



Nigeria's National Policy on Arbitration and ADR 2024: A Game-changer for Dispute Resolution

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Introduction

Nigeria has taken a monumental step forward in its legal and economic landscape with the release of the National Policy on Arbitration and Alternative Dispute Resolution (ADR), 2024 (**“the Policy”**). The Policy in which our Arbitration Team Lead – Joseph Siyaidon served as Technical Consultant, was approved by the Federal Executive Council (FEC) on 15th July 2024. The Policy reflects the Nigerian Government’s commitment to creating a robust and supportive environment for arbitration and other forms of ADR; ensuring that the country’s legal framework aligns with international best practice thereby fostering a culture of dispute resolution that is fair, efficient, and effective.

The overall aim of the Policy is to reduce the burden on our Court system, expedite the resolution of commercial disputes, promote ease of doing business, and increase investor confidence.

Furthermore, the Policy not only seeks to promote the growth and practice of arbitration and ADR in Nigeria, but also demonstrates Nigeria’s commitment to fulfill and implement its international treaty obligations, especially under the UNCITRAL Model Law on Arbitration, the New York Convention on the Enforcement of Foreign Arbitral Awards and the terms of the Treaty with the Asian African Legal Consultative Organisation (AALCO) as it relates to the Regional Centre for International Commercial Arbitration (RCICAL). This article examines the key provisions of the Policy and the transformational impact it holds for businesses, investors, arbitration/ADR users and practitioners in Nigeria.

Key Highlights of the Policy

Below are the key highlights of the Policy detailing its major provisions, objectives, and expected Implications for Nigeria's economy and legal system generally.

1. Goal of the Policy¹

The primary goal of the Policy is to establish fundamental principles that guide the participation of the Federal and State Governments in arbitration matters, re-positioning Nigeria as an attractive hub for domestic, regional, and international commercial arbitration while safeguarding national interests.

2. The Purpose of the Policy²

The Policy was designed to provide a clear framework that enhances the practice of arbitration in Nigeria, ensuring that disputes are resolved effectively and efficiently. The Policy seeks to:

- 1 Promote the implementation of Nigeria's treaty obligations under various International Arbitration Conventions.
- 2 Promote the growth and practice of ADR in Nigeria.
- 3 Encourage a judicial culture that supports arbitration and ADR.
- 4 Complement efforts to stimulate Nigeria's economy and attract foreign investment.
- 5 Enhance infrastructure required to set up an arbitration hub in Nigeria for critical stakeholders (arbitration community)
- 6 Build confidence in and promote the growth of Nigeria's arbitration laws and institutions.
- 7 Encourage settlement of disputes of commercial transactions emanating from Nigeria, in Nigeria.
- 8 Encourage reciprocity for arbitration and ADR experts.

3. Scope of the Policy³

The scope of the Policy covers:

- 1 Domestic Commercial Arbitration: Addressing disputes arising from commercial transactions within Nigeria.
- 2 International Commercial Arbitration: Providing a framework for Nigeria to handle cross-border commercial disputes efficiently.
- 3 ADR: Promoting mediation, conciliation, and other ADR methods as viable alternatives to litigation.

By covering these critical areas, the Policy ensures a holistic and structured approach to arbitration and ADR in Nigeria

4. Choice of Arbitration Rules⁴

The Policy, recognizing arbitration's hallmark as a party-driven process, gives the Federal and State Ministries, Departments, and Agencies (MDAs), as well as other counterparties to any contract, the liberty to choose and mutually agree on the arbitration rules that will govern their disputes. However, where there is no mutual agreement on the applicable rules, the Arbitration Rules made pursuant to the Arbitration and Mediation Act 2023 ("AMA 2023") or the rules of other ADR mechanisms under the relevant extant statutes in Nigeria shall apply.

