

A CRITIQUE OF THE NIGERIAN NATIONAL POLICY ON ARBITRATION

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Introduction

Nigeria has made significant strides in advancing its dispute resolution landscape by introducing the National Policy on Arbitration and Alternative Dispute Resolution (ADR) Policy.¹ This initiative underscores the Federal Government's commitment to fostering a robust, efficient, competitive Arbitration and Alternative Dispute Resolution (ADR) environment. Approved by the Federal Executive Council (FEC) on July 15, 2024, the Framework is designed to streamline arbitration processes, enhance investor confidence, and position Nigeria as a leading hub for domestic, regional and international commercial dispute resolution. It aligns with global best practices, ensuring that arbitration and ADR mechanisms in Nigeria are fair, transparent, and effective.

The overarching objective of the Framework is to decongest the judiciary, accelerate the resolution of commercial disputes, and support Nigeria's economic growth. It also reinforces Nigeria's commitment to key international treaties, including the UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Model Law on International Commercial Mediation, strengthening its standing in global arbitration. It aims to promote the use of arbitration and ADR among government Federal Government Ministries, Departments, and Agencies (FG MDAs), guide their participation in arbitration, position Nigeria as a preferred hub for domestic, regional, and international commercial arbitration, safeguard national interests, and ensure the inclusion of arbitration clauses in agreements involving State Government Ministries, Departments, and Agencies (SG MDAs).

While the policy's objective of positioning Nigeria as a leading arbitration hub is commendable, its success hinges on effective implementation. Policies, by nature, articulate the government's intent, but without concrete execution strategies, they risk remaining aspirational. The Policy presents challenges and opportunities, particularly in ensuring stakeholder collaboration, institutional capacity building, and regulatory clarity. This paper critically evaluates these factors, offering insights into the practical measures

¹ National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024 <
[NATIONAL POLICY ON ARBITRATION AND ALTERNATIVE DISPUTE RESOLUTION \(ADR\) 2024_2028_.pdf](#) >
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necessary to transform policy aspirations into a functional and globally competitive arbitration system in Nigeria.

Key Stakeholders of the Policy

1. **Government Institutions:** The policy introduces a laudable structured approach to arbitration involving Ministries, Departments, and Agencies (MDAs). MDAs engaging in commercial arbitration are now subject to standardized procedures for drafting arbitration clauses, appointing arbitrators, and instituting arbitral proceedings.² This development ensures greater predictability and efficiency in government-related arbitration cases. Furthermore, under the directives of the former Chief Justice of Nigeria, Honourable Justice Walter Samuel Onnoghen, Nigerian courts are encouraged to expedite arbitration-related proceedings, reducing undue delays and reinforcing judicial support for arbitration agreements.³
2. **Businesses and Foreign Investors:** For businesses, the policy mandates that arbitration clauses in commercial contracts must be clearly defined and aligned with the national framework.⁴ These benefits foreign investors, enhance legal certainty and ensure Nigeria's arbitration landscape is more transparent and reliable. By minimizing judicial interference and establishing standardized arbitration rules, the policy strengthens investor confidence and improves Nigeria's attractiveness as a preferred arbitration destination.
3. **Judiciary and Legal Practitioners:** The judiciary benefits from a reduced caseload, as commercial disputes are increasingly resolved through arbitration rather than litigation. To promote efficiency and foster a more arbitration-friendly legal environment, courts are mandated to resolve arbitration-related matters within 60 days.⁵ Additionally, the policy prioritizes the engagement of local arbitrators in domestic and international disputes, thereby expanding opportunities for Nigerian arbitration professionals.⁶ This provision would also encourage knowledge transfer through collaboration with foreign counsel, strengthening Nigeria's arbitration expertise.

