



مركز دبي للتحكيم الدولي
Dubai International Arbitration Centre
An Initiative by Dubai Chamber of Commerce & Industry

**FOREIGN DIRECT INVESTMENT OPERATIONS AND INVESTMENT
DISPUTES IN THE AFRICAN EXTRACTIVE SECTOR:
CHALLENGES AND OPPORTUNITIES FOR AFRICA'S GROWTH &
DEVELOPMENT**

14 DECEMBER 2017

DUBAI INTERNATIONAL ARBITRATION CENTRE
BANIYAS ROAD, DEIRA/UAE

CONVENERS:

Dr. Jean-Baptiste Harelimana
Prof. Dr. Yannick Radi
Dr. Ana Gerda de Borja Mercereau

PARTNERS:



CLYDE & CO

MEDIA PARTNERS:



PRESENTATION

Africa's economic output has tripled in the past decade. In 2017, economic activity in Africa remained strong due to external demand and healthy increases in both private and public investments. International investment agreements have played a key role in Africa's development. African States are party to numerous bilateral and multilateral investment treaties which have traditionally offered protection to foreign investors and which have permitted recourse to arbitration to settle investment disputes, under the auspices of the International Centre for Settlement of Investment Disputes (ICSID), or similar fora.

African States increasingly participate in investment arbitration with foreign investors challenging the legality of regulatory measures in various areas. As of May 31, 2017, 22% of all 613 registered ICSID cases have involved an African Member State (135 cases in total). 33% of these 135 cases related to the oil, gas and mining sector (The ICSID Case Load - Statistics -Special Focus - Africa, May 2017, at 7, 12).

The complexity of foreign direct investment (FDI) operations in the extractive sector explains this high percentage and the prevalence of disputes in this sector. This complexity is notably due to heterogeneous interests present in these operations and to numerous and diverse laws and regulations in this sector at domestic and international level. The legal and regulatory framework in the extractive sector may include several pieces of domestic legislation (including the Constitution, mining or petroleum codes, environmental and tax laws), and international treaties (international investment agreements and double taxation treaties). The details of investor-State partnerships are often enshrined in specific contracts or licenses.

This legal and regulatory complexity is a challenge; yet, understanding FDI operations in the extractive sector is key for Africa's development and growth. The Conference seeks to contribute to a better understanding of the challenges raised by FDI operations in the African extractive sector and of their contribution to Africa's development and growth. In light of the specifics of the sector and of current arbitration and treaty practices, the Conference will shed light on the protection of foreign investors in the African extractive sector and on the protection of numerous 'public interests' at stake in this sector.

PROGRAMME

8.30-9.30	Registration
9.45-10.30	Opening and Keynote Speeches
	<ul style="list-style-type: none"> • <i>Dr. Habib Al Mulla FCIArb, Chairman of the DIAC Board of Trustees, Chairman of Habib Al Mulla Baker Mackenzie</i> • <i>Dr. Emmanuel Ibe Kachikwu, Minister of State for Petroleum Resources of the Federal Republic of Nigeria and Chairman of the Board of the Nigerian National Petroleum Corporation (NNPC) (tbc)</i> • <i>Dr. Gaston Kenfack Douajni, President of the Association for the Promotion of Arbitration in Africa (APAA)</i>
10.30-12.00	Panel 1: Key Features of FDI Operations in the African Extractive Sector
	<p>Chair: Prof. Dr. Tarek F. Riad, Chairman of the DIAC Executive Committee, Managing Partner, Kosheri, Rashed and Riad (Cairo)</p> <ul style="list-style-type: none"> • FDI operations in the African extractive sector: A historical perspective - <i>Andrew Mackenzie, Counsel, Hogan Lovells (Dubai)</i> • Stabilization in oil and gas contracts: Evidence and implications - <i>Joseph Campbell, Associate, Shearman & Sterling LLP (Abu Dhabi)</i> • Public-private partnerships - <i>Dr. Khaled Attia, Partner, Sarie Eldin & Partners (Cairo)</i> • Recurrent problems and legal questions concerning FDI operations in the African extractive sector - <i>Hery Frédéric Ranjeva, Partner, Foley Hoag (Paris)</i>
12.00-13.30	Networking Lunch
13.30-15.15	Panel 2: The Protection of Foreign Investors in the African Extractive Sector
	<p>Chair: Robert Volterra, Senior Partner, Volterra Fietta (London)</p> <ul style="list-style-type: none"> • The protection of foreign investors in conflict situations - <i>Prof. Dr. Yannick Radi, Professor of International Law, University of Louvain</i> • The relationship between the FET standard and the minimum standard of treatment - <i>Thomas Snider, Partner, Head of Arbitration, Al Tamimi & Co (Dubai)</i> • Legitimate expectations - <i>Clément Fouchard, Managing Associate, Linklaters (Paris)</i> • Shedding Light on International Expropriation in the African Extractive Sector - <i>Dr. Ismail Selim FCIArb, Director, The Cairo Regional Centre for International Commercial Arbitration</i> • Umbrella clauses - <i>Prof. Won Kidane, ADDIS LAW GROUP LLP</i>

	<i>(Washington)</i>
15.15-15.45	Coffee Break
15.45-17.00	Panel 3: The Protection of 'Public Interests' in the African Extractive Sector
	<p>Chair: Prof. Dr. Yannick Radi, Professor of International Law, University of Louvain</p> <ul style="list-style-type: none"> • States' obligations to protect 'sustainable development' objectives - <i>Anne K Hoffmann, Legal Director, Clyde & Co (Dubai)</i> • Investors' obligations to comply with laws and regulations - <i>Alain N. Farhad, Partner, Squire Patton Boggs (Dubai)</i> • Corporate social responsibility of foreign investors - <i>Dr Ana Gerdau de Borja Mercereau MCI Arb, University-Paris XIII (Paris)</i>
17.00-17.30	Coffee Break
17.30-18.00	Concluding Remarks
	<ul style="list-style-type: none"> • <i>Prof. Blaise Tchikaya, First Honorary President of The African Union Commission on International Law</i> • <i>Amine Idriss Adoum, Director and Chief Administration, African Union Commission (Addis Ababa)</i> • <i>Dr. Jean-Baptiste Harelimana, Lawyer, President, Institut Afrique Monde (Paris)</i>
18.30-20.00	Cocktail