



STREN & BLAN PARTNERS NEWSLETTER

International Arbitration Trends 2025 A Walk-through: Key Arbitration Insights From Nigeria And Africa

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Introduction

Over the past two decades, arbitration has increasingly been adopted as a preferred mechanism for resolving cross-border commercial disputes globally, either on a stand-alone basis or in conjunction with other forms of ADR.¹ The year 2024 witnessed a significant uptick in the use of arbitration to resolve commercial disputes in Nigeria. This came about because of a substantial increase in foreign direct investment into Nigeria and Nigeria's expanding participation in intra-Africa and global trade and investment, where parties seek efficient, enforceable solutions for resolving complex disputes.

The year 2024 also marked the first anniversary of Nigeria's newly enacted Arbitration and Mediation Act, a legislation that is now reputed to be one of the most innovative pieces of arbitration legislation the world over.

Within the wider African region, the year 2024 not only witnessed a significant increase in the use of arbitration to resolve cross-border commercial and investment disputes but more importantly, a new trend emerged with the enactment of national arbitration policies across Africa whereby African parties preferred African seats and appointed African arbitrators to resolve cross-border commercial and investment disputes involving Africans.

Another new trend that emerged for the first time within the African region is the filing of intra-African arbitral award enforcement proceedings. In this regard, our Firm, Stren & Blan Partners, played a pivotal role by representing Zadok East Africa Limited, a Kenyan Construction Company to institute the first Third-Party Funded (TPF) international arbitral award enforcement proceedings under the Arbitration and Mediation Act (AMA) 2023 against Rwanda Revenue Authority.² This landmark case highlighted the practical application of TPF in arbitration, opening new avenues for financially constrained parties to access justice.

This newsletter seeks to spotlight the above notable developments in 2024, as well as other key insights and trends for 2025 including:

a) The highlights of some of the key issues decided in arbitration judgments delivered by the Nigerian appellate courts in 2024;

b) Emerging trends within the Nigerian arbitration landscape;

c) Key arbitration projections for 2025.

Key Arbitration Issues Addressed in 2024 By the Nigerian Appellate Courts

I. Duty of Court to give effect to arbitration clause in an agreement.

On the above principle, the Court of Appeal in **Agu & Anor v. Ericmany Ltd & Anor**³ reaffirmed the duty of Courts to enforce arbitration clauses and the binding nature of arbitration clauses. The Court reminded Parties of their obligation to arbitrate disputes rather than resort to litigation, emphasizing that courts will enforce arbitration agreements as the foundation of the dispute resolution process.

On the same subject matter, the Court of Appeal in **Dangote Industries (Zambia) Ltd v. Ima (Zambia) Ltd**⁴ clarifying the scope of arbitration agreements held that arbitration agreements must be explicit to avoid disputes over their applicability to extraneous issues or parties. This decision serves as a caution for contract drafters to use clear and precise language. The courts reiterated that arbitration clauses symbolise parties' trust in arbitration as a voluntary and effective mechanism for resolving disputes.

II. Condition precedent for the grant of an order staying proceedings pending reference to arbitration.

Under the above principle, the Court of Appeal in **Agu & Anor v. Ericmany Ltd & Anor**⁵ commenting on an application for a stay of proceedings pending arbitration under Section 5(1) of the Arbitration and Conciliation Act LFN2004, held that *"there is no doubt that the trial Court had the power to order a stay of proceedings pending arbitration. However, such an order is not granted as a matter of course or merely because it has been applied for...the Court before which an application for a stay of proceedings*

pending arbitration is made must satisfy itself that (a) there is no sufficient reason why the matter should not be referred to arbitration in accordance with the arbitration agreement; and (b) that the applicant was at the time when the action was commenced and still remains ready and willing to do all things necessary for the proper conduct of the arbitration. Therefore, a decision granting such a stay must reflect a consideration and evaluation of the facts establishing the existence of these two conditions."

It must be noted that the two conditions cited by the Court of Appeal above are no longer applicable under Section 5 of the newly enacted Arbitration and Mediation Act 2023. Under the new provision, all a party needs to show to obtain an order for a stay of proceedings pending reference to arbitration as a matter of course, is that the arbitration agreement is not void or inoperative and that his application for a stay of proceedings is made timeously before submitting any statement on the substance of the dispute.