5. Selection of Arbitrators⁵

The policy establishes a structured process for the appointment of arbitrators, ensuring competence, transparency, and fairness. The key guidelines on appointments of the arbitrator include:

- 1 Where parties agree to a three-member tribunal, the arbitrator to be appointed by the Federal and State MDAs shall be an ADR expert with the requisite qualification and competence to act as an arbitrator.
- 2 Where the parties agree to appoint a sole arbitrator, the sole arbitrator shall be a suitably qualified and competent Nigerian arbitrator.
- 3 In international commercial arbitration involving Federal or State MDAs, the Honourable Attorney-General of the Federation (HAGF) or the Honourable Attorney General of a State (HAGS) may request the Regional Centre for International Commercial Arbitration (RCICAL) to appoint qualified Nigerian arbitrator(s) for the Federal/State MDAs.
- 4 In cases where the parties fail to agree on the procedure of appointment and/or the appointing authority, the HAGF/HAGS shall request the RCICAL or any other centre to appoint suitably qualified and competent Nigerian arbitrator(s) for the Federal/State MDAs.
- 5 The HAGF or HAGS must approve any arbitration appointments involving claims above ₦50,000,000 (Fifty Million Naira). Where the claim is below the threshold of ₦50,000,000 (Fifty Million Naira), the parties may appoint without seeking the approval of the HAGF/HAGS.

6. Criteria for Engagement of Counsel⁶

To ensure professionalism and competence in arbitration proceedings, the Policy provides guidelines for engaging legal counsel. The guidelines provide that:

- 1 Federal and State MDAs must adopt a clear and transparent process for engaging Nigerian counsel in arbitration and ADR proceedings.
- 2 Where foreign counsel is engaged due to specialized expertise, they must partner with Nigerian counsel for the Nigerian counsel to gain hands-on experience in the course of the prosecution of the case.
- 3 The selection of counsel must be based on merit, considering technical ability, experience in international arbitration, and depth of knowledge.
- 4 The choice of both Nigerian and Foreign counsel must however be done using reasonable selection criteria of a person so qualified.

7. Contract Negotiation, Drafting, and Arbitration Monitoring⁷

A crucial component of the Policy is Paragraph 10, which focuses on contract negotiation, drafting, and arbitration monitoring. The Policy mandates that:

- 1 The Federal Ministry of Justice (“FMOJ”) shall participate in the negotiation and drafting of commercial contracts involving Federal and State MDAs, particularly where foreign entities are involved.
- 2 The FMOJ shall ensure the monitoring implementation of contracts involving the Federal and State MDAs involving foreign parties.
- 3 The FMOJ shall ensure the monitoring of ongoing commercial arbitration and/or proceedings and arbitration of ADR related matters involving the FGN before a court of law.
- 4 The Civil Litigation department of the FMOJ shall prepare a bi-annual report on arbitration matters involving government entities and submit same to the HAGF.

This provision is critical in preventing arbitration disputes before they arise, ensuring that arbitration agreements are well-structured, legally sound, and beneficial to Nigeria’s economic interests. This provision also ensures that arbitration cases do not escalate into costly international disputes, thereby safeguarding the government from undue liabilities.

8. National Arbitration and ADR Register⁸

To ensure transparency and consistency in arbitration practices, the Policy mandates all Federal and State MDAs to provide in detail, full particulars of all ongoing and pending investment or commercial arbitration cases or ADR proceedings before any arbitral tribunal or arbitration or matter before a court of law in a register to be maintained and kept by the FMOJ/ State Ministry of Justice (“SMOJ”). The Federal and State MDAs are also required to furnish the FMOJ/SMOJ with copies of the Arbitration and/or ADR Agreement in the pending investment or commercial arbitration or ADR matters.

9. Nigeria as the Preferred Seat and Venue of Arbitration⁹

A crucial component of the Policy is its emphasis on establishing Nigeria as a preferred seat of arbitration. Historically, most arbitration cases involving Nigerian parties have been seated in foreign jurisdictions due to concerns about infrastructure, judicial interference, and enforcement challenges. This has not only increased the cost of arbitration for Nigerian businesses but has also led to a loss of potential economic benefits.

