

ABA International Africa Committee Conference Call

Minutes

14 August 2013 at 1:00 PM (EST)

Attendees

Joké Babington-Ashaye, Co-Chair
Kimberly Brown, Co-Chair
Roland Abeng, Vice-Chair
Yvonne Fiadjoe, Vice-Chair
Angelia Wade, Vice-Chair
Uchechi Anyanwu, Vice-Chair
Anne Bodley, Vice-Chair
Kel Jack, Vice-Chair
Ricardo Silva, Immediate Past Chair
Ryan Lincoln
Kelly McNichols
Nelson Ogbuanya
April Shaw
John Wilkerson
Guly Sabahi
Mahja Zeon
Joanna Ritcey-Donohue

1. INTRODUCTION/WELCOME

Joké welcomed everyone to the conference call and Ricardo gave a few words as outgoing Co-Chair. The Committee Leadership introduced themselves to the members and briefly discussed their ongoing involvement in the Committee.

2. UPDATE ON SECTION RETREAT – SAUSALITO, CALIFORNIA

Joké congratulated the Committee on winning 5 awards namely: *Most Improved Committee*; *Outstanding Committee Outreach Efforts*; *Outstanding Committee Newsletter (Africa Law Today)*; *Outstanding Year in Review Contribution*, and one of two awards for *Best Use of Social Media*.

She explained that discussions were held on possible collaborations with other Committees during the Section retreat. A program, most likely a teleconference, will be held in collaboration with the International Tax Committee and the Transnational Legal Practice Committee to address issues of the movement towards regional and international tax cooperation by countries in Sub-Saharan Africa. Kim suggested addressing the issue from the view point of taxation within regional integration frameworks such as the EAC and taxation surrounding mineral and natural resources. The proposal is being prepared by Nikolas De Bremaeker of the International Tax Committee and will be submitted to us for further consideration and suggestion of panelists.

If you are interested in working on this program please e-mail Kim and Joke at: kimberly.marie.brown@gmail.com and adejoke@gmail.com.

A second discussion was held around the doing business in Africa teleconference series. The Transnational Legal Practice Committee which was behind the award winning BRICS teleconference series is interested in working with the AC on this issue.

3. SECTION FALL MEETING – 2013, LONDON.

The deadline to benefit from the early bird registration for the Fall meeting is 26 August 2013. Register here:

http://www.americanbar.org/calendar/2013/10/section_of_internationallaw2013fallmeeting.html

Africa Committee sponsored/co-sponsored programs:

- *Repatriation of Stolen Assets: Challenges & Opportunities* (program submitted by AC member, Obi Madubuko. Co-sponsored by the International Anti-Corruption Committee)
- *The Costs and Consequences of Section 1504 of the Dodd-Frank Act: How to Prevent Congress' fight against the "Resource Curse" from becoming a "Disclosure Curse" for U.S. Companies* (program submitted by AC member, John Wilkerson. Co-sponsored by the Anti-Money Laundering Committee and the Anti-Corruption Committee).
- *Making Space for Ethics in the Investigation and Prosecution of International Crimes* (program submitted by AC Co-Chair, Adejoké Babington-Ashaye & International Criminal Law Committee Vice-Chair Karen Corrie. Co-sponsored by the Anti-Corruption and International Criminal Law Committees).
- *Global Response to Gender-based violence: The Good, The Bad, and The Obnoxious* (program submitted by Olufunmi Oluyede and Sanjay Tailor on behalf of the Women's Interest Network and the India Committee).

Information on social activities such as the Committee dinner will be circulated by e-mail.

4. PROGRAMS SUBMITTED FOR THE SPRING MEETING – 2014, NEW YORK.

The following 3 programs were submitted for consideration for the 2014 Spring meeting in New York:

Success Stories and Progress in Africa's Anti-Corruption Efforts: Taking Stock and Moving Forward (proposed by AC member Marcellus McRae).

