



AfAA 2nd Annual Conference

14 - 16 April 2021

"Reform and Innovation in International Dispute Resolution: African Perspectives"

PROGRAMME

PROGRAMME COMMITTEE

Bayo Ojo (Nigeria)
Emilia Onyema (United Kingdom/Nigeria)
Haytham Ali (Egypt)
Kathleen Mpofu (The Netherlands/Zimbabwe)
Lise Bosman (The Netherlands/South Africa)
Mohamed Hafez (Egypt)
Ndanga Kamau (The Netherlands/Kenya)
Njeri Kariuki (Kenya)
Vlad Movshovich (South Africa)

Chair:

Rukia Baruti (United Kingdom/Tanzania)



Wednesday, 14 APRIL 2021 (All times are GMT)

Annual General Assembly

(14:00 PM – 16.15 PM)

DAY 1 – Thursday, 15 April 2021 (All times are GMT)

(08.25AM – 08.30AM)

Welcome Remarks

(08.30AM – 08.40AM)

Opening Remarks

(08.40AM – 09.00AM)

Keynote Address

(09.00AM – 10.30AM)

Morning Session 1

Panel 1 - The AfCFTA Investment Protocol: An Opportunity to Converge and Propel the Pan African Investment Code

This panel will discuss whether and to what extent the PAIC's approach to promoting intra-Africa investment is a viable one by considering the factors that guided the PAIC such as the perceived imbalance between investor rights and host state's regulatory space and African host states' negative experience of ISDS. The panel will discuss whether the protectionist approach adopted by the PAIC is misdirected and risks constraining rather than promoting intra-African investment. The AfCFTA Investment Protocol represents an unparalleled opportunity for the African Union to evaluate and recalibrate the approach taken in the PAIC bearing in mind that the investments they seek to promote are from Africa and not from the traditional capital-exporting states.

Format: Panel Discussion followed by questions

COFFEE BREAK

(10:30AM – 11:00AM)

Morning Session 2

(11:00AM – 12:30PM)

Panel 2 - Dispute Resolution in African Regional Investment Agreements: Innovation or Stagnation?

This panel will discuss the a) COMESA Investment Agreement; b) ECOWAS Supplementary Act and related instruments; c) SADC Finance and Investment Protocol and Model BIT; d) OHADA arbitration rules; e) trends and innovation in recent African BITs, e.g. Morocco-Nigeria BIT, Cameroon-Canada BIT etc. This will lead to a wide and rich variety of policy and drafting considerations to discuss. Panel participants will give short descriptions of the relevant provisions, followed by a discussion on the similarities/differences between the instruments, innovative aspects and significance for dispute resolution on the continent in general. There should be an opportunity for questions to panel members at the end of the session.

Format: Panel Discussion followed by questions



LUNCH

(12:30PM – 14:00)

Afternoon Session 1

(14:00PM – 15:30PM)

Panel 3 – Current Initiatives and Proposals on ISDS Reform at Multilateral Levels

This panel will address ICSID rules amendment, the UNCITRAL WG III process, and recent innovations in treaty/BIT practice. There will be a briefing on ICSID Rule Amendment Project, including overview of current draft rules; briefing on the process, issues and reform options identified through the UNCITRAL WG III process; and recent innovations in treaty practice. This panel will also address the extent to which African States and specialists are contributing to these reform processes.

Format: Panel Discussion

COFFEE BREAK

(15:30PM – 16:00PM)

Afternoon Session 2

(16:00PM – 17:30PM)

Panel 4 – African Perspectives on Current ISDS Reform Options

The panellists will respond to questions designed to tease out the main features of various reform options (including dispute prevention; creation of a multilateral advisory centre; creation of a code of ethics for arbitrators; BIT reform; establishment of a stand-alone review or appellate mechanism and establishment of a standing multilateral first instance and appellate investment court system), highlight the advantages and disadvantages of each option from an African perspective, and identify how African stakeholders can contribute to, and participate in, the different reform options. The panellists will also critically evaluate whether and how the three reform processes could work towards addressing the existing weaknesses in the ISDS system

Format: Moderator Driven Question & Answer Session

DAY 2 – Friday, 16 April 2021 (All times are GMT)

Morning Session 1

(09.00AM – 10.30AM)