Under Paragraph 13, the Policy seeks to reverse this trend by:

- 1 Promoting Nigeria as the default seat and venue for arbitration.
- 2 Stipulating Nigeria as the seat and venue of all arbitrations involving Nigeria’s governmental bodies with the RCICAL as the default appointor, where necessary..
- 3 Encouraging State governments/Agencies to undergo ADR at the Multi Door Courts (“MDCs”) where cases are within a particular monetary threshold.
- 4 Encouraging private sector entities to utilise ADR in the first instance at the MDC and other Government ADR Centres.
- 5 Encouraging the judiciary to establish special courts, including small claims commercial courts, and specialized divisions of the judiciary as well as the expansion and strengthening of ADR centres in order to promote fair and expeditious resolution of commercial disputes, reduce delays and encourage the development of suitable skills and specialization

By implementing these measures, Nigeria aims to attract international arbitration cases and establish itself as a hub for arbitration in Africa. This move will not only bolster the country’s legal industry but will also enhance Nigeria’s reputation as a business-friendly environment.

10. Role of the Court: National Judicial Policy on Arbitration¹⁰

A fundamental pillar of the Policy is ensuring judicial support for arbitration and ADR mechanisms. The Policy seeks to instill confidence in arbitration by clearly defining the role of the Court in arbitration-related matters. The key highlights include:

- 1 Courts are mandated to uphold arbitration agreements and minimize unnecessary interference in arbitration proceedings.
- 2 The Courts are encouraged to stay proceedings in actions where it is satisfied that there is no reason why the matter should not be referred to arbitration in accordance with the arbitration clause.
- 3 Judicial proceedings related to arbitration must be resolved within 60 days to avoid prolonged litigation.
- 4 Any appeals from arbitration-related court decisions of the court of first instance, must be concluded within 270 days from the date of filing the appeal.
- 5 All appeals from arbitration/ADR matters shall terminate at the Court of Appeal.
- 6 The judiciary is encouraged to develop a practice direction on Arbitration and Alternative Dispute Resolution.
- 7 Courts should impose punitive costs on parties and legal representatives who use litigation as a tool to frustrate arbitration processes.
- 8 Special arbitration divisions should be established within the Courts to handle arbitration-related disputes efficiently

By reinforcing these judicial policies, the government seeks to enhance the enforceability of arbitration awards, reduce delays, and promote Nigeria as an arbitration-friendly jurisdiction.

11. Small Claims Arbitration:¹¹ A Game-Changer for Businesses

One of the most innovative aspects of the Policy is the introduction of Small Claims Arbitration, as outlined in Paragraph 16. This provision aims to facilitate access to justice for individuals, small businesses, and economically disadvantaged groups by providing a quick, affordable, and simplified dispute-resolution mechanism. The small claims arbitration framework is designed to handle disputes involving amounts not exceeding **₦5,000,000 (Five Million Naira)**.¹² It eliminates the need for lengthy litigation processes, thereby making justice more accessible. The primary objectives of this initiative are:

Scope: The Small Claims Court deals primarily with claims for: Debt recovery not exceeding **₦5,000,000 (Five Million Naira)**; Breach of contracts, Landlord and tenant matters, and Consumer rights issues, where the amount claimed does not exceed **₦5,000,000 (Five Million Naira)**.¹³

Speedy Resolution: The Policy mandates that all small claims arbitration cases must be concluded within **60 days** from the date of filing.¹⁴ However, the fact that delivery of a judgment exceeds 60 days does not render it invalid.

Simplicity: Claimants can personally fill out and submit their claims at the Small Claims Court without requiring legal representation and the amount claimed should not exceed **₦5,000,000 (Five Million Naira)**.¹⁵

Enforcement: The judgment of a small claims arbitration tribunal will be enforced like any other Court judgment within the respective states.¹⁶

Appeals: If a party is dissatisfied with a decision, an appeal can be submitted on an appeal form through the **Small Claims Registry**, where it will be assigned to a fast-track appeal registry of the Federal or State High Courts, with the final determination to be delivered within **30 days**.¹⁷

Implications for Nigeria's Economy and Legal System

1. Businesses and Investors

The Policy is a transformative development for businesses operating in Nigeria. By enhancing arbitration standards, businesses can resolve disputes swiftly, efficiently, and with reduced costs compared to traditional litigation. This predictability in dispute resolution mechanisms significantly boosts investor confidence, ensuring that arbitration agreements are respected and enforced in line with international best practices.

