STANDARD AND SUGGESTED ARBITRATION CLAUSES FOR CONTRACTS

Future Disputes
“Any dispute arising out of or in connection with this contract, including any question regarding its validity or termination shall be referred to and finally resolved by arbitration under KIAC Rules“

Note — Parties should consider adding:
(a) The number of arbitrators shall be ... (one or three);
(b) The seat or legal place of arbitration shall be ... (town and country);
(c) The language to be used in the arbitral proceedings shall be...

Existing Disputes
“A dispute having arisen between the parties concerning (........), the parties hereby agree that the dispute shall be referred to and finally resolved by arbitration under KIAC Rules”

STANDARD AND SUGGESTED MEDIATION CLAUSES FOR CONTRACTS

Future Disputes
“ Any dispute, controversy or claim out of or in relation to this contract, including the validity, invalidity, breach or termination, thereof, shall be submitted to mediation in accordance with the Kigali International Arbitration Centre Mediation Rules in force on the date when the request for mediation is submitted.”

Existing Disputes
“The undersigned parties hereby agree to submit to mediation in accordance with the KIAC Mediation Rules of the following dispute (Brief description of the dispute)

SUGGESTED CLAUSE FOR MEDIATION FOLLOWED BY ARBITRATION
“Any dispute, controversy or claim out of or in relation to this contract, including the validity, invalidity, breach or termination, thereof, shall be submitted to mediation in accordance with the Kigali International Arbitration Centre Mediation Rules in force on the date when the request for mediation is submitted in accordance with these rules.

If such dispute, in controversy or claim has not been fully resolved by mediation within one month from the appointment or the confirmation of the mediator, it shall be settled by arbitration in accordance with the Kigali International Arbitration Centre Rules.”
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KIAC PROFILE

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 a Center of excellence for research and training of professionals in ADR

Members and Structure of KIAC
The Centre has a governance Board of Directors (BoD) comprised of seven (7) members appointed by the Private Sector Federation (PSF) from professional associations and international members with knowledge and practice in international arbitration. The BoD is advised by an International Advisory Board comprised of renowned international arbitrators.
For the day to day management, the Centre has a Secretariat led by the Secretary General appointed by the BoD, with a support management and operational team.

Services and Procedures
KIAC administers cases under KIAC arbitration Rules and UNCITRAL Arbitration Rules. Parties may agree in part or wholly KIAC arbitration rules, a modern set of rules consistent with international best practices and covering all aspects of the arbitral proceedings. Arbitration services under KIAC are very cost effective with a schedule of fees allowing the costs of KIAC arbitrations to be kept in line with the size and the complexity of the cases referred to the Centre.

KIAC boasts of world-wide panel of experienced, credible and independent arbitrators. Parties to KIAC arbitrations are free to nominate their arbitrators, subject to confirmation by the Centre in accordance with the KIAC Rules. When KIAC is called upon to appoint an arbitrator, it does so primarily from one of its panels.

KIAC offers professional mediation services under KIAC Mediation Rules (2014).
The Centre is committed to providing high quality logistical support to its users for the organization of the hearings in Kigali; provision of suitable rooms, secretarial and catering services.

For more information please visit our website on www.kiac.org.rw or email us at info@kiac.org.rw
Message from the Chairman Board of Directors

Over the past few years, Africa has seen a significant increase in investment and with all its economic activities, it is projected that there will be significant increase in commercial arbitrations as well. This therefore calls for a strong need to set up a credible system and a conducive environment that supports effective and efficient resolution of commercial disputes. Consequently, there has been steady growth of Arbitral institutions in Africa.

In Rwanda, the concept of arbitration is steadily evolving. Reflecting the vitality of KIAC, the fourth year of operation was an eventful year as we continued to consolidate Rwanda as a leading choice for international Arbitration and other Alternative Dispute Resolution (ADR) services. Our pursuit for excellence commenced with significant changes in our business environment as we unveiled KIAC’s new Office that meets the standards that the world uses to judge the quality ADR services. At the same time, in a colorful ceremony together with stakeholders, we celebrated the various milestones achieved during the implementation of the ADR Project that supported KIAC’s operationalization. We are indebted to Government of Rwanda, Investment Climate Facility for Africa (ICF), Private Sector Federation that supported the growth of the centre right from the inception until today.

