

Challenges of International Arbitration **(By Yohannes Woldegebriel)**

On the basis of a bilateral cooperation agreement signed between Chamber Trade Sweden (CTS) and Addis Ababa Chamber of Commerce and Sectoral Associations (AACCSA) on Chamber Academy Program in which the ADR component is a key factor, last August, the Director of the Arbitration Institute of AACCSA travelled to Stockholm, for a bench marking, experience sharing and capacity building discussion with the Arbitration Institute of the Stockholm Chamber of Commerce (SCC) and to attend an important conference organized by the International Commercial Arbitration Law (ICAL) Alumni Association of the Stockholm University under the theme “Mastering The Challenges in International Arbitration.”

The Director held useful discussions with the Secretary General of the Arbitration Institute of the SCC, Ms Annette Mangnusson and on the following day, attended a conference on the most important issues of international arbitration. The travel can be described as successful that has not only achieved its objectives but has also proved the CTS’s superb ability and commitment to discharge its respective obligation, identify relevant and pertinent areas of cooperation, diligent and passionate follow up in ensuring that each scheduled task has been timely executed.

The discussion held with Ms. Annette revealed the striking similarities of opportunities and difficulties facing in the activities of the Arbitration Institutes of the respective Chambers and greatly helped in exchanging relevant and workable experiences in a bid tap to the maximum extent possible all available opportunities and share fruitful practices to resolve certain problems.

The Arbitration Institute of the SCC is one of the most reliable and prestigious arbitration body established in 1917 that provides its services to local and international arbitration. During the cold war era in which the world was divided in to two hostile ideological blocks and highly polarized relationship between the Capitalist west and The Communist east, the Stockholm Arbitration Institute was selected as an independent and neutral arbitration body for international commercial disputes between The USA and Soviet companies. Currently, the institute host on average more than 150 local and international cases per annum coming from across Sweden and the world.

An international conference on Arbitration, held at Grand Hotel, Stockholm from August 29-30 was another important event attended by the Director that had provide immense opportunity to discuss on major challenges and opportunities facing international commercial arbitration in particular and arbitration in general. The conference was attended by 250 participants from across the world and was a huge opportunity for discussions and experience sharing with arbitrators, administrators of arbitration bodies, academicians and practitioners. This conference also marked the celebration of “a decade of study and research in international arbitration at the master program of international arbitration law at Stockholm University.”

Numerous scholarly papers and presentations were made on various issues pertaining to major challenges of arbitration. Issues presented and discussed during the sessions in the conference involve 1. Dealing with arbitrability and mandatory law in arbitration 2. Corruption: Arbitration for users or abusers and whose problem is it any way? 3. Aligning corporate compliance, risk avoidance and dispute policies and strategies. 4. The managerial (or mismanaging) Arbitrator: what are the limits of her power and the requirements of her duty? 5. Regulating counsel and arbitrator conduct: is international arbitration the Wild West of the legal community. 6. Preparing and pursuing to challenges to arbitrators. 7. Arbitrating with a state or State-Controlled party: Overcoming Challenges and creating strategies.

Each paper presented, sessions conducted and discussions made were excellent and well managed. In fact, the two days conference focused on highly relevant and pertinent issues of arbitration. Considering the numerous arbitration issues covered in the conference in so short time, the organizers deserve appreciation. Particularly, Dr, Patricia Shaughnessy, who invested so much energy and time for the realization of the post graduate program and the conference must be congratulated.

Sadly, even if there is a rising demand for international commercial arbitration and many African countries are making use of arbitration as a means of settling disputes, there were very few participants invited in the conference coming from the huge continent of Africa and it was certainly a privilege for the Arbitration Institute of AACCSA to attend such conference. In fact, even for such privilege, Chamber Trade Sweden must deserve the credit for sponsoring the travel, attendance and hotel accommodation.

Despite the large number of participants in the conference, it was apparent that most facts and issues discussed were reflected from western and European developed countries perspectives although specific and at times humiliating cases were cited from African countries. Institutions and professionals specialized in conducting, administering and even practicing international commercial arbitration has been dominated by the western world that have developed legal history and system and it was no wonder that there has been a visible absence from Africa and other developed countries in general.

Considering their past colonial experience, international Commercial Arbitration is suspiciously perceived by most developing countries that are very much sensitive on their sovereign interests. As a result, African countries in particular consider it as a judicial instrument to safeguard and protect business interests of affluent capitalist against their weak contractual partners in developing countries. Arbitration in general and international arbitration in particular ousts the jurisdiction national courts. In most instances, the developed legal system and institutions available in western countries has also made most western countries the seat for several arbitrations bodies' and venues where practicing arbitrators and legal counsels concentrated.

During the conference, in a discussion over "Preparing and pursuing to challenges to arbitrators," the Director of the Arbitration Institute raised an issue on the scope of challenges that might be prepared and pursued on arbitrators. This issue may have been

addressed in most international and local arbitration rules. But the arbitration rules that provides answer to such question lacks adequacy and leaves quite a number of problems unanswered. In the conference, questions often raised from African perspectives appear to have been diluted. Can challenge on arbitrators be filed on the ground of biases on account of racial, political, or even ethnic backgrounds? What are the limits and the perimeter within which grounds challenges may be filed? These issues though believed to be relevant by many participants, as one participant explained, seems “to generate thorny matters” that cannot be easily resolved.