



2018/2019 ANNUAL CASEWORK REPORT

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Where disputes meet resolution.



ABOUT NCIA

Nairobi Centre for International Arbitration (NCIA) is Kenya's premier International Arbitration Centre located in the capital city, Nairobi. The Centre was established in 2013, and has gained a reputation as a neutral venue for the conduct of International Arbitration and other Alternative Dispute Resolution (ADR) services.

NCIA is "where disputes meet resolution" through access to eminent and experienced arbitrators, and mediators with diverse skills, from different nationalities and jurisdictions, and a best practice set of rules with administrative support.

In addition to its dispute administration services, NCIA hosts networking conferences, workshops, and events of interest to the arbitration and ADR Community. As a trainer, NCIA is also poised to offer training in Mediation and Arbitration with listed trainers from across the globe.

EXECUTIVE SUMMARY

The Nairobi Centre for International Arbitration (NCIA) Annual Casework report gives highlights of case administration services rendered by the Centre, nature of arbitration agreements handled, number of arbitration cases facilitated in the year 2018/2019, and composition of the panel of arbitrators amongst other important key aspects in the year.

The report focuses on case management including the number of disputes referred to the Centre for arbitration, requests referred to the Centre, representation in arbitration and mediation panels, challenges by parties to arbitrator appointment, caseload, relief sought, and other factors as regards facilitation of arbitration and ADR services by the Centre.

A major milestone in the year are the amendments to the NCIA (Arbitration) Rules, 2015 to be released as NCIA (Arbitration) Rules, 2015 Revised Version. Part of the amendments give clarity to clauses in the original version intended to enhance functionality in administration of arbitration cases. Notable changes include, the period of days to complete some procedural tasks, specificity in designation of roles, and a review of the filing fee for Domestic arbitration.

The constitutive document, the Nairobi Centre for International Arbitration Act No 26 of 2013 was reviewed to reorganize the composition of the Arbitral Court and its role in the overall scheme of NCIA.

WHAT WE OFFER

ARBITRATION

NCIA Arbitration Rules are adaptable for use in a diverse range of contractual agreements. The Rules offer a flexible, predictable, and reliable institute administered procedures. The Centre also provides institutional support to the arbitration process including hearing facilities at the request of parties.

MEDIATION

NCIA provides institutional support to the mediation process including facilities for mediation sessions at the request of parties at competitive terms. The NCIA Mediation Rules give participants in a dispute case an expeditious process where the Centre is designated for purposes of the mediation.

NEGOTIATION

NCIA provides institutional support to the negotiation process including physical facilities at the request of the parties at competitive terms.

CONCILIATION

NCIA provides institutional support to the conciliation process including physical facilities at the request of the parties at competitive terms.

ADJUDICATION

NCIA provides institutional support to the adjudication process including physical facilities at the request of the parties at competitive terms.

ARBITRATION AND MEDIATION TRAINING

NCIA provides training for continuous professional development in international commercial arbitration and mediation.

HIRING OF HEARING ROOM FACILITIES

NCIA is equipped with customized hearing room facilities for arbitration, mediation and all other closed-door discussions that may be required at the request of parties to the Centre.

CASELOAD

In 2018/2019, Fourteen (14) new disputes were referred to the NCIA, all of which were referred under the NCIA Arbitration Rules, representing an upward trend in referral of disputes in the two 2 years since inception of the Rules. Additionally, the NCIA provided administrative services for ad-hoc arbitrations and acted as appointing authority in three (3) cases. The Centre is steadily approaching its 30th case and counting.

The case value has risen to Kenya Shillings two and half billion (Kes. 2, 500,000,000.00) equivalent to USD 25,000,000. This represents a 97.56% growth from the previous year and a 100% over the first year of the NCIA Arbitration Rules.

ARBITRATIONS BY INDUSTRY/SECTORS

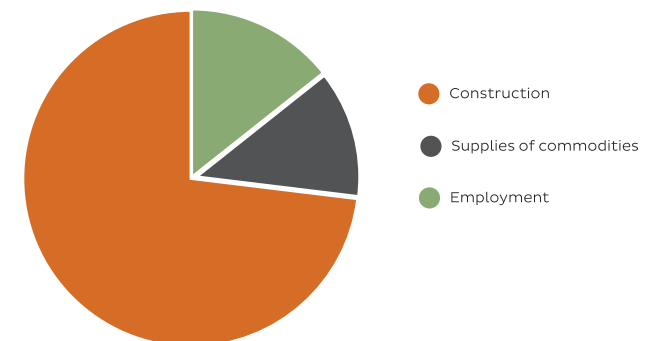
Disputes emanating from the construction, commercial, water, energy and resources, and employment sectors shared a significant portion of the caseload.

In 2017, construction disputes represented 100% of the NCIA Arbitration Rules administered caseload.

In 2018, supplies of commodities and employment disputes represented the highest portion of the NCIA arbitration caseload.

In 2019, the Centre recorded a significant increase in disputes of supplies of commodities in the agricultural sector.

