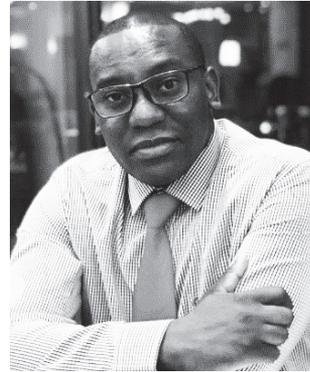


THE CHINA-AFRICA JOINT ARBITRATION CENTRE (CAJAC)

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Abstract

The People's Republic of China (PRC) continues to consolidate its position as one of the most important trade players on the international market. The PRC has signed cooperation agreements with more than 126 countries. It is also a substantial importer of raw materials, intermediate inputs, and other goods. The PRC has dealings with all 54 countries on the African continent, and today the continent ranks as one of the PRC's most important trading posts. The increasing number of international trade and investment means naturally, that disputes of an international nature will arise between the PRC and African parties. It is for this reason that the China-Africa Joint Arbitration Centre (CAJAC) was established. The formation of CAJAC at the instance of the Forum on China - Africa Cooperation (FOCAC) is to encourage is to administer the resolution of international disputes arising between Chinese and African entities having their principal residence, place of business or nationality located in PRC or a country in Africa. The aim of this article is to examine the salient features of CAJAC which is administer by accredited institutions which include CAJAC Beijing; CAJAC Johannesburg, CAJAC Nairobi, CAJAC OHADA, CAJAC Shanghai and CAJAC Shenzhen.

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1 Introduction

In the last three decades, the People's Republic of China (PRC) has intensified its investment wits, which Zachary Mollengarden persuasively refers to as the 'going up and reform' and the 'going abroad'.¹ The latest investment innovativeness is described as the 'catching up and getting ahead'.² In September 2013, the PRC President, Xi Jinping launched the Silk Road Economic Belt and in October 2013, launched the 21st Century Maritime Silk Road initiative.³ The 'Silk Road Economic Belt' is an initiative based on land based infrastructural development projects such as rail, road and pipelines and the '21st Century Maritime Silk Road' is an initiative based on coastal and port infrastructural development.⁴

The Belt and Road Initiative (BRI),⁵ as it is commonly known, has been described as an outbound economic, foreign trade initiative established by the PRC for infrastructural development for the next fifty years.⁶ It is not the focus of this article to examine the BRI, its successes or its failures.⁷ However, this research highlights the diplomatic efforts between the PRC and Africa to create a medium for the effective resolution of disputes between the PRC and Africa.⁸ The China-Africa Joint Arbitration Centre (CAJAC), as will be discussed later in this article, is a manifestation of the Blue Book on the Dispute Resolution Mechanism for the BRI sponsored by the International Academy of the Belt and Road which backed the creation of a uniform dispute resolution mechanism.⁹

1 Z Mollengarden 'One-stop dispute resolution on the belt and road: toward an international commercial court with Chinese characteristics' (2019) 36 *Pacific Basin Law Journal* at 87-93.

2 As above.

3 See P Frankopan *The silk roads: a new history of the world* (2015).

4 A Osman 'China's maritime silk road and the future of African arbitration' in J Chaisse & J Gorski (eds) *The belt and road initiative: Law, economics and politics* (2018) at 734-735.

5 Office of the Leading Group for Belt and Road Initiative *Building the belt and road: concept, practice and China's contribution* (2017) at 1.

6 For a detailed examination of the belt and road initiative agreements, see H Wang *The belt and road initiative agreements: characteristics, rationale, and challenges* (2021) at 24.

7 The Belt and Road Initiative has also attracted criticism. See for example T Lumumba-Kasongo 'China-Africa relations: a neo-imperialism or a neo-colonialism? a reflection' (2011) 1 *African and Asian Studies* at 234-266.

8 Beijing International Arbitration Centre 'The role of arbitration in promoting Sino-African trade and investment' (2017) 14 *Asian-mena Counsel Magazine* at 33.

9 J Crawford 'China and the development of an international dispute resolution mechanism for the belt and road construction' in W Shan et al (eds) *China and international dispute resolution in the context of the 'belt and road initiative'* (2020) at 18.

2 The significance of the PRC – Africa relationship

The African continent has ‘the largest number of countries per square area in comparison with other developing regions’.¹⁰ This makes the continent an important trading post for the PRC.¹¹ In the last three decades, the PRC has had dealings with almost all the countries on the Africa continent.¹² It has supported various causes on the continent,¹³ and assisted the liberation struggle against colonialism and racial oppression.¹⁴ The PRC has also been instrumental in providing humanitarian assistance, economic trade, and investments in Africa.¹⁵

The PRC as an emerging economy,¹⁶ has to date signed cooperation agreements with more than 126 countries, with the PRC committing a ‘total of approximately US\$690 billion’.¹⁷ The PRCs active engagement on the continent has grown in recent years.¹⁸ It has further contributed to the general economic growth, and led to significant improvement in infrastructure.¹⁹ Robert Irwin Rotberg famously said; ‘China and Africa desperately need each other. China cannot easily grow without Africa. Nor can sub-Sahara Africa (a collection of forty-eight disparate countries) subsist, and now prosper, without China’.²⁰ Unquestionably, the increasing trade and investment initiatives of the PRC, have seen the PRC grow in world trade, and drive the process of globalisation.²¹ This makes the PRC

10 HG Broadman *Africa’s silk road: China and India’s new economic frontier* (2007) at 6.

11 Y Chain ‘Regional dispute resolution: An international civil resolution model for East Asia’ in Y Zhao (ed) *International governance and the rule of law in China under the belt and road initiative* (2018) at 269.

12 OM Otele ‘Introduction. China-Africa relations: interdisciplinary question and theoretical perspectives’ (2020) 47 *The African Review* at 280.

13 See S Zhao *China in Africa: strategic motives and economic interests* (2017).

14 C Manyeruke ‘Chinese economic development projects in Zimbabwe’ in SO Abidde & TA Ayoola (eds) *China in Africa: Between imperialism and partnership in humanitarian development* (2020) at 265.

15 CH Vhumbunu ‘Enabling African regional infrastructure renaissance through the China-Africa Partnership: a trans-continental appraisal’ (2016) 77 *International Journal of China Studies* at 277.

16 Brazil, Russia, India, China and South Africa are an important and strategic group of key counties in Africa, Asia, Europe and Latin America of emerging economics referred to as BRICS. See O Hodzi *The end of China’s non-intervention policy in Africa* (2019) at 7.