The momentum from previous years calls for us to raise the bar higher as we set the stage for all key stakeholders to embrace Arbitration and other ADR mechanisms. Our strength lies in Rwanda's history of its unique mutual dispute/conflict resolution approach that is embedded in our culture and has proven to be successful since the pre-colonial era to date. Together with our stakeholders, 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. As we continue to mobilize foreign investment, there is a need for the business community and professionals to pay particular interest and understand the consequences of their choice when it comes to the arbitration clause and venue of choice for arbitration used in their contracts. On the international scene, there is a need for increased awareness among investors on the ability of KIAC as an efficient arbitral institution.

The above list of priority initiatives is not exhaustive. There are many other responsibilities that I believe that by building on the strong relationships with the private sector, the Government of Rwanda and development partners, together, we shall successfully contribute to sustainable use and improving the processes of arbitration and other forms of resolving international commercial disputes. I look forward to working together with you in the coming years.
Message from the Secretary General

We started our year with an ambitious agenda to effectively promote KIAC and our services in Rwanda and beyond. We met with current and potential users of Arbitration and other Alternative Dispute Resolution (ADR) services with the aim of informing them of KIAC services, our achievements, our vision and discuss potential areas of partnership. We conducted a wide range of meetings with selected stakeholders notably; selected Embassies, Development partners and public institutions and encouraged them to use KIAC Contract Arbitration clauses and to choose Rwanda as a seat for international arbitration.

We organised our fourth symposium and engaged in knowledge sharing initiatives at International Conferences that further encouraged networking with arbitration practitioners worldwide. We participated at local and international fairs in the EAC region and beyond. What is more exciting is that these efforts are gradually paying off, and the number of both local and international arbitration cases conducted at KIAC continues to grow annually. We can confidently say that KIAC is undoubtedly contributing to enhanced cross-border trade, investment and contract enforcement in Rwanda. Our vision to ultimately improve investor confidence in Rwanda is taking shape. To us, this is a statement of confidence that Rwanda is playing a key role in positioning Africa on the market of International Arbitration.

One of the centre’s strengths that have contributed to increased investor confidence in the Centre’s capacity to provide arbitration services, is among others, the diverse expertise and background of our panels of arbitrators. Early this year, we sent a call for application that attracted applications from renowned International Arbitrators far exceeding our expectations. We enrolled 34 international arbitrators from 11 countries meeting KIAC criteria. These will complement the already admitted members of our panels and their profiles are made available on KIAC website.

In order to increase KIAC’s visibility and share information with a range of stakeholders, a quarterly online newsletter was developed and distributed to our stakeholders. The newsletter is uploaded on the website for retrieval by visitors.

Sharing practical learning opportunities was another priority for KIAC this year. We conducted capacity building programs leading to ACIArb. We also saw an increased number of law students that took advantage of the internship opportunities to develop their legal skills at KIAC. For this, we received a Certificate of recognition from Institute of Legal Practice and Development (ILPD). They contributed to our research agenda by developing research papers and assisted in collecting and cataloguing the arbitration practice in Rwandan Courts. This will contribute to shaping the centre’s future strategy.

I wish to express my personal appreciation to the KIAC Board of Directors through their different Committees and the ADR project steering committee whose outstanding guidance and hard work made possible these accomplishments and made this year another success. I appreciate diligent efforts and the dedication of the staff that ensured that KIAC is able to fulfill its important role in availing access to justice for our clients. I look forward to your continued support over the coming year.
Kigali International Arbitration Centre (KIAC) was established by an Act of Parliament as stipulated by Law No 51/2010 of 10/01/2010 with a mandate to help domestic and international business community to resolve commercial disputes in an amicable way. The Centre’s objective is to therefore supplement efforts undertaken by the Judiciary and to provide time saving and cost effective means of settling disputes to the business community, public institutions and people from the region and beyond with the aim of increasing Investors’ confidence in Rwanda. Over the past four years of operation, KIAC has focused on improving the infrastructure required to deliver quality services in arbitration and creating conducive environment for effective use of arbitration practice and other friendly ways of dispute resolution in Rwanda. KIAC management has identified the centre’s core business as it is derived from its attributions under article 4 of the Law establishing its organization, functioning and competence which can be summarized into four components below:

1. Provide disputes resolution services through arbitration and other Alternative Dispute Resolution (ADR) services;
2. Promote ADR through public education, publication and research;
3. Training and accreditation in ADR;
4. To promote Rwanda as a venue of International arbitration and advise the Government in arbitration matters.