Challenges of the Policy

² Part 2, National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024

³ Article 15, National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024

⁴ Article 5, National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024

⁵ Article 15, National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024

⁶ Article 6 and 7, National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024

One of the policy's critical challenges lies in its broad and aspirational nature, which, while commendable, lacks a well-defined implementation framework. A policy's success is determined not merely by the objectives it sets but by the mechanisms to achieve them. Without a structured and enforceable roadmap, even the most ambitious policy risks remaining a statement of intent rather than a transformative tool for change.

A multidimensional implementation approach is required to ensure that the policy's objectives materialize into tangible improvements in Nigeria's arbitration landscape. This approach would consist of three fundamental pillars: a well-defined action plan outlining clear responsibilities and execution strategies; a robust set of implementation measures that address capacity building, institutional development, and regulatory enforcement; and a dynamic review mechanism to ensure periodic assessment and adaptation to emerging trends.

Action plan

Beyond questions of its validity, a fundamental challenge associated with the Policy is its practical implementation. The effectiveness of any policy is contingent on the presence of a designated authority responsible for overseeing its execution. In this case, the Federal Ministry of Justice (FMOJ) serves as the policy owner, and its role is pivotal in ensuring the successful realization of the policy's objectives. However, merely designating an owner is insufficient; the FMOJ must be equipped with the requisite resources, both financial and human, to execute its mandate effectively.

To do this, the owner (FMOJ) must establish internal and external collaborative frameworks with key stakeholders if the Policy is to be executed. Internally, the FMOJ should engage with other relevant government institutions, including MDAs, to foster a coordinated approach to arbitration policy implementation. Externally, it must collaborate with the private sector, professional arbitration bodies, and international arbitration institutions to harness their expertise, build institutional capacity, and ensure that Nigeria's arbitration framework aligns with global best practices. In leading arbitration jurisdictions, government agencies actively collaborate with private arbitration institutions to create a conducive environment for dispute resolution. For instance, the Singapore International Arbitration Centre (SIAC) benefits from close cooperation with the Singaporean government to ensure consistent legislative and regulatory development as

it concerns arbitration.⁷ Similarly, in the United Kingdom, the government supports private arbitration institutions such as the London Court of International Arbitration (LCIA) through legislative backing and policy alignment to facilitate an arbitration-friendly legal ecosystem.⁸

Nigeria must draw from these models and ensure that the FMOJ's role extends beyond nominal oversight to active engagement with relevant stakeholders to ensure the successful implementation of the Policy.

Implementation Measures

Another critical aspect in ensuring the effectiveness of the National Policy on Arbitration is developing robust implementation measures that align with its objectives. Effective implementation requires a multifaceted approach that addresses three key areas: people, process, and structure.

1. **People:** The success of any arbitration policy is heavily dependent on the quality of its human capital. A thriving arbitration ecosystem requires a pool of competent, skilled, ethical, and professional arbitrators, judges, registrars, experts, and regulators. However, in Nigeria, a significant disparity exists in the competencies of professionals in the arbitration field. While some arbitrators and legal practitioners are recognized for their excellence and adherence to international best practices, others lack the requisite expertise and professionalism, creating a gap that threatens to undermine confidence in the country's arbitration system. Bridging this gap would require deliberate investment in capacity-building initiatives, including continuous professional training, rigorous certification programs, and enforcing ethical standards. The assistance of the judiciary must also be obtained to handle arbitration-related matters efficiently. Notably, leading arbitration jurisdictions like Singapore have implemented targeted strategies to enhance human capital in the arbitration sector. The SIAC has actively engaged in training programs and mentorship initiatives, including appointing retired international judges to strengthen its arbitration profile and bridge skill gaps.⁹ Nigeria can adopt a similar approach by opening its arbitration landscape to

⁷ Mondaq, Singapore International Arbitration Centre And Its Financial And Legal Impact On Singaporean Economy < [Singapore International Arbitration Centre And Its Financial And Legal Impact On Singaporean Economy - Arbitration & Dispute Resolution - Singapore](#) > Retrieved April 4, 2025