17 C Bao ‘Negotiating the potholes along the belt and road’ (2019) 21 *Asian Dispute Review* at 154.

18 See W Kidane *China-Africa dispute settlement: The law, economics and culture of arbitration* (2012).

19 G Shelton *The forum on China-Africa. Cooperation: a strategic opportunity* (2008) at 5.

20 RI Rotberg *China into Africa: Trade, aid and influence* (2008) at 1.

21 See DCK Chow & TJ Schoenbaum *International business transactions: Problems, cases and materials* (4 ed) (2020).

the world's largest exporter, the second largest economy,²² and second largest importer of substantial raw materials and other goods in the world.²³

There has been an increase in trade and investment in Africa. It can be assumed that this increase in trade and investment in Africa,²⁴ will lead to an increase in the number of disputes. This in turn will necessitate a mechanism for the resolution of disputes.²⁵ As Steve Hochfeld said,²⁶

[s]ince the dawn of time; humanity has been buying, selling, bartering and trading. As there are at least two parties to every trade, we can assume that ever since the first trade, disputes arose and a method was needed to settle those disputes.

In addition to the aforesaid, information technology has transformed how businesses and people interact.²⁷ Individuals and entities are able to interact directly with one another and exchange information, ideas and conduct businesses online regardless of their geographical locations.²⁸ It is not unusual that the typical disputes which are usually referred for arbitration between PRC and African parties are largely contractual disputes.

Disputes largely based on, but not limited to, exploitative agreements or concession agreements and other related documents in respect of project finance, letters of credit, letters of guarantee, intellectual property protection, marine disputes, mergers and acquisitions, the sale and purchase of equipment, transfer of knowledge and in other cases delictual, labour and employment disputes.²⁹

22 J Ribeiro & S Teh 'The time for a new arbitration law in China: comparing the arbitration law in China with the UNICTRAL Model Law' (2017) 34 *Journal of International Arbitration* at 459.

23 RC Feenstra & S Wei *China's growing role in world trade* (2020) at 1.

24 O Ajayi & P Rosario 'Investments in Sub-Sahara Africa: the role of international arbitration in dispute settlement' (2009) 6 *Revista Brasileira de Arbitragem* at 70-78.

25 MA Raouf 'Emergence of new arbitral centres in Asia and Africa: competition, cooperation and contribution to the rule of law' in S Brekoulakis and others (eds) *The evolution and future of international arbitration* (2016) at 322.

26 S Hochfeld, 'SACOTA and arbitration's role in our grain and oilseed industries' March 2015 <https://www.grainsa.co.za/sacota-and-arbitration-s-role-in-our-grain-and-oilseed-industries> (accessed 17 May 2022).

27 See M Piers & C Aschauer *Arbitration in the digital world: The brave new world of arbitration* (2018).

28 See J Hörnle *Cross-border internet dispute resolution* (2009).

29 W Zhu 'A brief analysis of the disputes from China-African civil and commercial transactions' (2012) 7 *Journal of Cambridge Studies* at 84. See also G Wang et al (eds) *Dispute resolution mechanism for the belt and road initiative* (2020) at 4.

3 The UNCITRAL model law in PRC and Africa

Kanokanga in his seminal work, *Commercial Arbitration in Zimbabwe* lucidly lists the advantages of arbitration. These include, but are not limited to³⁰ arbitrator expertise, enforceability, simplified procedure and flexibility, reduced costs, confidentiality, privacy, party autonomy, neutral forum, and finality.³¹

The PRC promulgated and adopted the United Nations Commission on International Trade Law (UNCITRAL) Model on International Commercial Arbitration (Model Law) in 1994. The UNCITRAL Model Law on International Commercial Arbitration was established by UNICTRAL (the Commission) to be the basic and uniform law in its interpretation and application with regards to the resolution of disputes.³²

In essence, the Model Law was conceived out of a desirability to have a uniform international law. This is because there existed numerous disparities in national laws with regards the laws governing international trade.³³ In Africa, the following countries have each adopted the UNCITRAL Model Law: Nigeria in 1990, Tunisia in 1993, Egypt in 1994, Kenya in 1995, Zimbabwe in 1996, Madagascar in 1998, Uganda in 2000, Zambia in 2000, Rwanda in 2008, Mauritius in 2008, and South Africa in 2017.³⁴ Kanokanga submits that in countries where the PRC is investing requires efficient, effective, simplified and flexible, confidential dispute resolution mechanisms which promote party autonomy.

The conclusion of the adjudication process led to a final and binding arbitral award that is easily enforced. This is the principal reason for the creation of CAJAC Centres.³⁵ Consequently, the CAJAC

30 D Kanokanga *Commercial arbitration in Zimbabwe* (2020) at 25-28.

31 As above.

32 See P Kanokanga 'Matrimonial arbitration in Zimbabwe: an analysis of section 4 (2)(d) of the Arbitration Act [Chapter 7:15]' (2022) *University of Zimbabwe Students Law Review* at 43-73; P Kanokanga '25 years of UNCITRAL Model Law in Zimbabwe' (2022) *University of Zimbabwe Students Law Review* at 147-187; D Kanokanga & P Kanokanga, *UNCITRAL Model Law on International Commercial Arbitration: A Commentary on the Zimbabwean Arbitration Act [Chapter 7:15]* (2022).

33 See G Hermann, *The UNCITRAL Model Law – its background, salient features and purposes* (1985) 1 (1) *Arbitration International* at 6-39; A Broches 'The UNCITRAL Model Law' (1985) 34(1) *International and Comparative Quarterly* at 1-24; HM Holtzmann & JE Neuhaus, *A guide to the UNCITRAL Model Law on international commercial arbitration: Legislative history and commentary* (1989).

34 The 1985 UNCITRAL Model Law is applied in Egypt, Kenya, Madagascar, Nigeria, Tunisia, Uganda, Zambia and Zimbabwe. Whilst the revised 2006 UNCITRAL Model Law is applied in Mauritius, Rwanda and South Africa.

35 H Chen 'China's innovative ISDS mechanisms and their implications' (2018) 112 *American Journal of International Law* at 209.