As KIAC celebrates its 4th year of operation, our focus was on increasing the quality of ADR services offered to our esteemed users nationally, regionally and internationally. In order to achieve this goal, KIAC increased its efforts in capacity building to help parties manage arbitration, mediation as well as other Alternative disputes resolution mechanisms. This report describes accomplishments within the financial year of July 2015-June 2016.
1 Key Achievements in Service Delivery

1.1 Arbitration Caseload

Since May 2012, KIAC has recorded a continually increasing arbitration case load of 40 cases. This is a milestone to be celebrated considering that it takes between 3-4 Years for a newly established centre to administer cases. Nationalities of parties to the cases are from USA, Rwanda, Kenya, Italy, Pakistan, Senegal, South Africa, Dubai, Germany and Zambia. The amount in dispute varies up to 6,000,000$USD

1.1.1. Summary of the profile of the cases filed with KIAC

Below is a summary of the profile of cases filed with KIAC

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<thead>
<tr>
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<tbody>
<tr>
<td>Cases Filed</td>
<td>5</td>
<td>12</td>
<td>11</td>
<td>12</td>
<td>40</td>
</tr>
</tbody>
</table>

![Cases Filed Chart]
INVEST WISELY.
CONSIDER ARBITRATION UNDER KIAC.

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<tr>
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<tbody>
<tr>
<td>Cases Received</td>
<td>4</td>
<td>6</td>
<td>8</td>
<td>9</td>
<td>27</td>
</tr>
</tbody>
</table>

**Cases Received**

![Cases Received Chart]

- **Cumulative total for 4 Years**: 27
## KIAC cases by market industry

<table>
<thead>
<tr>
<th>Market Industry</th>
<th>Previous</th>
<th>2015-2016</th>
<th>Cumulative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction/Engineering/Infrastructures</td>
<td>10</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>Energy</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Services</td>
<td>4</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>Supply of Goods and Equipment</td>
<td>5</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Pharmaceutical/Biotechnology/Health Care</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Transport/Logistics/Shipping</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Shareholding/Sale agreement</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Mining</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

![Graph of KIAC cases by market industry](image-url)
2 Institutional Development

2.1. KIAC State of the Art Office unveiled as Rwanda celebrates the Success of the Alternative Dispute Resolution Project (ADRP)

Our eventful year started with the unveiling of the state-of-the-art KIAC office located in Nyarutarama on 31st July 2015. The rise of Rwanda as an international venue for arbitration, called for acquisition of the state-of-the-art office facilities to enable KIAC serve better our clients from the region and beyond.

On the same day, stakeholders from the Government of Rwanda, ICF and PSF other partners converged to celebrate the successful implementation and the official closing of the Alternative Dispute Resolution Project (ADRP) at KIAC’s newly unveiled office. Speaking during the closing ceremony, Mr. Faustin Mbundu, the Chairman of KIAC Board of Directors, said that the ADR Project supported the operationalization of KIAC.
to deliver efficient, timely solutions that promoted Rwanda as an international seat of Arbitration and promoted KIAC as a Centre of excellence for ADR practitioners. He was thankful to the support from the Government of Rwanda (GoR) and the Rwanda Private Sector Federation (PSF) for creating the right environment for ADR to flourish, and the Investment Climate Facility for Africa (ICF).

Hubert Hourizene, ICF Project Director, said, “KIAC complemented the efforts of ICF and the Government of Rwanda in easing access to commercial justice which started 7 years ago with the modernization of and establishment of commercial courts.”

