



United Nations  
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MAX PLANCK INSTITUTE  
FOR COMPARATIVE PUBLIC LAW  
AND INTERNATIONAL LAW



MONASH  
University

UNIVERSITY OF THE  
WITWATERSRAND,  
JOHANNESBURG



# MAKING A MULTILATERAL INVESTMENT COURT BENEFICIAL FOR SUB-SAHARAN AFRICA?

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12th Event in [‘2022 UNCITRAL Days in 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

Mandela Institute, University of the Witwatersrand, South Africa

24 – 25 November 2022

Workshop funded by:



# Workshop Programme

## Day 1 (24 November 2022):

Bus from Southern Sun Rosebank to Workshop Venue (11:30 – 12:00)

Lunch (12:00 – 13:00)

Welcoming Remarks (13:00 – 13:10)

- Firoz Cachalia
- Director, Mandela Institute, University of the Witwatersrand

Keynote Speaker 1 (13:10 – 13:40)

[TITLE]

- Colin Brown
- Head of Unit F.3 (Legal Aspects of Trade and Sustainable Development and Investment), Directorate General for Trade, European Commission

Panel 1 (13:40 – 15:55)

- Presentation 1
  - Afolabi Adekemi, Saarland University
  - Paper:
    - Investor-State Dispute Settlement (ISDS) in Africa and the Viability of a Multilateral Investment Court as the Future of ISDS in Africa*
  - Commentator: Jonathan Klaaren, University of the Witwatersrand
- Presentation 2
  - Rafia de Gama, University of South Africa
  - Paper:
    - Multilateral Investment Court: How to Ensure that the Voice of the States of Sub-Saharan Africa is Reflected*
  - Commentator: Jonathan Klaaren, University of the Witwatersrand
- Presentation 3

- Marie-Louise Aren, University of Pretoria
  - Paper:
    - The Applicable Substantive Law of the Multilateral Investment Court Vis-à-Vis Sub-Saharan African Investment Interests: Concerns And Options*
  - Commentator: Hélène Ruiz Fabri, Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law
- Presentation 4
    - Peter Muriithi, Zed Achoki Hussein Advocates
    - Paper:
      - The Need to Uphold States' Sovereignty through the Concept of Consent in the Establishment of the Multilateral Investment Court*
    - Commentator: Hélène Ruiz Fabri, Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law
  - Moderator: Emmanuel Laryea, Monash University

#### Panel 2 (16:20 – 18:45)

- Presentation 1
  - Kathleen Mpofo, University of the Witwatersrand
  - Paper:
    - Pursuing Accountability of Investors within the Framework of the Multilateral Investment Court*
  - Commentator: Anne van Aaken, University of Hamburg
- Presentation 2
  - Emma Chitsove, University of Botswana
  - Paper:
    - Prospects for the Multilateral Investment Court being a Tool for Combating Investment Corruption: Lessons from ICSID*
  - Commentator: Anne van Aaken, University of Hamburg
- Presentation 3
  - Priccilar Vengesai, Great Zimbabwe University
  - Paper:
    - Towards an Effective and Efficient Multilateral Investment Court in Sub-Saharan Africa: Combating Corruption and Political instability*
  - Commentator: August Reinisch, University of Vienna

- Presentation 4
  - Martin Jarrett, Max Planck Institute for Comparative Public Law and International Law
  - Paper:
    - Testing for Fault–Based Causality in the Multilateral Investment Court*
  - Commentator: August Reinisch, University of Vienna
  
- Moderator: Jonathan Klaaren, University of the Witwatersrand

UNCITRAL Days in Africa (18:45 – 19:15)

*An Introduction to UNCITRAL Days in Africa*

- Anna Joubin-Bret
- Secretary, United Nations Commission on International Trade Law (UNCITRAL)

Workshop Dinner (at Southern Sun Rosebank) (19:15 – 21:30)

## Day 2 (25 November 2022):

Bus from Southern Sun Rosebank to Workshop Venue (9:00 – 9:30)

Welcoming Remarks (9:30 – 9:35)

Keynote Speaker 2 (9:35 – 10:05)

*UNCITRAL's Work on ISDS reform: Past, Present, and Future*

- Anna Joubin-Bret
- Secretary, United Nations Commission on International Trade Law (UNCITRAL)

Panel 3 (10:05 – 12:20)

- Presentation 1
  - Rimdolmsom Jonathan Kabre, University of Pretoria
  - Paper:  
*Africa, the Multilateral Investment Court, and the Challenge of Inclusivity in Investment Adjudication*
  - Commentator: Marc Bungenberg, Saarland University
- Presentation 2
  - Christopher Nyinevi, Kwame Nkrumah University of Science
  - Paper:  
*Project-Affected Local Communities and the Multilateral Investment Court*
  - Commentator: Marc Bungenberg, Saarland University
- Presentation 3
  - Robert Mutembei Koome, University of Nairobi
  - Paper:  
*Why Multilateral Investment Court Without Equitable Inclusion is an Illusion for Sub Saharan Africa*
  - Commentator: Emmanuel Laryea, Monash University
- Presentation 4
  - Richard Mlambe, University of Malawi
  - Paper:

*Should the Envisaged Multilateral Investment Court have Jurisdiction over Human Rights and Environmental Claims?*

- Commentator: Emmanuel Laryea, Monash University
- Moderator: Malebakeng Forere, University of the Witwatersrand

Introduction to 'The Hague Rules on Business and Human Rights Arbitration' (12:20 – 12:40)

*The Hague Rules of Business and Human Rights Arbitration:  
Potential to Close a Governance Gap?*

- Anne van Aaken
- Member, Working Group 'Hague Rules on Business and Human Rights Arbitration Project', Center for International Legal Cooperation

Lunch Break (12:40 – 13:40)

Panel 4 (13:40 – 15:55)

- Presentation 1
  - Collins Ajibo, University of Nigeria
  - Paper:  
*Mainstreaming AfCFTA's Development Dimension into MIC's Design and Interpretative Philosophy: A Roadmap for Action*
  - Commentator: Fola Adeleke, University of the Witwatersrand
- Presentation 2
  - Ijeoma Anozie, Nigerian Institute of Advanced Legal Studies
  - Paper:  
*Multilateral Investment Court System: A Critical Mechanism for the Successful Operation of the African Continental Free Trade Agreement*
  - Commentator: Fola Adeleke, University of the Witwatersrand
- Presentation 3
  - Takunda Gumbu, University of Namibia
  - Paper:  
*Consistently Inconsistent Awards: Does The Proposed Multilateral Investment Court Model Address African Concerns?*

- Commentator: Malebakeng Forere, University of the Witwatersrand
  
- Presentation 4
  - Mawuto Tossa, University of Granada
  - Paper:  
*The Multilateral Investment Court Project: A Dangerous Trap or a Safety Net for African States in Investment Disputes Settlement?*
  - Commentator: Malebakeng Forere, University of the Witwatersrand
  
- Moderator: Martin Jarrett, Max Planck Institute for Comparative Public Law and International Law

Keynote Speaker 3 (15:55 – 16:25)

*ISDS Reform: An African Approach to the Proposed Multilateral Investment Court*

- Michael Imran Kanu
- Ambassador & Deputy Permanent Representative for Legal Affairs, Permanent Mission of Sierra Leone to the United Nations (New York)

Closing Remarks (16:25 – 16:30)

Bus to Southern Sun Rosebank (16:30 – 17:00)