Centre are important in building and maintaining ‘Sino-African joint dispute resolution mechanisms’.³⁶

3.1 The arbitration practice in PRC and Africa

Unlike Africa, the PRC is in a single country.³⁷ Africa is continent which composes of 54 independent and sovereign states and 8 regional economic communities.³⁸ These states are all at different stages of economic development.³⁹ Indisputably, there exist legal differences with regards to the dispute resolution mechanisms in the PRC,⁴⁰ and the plurality of legal systems in Africa.⁴¹

There are also plural arbitral laws in PRC and arbitral regimes in Africa.⁴² For instance, arbitration in the PRC is predominantly institutional,⁴³ whereas arbitration in Africa is largely *ad hoc*.⁴⁴ The ‘proliferation of African arbitration institutions has also helped with improving the whole ecosystem supporting arbitration’.⁴⁵ Arbitration institutions play a crucial role in facilitating international arbitral proceedings.⁴⁶ It is for this reason that CAJAC serves as an important

36 See F Kariuki ‘The vision of co-building China-Africa Joint Arbitration Centres indifferent legal systems’ (2018) 6 *Alternative Dispute Resolution* at 28-43.

37 MW Kiggundu ‘China-Africa legal and judicial systems: advancing mutually beneficial economic relations’ (2013) 4 *Beijing Law Review* at 159.

38 See JT Gathii *African regional trade agreements as legal regimes* (2011) at 65.

39 G Areou ‘The African states diverging policies towards international arbitration’ (2020) 17 *Transnational Dispute Management* at 1.

40 For a detailed examination of the arbitration and that of the PRC legal system, see N Kaplan et al (eds) *Hong Kong and China arbitration: cases and materials* (1994); AH Chen *An introduction to the legal system of the People’s Republic of China* (2004); J Toa *Arbitration law and practice in China* (2004); K Fan *Arbitration in China: a legal and cultural analysis* (2013); W Sun & M Willems (eds) *Arbitration in China: a practitioner’s guide* (2015); W Gu *Dispute resolution in China: litigation, arbitration, mediation and their interaction* (2021).

41 For a detailed examination of arbitration in Africa, see E Cotran & ANE Amisshah (eds) *Arbitration in Africa* (1996); R Amoussou-Guenou, ‘The evolution of arbitration laws in Francophone Africa’ (1998) 64 *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management* 62-66; AA Asouzu *International commercial arbitration and African states: practice, participation and institutional development* (2001); E Al Tamimi *The practitioner’s guide to arbitration in the Middle East and North Africa* (2009); B Le Bars *International arbitration and corporate Law: an OHADA practice* (2013); L Bosman *Arbitration in Africa: a practitioner’s guide* (2013); K Shah et al (eds) *Arbitration in Africa: a review of key jurisdictions* (2016); MJV Kodo *Arbitration in Africa under OHADA rules* (2020).

42 KI Laibutu ‘ADR in Africa: contending with multiple legal orders for wholesome dispute resolution’ (2016) 82 *Arbitration: The International Journal of Arbitration: Mediation and Dispute Management* at 63-69.

43 J Yu & L Cao *A guide to the CIETAC Arbitral Rules* (2020) at 1.27.

44 C Namachanja ‘The challenges facing arbitral institutions in Africa’ (2015) 3 *Alternative Dispute Resolution* at 146- 147.

45 J Otto, ‘AFAA and the coming of age of African arbitration’ 24 April 2019 <https://iclg.com/alb/9415-afaa-and-the-coming-of-age-of-african-arbitration> (accessed 5 April 2022).

46 S Hoffbauer et al ‘Survey on scrutiny of arbitral institutions’ in P Habegger et al (eds) *Arbitration institutions under scrutiny: ASA Special Series No. 40* (2013) at 2.

organisation in the resolution of Sino-Africa trade disputes. Put differently, as more significant investments are made in Africa by the PRC, ‘arbitration is the end game’.⁴⁷

3.2 The World Trade Organisation

Conventionally, investment arbitration is governed by bilateral and multilateral treaties.⁴⁸ Disputes are resolved through the World Trade Organisation (WTO). The WTO functions as the world’s leading multilateral trade system and representative international trade cooperation organisation.⁴⁹ China and about 44 African member countries are members of the WTO. Eight African countries have observer status.⁵⁰

In the WTO, dispute settlement is governed by the Dispute Settlement Understanding (DSU).⁵¹ There are four general processes, which include the consultation, the panel process, the appellate process, and the surveillance of the implementation process.⁵² The nature of disputes under WTO are between participating state members.⁵³ Consequently, CAJAC was set up so that disputes are not resolved pursuant to bilateral or multilateral treaties. DSU in the resolution of disputes in the multilateral trade system must consider all the other WTO members in the resolution of the dispute.

The establishment of CAJAC reflects not only PRC interests but it also reflects African interests. African states have generally been hesitant to take issues pertaining to bilateral and multilateral disputes before the DSU.⁵⁴ They have for a long time been dissatisfied with the decisions of international tribunals, which have often gone against them.

47 H Ngomane ‘Alternative dispute resolution Africa and China’ (2012) 1 *African Law Review* at 29.

48 See generally Z Weidong ‘Book review: China-Africa dispute settlement: logic reading for choosing arbitration’ (2017) 12 *Cambridge Journal of China Studies* at 77-83.

49 S Jiang ‘Establishment of an international trade dispute mechanism under the belt and road initiative’ in Y Zhao (ed) *International governance and the role of law in China under the belt and road initiative* (2018) at 296.

50 The African countries with observer status include: Algeria, Comoros, Equatorial Guinea, Ethiopia, Libya, Somalia, South Sudan and Sudan. Eritrea and Sao Tome and Principe are the only two countries that are not affiliated to the WTO.

51 For a detailed understanding on WTO law and the WTO dispute system, see *WTO analytical index guide to WTO law and practice* (1 ed) (2003); WTO Secretariat *A handbook on the WTO dispute settlement system* (2 ed) (2017).

52 WJ Davey ‘The WTO dispute settlement system: how have developing countries fared’ in Z Drabek (ed) *Is the WTO attractive enough for emerging economies?* (2020) 295-332.

53 MR Dahlan ‘Envisioning foundations for the law of the belt and road initiative: rule of law and dispute resolution challenges’ (2020) 62 *Harvard International Law Journal Essay* at 5-6.

54 I Taylor *China’s new role in Africa* (2009) at 31.

The PRC is of the view that establishing convenient dispute resolution services facilitates investment in African states.⁵⁵ It also furthers the internationalization of China's commercial arbitration services.⁵⁶ As should by now be clear, despite the different arbitral regimes in Africa and those in the PRC, the CAJAC initiative is an alternative dispute resolution mechanism established at the making of the Forum on China-Africa Cooperation (FOCAC).