The Policy establishes Nigeria as a preferred seat of arbitration, which in turn reduces the need for Nigerian businesses to engage in costly arbitrations abroad. This move is expected to attract more foreign direct investment (FDI) as businesses will have greater assurance that their disputes will be resolved fairly and in a commercially viable manner.

In addition, Small and Medium-sized Enterprises (SMEs) and startups stand to gain from the introduction of Small Claims Arbitration, which provides them with a fast and affordable avenue to resolve commercial disputes. This will reduce the financial and administrative burden often associated with prolonged legal battles, allowing businesses to focus on growth and sustainability.

2. Legal Practitioners and Arbitrators

The Policy provides an expanded role for Nigerian arbitration professionals by prioritizing local arbitrators in both domestic and international disputes. This ensures capacity building and professional development within Nigeria's arbitration sector, fostering expertise and positioning Nigeria as a leading arbitration hub in Africa.

The requirement for Nigerian counsel to be engaged in arbitration cases where foreign counsel is involved will ensure knowledge transfer and exposure for local legal professionals. The growth of the arbitration sector is expected to result in more career opportunities, professional recognition, and an increased number of arbitration centers across the country.

Additionally, the Policy's emphasis on contract negotiation, drafting, and arbitration monitoring will create demand for legal practitioners skilled in these areas, further expanding the scope of specialization within the legal profession.

3. Judiciary

The Nigerian judiciary is expected to benefit immensely from the Policy, as it will lead to a significant reduction in court caseloads by diverting commercial disputes to arbitration and ADR mechanisms. This shift will enable courts to focus on more complex legal matters, thereby enhancing judicial efficiency and expediting case resolution.

The Policy also ensures that courts respect and uphold arbitration agreements, thereby minimizing judicial interference in arbitration proceedings. Courts are now required to resolve arbitration-related matters within 60 days, ensuring that disputes are addressed swiftly and effectively.

Furthermore, the introduction of specialized arbitration divisions within the judiciary will promote consistency and expertise in handling arbitration-related cases. The imposition of punitive costs on parties who seek to frustrate arbitration through unnecessary litigation will serve as a deterrent against delaying tactics, ensuring a more arbitration-friendly judicial environment.

Conclusion

The Policy marks a significant step towards modernizing dispute resolution in Nigeria. By creating a robust, efficient, and globally competitive arbitration system. The Policy lays the groundwork for a future where arbitration becomes the preferred method of resolving commercial disputes. For Nigeria to fully realize the benefits of this Policy, government agencies, businesses, and legal practitioners must commit to its successful implementation.

With this Policy, Nigeria is not only positioning itself as an arbitration hub but also strengthening its legal framework to support economic growth, attract foreign investment, and enhance the efficiency of dispute resolution. This is a defining moment for Nigeria's arbitration community—and the journey towards a world-class arbitration framework has just begun.



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- 1 National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024, Paragraph 2.0
- 2 Ibid, Para. 3.0
- 3 Ibid, Para. 4 (1)
- 4 Ibid, Para. 5.0
- 5 Ibid, Para. 6.0
- 6 Ibid, Para. 7.0
- 7 Ibid, Para. 10 (1)
- 8 Ibid, Para. 11
- 9 Ibid, Para. 13
- 10 Ibid, Para. 15
- 11 Ibid, Para. 16.0
- 12 Ibid, Para. 16 (2)
- 13 Ibid, Para. 16 (2)
- 14 Ibid, Para. 16 (3) (vi)
- 15 Ibid, Para. 16 (3) (i)
- 16 Ibid, Para. 16 (4)
- 17 Ibid, Para. 16 (5)

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Stren & Blan Partners is a full-service commercial Law Firm that provides legal services to diverse local and multinational corporations. We have developed a clear vision for anticipating our client's business needs and surpassing their expectations, and we do this with an uncompromising commitment to Client service and legal excellence

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