⁸ International Law Editorial, Understanding the Role of the London Court of International Arbitration < [Understanding the Role of the London Court of International Arbitration - World Jurisprudence](#) > Retrieved April 4, 2025

⁹ Prime Minister's Office, Appointments of International Judges to the Singapore International Commercial Court and Completion of Term on the Supreme Court Bench (Dec 2023) < [PMO | Appointments of International Judges to the Singapore International Commercial Court and Completion of Term on the Supreme Court Bench \(Dec 2023\)](#) > Retrieved on April 4, 2025

participation by internationally recognized arbitrators, including non-Nigerians, to foster knowledge transfer and raise professional standards.

2. **Process:** A well-functioning arbitration framework is also contingent on establishing transparent, well-defined processes and procedural rules that enhance the efficiency of dispute resolution. Nigeria's Arbitration and Mediation Act (AMA), 2023, represents a significant milestone in this regard, as it introduces modernized provisions aimed at streamlining arbitration proceedings. However, laws alone do not guarantee effectiveness; they must be accompanied by consistent jurisprudence that evolves in response to emerging challenges. To maintain a high-quality arbitration system, the policy owner must adopt a dynamic approach to legislative development. As part of the implementation process, the policy owner should frequently review the process and develop a legislative agenda to ensure it remains top-notch. For instance, given global developments such as the recent enactment of a new arbitration law in the UK¹⁰, the AMA 2023 already requires some adjustments. Without getting into the chicken-and-egg argument of which comes first between the AMA 2023 (the law) and the Framework (policy), it is sufficient to state that every policy must have a legislative agenda to have bite, even if that is to challenge an existing prior law. In Nigeria, the AMA 2023 should be periodically reassessed to ensure it remains relevant in the face of changing global trends. In addition to the hard (statutory) law, the soft law needs to be developed to augment policy implementation and fill gaps in the existing hard law. Areas such as arbitration rules, codes, and standards of conduct fall under the category of soft law. These laws will help ensure that the people who enter this practice area can fulfil the policy objectives. These supplementary frameworks clarify best practices, ensure procedural efficiency, and enhance the enforceability of arbitration agreements. Many successful arbitration jurisdictions, including Hong Kong¹¹ and Switzerland¹², have established comprehensive sets of procedural rules that complement their statutory frameworks, ensuring that arbitration processes are predictable, transparent, and efficient. Nigeria must develop detailed arbitration guidelines to reinforce its legal framework.
3. **Structure:** The effectiveness of the policy depends on the functionality of key arbitration institutions, such as the Regional Centre for Arbitration, the Lagos Court of Arbitration (LCA), the Lagos Chamber of Commerce International Arbitration

¹⁰ The English Arbitration Act 2025

¹¹ Debevoise and Plimpton, New Arbitration Rules of the Hong Kong International Arbitration Centre (HKIAC) Enter into Force, < <https://www.debevoise.com/insights/publications/2024/06/new-arbitration-rules-of-the-hong-kong/> > Retrieved May 2, 2025

¹² Shayan Farhad, International Arbitration Laws and Regulations 2025 – Switzerland < <https://www.globallegalinsights.com/practice-areas/international-arbitration-laws-and-regulations/switzerland/> > Retrieved May 2, 2025

Centre (LCCCIAC), and the recently established Asaba Chamber of Commerce International Arbitration Commission (ASSIAC). These institutions are vital in administering arbitration proceedings and ensuring Nigeria remains competitive in the global market. While the policy refers to some source of funding for the regional centre,¹³ it is unclear how other centres would be funded. Even then, the regional centre remains underfunded, mainly because it is managed by civil servants from the Federal Ministry of Justice. This administrative and domestic structure raises concerns about efficiency, expertise, and the ability of these institutions to operate independently. A more effective approach would be to adopt an independent trust model, similar to what has been implemented in other leading arbitration jurisdictions. For example, the Dubai International Financial Centre (DIFC)¹⁴ and the SIAC¹⁵ operate under financial models that ensure their independence from government bureaucracy while maintaining regulatory oversight. These institutions have attracted international arbitrators, enhancing their credibility and global competitiveness. Nigeria should consider transitioning from the civil service secondment model to an independent governance framework that allows arbitration institutions to operate autonomously and attract internationally renowned judges and arbitrators.

