

PROGRAMME OF EVENTS

NICArb 2020 VIRTUAL ANNUAL CONFERENCE AND INVESTITURE

Date: Wednesday 18 – Friday 20, November, 2020

Theme: Making Arbitration (and ADR) Work for Africa

Venue: Virtual

SCHEDULE

WEDNESDAY, 18 NOVEMBER

10.00 - 10.20 Registration, video/audio testing

Display of sponsors demos, brand and contact sharing.

Networking – attendees and sponsors (Text and video)

10.20-10.30 Welcome /Opening Remarks

Aare Afe Babalola, CON, OFR, FNIALS, SAN, FC Arb, President and Chairman,
Nigerian Institute of Chartered Arbitrator, Nigeria

Co-Chair, Planning Committee Address: **Mr. Adebayo Adenipekun, SAN**,
Member, Governing Council, Nigerian Institute of Chartered Arbitrators, Nigeria

10.30 -10.35 Goodwill Message: **Mr. Olumide Akpata**, President, Nigerian Bar Association,
Nigeria

10.35 -10.45 Guests of Honour: **Honourable Justice Monica Dongban-Mensem**, President,
Court of Appeal, Nigeria

10.45-11.00 Keynote Address 1: **Making Arbitration Work for Africa: Rethinking
Investment Treaties and Sustainable Development for Africa**

Keynote Speaker: George Kahale III, Chairman, Curtis Mallet-Prevost, Colts and Mosel LLP,
Washington DC, USA

11.00 - 11.15 Keynote Address 2: **Exploring the Institutional Opportunities in Mediation of
Investor-State Disputes in Africa: An ICSID Perspective**

KeynoteSpeaker: Martina Polasek, Deputy Secretary General, International Centre for Settlement of Investment Disputes, (ICSID), Washington D.C, USA

11.15 – 12.00 Plenary 1 (Breakout session): *Making Arbitration Work for Africa: Rethinking Investment Treaties and Sustainable Development for Africa.*

Background: International investment treaties are a key part of the legal framework that inspire confidence in the global economy. An inclusive global reform process should guarantee that investment treaties do not sidestep the developmental priorities of emerging markets, or compromise sustainability. Therefore, many developing countries are calling for a review and reform of the treaties regime, including in particular bilateral investment treaties between individual African states and foreign states. Concerns have been raised around the potential erosion of state authority on account of dispute resolution and anti-immunity clauses in a number of infrastructure investment contracts between African states and some lender states. Against the background of the mixed fortunes of Africa and the global South in international investment treaty arbitration, notions persist that investment treaties basically constitute an “*investors Bill of Rights*” and establish *businessman’s courts* that compel non-hegemonic sovereign states to be accountable to foreign corporations. How can investment treaties be reformed or interpreted to address Africa’s geopolitical apprehensions?

The panel will examine key issues relating to investment treaties in Africa, particularly in Nigeria. The session will examine the extent to which international investment treaties incorporate traditional investment standards and address national priorities, and propose a roadmap for reform.

Moderator: **Dr. Abubakar Isa**, Head, Department of International Law and Jurisprudence, Bayero University, Kano, Nigeria

Panelists:

Ms. Rose Rameau, Managing Partner, RAMEAU International Law

Dr. Roland Amoussou-Guenou, Partner, VovanTrocadelyo Group, Thailand

Mr. SeyeOpasanya, SAN, Partner, Olaniwun Ajayi, Nigeria

Professor Mark Feldman, Advisory Board Member, Institute for Transnational Arbitration (ITA), USA

11.15 - 12.00 Plenary 2 (Breakout session): *Review of the institutional and legal framework for Arbitration in Africa: A Way Forward?*

Background: The practice and application of arbitration in Africa has increased in the last decade. While Africa-related arbitration has kept lawyers and arbitrators busy for a number of years in traditional arbitration centres, the market is steadily changing, with an increasing number of arbitral centres such as NICArb and arbitral practitioners developing specializations.

As the market becomes more mature, notably in jurisdictions such as Nigeria, South Africa, Kenya, but also increasingly in francophone Africa, arbitrators are calling for African disputes arbitrated in Africa rather than 'exported' abroad to offshore centres at great cost in financial resources, national priorities, and environmental fidelity.

The panel will engage with the ICSID with a view to forging common causes of action to elevate the institutional practice of arbitration in Africa and reduce the export of African disputes to ICSID and other institutions, in appropriate cases, in order to conserve national resources, grow national and continental capacity, and address underrepresentation issues.