4 The forum on China-Africa cooperation

The FOCAC was established in the year 2000. It was established as a multilateral cooperative, pragmatic consultation and dialogue platform for the exchange and cooperation between the heads of states and government of the various African countries and the PRC. FOCAC is evidence of the development of PRC-Africa cooperation.⁵⁷ Similarly, PRC's foreign policy and FOCAC are closely linked. The FOCAC can be viewed as a 'one stop shop'⁵⁸ for exchange between PRC-Africa, whether economic, cultural, political, or military interaction.⁵⁹ Consequently, CAJAC was established and developed under the aegis of FOCAC to administer the resolution of international disputes arising between PRC and African individuals, corporations and authorities.⁶⁰

At the Johannesburg Summit and sixth Ministerial Conference of FOCAC held in 2015, the PRC and 50 African countries represented by their Heads of States and Government accepted a proposal by the China Law Society (CLS) to establish the CAJAC.⁶¹

4.1 The history and development of CAJAC

The idea of a particular dispute resolution mechanism between PRC-Africa was envisioned as early as 2012.⁶² However, such an ideal only became a reality in 2015.⁶³ The creation of the CAJAC came after two

55 H Chen 'The belt & road initiative and the new landscape of China's ISDS policy and practice' in C Cai et al (eds) *The BRICS in the new international legal order on investment: reformers or disruptors* (2020) at 111.

56 Osman (n 4) 744.

57 MG Berhe & L Hongwa *China-African relations: governance, peace and security* (2013) at 2.

58 C Okeke 'Interpreting the dynamics of the belt and road initiative (BRI) in relation to Africa's infrastructural exigency' (2019) 4 *International Journal of Innovative Science and Research Technology* at 822.

59 N Duggan *Competition and compromise among Chinese actors in Africa: a bureaucratic politics study of Chinese foreign policy actors* (2020) at 9.

60 CAJAC Rules 2020, art 1.1.

61 Chen (n 55) 111.

62 <http://inhousecommunity.com/article/role-arbitration-promoting-sino-african-trade-investment> (accessed 20 April 2022).

63 As above.

years of negotiating.⁶⁴ This was after the CLS had communicated to the African Foundation of Southern Africa (AFSA) on the possibility of launching the initial CAJAC Centre in Johannesburg.⁶⁵ In June 2015, a cooperation agreement was signed by AFSA, the Association of Arbitrators (Southern Africa) NPC (AASA), the Africa ADR,⁶⁶ the CLS and the Shanghai International Economic and Trade Arbitration Commission (SIETAC), which is also known as the Shanghai International Arbitration Centre (SIAC) to build a Joint PRC-Africa ADR Centre.⁶⁷

It is noteworthy to highlight that CAJAC also draws its inspiration from the establishment of the Chinese European Arbitration Centre (CEAC).⁶⁸ This is a specialised institutional arbitral centre established in September 2008 in Hamburg, Germany.⁶⁹ Unlike the CEAC, which provides for the resolution of international disputes from any part of the world so long as such disputes relate to the PRC, the CAJAC initiative, is context and region specific. This is to say that it was formulated to provide for the resolution of international disputes between individuals, corporations and authorities with a principal place of residence, or principal place of business in the PRC or in Africa.

4.2 The Beijing consensus

The FOCAC Beijing Action Plan 2013-2013 (Beijing Consensus) is an alternative economic approach to development for developing countries.⁷⁰ In terms of the Beijing Consensus which was adopted at the fifth Ministerial Conference of FOCAC, it was agreed that there would be increased cooperation on 'non-judicial settlement of

64 Z Twala et al 'South Africa: The China-Africa Joint Arbitration Centre' 28 February 2017 <https://mondaq.com/southafrica/arbitration-dispute-resolution/572250/the-china-africa-joint-arbitration-centre> (accessed 5 April 2022).

65 TR Snider 'China Africa Joint Arbitration Centre established in Johannesburg' 18 September 2015 <http://www.gtlawdoingbusinessinafrica.com/2015/09/chinaafricajointarbitrationcentrestablishedinjohannesburg> (accessed 5 April 2022).

66 Africa ADR was launched in October 2009 as an initiative of the Southern African Development Community (SADC). It therefore is a regional dispute resolution forum established with an aim of encouraging the use of alternative dispute resolution mechanisms in the SADC region. See G Rudolph & D Bernstein 'South Africa' in NM Thevenin (ed) *Baker and McKenzie International Arbitration Yearbook: 2012-2013* (6 ed) (2013); G Rudolph & D Bernstein 'South Africa' in L Williams (ed) *Baker and McKenzie International Arbitration Yearbook: 2014-2015* (7 ed) (2015).

67 http://www.shiac.org/CAJAC/aboutus_E.aspx?page=3 (accessed 15 April 2022).

68 E Brödermann 'The Chinese European arbitration centre: an introduction to the CEAC Hamburg arbitration rules' (2013) 30 *Journal of International Arbitration* at 303-328.

69 As above.

70 W Chen (ed) *The Beijing Consensus? How China has changed western ideas of law and economic development* (2017).

disputes'.⁷¹ On 5 June 2015, the Beijing Consensus on Establishing the China-Africa Joint Dispute Resolution Mechanism initiated by the CLS was signed with more than 30 other institutions.⁷²

4.3 The Johannesburg consensus

On the 17 August 2015, the Johannesburg Action Plan (Johannesburg Consensus)⁷³ was signed to 'reaffirm and extend the sentiments and decisions contained in the Beijing Consensus'.⁷⁴ Consequently, CAJAC is a creature of legal diplomacy fashioned pursuant to the Beijing Consensus and the Johannesburg Consensus.⁷⁵ This is where more than 50 African countries and the PRC committed themselves to non-judicial settlement of disputes and the establishment of CAJAC.⁷⁶

4.4 The launch of CAJAC Johannesburg and CAJAC Shanghai

On 25 November 2015, the Guiding Committee of CAJAC Johannesburg and CAJAC Shanghai met for consultative discussion on the CAJAC Model Clause and the CAJAC Johannesburg Rules and the Panel of Arbitrators. These consultative meetings show a commitment to mutual co-operation and development of alternative dispute resolution between the PRC and Africa. On the 26 November 2015, the inauguration of CAJAC took place at the China-Africa Johannesburg Summit and the 6th FOCAC Ministerial Conference at the Hyatt Hotel in Rosebank, Johannesburg, South Africa.⁷⁷ This event was attended

71 See Beijing Action Plan (2013-2015), art 2.4.4. See also the Fifth Ministerial Conference on the Forum on China-Africa Cooperation Beijing Action Plan (2013-2015) 23 August 2012 http://www.focac.org/eng/zywx_1/zywj/t954620.htm (accessed 15 April 2022).