Some of the milestones achieved during the implementation of the ADR project were;

- Establishment of a pool of professionals in arbitration and other alternative dispute resolution (ADR) mechanisms. By the closure of the ADR project; 260 arbitrators had been trained and certified by the Chartered Institute of Arbitrators-UK, making Rwanda the 3rd country in Africa with the highest number of accredited arbitrators. Of the 40 professionals trained in Commercial Mediation Skills, 31 passed exams and are now accredited mediators by the Centre for Effective Dispute Resolution (CEDR-UK). To meet the increasing demand of using Adjudication in construction industry, in partnership with the Kuala Lumpur Regional Centre for Arbitration (KLRCA). 27 of the 53 trained professionals passed the course and are now certified adjudicators who are also members of the KLRCA adjudication panel in Malaysia.

2.2. Board of Directors

The fourth Board of Directors’ meeting was convened on December 17th 2015. After a presentation on the status of KIAC’s activities and the caseload in the previous year, the centre’s audited financial statement of operations for the year ending on 30th June 2015 was presented by the external auditor. The Chairman commended the great work accomplished by KIAC executive. Among the recommendations, the BoD approved the KIAC Operations Procedural Manual and Strategic plan. It was recommended as a next step after the operationalization of the Centre to think about a Membership structure. Membership should be open to users and providers. During the meeting, the Chairman revealed the change in KIAC Management as the former Secretary General and the Registrar expressed their intention to leave KIAC. They both committed to continue supporting KIAC where need be.
2.3. KIAC Domestic and International Panels of Arbitrators revamped

As KIAC aspires to take its seat in the International arena and as the leading Arbitration centre in Africa, KIAC revamped its panels of international and domestic arbitrators. A call for application launched internationally made an excellent start with very encouraging application numbers. After a thorough vetting process, a total of 30 new high profile international arbitrators worldwide were admitted in May 2016. KIAC now boasts of arbitrators from over 28 countries worldwide.

Remarkably, another call for application for domestic arbitrators led to the enrollment of 20 new domestic professionals in June 2016. The new arbitrators enrolled consist of highly accomplished and respected experts with exceptional expertise and diverse experiences across a wide range of fields. Their enrollment reflects the user confidence globally in the quality and efficiency of the case management services provided by the KIAC Secretariat. The high turn up of applicants can be attributed to KIAC’s growing reputation globally, and the growing interest in international arbitration among professionals that completed the capacity building programs organised by KIAC.

All this serves to position the Centre strategically as the premier choice of Arbitration and ADR Services in the East African region and beyond. The panel is made available on KIAC Website and is used both for arbitration under KIAC Rules and appointment by Courts. Parties to KIAC Arbitration are free to nominate their arbitrators, subject to confirmation by the Centre in accordance with the KIAC Rules. When KIAC is called upon to appoint an arbitrator, it does so primarily from one of its panels.

Admission to KIAC panels is by invitation from the Chairman of the Board of Directors advised by the Secretary General to ensure that panels are managed in reference with the need of the Institution. The powers of the Board with regard to the admission to the panels are exercised by the KIAC Arbitration Committee set up by the Board under the KIAC Internal Rules and Regulations. The KIAC Board reserves the right, in its absolute discretion, to admit or refuse the admission of any person to the panel as well as to remove any person from the panel at any time.
3 Awareness and Marketing of the Centre

3.1. Intensive Awareness Campaigns conducted

Pan Hejun, the Ambassador extraordinary and Plenipotentiary of the Peoples Republic of China (c) meets with Dr. Masengo Fidèle, the KIAC Executive Director and SG, and Li Shanshan, Third Secretary, April 2016

The continued growth of our network of stakeholders has been a result of our ambitious agenda to engage with selected stakeholders within Rwanda. Over the year, we conducted several meetings to consolidate Rwanda’s image as a venue of efficient Arbitration services and a Center of excellence for research and training of professionals in ADR.

Among the meetings conducted, include sessions with the Head of Delegation of the European Union, Ambassador at the Netherlands Embassy, Ambassador of the People’s Republic of China, and Kenya High Commission in Rwanda, Representatives of the Head of Mission USAID, Country Director Trademark EA, UNECA, SIDA.

In the same campaign geared towards professionals, the KIAC top management met with members of the Association of Microfinance Institutions in Rwanda (AMIR) and the legal team at RURA and Vision Finance company. Through these meetings, a mutual partnership has been established on how to solve complex business disputes, involving international interests and multiparty attendance.