Moderator: Professor **Emmanuel Darakoum**, Permanent Secretary, Organisation for the Harmonisation of Business Law in Africa (OHADA)

Panelists:

Professor Jummai Audi, Chairman Law Reform Commission, Nigeria

Ms. Tafadzwa Pasipanodya, Partner, Foley Hoag LLP, Washington D.C, USA

Mr. Thierry NgogaGarkuba, Partner, Legal Line Partners, Kigali, Rwanda

Professor Rev. Fr.Edwin ObimmaEzike, Professor of Law, University of Nigeria, Nigeria

12.00 - 12.30 **Break**

Networking – attendees and sponsors (Text and video)

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12.30 - 13.15 Plenary 3:The Role of Arbitration (and ADR) in the Development of a Post-AfCFTA Africa

Moderator: **Dr. Gaston KenfackDouajni**, President, Association for the Promotion of Arbitration in Africa (APAA); Yaoundé, Cameroon,

Panelists:

Mr. Thomas Kendra, Partner, Hogan Lovells (Paris) LLP;

Dr. Andrew Nevin, Partner and Chief Economist, PwC Nigeria;

Mr. Paul Gbededo, Group Managing Director, Flour Mills Nigeria Group, Nigeria

Mr. Francis Anatogu, Senior Special Assistant to the President of Nigeria and Secretary National Action Committee on AfCFTA;

13.15 – 13.30 Networking Break

Networking – attendees and sponsors (Text and video)

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13.30 - 14.15 Plenary 4: Realizing the Full Value of ADR in Energy and Environmental Disputes in Africa

Background: Over the last decade, the importance of arbitration and ADR in resolving complex oil and gas, power, utilities, competition, mining, energy infrastructure and environmental justice disputes has been widely recognized. Increasingly, stakeholders in the fast-paced, dynamic and competitive energy markets have embraced the flexibility, speedy resolution, and relationship preservation values of ADR. However, ongoing transformations in global energy markets such as the diversification of the main primary energy sources (conventional and unconventional oil and gas, coal, renewables, nuclear and solid minerals); rise in global primary energy demand; changes to established means of energy supply and distribution; geopolitical uncertainties; environmental pollution; climate change; sharp drop in the price of oil since 2014; rapid technological innovations, and the impact of COVID19 pandemic on existing energy supply contracts, amongst other things all call for fresh approaches in the way regulatory and commercial energy disputes are resolved.

The panel will examine the evolving role of arbitration and ADR in resolving energy disputes, with focus on developments, challenges and opportunities for maximizing the full value of ADR in Nigeria's energy sector. Speakers will unpick international best practices and strategies that could help arbitrators to enhance the efficiency and enforceability of arbitral awards relating to energy disputes, especially with respect to long term petroleum contracts.

Moderator: **Professor Damilola Olawuyi**, Deputy Vice Chancellor, Afe Babalola University; Ado-Ekiti, Nigeria

Panelists: **Dr. Gabriel Suswam**, Chairman, Senate Committee on Power, National Assembly, Nigeria

Dr. Nnaemeka Ewelukwa, Managing Director, Nigeria Bulk Electricity Trading Company (NBET), Nigeria

Ms. Daniella Morris, Partner, WilmerHale International Arbitration Practice, Washington, DC. USA

14.15 Closing Remarks/Adjourn

THURSDAY, November 19

10.00 Welcome: Video/audio testing

Display of sponsors demos, brand and contact sharing.

Networking – attendees and sponsors (Text and video)

10.45 Remarks: **Hon. Justice Benedict BakwaphKanyip (FNIALS)**, President, National Industrial Court of Nigeria

10.55 Guest of Honour: **Mr.Cesar Apollinaire Ondo MVE**, President, OHADA Common Court of Justice and Arbitration, Abidjan, Cote D'Ivoire

11.00 Keynote Address: **The Nexus between Arbitration and Mediation: A Peep into the Singapore Convention on Mediation**

Keynote Speaker:Ms. Anna Joubin-Bret, Secretary, United Nations Commission on International Trade Law (UNCITRAL), Vienna, Austria.