72 http://www.shiac.org/CAJAC/news_detail_E.aspx?page=12015&tid=600 (accessed 15 April 2022).

73 Signatories to the Johannesburg Consensus include: Bowman Gilfillan Africa Group, Cape Bar; China Africa Legal Research Centre; China Africa Legal Training Base; China Law Society; China Research Centre of Legal Diplomacy; City of Johannesburg; Cliffe Dekker Hofmeyr; Clyde & Co; Edward Nathan Sonnenberg; Eversheds (SA) Inc; Fluxmans; Geldenhuys Malatji; Gwina Ratshimbilani Inc; Hainan Arbitration Commission; Hogan Lovells; International Integral Reporting Council; Johannesburg Society of Advocates; King Commission on Corporate Governance; KPMG Inc; Mkhabela Huntley Adekeye; Norton Rose; OMS Attorneys; Phukubje Pierce Masithela; Pretoria Society of Advocates; Sefalafala Inc; Shanghai international arbitration Centre; South African Grain Arbitration Service Association; Tshisevhe; Tugendhaft Wapnick Banchetti; Webber Wentzel and Werksmans. See J Ripley-Evans 'South Africa' in JH Carter (ed) *The International Arbitration Review* (7 ed) (2016) at 479.

74 Ripley-Evans (n 73) at 478.

75 <https://www.polity.org.za/article/south-africa-enters-international-arbitration-stage-2015-08-18> (accessed 28 August 2022).

76 <http://www.keatingchambers.com/wp-content/uploads/2017/12/DW-CAJAC.pdf> (accessed 5 April 2022).

77 Chen (n 55) 111.

by 40 delegates from China and more than 100 delegates from South Africa and other countries in Africa.⁷⁸

5 The CAJAC centres

The initial CAJAC Centres to be recognised were established on the 26 November 2015. They were established simultaneously in Johannesburg and in Shanghai. That is the CAJAC Johannesburg and the CAJAC Shanghai. Each CAJAC Centre initially had 20 nominated arbitrators. At present, there are six CAJAC Centres, namely, the CAJAC Beijing,⁷⁹ CAJAC Johannesburg,⁸⁰ CAJAC Nairobi,⁸¹ CAJAC OHADA,⁸² CAJAC Shanghai⁸³ and CAJAC Shenzhen.⁸⁴ Each CAJAC Centre has its own Secretariat which administers the arbitral process in each CAJAC Centre seat.⁸⁵ The CAJAC Rules are based on international best practices and make provisions for emergency arbitration,⁸⁶ consolidation,⁸⁷ and joinder.⁸⁸ Respectively, each CAJAC Centre operates through an accredited arbitration institution in the PRC and Africa.

The PRC does not provide for ad hoc arbitration.⁸⁹ This is because of the fact that arbitration must be by a recognised arbitral institution⁹⁰ with the PRC juridical authorities.⁹¹ Consequently, parties are at liberty to refer their disputes to any of the accredited

78 <https://hoganlovells.com/en/publications/cajac/update> (accessed 5 April 2022).

79 CAJAC Beijing was established and is maintained by the Beijing International Arbitration Centre.

80 CAJAC Johannesburg was established and is maintained by the African Foundation of Southern Africa.

81 CAJAC Nairobi was established and is maintained by the Nairobi Centre for International Arbitration.

82 CAJAC OHADA was established and is maintained by the Organization for the Harmonization of African Business Law. In French, the organisation is known as the Organisation pour l'Harmonisation en Afrique du Droit des Affaires, which translates into English as Organisation for the Harmonization for Business Law in Africa. OHADA member states include, Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Democratic Republic of Congo, Equatorial Guinea, Gabon, Guinea Bissau, Guinea, Niger, Senegal, Togo.

83 CAJAC Shanghai was established and is maintained by the Shanghai International Arbitration Centre.

84 CAJAC Shenzhen was established and is maintained by the Shenzhen Court of International Arbitration which is also known as South China International Economic and Trade Arbitration Commission, or Shenzhen Arbitration Commission).

85 Kanokanga (n 30) 52. See also L Shuangyuan *Private international law* (3 ed) (2011) at 446.

86 CAJAC Rules 2020, art 33.

87 CAJAC Rules 2020, art 17.

88 CAJAC Rules 2020, art 18.

89 Arbitration Law of the People's Republic of China 1994, art 16(3).

90 J Lizhu 'Time to loosen up on ad hoc arbitration in China?' (2019) 15 *Asian International Arbitral Journal* at 43-53.

91 M Utterback et al 'Arbitration in China: an overview' in MJ Moser (ed) *Business disputes in China* (3 ed) (2011) at 19.

CAJAC Centres for the resolution of any dispute.⁹² This is done through alternative dispute resolution mechanisms, including conciliation,⁹³ mediation and arbitration for the resolution of disputes referred by parties to CAJAC.⁹⁴ Therefore, each CAJAC centre has excellent legal knowledge and sufficient capacity to deal with international commercial arbitration.⁹⁵ As more economic trade and investment deepens, there will be a need to have more CAJAC centres in different geographical locations.⁹⁶ These centres are to serve all the geographical regions of Africa, that is East Africa, Central Africa, North Africa, southern Africa and West Africa.⁹⁷

In May 2017, and to further the ‘One Belt One Road Arbitration Initiative,’ cooperation agreements were established in Kuala Lumpur with the Asian International Arbitration Centre (AIAC).⁹⁸ They were also established in Cairo with the Cairo Regional Centre for International Commercial Arbitration (CRCICA).⁹⁹ As international arbitration is deeply dependent on the neutrality of arbitral institutions, CAJAC aims to be a neutral and affordable arbitral institution.¹⁰⁰

The Panel of Arbitrations are experts drawn from various professions.¹⁰¹ CAJAC arbitration seeks to ensure that the arbitrators remain unbiased and neutral as they adjudicate international commercial disputes. Despite their unbiased posture and neutrality, they pay close attention to the differences among the national cultures and the different legal traditions of the parties.¹⁰²

92 CAJAC Rules 2020, art 1.3.

93 Conciliation is not often resolved in investment dispute resolution. See generally S Yee ‘Dispute settlement on the belt and road: ideas on system, spirit and style’ (2018) 17 *Chinese Journal of International Law* at 913.