III. When to raise the issue of jurisdiction in arbitral proceedings.

The Court of Appeal relying on the Supreme Court decision in **NNPC v. KLIFCO (Nig) Ltd**,⁶ re-emphasized the importance of raising jurisdiction issues in arbitration timeously in the case of **Dangote Industries (Zambia) Ltd v. Ima (Zambia) Ltd**⁷ when it held that the position of the law on the issue of jurisdiction as applicable in the usual way or in regular Court does not apply to arbitral proceedings. Issue of jurisdiction must be raised in arbitral proceedings within the time stipulated in the Arbitration Act (ACA). In **NNPC v KLIFCO** the Supreme Court had held thus:

“The position of the law applicable in the usual way or in regular Courts does not apply to arbitral proceedings. Section 12(3) of the Arbitration and Conciliation Act (ACA) governs the issue of jurisdiction in arbitral proceedings... the position of the issue of jurisdiction is that jurisdiction to hear and determine a dispute is raised before the arbitration panel within the time stipulated in the Arbitration Act.” The lower Court was right when it relied on Sections 12(3) and 33 of the Arbitration and Conciliation Act (ACA) and the Court discountenanced the Appellant’s objection to the jurisdiction of the Tribunal. It is worthy to note certain fundamental issues relating to arbitration. First and foremost, arbitration is not litigation. In litigation, jurisdictional issues can be raised at any stage of the proceedings up to the Supreme Court. In arbitral proceedings, the issue of jurisdiction is regulated by Sections 12(3) and 33 of the Arbitration and Conciliation Act (ACA).”

It is to be noted that even though the Supreme Court and the Court of Appeal relied on Section 12(3) of the now repealed Arbitration and Conciliation Act (ACA) LFN 2004 in the above-cited decision, Section 12 (3) of the ACA interpreted by the Supreme Court and the Court of Appeal is in pari materia with Section 14 (3) of the AMA 2023. So, the above-cited cases are applicable with full force under the AMA 2023.

IV. The nature of arbitral proceedings, and the Court’s reluctance to interfere with arbitral awards.

On the above vital aspect of arbitration, the Court of Appeal in the case of Dangote Industries (Zambia) Ltd v. Ima (Zambia) Ltd⁸ re-emphasized the fundamental basis of arbitration when it held that the objective of arbitration is to obtain a fair resolution of disputes by an impartial Tribunal without unnecessary delay and expense.

The Court observed that a court hearing an application to set aside an award does not assume the jurisdiction of an appellate Court. In other words, the Court will not re-evaluate the evidence to consider whether there was observance or non-observance with the law. The Court of Appeal relied on the famous dictum of the Supreme Court per Nnaemeka Agu in Commercial Assurance Ltd. v. Alhaji Buraimoh Alli,⁹ where it was held thus:

“the underlying principle is that parties to a dispute have a choice. They may resort to the normal machinery for administration of justice by going to the regular Courts of the land and have their disputes determined both as to the fact and the law, by the Courts. Or they may choose the arbitrator to be the Judge between them. If they take the latter course they cannot, when the award is good on the face of it object to the award on grounds of law or of fact.”

The above decision, once again, reinforces Nigeria’s position as a pro-arbitration jurisdiction.

V. On the duty of Courts to Enforce Arbitral Awards.

The Supreme Court in A.G. Bayelsa State v. Odok¹⁰ reaffirmed the duty and authority of Nigerian courts to recognize and enforce arbitral awards. The decision emphasized that arbitral awards, once rendered, are binding and enforceable unless successfully challenged on legally permissible grounds. This case is significant because the arbitral award in question was issued in favour of a legal practitioner carrying on practice under a business name

against a sub-national government. The sub-national government having taken benefit of the contract between it and the business name and participated in the arbitration turned around to argue that the arbitration agreement contained in the contract was null and void because the business name upon which the legal practitioner was carrying on his practice was unknown to law. However, the Supreme Court in refusing the application to set aside the award held that:

“It is trite that recognition and enforcement of an arbitral award is a vital part of arbitration as without which the whole arbitration process is pointless.”

Furthermore, the Supreme Court used the opportunity to settle the issue of whether a law firm registered

as a business name can carry on business when it held thus:

“I have failed to find the principle that a law firm registered as a business name cannot carry on business.? As the name implies and as defined under Section 588 of the Companies and Allied Matters Act (CAMA) (now Section 868 (1) of CAMA 2020), a "business name" is the name under which "any business is carried on", either by an individual, firm or a corporation. Business is carried on by agreements. The day-to-day transactions of a law firm is to accept briefs from clients and get paid for its legal services rendered. Is each of those briefs not a contract? Of course it is! To be frank, appellant's contention does not hold water and by prudence it is not expected to be argued among learned counsel.”