11.15 – 12.00 **Plenary 5:***The nexus between Arbitration and Mediation: a peep into the Singapore Convention*

The entry into force of the UN Convention on International Settlement Agreements Resulting from Mediation heralds a major dilation of the international ADR field and elevates mediation from the disadvantage of party-discretion, into a place of justiciability by way of enforcement in national courts. Will the Convention, in practice, succeed in reforming international mediation outcomes? If, as the UNCITRAL had hoped, the Convention leads to a growth in settlement agreements, will there be a downswing in arbitrated disputes as a result? In other words, will the growth of one signal the decline of the other? Can arbitration and mediation grow side by side? What will be the growth enablers and critical drivers of such interdependence?

The session will explore the highlights of the Singapore Convention, and any lowlights for arbitration as a result; identify any tradeoffs required for collaboration, and recommend strategies for an intermodal synergy between arbitration as an established dispute resolution mechanism and mediation as a nascent enforceable mechanism of international dispute resolution.

Moderator: **Ms. Roscanna Ankama**, Alternative Chair, Kano/Kaduna Branch, Nigerian Institute of Chartered Arbitrators, Nigeria

Panelists: **Professor Lawrence Boo**, Head, The Arbitration Chambers, Singapore

Mr. Ben Giaretta, Fellow, Singapore Institute of Arbitrators; former, Partner, Dispute Resolution Department, Mishcon de Reya United Kingdom;

Dr. Adeyemi Agbelusi, Principal Partner, Berean Associates, Lagos, Nigeria

Ms. Boli Bintou, Permanent Secretary, Ouagadougou Arbitration and Mediation Centre, Ouagadougou, Burkina Faso

12.00 Keynote Address: **Exploring New Frontiers in Arbitration (and ADR): opportunities for growth of Arbitration (and ADR) in Africa.**

Keynote Speaker: Dr. Christopher Ward SC, President, International Law Association (ILA)

12.15 - 13.00 Plenary 6: *Exploring New Frontiers in Arbitration (and ADR): Opportunities for Growth of Arbitration (and ADR) in Africa*

Africa is the world's last frontier, and holds enormous potential for investment – in critical infrastructure and supporting systems. A robust market for investment must have a minimum level of assurance of the integrity and speed of dispute resolution systems for the many investment disputes that can be expected as a result. The entry into force of the AfCFTA is expected to push the frontiers of arbitration as intra-African trade grows and expands the field of arbitration into new areas like manufacturing, supply chain management, logistics, sourcing, venture capital and private equity, and professional services. What are the keys for unlocking the arbitration boom in Africa? What will be the enablers of a new culture of arbitrated (rather than court-litigated) disputes, where negotiation fails, in these frontier areas?

Panelists on this session will interrogate what opportunities there are for the growth of arbitration in Africa, in the under-arbitrated critical sectors of Africa's national economies, and define the function-specific actions required of critical stakeholders – governments, supranational bodies, subregional organisations, international civil society, and other non-state actors – if the prospects for arbitration's growth in Africa were to see the light of day.

Moderator: **Edward Luke II**, Managing Partner, Luke and Associates, Gaborone, Botswana

Panelists: **Ms. Annette Magnusson**, Secretary General, Arbitration Institute of the Stockholm Chamber of Commerce (SCC), Stockholm, Sweden;

Mr. Femi Falana, SAN, Principal, Femi Falana & Co; Lagos, Nigeria

Mr. Narcisse Aka, Secretary General, OHADA Common Court of Justice Arbitration Centre, Abidjan, Cote D'Ivoire,

13.00 - 13.15 **Networking Break**

Networking – attendees and sponsors (Text and video)

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13.15 - 14.00 Plenary 7: The New Normal: Positioning Africa's Post-COVID Arbitration Landscape through Digitization and Data.

No one foresaw the COVID19 pandemic. Yet, it has forced the global economy into an emergency of sorts. In a way of speaking, while COVID19 is the necessity, digitization and data are the invention. Global players with a leverage on technology have used the opportunities thrown up by the disruptions of the pandemic to thrive and lead change. Virtual working and remote conferencing applications have enabled court hearings, arbitration proceedings, post-award proceedings, moot arbitration sessions (notably the Willem C. Vis International Commercial Arbitration Moots) to continue unhindered. With low levels of high-speed internet penetration in Africa, especially mobile broadband, and the doubtful uptake of the controversial 5G technology, what are Africa's real chances at keeping pace with the rest of the world in terms of arbitration practice, training, enforcement and capacity building? What investments need to be made to achieve reasonable data and digitization levels to support the growth of Africa's arbitration? What data and digital leverage can the developed arbitration markets offer to Africa's nascent arbitration ecosystem?