NCIA ARBITRATIONS BY INDUSTRY /SECTORS

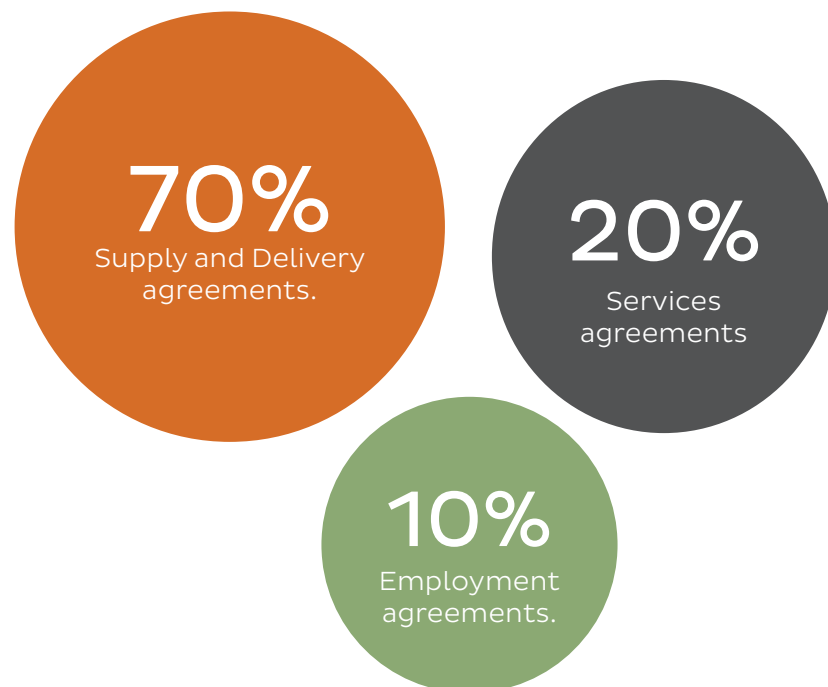


AGREEMENT TYPES

The agreements typically anticipated under the NCIA Arbitration Rules are commercial disputes. The most common agreements recorded in arbitrations referred to the Centre under the NCIA Arbitration Rules are:

- Supply and Delivery agreements.
- Employment agreements.
- Services agreements.
- Construction agreements.

The year 2018/2019 has seen a significant rise in supply and delivery agreements and a change with the representation of cross-border disputes as compared to previous years. The supply and delivery and service agreements take up an estimated 70% of the agreements.



TIME TAKEN IN ARBITRATION

The case tracker allows the case management counsel to collect and collate time management information. Trends observed during the year indicate an average case completion time scale of:

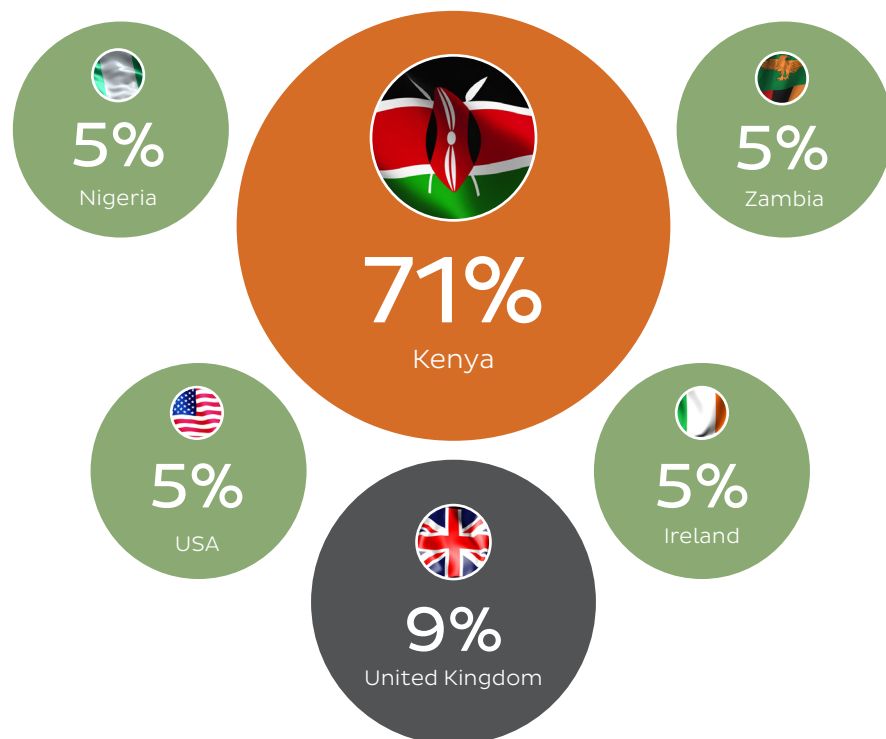
- seven (7) to Ten (10) days for appointment of arbitrator and completion of composition of the tribunal;
- three (3) to five (5) days of actual appearances for hearing before the arbitral tribunal;
- one (1) month to one and half (1-1/2) month completion of award by the tribunal;
- 50 -150 days for parties to file and exchange their case pleadings, documents and submissions including requests for time scheduling, adjustment in timeliness and resolution of applications; and
- three (3) to five (5) days average time for collection of arbitration awards by parties.