Emerging Trends Within the Nigerian Arbitration Space

I. Growth and Adoption of Third-Party Funding in Arbitration:

For many parties, especially those with strong claims but little funding, the expense of arbitration proceedings remains a major obstacle.¹¹ To salvage this obstacle, the AMA¹² introduced TPF into Nigeria's arbitration landscape as a modern solution to this challenge. Basically, TPF allows an external funder to finance one party's arbitration expenses in exchange for a portion of the financial award, should the claim succeed.¹³ This innovation has significantly increased access to arbitration by alleviating the financial burden on affected parties and ensuring that cost is no longer a barrier to justice.

As mentioned in the introduction, Stren & Blan Partners achieved a groundbreaking milestone in 2024 by

representing Zadok East Africa Limited in Nigeria's first-ever international arbitration award enforcement proceedings against the Rwanda Revenue Authority, an agency of the Government of Rwanda. This award recognition and enforcement proceedings¹⁴ highlight the practical benefits of TPF in complex, high-value disputes. This development positions Nigeria as a viable jurisdiction for international arbitration, especially for financially constrained parties with strong claims. As more parties and funders embrace TPF, it is expected to reshape the arbitration landscape in Nigeria, ensuring fairness and enhancing access to justice.

II. Sustainability and ESG Disputes:

Disputes related to Environmental, Social, and Governance (ESG) obligations are increasingly finding their way into arbitration.¹⁵ These cases often involve multinational corporations operating in resource-intensive industries like oil and gas. Nigerian arbitration is poised to handle disputes involving emissions laws, renewable energy projects, and environmental degradation as sustainability gains international attention. Arbitration is increasingly becoming the preferred mechanism for resolving disputes related to Environmental, Social, and Governance (ESG) obligations in Nigeria and across Africa. The flexibility to appoint arbitrators¹⁶ with the specialized expertise required to navigate technical ESG disputes, such as those involving environmental remediation, carbon emissions, and corporate governance standards, makes arbitration particularly suited for these matters.¹⁷ This capability ensures that disputes are resolved efficiently and with a deep understanding of their complexities, enhancing confidence in arbitration as a reliable tool for ESG conflict resolution.

III. Integration with AfCFTA Dispute Resolution:

With its 2023 Protocol on Investment,¹⁸ the African Continental Free Trade Area (AfCFTA) is revamping investor-state dispute resolution throughout Africa. It highlights the importance of promoting local content in arbitration by promoting the use of arbitrators who have experience in African sectors such as infrastructure, construction, and energy. The aforementioned steps are intended to promote a safe and stable investment climate throughout the continent and increase the legitimacy and acceptability of arbitration decisions among domestic and foreign parties.

The AfCFTA introduced a Dispute Settlement Mechanism emphasising arbitration and mediation.¹⁹ Nigeria, as one of Africa's largest economies,²⁰ is expected to play a central role in regional arbitration under AfCFTA. This will increase cross-border arbitration cases involving trade, intellectual property, and investment disputes.

IV. Technology and Digital Arbitration:

The global disruptions brought on by the COVID-19 epidemic accelerated the trend of the arbitration community's growing adoption of videoconferencing and remote hearings.²¹ The dispute resolution process now relies heavily on virtual platforms like Zoom and Microsoft Teams. This shift improved accessibility, lowered expenses and made it more flexible, especially for cross-border arbitration involving parties from outside Nigeria. Nigerian-based arbitration institutions, including the Regional Centre for International Commercial Arbitration Lagos (RCICAL), have incorporated provisions for virtual hearings in their procedural rules. These developments align with global practices, where institutions like the ICC Court of Arbitration and the London Court of International Arbitration (LCIA)²² actively promote digital tools to ensure efficiency and continuity in proceedings.

Projections for Arbitration Practice in Nigeria in 2025

I. Increased Use of Third-Party Funding (TPF):

After being introduced to Nigeria's arbitration scene under the AMA 2023, TPF is expected to have a major impact on arbitration practice in 2025 given its increasing adoption. Through external finance secured in exchange for a share of any final award, TPF makes arbitral remedies accessible to financially disadvantaged parties with legitimate claims.²³ The first-ever international arbitration award enforcement proceedings against the Rwanda Revenue Authority, an agency of the Government of Rwanda in Nigeria, which Stren & Blan Partners was instructed to institute in 2024, is proof that this trend is revolutionary. Zadok East Africa Limited created a precedent for the effective use of TPF in intricate, high-value cases when it instituted an action to enforce a \$1.9 million award. The usage of TPF is anticipated to increase in 2025, especially in instances involving international arbitration and resource-intensive disputes in industries like technology, construction, and energy. The development does, however, also highlight the necessity of a strong regulatory framework to handle concerns about ethical issues, disclosure requirements between funders, claimants, and arbitrators, and transparency.²⁴ Nigeria's arbitration practice is expected to grow more competitive, inclusive, and in line with international norms as more parties and funders choose this financing mechanism, enhancing its standing as one of Africa's premier centres for dispute resolution.²⁵