They were informed about the benefit of using the KIAC dispute resolution clauses in their contracts amongst the local and international business community they represent. The KIAC top management will continue to meet with various institutions, development partners, the business community and other stakeholders to raise KIAC’s profile and the gradual recognition and acceptance of ADR in Rwanda and beyond.
In order to raise awareness on KIAC and arbitration services, the Centre continued to educate the public and potential users in Rwanda about KIAC services in Arbitration and Mediation using radio and TV talk shows. KIAC was introduced to Africa and beyond on CNBC Africa TV during the Power Lunch East Africa. The link to the interview was published on KIAC social network pages and was viewed by over 788 shares and 3000 followers online.

3.2. KIAC Arbitration Symposium Organised

As part of KIAC’s continuous efforts to institutionalize knowledge sharing on Arbitration practice, KIAC organized the 3rd Arbitration Symposium on 17th December 2015 at LEMIGO Hotel-Kigali. The symposium that was attended by over 30 participants was organised under the theme "Challenges, Recognition and enforcement of a foreign arbitral award: comparative experiences".

It was a memorable learning experience for participants who drew from the wealth of knowledge from the international speakers that presided over the Symposium notably; Mr. Von Krause Christophe (France); Chief Tinuade Oyekunle (Nigeria) and Barley Pillay, (Mauritius). Hon. Justice KIBUKA M. Jean-Luc (Rwanda) and Mr. Ngoga Gakuba Thierry (Rwanda) shared their domestic experience.

While opening the Symposium, the KIAC Secretary General (Ag.), Dr. Masengo Fidèle said, "the Arbitration Award enforcement regime is one of the major aspects that guides parties and their counsels to determine the seat of arbitration." Professionals therefore should discuss the challenges a successful party may encounter in seeking the enforcement of an arbitral award.”

Speakers critically examined and shared their experiences on the challenges to international arbitration awards, and enforcement of awards in different jurisdictions. Beyond addressing what is required and the steps to be taken when seeking enforcement; speakers focused on how different jurisdictions have dealt
with the issue of public policy in practice. Questions from participants that had been submitted in advance were also discussed.

After fruitful discussions, Mr. Mbundu Faustin, the Chairman of KIAC Board of Directors delivered closing remarks and thanked everyone for the valuable work done. He reiterated the fact that the Symposium was a right venue where legal professionals and other people interested in arbitration were given opportunity to discuss several issues relating to challenge, recognition and enforcement of arbitration awards. He concluded his speech by reminding KIAC and other stakeholders involved in arbitration to apply all good lessons learnt from the discussions in order to improve the legislation and the practice on the matter regarding arbitration award and enforcement.

3.3. KIAC Participation at the Annual Trade Fair and Expo

In partnership with the Private Sector Federation, KIAC conducted a broad outreach to sensitize Rwandans on the benefits of using Arbitration and ADR at the ‘Buy Made in Rwanda’ expo from 25th February- March 2nd 2016 at Gikondo Show Grounds.

At the PSF stand, KIAC met with about 250 local exhibitors showcasing their locally-made products as well as thousands attending the fair. It was an opportunity to explain to them in detail the Centre’s services and enlighten them on the benefits of Arbitration and ADR and also advise them on how to adopt the KIAC arbitration clauses in their contracts. The fair was organised by the Rwanda Private Sector Federation (PSF) and the Ministry of Trade.

3.4. Regional and International Marketing Awareness

3.4.1. 20th East Africa Law Society Annual Conference and General Meeting

In an effort to reach out and increase its visibility to potential stakeholders in the EAC Region, Kigali International Arbitration Centre (KIAC) attended the EAC region’s premier regional Bar Association meeting - East Africa Law Society Annual Conference and General Meeting from 27th - 28th of November 2015. The conference was organised under the theme “The Legal Profession as a vehicle for trade and investment in East Africa”.