This panel will identify the institutional needs of the African arbitration market, chart a pathway for incremental investments in digital and data, dimension the case for a long-term approach to digital and data management for Africa's pioneers in institutional arbitration as the path-makers for the march toward a digital penetration in the arbitration ecosystem in Africa.

Moderator: **Dr. Chidinma Thompson**, Partner, Borden Ladner Gervais LLP, Canada

Panelists: **Professor Louise Barrington**, Independent Arbitrator, Arbitration Place, Canada.

Dr. Ismail Selim, Director, Cairo Regional Centre for International Commercial Arbitration;

Mr. Oyetola Muiyiwa Atoyebi, SAN, Managing Partner, Omaplex Law Firm, Abuja, Nigeria

Ms. Esther Ngo Moutnguilkoue, Judge at the CCIA, Abidjan, Cote D'Ivoire

14.00- 14.45 Plenary 8: Closing the Gender gaps in the African Arbitration/Alternative Dispute Resolution landscape.

Bridging the gender gap in the African arbitration and ADR landscape can be either an opportunity or a temptation. And the clear distillation of policy and action imperatives will make the difference. Gender mainstreaming continues to hold significant promise for addressing imbalances and underrepresentation in industry, education and the workplace. Affirmative action has been shown to produce unsatisfactory effects, including in particular, the concept of reverse discrimination. Yet, doing nothing is not an option. Will it be a case of *robbing Peter to pay Paul*? Or will there be common ground regarding areas of policy intervention to enable further and greater inclusion of women in the different spheres of arbitration – panelists, counsel, experts, registrars, secretaries, assessors?

This panel will examine the opportunities for more inclusive engagement of women and girls in arbitration education and practice in Africa, especially in light of the cultural and traditional constraints prevalent in much of modern Africa. It is expected that the panel will draw on transnational data to illuminate the conversation and propose templates for action.

Moderator: **Professor Yemisi Bamgbose**, Chairman, Women Forum of the Nigerian Bar Association; Nigeria

Panelists: **Dr. SlyvieBebohiEbongo**, Co-founder and Partner HBE Avocats, Paris.

Ms. Mirèze Phillipe, Special Counsel at the Secretariat of the ICC International Court of Arbitration, ArbitralWomen Co-Founder & Board Member

Ms. Alice CodjiaEpseSohouenou, Mediation and Conciliation Arbitration Centre of the Benin Chamber of Commerce and Industry, (CAMEC-CCIB)

14.45 Closing Remarks/Adjourn to Investiture

14.50 – 15.00 Visit to sponsor e-booths for demos, downloads and contact sharing

Friday, 20 November, 2020

2020 INVESTITURE AND AWARD CEREMONY

PROGRAMMME

10.00 - 10.30 Registration, video/audio testing

Display of sponsors demos, brand and contact sharing.

Networking – attendees and sponsors (Text and video)

10.30 - 11.30 Plenary 9: **Mainstreaming Arbitration as a Preferred Resolution Mechanism for Maritime Disputes in Nigeria**

The maritime industry is a complex, highly specialized component of the commanding heights of the national economy. Its workings (or failings) have direct consequences for the day-to-day affairs of the man in the street. The laws governing the industry are understandably strict, and seek symmetry with international standards and conventions, rightly headlined by the International Maritime Organisation. From the Admiralty Jurisdiction Act, to the Merchant Shipping Act, to the NIMASA Act, to the Nigeria Ports Authority Act, to the Carriage of Goods by Sea Act, there is clear evidence of an eminent governmental will to regulate and supervise. Maritime arbitration has gained traction in the last several years, aided by the rise of international institutional capacity, and greater intergovernmental willingness and cooperation. The Arbitration and Conciliation Act provides a clear framework for the arbitration of maritime disputes – falling, as they rightly do, under the categorization for commercial disputes. Yet, maritime arbitration has been on the fringes of mainstream arbitration, lagging behind flagship arbitration-market industries like construction, merchandising, and sale of goods. Structural and systemic gaps in the maritime sector on the continent of Africa, especially in the West and Central Africa – weak capitalization, limited manpower, protracted courtroom litigation of disputes with its severe strain on the already-lean resource base – all the more strengthen the case for deepening the uptake of arbitration and ADR mechanisms as the preferred dispute resolution mechanism for stakeholders in the sector. What are the impediments to the uptake of arbitration by maritime players? What are their frustrations and fears?