II. Strengthened Judicial Support for Arbitration:

Following the courts' pro-arbitration stance in 2024, it is expected that the Nigerian judiciary will continue to adopt arbitration-friendly policies, particularly in enforcement proceedings under the AMA 2023. Some notable provisions of the AMA 2023, such as the use of emergency arbitrators, consolidation of arbitration proceedings, the introduction of mediation, the use of an award review tribunal, and interim measures in arbitration, are yet to be examined by the Supreme Court. Consequently, it is anticipated that the Apex Court will establish judicial precedents in these areas.

III. Focus on Training and Capacity Building:

To keep pace with evolving arbitration trends, there will be a concerted effort to enhance the skills of arbitrators, legal practitioners, and institutional staff. Training programs focusing on emerging areas²⁶ like Environmental, Social, and Governance (ESG) disputes, digital arbitration, and cross-border investment cases will gain momentum. We expect more collaborations with international arbitration bodies to further bolster expertise and credibility, ensuring that practitioners are well-equipped to handle complex disputes.

IV. Rise of Industry-Specific Arbitration:

With Nigeria's diversification efforts, industries such as technology, construction, energy, and entertainment may experience a surge in arbitration adoption.²⁷ Tailored arbitration frameworks could emerge to address unique industry disputes and establish specialized panels of arbitrators with relevant expertise in these sectors.

V. Use of Technology

Arbitration procedures will likely transform because of artificial intelligence (AI) and machine learning (ML) as well as digitalisation. AI solutions can improve case management, speed up document review, and help with decision-making. In order to help arbitrators and legal professionals make well-informed decisions, AI-powered platforms, for example, may evaluate enormous datasets to find pertinent precedents and forecast possible results thereby increasing an arbitration's efficiency and expediting procedures.²⁸

VI. Global Trends that Would Influence Nigerian Arbitration in 2025

Arbitration techniques in Nigeria are expected to be impacted by the growing use of artificial intelligence (AI) in dispute settlement procedures globally in 2025. In the commercial sector, e-commerce platforms like PayPal and eBay have resolved millions of disputes through algorithm-driven Online Dispute Resolution (ODR), showcasing the potential for AI to streamline and expedite decision-making.²⁹ Several international organisations have incorporated artificial intelligence

into their daily business to help reduce common obstacles.³⁰ Arbitral institutions are establishing precise guidelines for the application of AI in arbitration. Notably, the Silicon Valley Arbitration and Mediation Centre (SVAMC) on 30th April 2024 published draft AI Guidelines.³¹ These guidelines are broken down into three parts for arbitrators, participants, and party representatives.³² The use and dangers of AI applications, confidentiality protection, disclosure standards, and the obligation to uphold procedural integrity while avoiding the delegation of decision-making authority to AI systems are all covered in these principles.

For Nigeria, these developments signal the need to anticipate and adapt to the growing role of AI in arbitration. In 2025, Nigerian arbitration institutions may incorporate AI best practices into their procedural rules, enhancing efficiency and compliance with global standards. Leveraging AI tools for document review, case management, and even evidence authentication can significantly transform arbitration practice in Nigeria. As global trends evolve, the Nigerian arbitration community is well-positioned to align with these advancements, ensuring competitiveness in the international arbitration landscape.

JUSTICE

Conclusion

The developments in Nigeria's arbitration landscape in 2024 have underscored its critical importance as a dispute resolution mechanism in an increasingly interconnected world. With the AMA 2023 providing a modern legal framework, Nigerian arbitration continues to gain prominence as a preferred option for resolving disputes, both domestically and internationally. The judiciary's consistent pro-arbitration decisions have reinforced the sanctity of arbitration agreements, supported the efficient conduct of arbitral proceedings, and upheld the enforceability of awards, thereby enhancing the confidence of parties in the process. As we look to 2025, the projected trends—ranging from the growing adoption of third-party funding to the integration of technology and sustainability principles—present exciting

opportunities for Nigeria to strengthen its arbitration framework further. The introduction of AI-driven processes, the rise of industry-specific arbitration, and Nigeria's alignment with AfCFTA's dispute resolution mechanisms are poised to position the country as a hub for arbitration in Africa. Stren & Blan Partners remains committed to championing innovative and effective arbitration solutions, leveraging our experience in groundbreaking cases such as Nigeria's first TPF-funded arbitration to drive progress in the field. As arbitration continues to evolve, stakeholders are encouraged to remain proactive, embracing these advancements to ensure that arbitration remains a reliable, efficient, and equitable tool for dispute resolution in Nigeria and beyond.

