bagshaw
Speaker
SOAS
Steven Finizio
Speaker
SOAS
Antonio Crivellaro
Speaker
SOAS
Luis Gonzalez Garcia
Speaker
SOAS
Smrithi Ramesh
Speaker
SOAS
Xander Meeus
Chair
SOAS
Baiju Vasani
Speaker
SOAS


SOAS
SOAS


SOAS Arbitration in
Africa Conference 2017


ARBITRATION INSTITUTIONS IN AFRICA CONFERENCE
CAIRO REGIONAL CENTRE FOR INTERNATIONAL
COMMERCIAL ARBITRATION (CRCICA), EGYPT
3-5 APRIL 2017
Deline Beukes
Speaker
SOAS

KIGALI, RWANDA
2018


KIAC
Vision


ABN STUDIO


KIGA


Radisson
HOTEL & CONVENTION
CENTRE, KIGALI
SOAS


SOAS


SOAS


Radisson


SOAS Arbitration in Africa Survey
2018


Radisson


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KAC


SOAS


KIAC
KIGALI INTERNATIONAL ARBITRATION CENTRE
Efficiency in Dispute Resolution
Vision
TO BE THE LEADING CHOICE
FOR INTERNATIONAL
COMMERCIAL ARBITRATION
Mission
TO PROMOTE RWANDA AS
A VENUE OF EFFICIENT
ARBITRATION SERVICES AND
A CENTER OF EXCELLENCE
FOR RESEARCH AND TRAINING
OF PROFESSIONALS IN ADR
Efficiency in Disputes Resolution


SOAS


SOAS
KIAC


SOAS
University of London
100 Years
KIAC
KIGALI INTERNATIONAL ARBITRATION CENTRE
Efficiency in Disputes Resolution
SOAS
Arbitration in Africa
Conference 2018
The Role of Arbitratio
Practitioners in the
Development of
Arbitration in Africa
HOTEL & CONVENTION CENTRE, KIGALI


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KIAC
Vision
Mission


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KIGALI INTERNATIONAL ARBITRATION CENTRE
Efficiency in Disputes Resolution
Vision
TO BE THE LEADING CHOICE
FOR INTERNATIONAL
COMMERCIAL ARBITRATION
AND OTHER ADR SERVICES
Mission
TO PROMOTE RWANDA AS
A VENUE OF EFFICIENT
ARBITRATION SERVICES AND


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Vision
Mission


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23rd WCO ESA
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SOAS
Vision
Mission


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