This session will examine the challenges facing the development of maritime arbitration in Nigeria, and dimension the courses of action required of all stakeholders – operators, arbitrators, counsel, regulators, shippers, bankers and protection and indemnity groups – to advocate and drive change, and galvanize stakeholder consensus on the need to enthrone a regime of arbitration and ADR as a priority dispute management and resolution mechanism in the maritime sector on the Africa continent.

Moderator: **Mr. Matthew Egbadon, FC Arb**, Alternate Chair, Admiralty and Maritime Sectorial Committee, NIC Arb

Panelists: **Dr. Omogbai Omo-Eboh**, Principal Partner, Consolox Legal Practitioners, Lagos, Nigeria

Dr. Oluwole Akinyeye, Partner, OlisaAgbakoba, Lagos, Nigeria

Mrs Jean Chiazor Anishere, Principal Counsel, Jean Chiazor and Co, Lagos, Nigeria

Mr. Hassan Bello, CEO/Executive Secretary, Nigerian Shippers Council, Nigeria

Mr. Aminu Umar, Managing Director, Sea Transport limited, Lagos, Nigeria

11.30-12.30 Plenary 10: Treading Uncharted Ground: Examining the Prospects of Arbitration in Aviation and Transportation Disputes

In the last five years, the federal government of Nigeria has made significant investment in rail and road infrastructure. Completely new rail lines have been built, old lines have been upgraded, new contracts have been awarded, and new projects have been recently approved. The potential for increase in inland carriage contracts is huge, given the large population and land-mass of the country. The severe strain on existing road infrastructure greatly strengthens the case for an expected uptick in carriage of cargo by rail across the country. For its part, Nigeria's aviation sector has seen significant growth, accounting for about NGN100 billion of GDP. These growth numbers pale in significance when compared to the national potential. Nigeria's 25 airports averaged over 18 million passengers in 2019. Yet, only four airports accounted for over 90% of the passenger numbers, a self-indicting commentary on sad state and underutilization of a majority of the airports. In this light, the recent proposal of the government of Nigeria to concession the airports to private investors is a welcome idea.

Private management of this critical public infrastructure will call for significant investment, and should see a rise in air passenger traffic and carriage contracts. In this context, the stakeholders will need smart, effective, timely and efficient means of resolving disputes. Will arbitration step up to the plate? Nigeria lacks specialized arbitration institutional capacity comparable to the International Arbitration Court for Transport Justice (IACTJ) in Romania, or the Transport and Maritime Arbitration Rotterdam-Amsterdam Foundation (TAMARA) in the Netherlands. What institutional capacity can Nigeria lead all of Africa in developing? What are the investments needed to make this possible? What courses of action are needed to facilitate a move from the *possible* to the *probable*?

This session will decouple and deconstruct the issues around the development of transportation arbitration, interrogate the prevailing assumptions and help beat a path forward in this all-important, yet uncharted, territory of the national and international economy. The panel will also examine the existing legal challenges and how arbitration and ADR can facilitate speedy resolution, and boost investor confidence as a result.

Lead Speaker: **Mr. Yele Delano, SAN**, Managing Partner, Akin Delano Legal Practitioners

Moderator: **Hon. Justice FadimaMuritalaAmina**, Federal High Court, Abuja, Nigeria

Panelists: Mr. George M. Oguntade SAN, Principal Partner, GMO LEGAL, Lagos, Nigeria

Mr. ChukukaChukuma, Managing Partner, Racecourse Capital, Lagos, Nigeria

Mr. Kemi Pinheiro, SAN, Principal Partner, Pinheiro, LLP, Lagos, Nigeria

- 12.30 - 14.00** Sponsored session. Break
- 14.30- 14.40** Welcome/Introduction to Investiture
- 14.40-14.50** National Anthem
- 14.50- 15.00** Opening Remarks - **Aare Afe Babalola**, CON, OFR, FNIALS, SAN, FCARB, President and Chairman, Nigerian Institute of Chartered Arbitrator, Nigeria
- 15.00 - 15.10** Keynote Address on - Making Arbitration (and ADR) Work for Africa
- 15.15-16.15** Induction - Recognition and Admission of New Members
- Fellows
 - Members
 - Associates
 - Mediators
- 16.20 - 16.50** Recognition of Awardees
- 16.50 -17.00** Closing Remarks/Vote of Thanks