Furthermore, hierarchically structuring the arbitration market could enhance efficiency and accessibility. A well-developed arbitration framework should resemble a pyramid, with domestic arbitration at the base attracting most of the work and engaging many professionals. In contrast, international commercial arbitration occupies the top of the pyramid, featuring fewer but highly competent, internationally competitive arbitrators. Different sets of rules and procedures should be developed for domestic and international arbitration to support this structure. At the domestic level, arbitration rules should prioritize flexibility, speed, and cost-effectiveness to accommodate local businesses and more minor disputes. Meanwhile, more complex and sophisticated arbitration rules should be employed for international commercial arbitrations to meet the expectations of large domestic companies, multinational corporations and foreign investors.

Review Mechanism

¹³ Article 9, National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024

¹⁴ Arabian Posts, DIFC Unveils Innovative Funds Centre Amid Increased Firm Activity, < [DIFC Unveils Innovative Funds Centre Amid Increased Firm Activity | Arabian Post](#) > Retrieved April 4, 2025

¹⁵ Mondaq, Singapore International Arbitration Centre And Its Financial And Legal Impact On Singaporean Economy < [Singapore International Arbitration Centre And Its Financial And Legal Impact On Singaporean Economy - Arbitration & Dispute Resolution - Singapore](#) > Retrieved April 4, 2025

The last part of a successful policy implementation is review. The Policy currently provides for a review **every five years**.¹⁶ Although this provision aligns with global best practices in policy evaluation, given the fast-paced and interconnected nature of the modern world, a five-year review cycle is insufficient to keep pace with evolving trends in international arbitration.

A more effective approach would be for the policy owner to conduct quarterly reviews and ensure data-driven reviews of the policy's implementation. The legal and commercial landscape is highly dynamic, with rapid technological advancements and shifts in economic policies that can influence the practice of arbitration. A shorter review cycle would allow policymakers to respond proactively to emerging challenges and ensure Nigeria's arbitration framework remains relevant and competitive. This approach is critical in an era where arbitration is becoming increasingly digitalized with developments such as virtual hearings, artificial intelligence-driven dispute resolution, and blockchain-based arbitration agreements reshaping the field.¹⁷

Conclusion

The National Policy on Arbitration establishes a clear commitment to modernizing and strengthening arbitration and Alternative Dispute Resolution (ADR) in Nigeria. The aim is to position the country as the preferred hub for domestic, regional, and international commercial arbitration. By fostering a structured and transparent dispute resolution mechanism, the policy ensures that arbitration remains a viable and efficient alternative to litigation that benefits businesses, investors, and government institutions.

However, achieving the policy objective is fraught with challenges and opportunities. Key requirements include a well-defined action plan, improvements across people, processes, and structures, and the implementation of data-driven, periodic reviews. Additional considerations include a well-resourced policy owner, sustained stakeholder engagement, particularly among professionals and the judiciary, and training programs that elevate standards of competence, discipline, and ethics.

We hope that the opportunities and lessons highlighted in this paper are embraced and effectively implemented, enabling Nigeria to emerge as the leading and most preferred destination for arbitration in Africa soon.

¹⁶ Article 19, National Policy on Arbitration and Alternative Dispute Resolution (ADR) 2024

¹⁷ Ministry of Law, Maxwell Chambers Innovates to become World's First Smart Hearing Facility < [Maxwell Chambers Innovates to become World's First Smart Hearing Facility](#) > Retrieved April 4, 2025