94 CAJAC Rules 2020, art 1.2.

95 Okeke (n 58) 828.

96 S Sarkar ‘One belt, one law: new dedicated arbitration centers pave the way for greater Sino-African legal synergy’ 01 May 2017 <https://www.chinaafrica.cn/Africa/201705/t20170509-80095638.html> (accessed 5 April 2022).

97 S Habib, ‘Interviews with our editors: interview with Deline Deukes, CEO of the China Africa Joint Arbitration Centre Johannesburg’ 26 November 2018. <https://arbitrationblog.kluwerarbitration.com/2012/11/26/intereviews-with-our-editors-interview-with-deline-deukes-ceo-of-the-china-africa-joint-arbitration-centre-johannesburg>. (accessed 16 April 2022).

98 The Asian International Arbitration Centre (AIAC) previously known as Kuala Lumpur Regional Centre for Arbitration (KLRCA) is a regional arbitration centre which was established by the Asian-African Legal Consultative Organization (AALCO).

99 W Gu ‘Belt and road dispute resolution: new development trends’ in Ying-Jeou Ma *Chinese (Taiwan) Yearbook of International law and Affairs* (2018) at 159.

100 T Hathout et al ‘The role of international commercial arbitration in enhancing foreign direct investment: lessons for Algeria’ (2020) 11 *UUM Journal of Legal Studies* at 231.

101 P Friedland & B Yan ‘Negotiating and drafting arbitration agreements with Chinese parties’ (2011) 28 *Journal of International Arbitration* at 467-488.

102 FD Simoes ‘A dispute resolution centre for the BRICS’ in RJ Neuwirth et al (eds) *The BRICS lawyers guide to global cooperation* (2017) at 304.

If CAJAC is going to be a workable model as the CEAC in Hamburg, Germany, African nations will need to support and ensure the success of CAJAC as an international arbitration mechanism. They must also ensure adequate representation of arbitrators from PRC and China.¹⁰³ They must further ensure implementation of courses on the CAJAC initiative through cooperation with regional professional associations and different bar associations and law societies. That way, there will be an increase in knowledge, and more importantly, capacity building for arbitrators and practitioners.¹⁰⁴

6 The CAJAC rules

The CAJAC has developed a uniform set of rules for the resolution of PRC-Africa disputes despite of cross-cultural differences¹⁰⁵. These rules are between civil law PRC and the plurality of legal systems in Africa in their approaches to procedure¹⁰⁶s. They further include the Guiding Committee of CAJAC Johannesburg and CAJAC Shanghai which succeeded in making CAJAC a neutral forum for the arbitral tri¹⁰⁷al. In addition, to the uniform or standard rules, each CAJAC Centre also has supplementary or domestic ru¹⁰⁸les.

6.1 Jurisdiction of CAJAC

CAJAC has the jurisdiction to administer the resolution of international disputes arising between PRC and African entities.¹⁰⁹ These disputes have their principal residence, place of business, nationality located in PRC or a country in Africa.¹¹⁰ As a result, parties may refer their disputes to any accredited CAJAC Centre identified by them in writing, or to CAJAC without identifying any particular Centre, in which case the CAJAC Centre which accepts the request for arbitration will administer the case.¹¹¹

103 Simoes (n 102) 296.

104 See UE Ofodile 'Africa and international arbitration: from accommodation and acceptance to active engagement' (2015) 2 *Transnational Dispute Management* at 45-46.

105 See I Selim 'The synergy between common law and civil law under UNCITRAL and CRCICA rules' (2017) 83 *Arbitration International* 402-411.

106 Some of the differences in legal culture relate to the differences in oral and written proceedings, discovery, and prehearing procedures as well as the treatment of witnesses. See LM Pair 'Cross-Cultural arbitration: do the differences between cultures still influence international commercial arbitration despite harmonization?' (2000) 9 *ILSA Journal of International and Comparative Law* at 61-66.

107 See TE Carbonneau 'National law and the judicialization of arbitration: manifest destiny, manifest disregard, or manifest error in international arbitration' in RB Lillich & CN Brower (eds) *International arbitration in the 21st century: towards 'judicialization and uniformity?'* (1994) at 123.

108 CAJAC Rules 2020, art 3.

109 CAJAC Rules 2020, art1.1.

110 CAJAC Rules 2020, art1.1.

Where a party approaches a CAJAC Centre to resolve a dispute or the parties to a dispute approach a CAJAC Centre to resolve a dispute, that Centre will have jurisdiction if the matters are arbitrable under the law of the place of arbitration agreed to by the parties or failing which under the mandatory law applicable at the domicile of that Centre.¹¹²

6.2 Filing a request for arbitration

A party applying for the resolution of their dispute in terms of the CAJAC Rules 2020 must submit a Request for Arbitration (RFA) to a designated CAJAC Centre.¹¹³ The RFA should be accompanied by payment of the arbitration fees in terms of the Schedules of Arbitration Fees which is attached to the CAJAC Rules.¹¹⁴ Arbitral proceedings are deemed to have commenced on the date on which the designated CAJAC Centre receives the RFA.¹¹⁵ The RFA should contain the names and addresses, telephone and facsimile numbers, electronic mail addresses and other contact details of the parties and of their representatives.¹¹⁶ Furthermore, the RFA should also contain a copy of the arbitration agreement,¹¹⁷ the Statement of Claim,¹¹⁸ the facts, grounds and legal submissions in full of which the claim is based;¹¹⁹ and the signature or a seal affixed by the Claimant or its authorised representatives.¹²⁰ All the evidentiary materials in support of a claim and for the identification of a Claimant must be attached to the RFA.¹²¹

6.3 Acceptance of a case by a CAJAC centre

Once the Claimant has submitted its RFA and its attachments, and paid an advance on the arbitration fees, the CAJAC Centre designated by the parties will accept the case if it finds that the required formalities of the CAJAC Rules have been complied with.¹²² CAJAC Centres have a discretion to request that a Claimant complete the RFA within a specific time period. Should the formalities remain incomplete upon the expiry of the specified time period, it is deemed that no RFA was made.¹²³