At the KIAC exhibition stand, we showcased the Centre’s services to around 400 lawyers from the national Law Societies of Burundi, Kenya, Rwanda, Uganda, Tanganyika and
Zanzibar and selected guests from the Southern African Development Corporation (SADC) and The Economic Community for West African States (ECOWAS) regions. Enquiries about KIAC services were received on various topics of interest like participation at KIAC annual conferences and symposiums, how to use KIAC Model clauses for contracts, how to enroll in the KIAC capacity building programs, enrolment onto the KIAC panel of Arbitrators etc. Interestingly, there were some lawyers with limited knowledge on KIAC Arbitration; this was another opportunity to briefly inform them of the concept as well as its benefits. This will no doubt increase KIAC visibility to these potential stakeholders that KIAC would not be able to reach.

3.4.2. KIAC participates at International Council for Commercial Arbitration Congress (ICCA congress)-Mauritius

One of the strategies adopted by KIAC is maximizing the Centre’s visibility through active participation at the world’s leading events in international Arbitration. KIAC participated at the largest conference devoted to international arbitration; the International Council for Commercial Arbitration Congress (ICCA congress) from 8th-11th May 2016 in Mauritius at the Swami Vivekananda International Convention Centre in Pailles. The Congress which was for the first time in 50 years hosted by an African country, was organised under the theme “International
Arbitration and the Rule of Law: Contribution and Conformity.” In his opening remarks, the UN Secretary General Ban Ki-Moon said that arbitration contributes to economic development, protects human rights and deepens partnerships of business community.

The major debate focused on how to position Africa as the next major destination for International Arbitration. Rwanda’s participation was therefore a timely and a strategic move to position Rwanda as a premier hub in Africa for international Arbitration and also showcase KIAC’s commitment and capability in effectively and efficiently delivering Arbitration and other ADR services.

Apart from LCIA-MIAC, KIAC was the only African Arbitration centre with an Exhibition stand among others from US, Europe and Asia. We showcased what makes Rwanda stand out as an arbitration hub, shared our experiences and highlighted the opportunities that exist for the experts from a wide range of firms and jurisdictions in attendance. Participants were impressed by KIAC’s impressive caseload compared to LCIA-MIAC’s single case within four years. Many renowned participants expressed interest in joining the KIAC panel of International Arbitrators. Furthermore, KIAC used the congress to network and explore opportunities to form Alliances with other ADR bodies, particularly many of whom may well not have heard of KIAC until its services are brought to their attention. The Congress was an ideal platform to explore opportunities for partnership with fellow practitioners. The KIAC SG had fruitful networking sessions with ICC officials who are keen on supporting KIAC in Capacity building, Research and publications. The congress was attended by over 900 participants globally including Chief Justices, Attorney Generals and Ministers, Arbitration practitioners and Academicians.

3.4.3. KIAC shares experience at Conference on Arbitration - Mauritius

As part of KIAC's commitment to building and promoting the Arbitration practice in Africa, Dr. Masengo Fidele, shared the KIAC experience on international Arbitration practice as one of the speakers a Conference under the theme "Arbitration - It’s Time for Africa: A View From the Arbitral institutions". The conference that was well attended was organized by the Mauritius Arbitration and Mediation Center (MARC) and the Mauritius Chamber of Commerce and Industry (MCCI) on 11th May 2016 at the Labourdonnais Waterfront Hotel, Port Louis.

For KIAC to be on the panel of speakers is a statement of confidence that the world acknowledges the centre’s existence and contribution to the promoting Africa as a venue for International Arbitration. Since then, KIAC has been invited to several international conferences.

Dr. Masengo shares the Rwandan Arbitration experience at the session organised by (MARC) and (MCCI)
3.4.4. KIAC Participates at the 1st ICC Africa Regional Conference

KIAC was represented at the first International Chamber of Commerce (ICC) Africa Regional Arbitration Conference in Nigeria from 19th - 21st June 2016 that brought together 500 participants across the continent and beyond. The conference was organised under the theme, "Arbitration and Africa: Prospects and Challenges" and was organised by the International Court of Arbitration (ICC) and ICC Nigeria.