Panel 5 – Mediation is definitely NOT the poor cousin of Arbitration

Detractors of Mediation have oft times described the ADR Mechanism as a “*poor cousin*” of Arbitration. Panel 6 will prove otherwise by providing participants with a general overview of Mediation and why it fits so well within the African Milieu, be it historically, in a traditional sense or by virtue of its evolution into what we know it to be today. The Panel will explore the key elements of Mediation and why it should, at all times, be considered as a viable method of dispute resolution for application by all practitioners in Africa today. We will argue that it behooves practitioners to arm themselves with the necessary skills to advise their clients of the most appropriate ADR mechanism to be applied to a particular dispute and in so doing, shall give a picture of the Pros & Cons of Mediation in Africa. A very brief reference will be made to *The Singapore Convention*, being one of the latest developments on the Mediation Scene.

Format: Panel Discussion followed by questions



COFFEE BREAK

(10:30AM – 11:00AM)

Morning Session 2

(11:00AM – 12:30PM)

Panel 6 - The Singapore Mediation Convention: a game changer for mediation in cross-border disputes?

A careful analysis of the novelty of the provisions/measures; the commercial and legal implications of its protections; the likely rate of adoption of the Convention; and public policy debates around the Convention’s implementation. The suggested format is a lead paper presentation with three discussants to interrogate different aspects of the paper. There should be an opportunity for questions to panel members at the end of the session.

Format: One presentation followed by a series of shorter interventions by the discussants (with a debate in a panel context), then questions from the audience.

LUNCH

(12:30PM – 14:00)

Afternoon Session 1
(14:00PM – 15:30PM)

Panel 7A - High-Tech in International Arbitration and its Risks

This session look at trends and needs of artificial intelligence (AI) in international arbitration; data protection and the possibility of adopting the GDPR in international arbitration; cybersecurity risks in international arbitration; and whether blockchain will be the innovative and unsettling force reshaping international arbitration. Given the level of development and access to AI in Africa, what, if anything should be done to ensure that Africa is not left behind?

Format: Panel Discussion followed by questions

Afternoon Session 1
(14:00PM – 15:30PM)

Panel 7B - Belt and Road Initiative: What it means for Dispute Resolution in Africa

China’s “Belt and Road Initiative” spans more than 60 countries in Africa, Europe, Middle East and Asia and involves numerous investors, contractors and developers as well as states. It is inevitable that commercial disputes will arise. China has not only opened courts in Beijing, Xi’an and Shenzhen for this purpose, but it has also spearheaded the China Africa Joint Arbitration Centre in Johannesburg. While this shows China’s preparedness for such disputes, what if anything, has Africa done to prepare for them? This panel will discuss the opportunities presented to Africa by the BRI and how arbitration institutions in African countries can ensure that they are better placed to resolve such disputes.

Format: Panel Discussion followed by questions

COFFEE BREAK

(15:30PM – 16:00PM)



<p style="text-align: center;">Afternoon Session 2 (16:00PM – 17:30PM)</p> <p style="text-align: center;">Panel 8A –Protecting Human Rights through Arbitration: The Hague Rules on Business and Human Rights Arbitration</p> <p>Given the growing importance of issues relating to human rights and access to justice in business activities, this session will provide an analysis of arbitration and the rules as an effective means to protect human rights. A panellist will give an overview of the rules, including objectives, goals and key provisions. This will be followed by other panellists debating on whether the use of arbitration in this way will improve access to justice and provide an effective, alternative remedy to human rights violations as a result of business activities in the African context.</p> <p><i>Format: Debate</i></p>	<p style="text-align: center;">Afternoon Session 2 (16:00PM – 17:30PM)</p> <p style="text-align: center;">Panel 8B – Efficiency in International Arbitration: The Young Practitioner’s Perspective</p> <p>Whereas international arbitration has for years been seen as the most efficient method of resolving international disputes, lately, many are convinced that international arbitration has become less efficient and more costly. This panel, consisting of young practitioners, will give their views on what they think constitutes efficiency in international arbitration, what issues have impacted efficiency in international arbitration, and what, if anything, they think should be done to improve it.</p> <p><i>Format: Panel Discussion followed by questions</i></p>
<p>Presentation of Awards (17:30PM)</p>	
<p>(17:40 PM – 17:45PM) Closing Remarks</p>	