111 CAJAC Rules 2020, art 1.3.

112 CAJAC Rules 2020, art 2.

113 CAJAC Rules 2020, art 10.1.

114 CAJAC Rules 2020, art 10.4.

115 CAJAC Rules 2020, art 10.5.

116 CAJAC Rules 2020, art 10.2 (a).

117 CAJAC Rules 2020, art 10.2 (b).

118 CAJAC Rules 2020, art 10.2 (c).

119 CAJAC Rules 2020, art 10.2 (d).

120 CAJAC Rules 2020, art 10.2 (e).

121 CAJAC Rules 2020, art 10.3.

122 CAJAC Rules 2020, art 11.

123 As above.

6.4 Notice of Arbitration

After a CAJAC Centre has accepted the FRA, the CAJAC Centre has an obligation to send a Notice of Arbitration (NOA) to the parties.¹²⁴ They send it together with one copy of the CAJAC Rules and the CAJAC Panel of Arbitrators, and the FRA and its attachments submitted by the Claimant are forwarded to the Respondent simultaneously.¹²⁵

6.5 Appointment of arbitrators

Unless otherwise agreed by the parties, within fifteen days from the date of receipt of the NOA, the Claimant and Respondent must each appoint an arbitrator, or entrust the CAJAC Centre to do so, failing which, an arbitrator will be appointed by the CAJAC Centre.¹²⁶ The CAJAC Centres also maintain a shared International Panel of Arbitrators from which the parties are at liberty to select the sole arbitrators or presiding arbitrators, failure of the parties, gives the CAJAC Centre authority to appoint a sole arbitrator or a presiding arbitrator.¹²⁷

Consequently, where there are two or more Claimants and/or Respondents in the arbitral proceedings, each of the parties will jointly appoint an arbitrator, or entrust the CAJAC Centre to appoint one, failing which the appointment will be made by the CAJAC Centre.¹²⁸ The above conditions on the appointment of arbitrators equally applies to the appointment of a presiding arbitrator under the CAJAC Rules.¹²⁹ However, where any party expressly waives in writing the right to jointly appoint or jointly entrust the CAJAC Centre to appoint a presiding arbitrator, the presiding arbitrator will be appointed by the CAJAC Centre.¹³⁰ Parties may also agree that, where the two appointed arbitrators fail to appoint a presiding arbitrator within ten days from the date of determination of the second arbitrator, that a presiding arbitrator be appointed by the CAJAC Centre.¹³¹

6.6 Party representation

Under the CAJAC Rules the parties and their representatives are expected to conduct the arbitral proceedings in a *bona fide* and cooperative manner.¹³² Furthermore, in terms of Article 22 of the

124 CAJAC Rules 2020, art 12.

125 As above.

126 CAJAC Rules 2020, art 26.1.

127 CAJAC Rules 2020, art 24.

128 CAJAC Rules 2020, art 26.1.

129 CAJAC Rules 2020, art 26.2.

130 CAJAC Rules 2020, art 26.2.

131 CAJAC Rules 2020, art 26.3.

CAJAC Rules the parties may represent themselves (*pro se* arbitration) or may be represented by their authorised representatives. The right to be legally represented before a tribunal other than a court of law is a matter that is beyond question.¹³³ The denial of legal representation constitutes a gross infringement on one's fundamental right to be afforded a fair hearing.¹³⁴

Consequently, under CAJAC arbitration, local and foreign (lawyers and non-lawyers), may act for their respective clients in arbitral proceedings. This is as the parties 'authorised representatives' in the arbitration proceedings.¹³⁵ Each party may, prior of to the formation of an arbitral tribunal appoint its representatives.¹³⁶ They must also immediately notify the CAJAC Centre of the names and addressed of the party representatives and any other persons assisting the parties.¹³⁷

A CAJAC Centre or an arbitral tribunal, may, on its own initiative, or at the request of any party, require proof of authority granted to a representative or other person assisting the parties in the arbitration.¹³⁸ The proof of authority for the representation of a party under CAJAC arbitration may be in a form prescribed by the CAJAC Centre, or arbitral tribunal.¹³⁹ Usually the proof of authority is in the form of a Power of Attorney (POA).¹⁴⁰

A POA is a legally binding document in terms of which one nominates, constitutes, and appoints, a named party to be his or her lawful attorney and agent, in name, place and stead to conclude certain juristic acts in his or her name. The scope of authority of a POA, includes but is not limited to the authorisation to represent a party in the arbitral proceedings, other legal matters related to the dispute, the power to appoint arbitrators, to revoke and replace arbitrators, the authority to attend any hearings and to make representations, and to agree on the place of arbitration, the place of hearings, and the language of the arbitration.

The scope of authorisation also includes power to sign any record of hearings, to negotiate and settle the arbitration proceedings or mediation proceedings the dispute, the power to suspend the arbitration proceedings, or to withdraw the claims and the dispute.

132 CAJAC Rules 2020, art 6.

133 *Nhari v Public Service Commission & Another* 1998 (1) ZLR 574 (H) 578G.

134 *Minerals Marketing Corporation of Zimbabwe v Mazvimavi* 1995 (2) ZLR 353 (S) 358F-359.

135 CAJAC Rules 2020, art 22.

136 CAJAC Rules 2020, art 29(6).

137 As above.

138 As above.

139 CAJAC Rules 2020, art 22.

140 As above.

6.7 Time limit for final awards

The writing of an arbitral award is one of the most important functions that an arbitrator performs. The parties must be able to read and understand the award; the clearer it is, the easier it is to understand. A well-reasoned arbitral award helps the parties to appreciate and be satisfied that their cases were heard and considered. A tribunal will state in the arbitral award the claims, the facts of the dispute and the reasons on which the arbitral award is based, including the allocation of the arbitration costs.¹⁴¹

In cases which require an oral hearing, arbitral tribunal must decide the matter and render an arbitral award within six months from the date on which the arbitral tribunal was formed.¹⁴² In contrast in cases which do not require an oral hearing, an arbitral tribunal may render an arbitral award within four months from the date on which the arbitral tribunal was formed.¹⁴³ Furthermore, in cases conducted under the Expedited Procedure Rules, arbitral tribunals are required under the CAJAC Rules to render arbitral awards within three months.¹⁴⁴

6.8 Settlement, mediation and negotiation

The CAJAC Rules do not only provide for the resolution of disputes by arbitration, but the CAJAC Rules also provide for the resolution of disputes by mediation.¹⁴⁵ It also comprises of the settlement of mediation and negotiation facilitation.¹⁴⁶ It is a well-known fact that arbitration is neither negotiation nor mediation.¹⁴⁷

Arbitration is contractual in nature¹⁴⁸ and results in a final and binding decision.¹⁴⁹ This distinguishes arbitration from other alternative dispute resolution mechanisms.¹⁵⁰ Unlike arbitration, mediation does not result in a final and binding resolution.¹⁵¹

141 CAJAC Rules 2020, art 48.3.

142 CAJAC Rules 2020, art 47.1.

143 CAJAC Rules 2020, art 47.2.

144 CAJAC Rules 2020, art 47.3.

145 CAJAC Rules 2020, art 45.

146 CAJAC Rules 2020, art 46. For more information generally on arbitrator facilitated settlement, see G Kaufmann-Kohler 'When arbitrators facilitate settlement: towards a transnational standard' (2009) 25 *Arbitration International* 187-205.