Efforts to prevent and enforce anti-corruption in Africa have increased dramatically in recent years. The panel will consist of practitioners with extensive experience in enforcing anti-corruption, conducting forensic investigations in Africa, and increasing anti-corruption efforts in

Africa. The program is designed to share perspectives into recent developments and discuss next steps in targeting anti-corruption. Participants will gain insights in, among other things:

- Recent implementation of laws, regulations and the creation of new agencies and organizations that focus on preventing and fighting corruption and protecting whistleblowers.
- Methods in overcoming obstacles in countering corruption.
- Positive changes in media coverage regarding anti-corruption efforts.
- The complexity of cross border enforcement issues and increased efforts to encourage cooperation across borders.
- Recent anti-corruption enforcement cases

Between a Rock and a Hard Place: Potential Impacts of Investment Arbitration Trends on Natural Resource and Economic Strategies in Africa and Beyond (proposed by AC member Alexandra Meise Bay).

The recent boom in treaty-based investor-State arbitration has brought with it a significant number of arbitrations involving natural resource disputes, especially over concession contracts and contracts related to mining and extraction-sector development. At the same, many countries in central and southern Africa have recently partnered with foreign corporations to expand development of their natural resource sectors. In this timely program, we examine trends in investor-State arbitration and explore lessons learned from the resolution of recent natural resource disputes, with an eye to their potential impact on the negotiation of future investment treaties and the strategic development of mining and natural resource sectors in certain countries in Africa and beyond. Panelists include individuals with regional experience representing investors (including extraction-sector corporations), States, and/or international organizations in investment disputes, as well as experience as arbitrators and/or advisors seeking to prevent or adjudicate such disputes.

International Criminal Court & Hybrids (proposed by AC Vice-Chair Anne Bodley).

In a follow up to the successful teleconference with panelists Ambassador Stephen Rapp and Justice Aminatta N'gum, this panel program would consider these issues from the additional perspectives of Fatou Bensouda, Prosecutor of the International Criminal Court and Cire Aly Ba, Prosecutor of the *Chambres Africaines Extraordinaires*, the "international" chambers convened under the Senegalese courts to try former Chadian leader Hissene Habre for war crimes and crimes against humanity.

5. OTHER PROGRAMS

- a) *Legal Perspectives of Doing Business in Africa teleconference series*: Kim briefly discussed this program idea, planning for which is already in progress. Kindly see the concept note attached for further details. If you are interested in joining the team to work on this series please Kim and Joké at: kimberly.marie.brown@gmail.com and adejoke@gmail.com and During the call Joanna Ritcey-Donohue who is in the

International Trade Committee expressed interest, and also suggested conflict minerals as an additional theme.

- b) *Follow up to Fall meeting program – Dodd Frank* – Joanna Ritcey-Donohue and John Wilkerson would consider possible ways to organize a follow up program addressing issues of conflict
- c) *Other ideas raised in past conference calls: A program on climate change, sustainability and environmental justice* – In June Jordan Winquist suggested collaborating with other members on a program which could address these issues. If interested in developing this program either as a teleconference or program for Spring 2014 please contact Jordan (jwinquis@temple.edu), copying Joké and Kim.

6. AFRICA LAW TODAY NEWSLETTER

The deadline for articles and contributions to the Fall edition of the ALT is 20 October 2013. If you are interested in writing an article for our Fall edition please contact the editorial staff directly at africalawtoday@gmail.com. We challenge all of our members to consider submitting a piece during the 2013-2014 ABA year. Also, feel free to spread the word and invite your colleagues and friends to submit articles for publication as well. Kim announced a new Feature to the AC's Newsletter Beginning with the Fall 2013 Edition: "Legal News & Updates" If you are interested in helping to contribute or would like to suggest sources for inclusion, please email the editorial staff.

7. YEAR IN REVIEW

The Year-in-Review ("YIR") is published in ABA The International Lawyer as "International Legal Developments in Review". The Publication focuses on legal developments in countries around the world. As a member of the Africa Committee you can send submissions on any of the countries within the continent as well regional or continent-wide institutions (e.g. ECOWAS, Africa Development Bank, African Union etc). The Africa Committee typically contributes articles on 30 African countries and institutions.

Vice-Chair Anne Bodley will be the new Committee Editor taking over from Joké. If you are interested in writing on the 2013 Legal Developments please contact Anne as soon as possible to secure the country/institution you wish to write about (annebodley@yahoo.com).

The next call is at 1pm EST 11 September 2013 (Second Wednesday of the month)