



# Dispute Resolution in Africa: Challenges and Options



Presented at the DRBF 13<sup>th</sup> Annual  
International Conference  
Paris, France - 2 to 4 May 2013



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# + Outline of Presentation

- Status of ADR In Africa
- Challenges of ADR in Africa
- Current Trends
- Appropriateness of  
Dispute Boards For Africa
- Actions necessary and  
conclusion



# + Status of ADR in Africa

- Recognize Africa is diverse
- Legislation is outdated in most States (RSA has a 1965 law)
- Institutions are not well developed
- Existing institutions are not trusted by Investors
- Reliance on International Institutions that are expensive to access and unsatisfactory (perception)
- Investors not keen to use African Institutions



# Challenges

- The lack of institutions and appointing authorities.
- The lack of arbitrators/adjudicators
- The lack of expertise.
- The local courts and politics (including recent case studies).
- Arbitration laws that allow heavy judicial interference (annul arbitration award – mainly on limited grounds)
- Practice side: Arbitration clauses usually cut and paste – no thought to adapt to local conditions
- External Forums





# Current Trends for ADR in Africa

- OHADA offers a solution –institution provided for
- Legislation passed in many States – easy application of UNCITRAL Model
- Institutions being established (some more advanced – RSA, Uganda, Kenya, Mauritius and Nigeria)
- Law Societies embracing ADR
- Regional Courts – having jurisdiction to carry out ADR
- Courts of Law embracing ADR (especially commercial courts)
- Increased Signatories of New York Convention





# Current Trends (Continued)

- Regional Courts including Arbitration in Treaties
- A few experts have emerged and it is not complicated to gain the skills for most lawyers
- Increased familiarity of Arbitration by private lawyers so as to include it in Agreements (solution!!!)
- Recently established Africa ADR –non profit independent organization (arbitral institutions/ business/law firms)- shift arbitration to Africa
- Commercial Courts





# Appropriateness of DB for Africa

- Dispute Avoidance is attractive
- Cost effective – if supported and well managed
- Non-confrontational – avoid conflict
- Avoid delays
- Increased transparency





# Actions necessary and Conclusion

- Outstanding work to enhance ADR
- Get Law Societies more Involved
- Get commercial courts involved
- Allow proceedings to take place in Africa even though the institution is an international one (enforce provisions)
- Strengthen national and regional arbitration centers
- Publicise the importance of DB to lawyers and private sector
- Role of MDBs/Bilaterals







# Thank You



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