Call for Papers: Making the Multilateral Investment Court Beneficial for Sub-Saharan Africa

By:

Martin Jarrett
Jonathan Klaaren
Emmanuel Laryea

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MAKING THE MULTILATERAL INVESTMENT COURT BENEFICIAL FOR SUB-SAHARAN AFRICA

Workshop convened by:

Dr. Martin Jarrett,
Max Planck Institute for Comparative Public Law and International Law

Prof. Jonathan Klaaren,
University of the Witwatersrand

Asso. Prof. Emmanuel Laryea,
Monash University

Venue: Mandela Institute, University of the Witwatersrand, South Africa

Date: 24 – 25 November 2022

Call for Papers

Deadline for submission of abstracts: **27 May 2022**.

Background

The international adjudication of investor-state disputes is at a crossroads. Since 2017, negotiations have been underway at UNCITRAL for the reform of the current system of dispute settlement, what is typically called ISDS. Different visions of the reformed version of ISDS have emerged. At one end of the reform pendulum is systemic reform, at the other end there is the option of incremental reform, while in the middle there is an option of a combination between incremental reform and systemic reform. Finally, there is an option to move beyond reform and dismantle ISDS. For more details on the reform options, applicants are invited to refer to the website of UNCITRAL Working Group III, and particularly the documents on the webpage 'Presentation of Reform Options'.

With the reform process at UNCITRAL set to conclude within the next few years, all states that are participants in the regime of international investment law need to make a decision regarding which reform option they will sign up to. This is a critical decision for most states in Sub-Saharan Africa. At least 338 bilateral investment treaties that are currently in-force include at least one state from Sub-Saharan Africa, and investors will inevitably bring claims against states in SubSaharan Africa under these treaties in the future. Now these states have to decide where they would want to fight these future claims. They will come to various decisions according to their interests and values. But given the concerns with the current version of ISDS, many of them will be inclined to sign up to systemic reform. The centre-piece of this new vision for ISDS is the Multilateral Investment Court. For further details on the Multilateral Investment Court, applicants are invited to refer to the documents produced on this topic at the website of UNCITRAL Working Group III.

The treaty that could create the Multilateral Investment Court is currently being negotiated. For states of Sub-Saharan Africa, herein lies an opportunity to give form and content to, and shape, the Multilateral Investment Court. This raises the question:

How can the Multilateral Investment Court be made beneficial for the states of Sub-Saharan Africa?

This workshop will be dedicated to broadly exploring this question. Junior scholars based in SubSaharan Africa are invited to submit abstracts that: (1) examine how the Multilateral Investment Court could (or could not) work as the best reform option for the states of Sub-Saharan Africa and (2) more particularly, put forward ideas on how the Multilateral Investment Court can be made to benefit this region. Without limiting what these ideas might be, they could relate to the following topics:

- Accessibility for Investors from Sub-Saharan Africa
- Accountability of Investors towards Host-State Citizens
- Tools for Combating Corruption
- The Multilateral Investment Court and the African Continental Free Trade Area

Applicants may wish to refer to the work of Marc Bungenberg and August Reinisch, From Bilateral Arbitral Tribunals and Investment Courts to a Multilateral Investment Court (2020) (available open access **here**) for examples of the methodologies that they might follow in order to demonstrate the legal feasibility of their ideas.

Format of the Workshop

The workshop will be held over two days (24 – 25 November 2022) at the Mandela Institute, School of Law, University of the Witwatersrand, Johannesburg, South Africa.

As per the instructions under the ‘Submission of Abstracts’, junior scholars are invited to submit abstracts relating to the research question stated above. Successful applicants will write the first drafts of their papers prior to their presentation at the workshop. At the workshop, a senior legal scholar in field of

international investment law will act as the discussant of an applicant's paper. A paper should not only focus on describing the relevant idea, but most particularly, it should address the legal feasibility of the idea within the broader framework of the Multilateral Investment Court and international investment law.

This workshop is designed to give junior scholars based in Sub-Saharan Africa a platform on which to present their ideas. Accordingly, priority will be given to such scholars in the selection process. Junior scholars will be expected to revise their papers after the workshop and subsequently submit them for publication.

Submission of Abstracts

Junior scholars, meaning scholars who are completing a doctoral dissertation or have completed a doctoral dissertation within seven years from the date of the workshop, are invited to submit abstracts that generally relate to the theme of making the Multilateral Investment Court beneficial for Sub-Saharan Africa. The maximum word count for abstracts is 500 words. Applicants must also submit a two-page curriculum vitae and a list of publications with their abstracts to micworkshop2022@gmail.com.

An applicant may only submit one abstract. It should be noted that the primary factor influencing the decision whether to accept an application or not will be the quality of the abstract.

Applicants will be notified of the outcome of the selection process on 1 July 2022. By 15 July 2022, a successful applicant must notify whether he or she will participate in the workshop. Completed first drafts of papers (8,000 – 12,000 (including footnotes)) must be submitted to micworkshop2022@gmail.com on or before 30 October 2022.

The accommodation and travel costs of successful applicants associated with attending and presenting at the workshop will be covered in full. Lunch will be provided at the workshop and a dinner for participants and discussants will be hosted on 24 November 2022.

Acknowledgements

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