End Note

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About Stren & Blan Partners

Stren & Blan Partners is an innovative and dynamic Law Firm with a compelling blend of experienced lawyers and energetic talents. We are focused on providing solutions to our client's business problems and adding value to their businesses and commercial endeavors. This underpins our ethos as everything we do flows from these underlying principles.

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.

Market Recognition

Our confidence and pride are in our client's satisfaction, and we consistently reassess our objectives in alignment with our client's business needs. Unsurprisingly, in the 4th quarter of 2024, our firm was as a Notable Firm in the Banking and Finance Practice Area by IFLR1000. The esteemed recognition highlights our dedication to excellence and innovation in our fields of practice.

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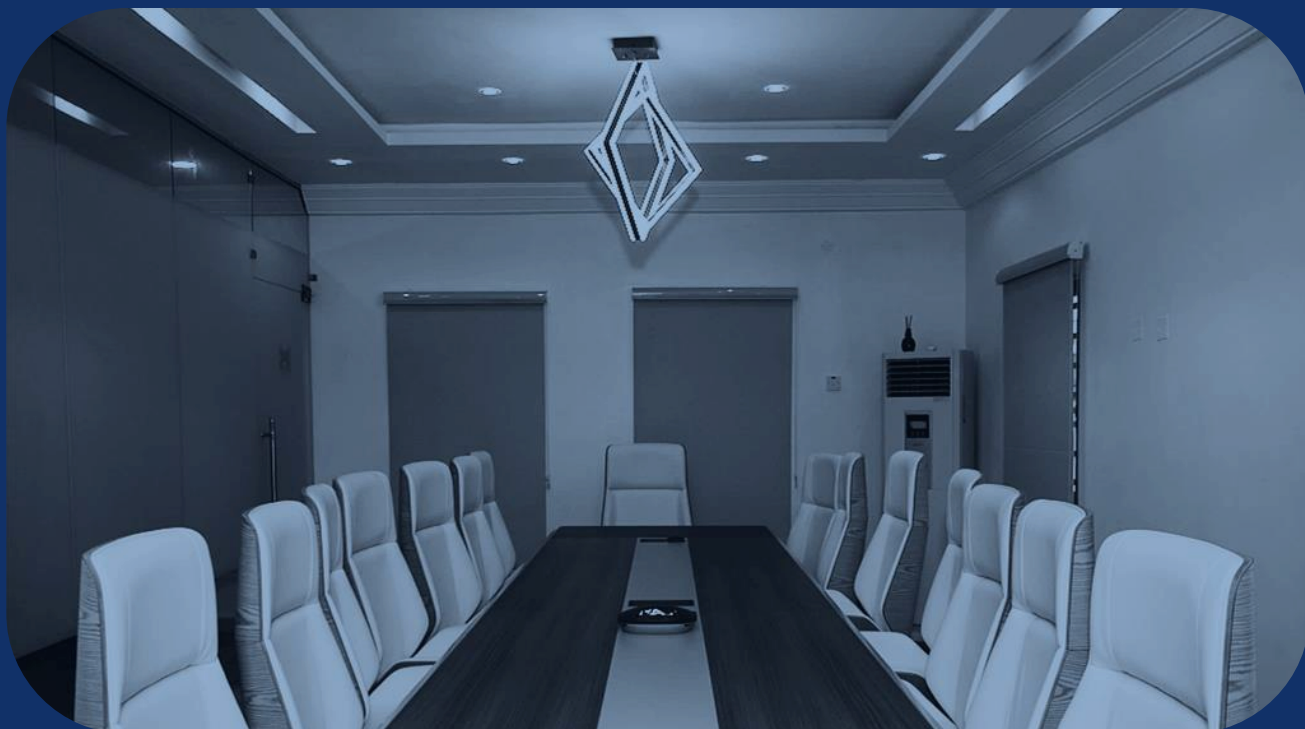
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