ARBITRATOR NATIONALITIES

In promoting diversity and neutrality, the Centre has empaneled arbitrators drawn from different nationalities. Arbitrator selection for the panel is undertaken throughout the year according to the panel listing standard criteria that includes qualifications, training, and experience in arbitration.

Kenyan nationals take up 71% arbitration panel seats stemming from the location of the Centre. However, the Centre aims to create a balance to reflect the character of the Centre by ensuring that the arbitrators selected represent a broad range of nationalities from across the globe and with gender and age equity.

Some of the nationalities represented in the NCIA Arbitration and Mediation panels hold nationalities from Kenya, United Kingdom, Nigeria, United States of America, Zambia, and Ireland among other countries.



SEAT AND APPLICABLE LAW

The year 2018/2019 has seen a majority of arbitrations maintain Nairobi as the seat of arbitration. All dispute administered by the Centre during the year have been governed by Kenyan Law with one having the laws of Hong Kong at registration but subsequently adopting Kenyan law before the Tribunal.

GENDER DIVERSITY

In 2018/2019, 34% of the NCIA arbitrator appointments were women. NCIA in promoting gender diversity deliberately ensures equal access to both men and women arbitrators in matters where it is required to exercise the power of appointment.

Further, NCIA endeavors to make a contribution in promoting inclusivity and gender diversity in arbitration through its outreach scheme to young practitioners and the Regional Arbitration Moot Competitions.

FIRST TIME APPOINTEES

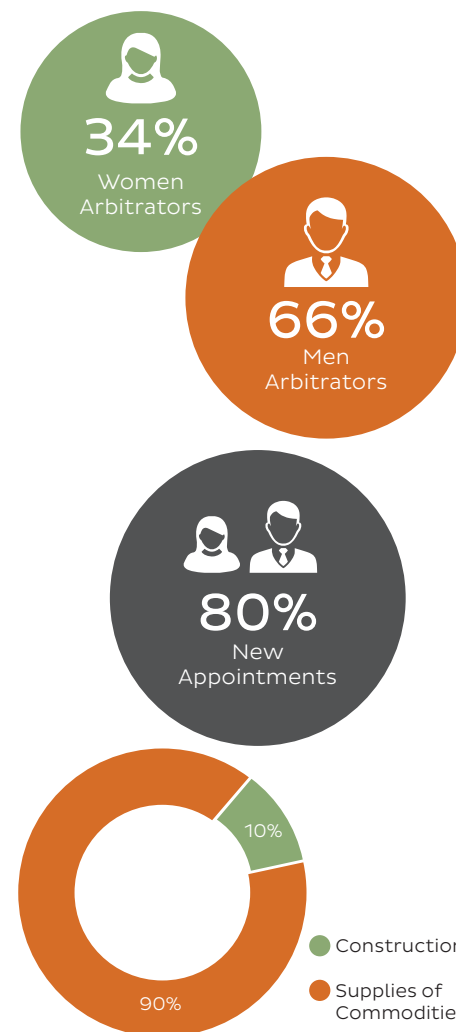
80% of appointments made in 2018/2019 were of candidates not previously appointed. All the appointments made in this year were made following party selection/nomination.

CHALLENGES

There has been no challenge on appointment of Arbitrator in 2018/2019.

CONSOLIDATION

In the 2018/2019 – Nine (9) applications for consolidation were made in arbitrations under the NCIA Arbitration Rules of which eight (8) of were granted. One (1) was pending as at the end of the year.



PARTIES

The NCIA arbitrations involve parties from different sectors and nationalities with cases referred from South Africa, Rwanda, and as far apart as agreements applying the laws of Hong Kong.

The Centre endeavors to be a world class Arbitration Centre and promotes equality and inclusivity in all arbitrations commenced. Further, dispute resolution services are available to all persons indiscriminately and irrespective of nationality as long as the Centre has the jurisdiction to entertain the disputes brought before it.

Additionally, the Centre promotes neutrality through its adoption of a multi-national panel of arbitrators and mediators.

ARBITRATOR APPOINTMENTS

During the course of 2018/2019, the NCIA completed a total of 6 appointments of arbitrators. The Centre has received a total of 27 accreditation applications expressing interest in the domestic and international arbitration and mediation panels.

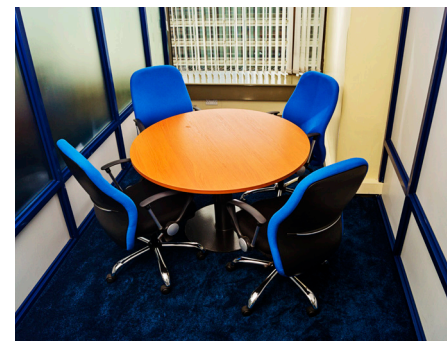
OUR FACILITIES



Mara Boardroom



Tsavo Boardroom



Caucus Room



Practitioners Lounge



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