The conference focused on the relationship between inward foreign investment, types of disputes which may arise and the African experience in arbitration proceedings. It was another occasion for participants to deliberate on how to respond to the urgent need for African countries to put in place a robust dispute resolution mechanism in order to actualize their vision of becoming the next major destination for foreign direct investments. The lack of an efficient dispute resolution mechanism might be a major disincentive. The key areas of discussion at the conference included Africa and investor-state dispute settlement; impact of the judiciary on arbitration in sub-Saharan Africa; cost of arbitration in sub-Saharan Africa; role of in-house counsel in arbitration proceedings; and abuse of process in international arbitration and the willingness of counsel to accept the outcome of arbitration in sub-Saharan Africa.

3.4.5. KIAC represented at the School Oriental and African Studies (SOAS) Conference on Arbitration - Nigeria

The KIAC SG, Dr. Masengo Fidele attended as one of the speakers at the School of Oriental and African Studies (SOAS) of University of London Conference that took place at the Lagos Court of Arbitration Centre Conference Hall from 5th - 7th July 2016. The conference was organised on Rethinking the Role of Courts and Judges in supporting Arbitration in Africa.

This conference focused on courts and judges as the primary stakeholders in the promotion of arbitration in Africa. The presentations in this conference critically examined the current disposition of the courts and judges from various regions of the continent through their judgments and comments in arbitration related disputes they adjudicate and objectively assess their contribution and attitude to arbitration. KIAC’ SG shared to participants on the rich Rwandan practice and received positive feedback to its very progressive arbitration caseload of the then 38 cases and how the centre has gained the trust around the region and beyond. Many lawyers and arbitrators expressed their intention to learn from KIAC practice and inform their clients about their potential use of KIAC arbitration for future contracts. More exciting is that as one of the recommendations from the conference, the next SOAS conference will be held in Rwanda in 2018. This will be a great opportunity for Rwanda to significantly contribute to the on transformation and enhancing the use of arbitration as the dispute resolution of choice within the African continent and beyond.
4

Creating Local Capacity in Arbitration and other ADR mechanisms

4.1. KIAC organizes 4th Course leading to Associate Member of the Chartered Institute of Arbitrators (ACIarb)

Training and certification of professionals has been the most effective way of fostering a sustainable pro-arbitration culture and ensuring greater efficiency among professionals in Rwanda and in the region. It is in this scope that Kigali International Arbitration Centre (KIAC) organised the fourth session of the comprehensive introductory course leading to Associate level-ACIarb for professionals from April 28th-29th 2016 at Lemigo Hotel.

In her opening remarks, Mme Isabelle Kalihangabo, the Permanent Secretary/Solicitor General, Ministry of Justice said, it is in the vision of Rwanda’s judiciary to ensure that disputes are resolved using arbitration and other friendly mechanisms of dispute resolution. This will increase access to justice while reducing the backlog in the courts. However, to achieve this, we require trained ADR professionals in the country. She requested the participants that
although Arbitration is a business, it should be superseded by the passion to provide justice to all, and reminded them of ethical values such as integrity, truthfulness, competence, diligence, and selflessness.

29 out of the 34 participants that attended the training passed and are now accredited arbitrators. They are from various professions including Banks, law chambers, mining and construction industry, corporate and public institutions, within Rwanda and the EAC community. Those who succeeded are now eligible to apply and become members of the KIAC panel of domestic arbitrators in case of the candidate fulfills other criteria in KIAC Arbitration rules. The training was facilitated by the Chartered Institute of Arbitrators (CIarb) - UK though their Nairobi Branch. Dr. Masengo Fidele, the KIAC Secretary General highlighted that the Centre’s capacity building initiative has facilitated the creation of a pool of ADR professionals in the country. Within four years of operation, over 334 professionals have been trained in arbitration and 288 are now accredited by the Chartered Institute of Arbitrators-UK. This makes Rwanda among the top three countries in Africa with the highest number of well trained and certified arbitrators in Africa. Interestingly, KIAC has trained 13 international professionals from the EAC region and one arbitrator from the United States, Switzerland and South Sudan.
With the use of international and domestic arbitration becoming more widespread in Africa, Rwanda is known now to have a steady growth of arbitration within the region as well as the continent. KIAC has tremendously contributed to shape the image of Rwanda in ADR. The Center has played a key role in the establishment and the development of International arbitration in Rwanda and the whole region. In fact, being one of the busiest centers in the region with its 40 caseload in only four years, KIAC’s outstanding performance cannot be underrated. Despite this, the Centre still has important challenges, notably, insufficient staffing, the lack of enough capacity building activities, the insufficient awareness campaign activities and the lack of sufficient financial funding.