147 TE Carbonneau *The law and practice of arbitration* (5 ed) (2014) at 1.

148 JL Delvolve et al *French arbitration law and practice: a dynamic civil law approach to international arbitration* (2009) at 1.

149 J Paulsson *The idea of arbitration* (2013) at 1.

150 SM Kroll 'Arbitration' in JM Smits (ed) *Elgar encyclopaedia of comparative Law* (ed) (2006) at 78; SM Kroll 'Arbitration' in JM Smits (ed) *Elgar encyclopaedia of comparative Law* (2 ed) (2012) at 88.

151 AKC Koo 'Enforcing international mediated settlement agreements' MJ Ramaswamy & J Ribeiro (eds) *Harmonising trade law to enable private sector regional development* (2017) at 81.

Nevertheless, the United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation) which was inspired by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) was prepared by the UNICTRAL II Working Group a mechanism to ensure the enforceability of Mediated Settlement Agreements (MSAs).¹⁵²

The Singapore Convention on Mediation is to MSAs what the New York Convention is to arbitral awards. It must be assumed that the CAJAC Rules were drafted taking into account the Singapore Convention on Mediation. In this context, the CAJAC Rules have also incorporated settlement and negotiation facilitation which form part of the PRC culture of dispute resolution.¹⁵³ It is, however, critical to highlight that the Singapore Convention does not apply to settlement agreements that have been recorded and are enforceable as arbitral awards.¹⁵⁴

Furthermore, MSAs based on the local arbitration rules of the CAJAC Centres adjudicating the dispute will not be easily enforced in the PRC or in Africa owing to the fact, that whilst the PRC and African countries such as Chad, Democratic Republic of Congo, Gabon, Ghana, Guinea-Bissau, Mauritius, Nigeria, Rwanda and Uganda are signatories to the Singapore Convention on Mediation, none of these countries have yet to accept, approve or ratify the Singapore Convention on Mediation.

7 CAJAC and the New York Convention

The New York Convention is the 'single most important pillar on which the edifice of international arbitration rests'.¹⁵⁵ The New York Convention is an important treaty. This is because as each country that is a party to it agrees to recognize the other country's arbitral awards. They also enforce arbitration awards in accordance with the rules of procedure of the place where the award is to be relied upon. Put differently, the enforcement of arbitral awards based on the New York Convention 'contributes to the world's continuing economic

152 H Meidanis 'International enforcement of mediated settlement agreements: two and a half models - why and how to enforce mediated settlement agreements' (2019) 85 *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management* at 51.

153 Kaufmann-Kohler (n 146) 96.

154 Singapore Convention on Mediation, art 1(3)(b).

155 JG Welter 'The present status of the international court of arbitration of the ICC: an appraisal' (1990) *American Review of International Arbitration* at 91.

development'.¹⁵⁶ Therefore, the PRC and 42,¹⁵⁷ out of 54,¹⁵⁸ African nations are contracting members of the New York Convention. Arbitral awards granted by CAJAC will be easily recognised and enforced in the PRC or in any one of the 42 African contracting countries to the New York Convention.¹⁵⁹

8 CAJAC International Arbitration Moot

CAJAC is already a success, so much so that at the first CAJAC Conference convened in Cape Town, South Africa in November 2017 a team from the Johannesburg Society of Advocates, together with students drawn from the South West University of Political Science and Law (China), Strathmore University (Kenya) and the University of Pretoria (South Africa) were part of the initial CAJAC moot competition which was sponsored by leading Kenya law firm, TripleOKLaw LLP.¹⁶⁰

The inaugural moot problem was an adaption of an interlocutory moot problem pertaining to issues of security for costs and discovery which was prepared by the Association for the Organisation and Promotion of the Willem C. Vis International Moot. The CAJAC moot was presided by Honourable Justice Edward Cameron together with his panellists Mr Jimmy Mbabali Muyanja (Uganda) and Mr Zhou Paul (China).¹⁶¹

9 Conclusion

It is clear that the PRC is an emerging economy which has since 1990 developed aggressive investment initiatives to foster economic trade and investment. The 'catching up and getting ahead' or the BRI initiative is the latest strategic investment initiative of the PRC. As demonstrated above, CAJAC was established at the instance of FOCAC

¹⁵⁶ R Seyadi 'Enforcement of arbitral awards annulled by the court of the seat' (2018) 84 *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management* at 129.

¹⁵⁷ The following 42 African countries are contracting states of the New York Convention: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cape Verde, Cameroon, Central African Republic, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Ethiopian, Gabon, Ghana, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Tunisia, Uganda, Tanzania, Zambia and Zimbabwe.

¹⁵⁸ The following 12 African countries are non-parties to the New York Convention: Chad, Congo, Equatorial Guinea, Eritrea, Eswatini, Gambia, Guinea-Bissau, Libya, Namibia, Somalia, South Sudan, Togo.

¹⁵⁹ E Onyema 'Enforcement of arbitral awards in Sub-Sahara Africa' (2010) 26 *Arbitration International* at 135.

¹⁶⁰ L Nkosi-Thomas et al 'CAJAC conference Cape Town, November 2017' (2018) 31 (1) *Advocate: The General Bar Council of South Africa* at 49.

¹⁶¹ As above.

to administer the resolution of international disputes arising between PRC-Africa parties having their principal residence, place of business, located in the PRC or in a country in Africa.

It is as a result of the Beijing Consensus and the Johannesburg Consensus which reaffirmed and extended the sentiments and decisions of the Beijing Consensus. Consequently, CAJAC is a creature of legal diplomacy formed pursuant to the Beijing Consensus and the Johannesburg Consensus in terms of which more than 50 African countries and the PRC committed themselves to non-judicial settlement of disputes.