As KIAC strives to become a fully fledged Centre serving Africa and beyond, there is a pressing need to increase its capacity with adequate and experienced staff needed as elaborated in the newly approved organizational structure, that will implement KIAC’s mandate, policies and available technologies. As a newly established institution, KIAC invested much in building the capacity of its managerial and technical staff during its first three years. During this year, KIAC's longest serving staff, notably the Secretary General and Registrar resigned from their positions for their personal reasons. This had a major setback on the Centre. However, this was partially managed as the Board of Directors appointed one of the Board member who now serves as an interim Secretary General of the Centre. The title of Registrar, which was changed during the Board meeting to Deputy Secretary General, is still vacant. There is an urgent need to fill this position.

Secondly, during the course of the year, the Centre lacked sufficient funds to conduct massive capacity building for the key sectors in the business community. In fact, for any ADR institution to stand the test of time, having a good number of well qualified professionals composed mainly by mediators and arbitrators is a prerequisite. The qualified professionals hold the key for quality service expected from the ADR Center by its users. It is unfortunate that only few trainings were organized this year in arbitration. No training was conducted
in mediation.
Thirdly, there is a need for the Centre to reinforce public sensitization and awareness activities to create a stronger capacity to persuade potential users to act more effectively and to cooperate with the centre. Due to limited personnel and funding issues, only few activities related to public education and awareness campaigns were conducted this year. The report has pointed out the few activities conducted in this scope. Given the increasing numbers of International Arbitration Centres, for a newly established Centre, there is need to continue raising awareness among stakeholders about KIAC, its mission, its accomplishments and practice and also including KIAC model clauses in their contracts.
Finally, it is very challenging to secure a sustainable way to finance the Centre's activities. During the first three years of its operation, the ADR project supported the operationalization of KIAC supported by funded by Government of Rwanda, ICF and PSF. The funding from the Rwandan Government and the Private Sector had ended during 2014-2015 while the funding from ICF project ended during the first month of this KIAC financial year. This was a very challenging situation for the institution. There is no doubt that a lot can be achieved if the Centre has enough funds. Once the funding has been secured, we shall proceed with the recruitment of all needed staff; organize several capacity building sessions as well as increase awareness campaigns and marketing events. Worth recalling is that Internationally recognised Centres receive financial support for a long time from either from their host government or their membership base. We are currently engaging several stakeholders to ensure KIAC’s financial sustainability.
Rwanda’s future in arbitration is optimistic. Over the years, the continued increase in the cases filed with the centre and the increased use of KIAC contract clauses and Arbitration Rules is a testament of confidence that KIAC is becoming popular among users. This can be attributed to the centre’s well-developed efficient case management and infrastructure, supportive Judiciary with a pro-arbitration legal framework, and Rwanda’s recent outstanding position in the World Bank Doing Business Report that ranked Rwanda as 2nd in Africa. Rwanda is amongst the fastest growing economies in the world and this growth comes with many international investment deals. There is definitely potential for continued increase in investment claims in the coming years.

On the other hand, Arbitration has proven to immensely contribute to the overall task of providing Justice to all, thus reducing backlogs that have been a challenge in the service delivery of courts. This ultimately encourages investment which in the long run foster economic growth and strengthen the rule of law.

For KIAC to maintain its position as a regional hub for commercial arbitration and to respond equitably to the needs of the growing need for amicable dispute resolution, there is still a lot of investment required. KIAC will continue to engage in many levels of advocacy in the Private Sector, Government, Development partners and civil society organizations for a concerted effort to raise awareness on ADR use and also ensure the Centre’s financial sustainability. Capacity building of professionals through training and certification is at the core of our new Strategic Plan and will continue to be central to KIAC’s work as we foster a sustainable pro-arbitration culture. KIAC will continue to efficiently administer cases in arbitration, mediation as well as other Alternative disputes resolution mechanisms. We look forward to continued partnership as we continue to promote Rwanda as an increasingly attractive destination for investment and choice for administering domestic international Investment Disputes.