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The number of construction disputes is increasing and thus *The Construction Disputes Law Review* arrives with perfect timing. A number of textbooks on construction law cover the same general legal topography and do so in a similar format constructed around national case law or local rules. This book is different because it recognises the jurisprudential importance of comparative analysis of the key problems in international construction law. This area is complex. International construction law creates a blend of legal questions and there is naturally a high demand for answers. This book seeks to fulfil that demand. Whether the reader is a company executive, a private practitioner, an in-house counsel or an arbitrator, I hope very much that this first edition will prove useful in navigating the complex world of international construction law. In that context, I extend warmly my gratitude to the contributors from some of the world’s leading law firms who have given such valuable support and cooperation in the preparation of this work.

The *Review* is not intended to be an exhaustive guide to case law and legislation. It covers comprehensively all aspects of international construction law but does so with a much greater emphasis on the practical aspects and the practical implications of the case law, statutes and procedures. My thinking was to provide an authoritative, clear and accessible text on construction law to assist both those who draft international construction contracts and those who deal primarily with dispute resolution (whether statutory adjudication, mediation, arbitration or litigation). We have focused on time bars as condition precedent to entitlement; right to payment for variations and varied scope of work; concurrent delay; suspension and termination; penalties and liquidated damages; defects correction and liabilities; bonds and guarantees; and overall caps on liability. These topics very often form the battleground in disputes and are constantly in legal flux. For example, the Singapore Court of Appeal in *CAJ v. CAI*\(^1\) recently provided more guidance on apportionment in the context of concurrent delay to completion.

I express, once again, my gratitude to all the excellent contributors from all the jurisdictions represented in *The Construction Disputes Law Review*. Their biographies can be

\(^1\) *CAJ v. CAI* [2021] SGCA 102.
found in Appendix 1 and these highlight the wealth of experience and learning from which we are fortunate enough to benefit. I also thank the team at Law Business Research, who have excelled in managing and helping to deliver a project of this size and scope.

Hamish Lal
Akin Gump Strauss Hauer & Feld LLP
London
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I INTRODUCTION

i Overview
Disputes in the Nigerian construction industry are driven primarily by political, commercial, project delivery, claims-related and legal risks. Commercial, project and legal risks could be the result of lack of regulatory expertise; ambiguity in contractual requirements; poorly defined project scope; improper risk allocation matrix; combative contracting culture; lack of sophistication of the project team; border controls and currency control risk; poor risk planning and performance management of resources; and costs and disruption in the supply chain.

Claims commonly arise in relation to variations, extensions of time, retention payments, delays in performance or payment, defective or product quality issues, termination and valuation or professional negligence.

Disputes may be resolved by litigation, arbitration and other means of alternative dispute resolution (ADR). Because of concerns about the speed of the judicial process and the technical nature of construction disputes, arbitration is increasingly being adopted to resolve construction disputes regarding both cross-border and domestic contracts.

ii Legislative framework
The legislative framework for construction in Nigeria comprises primarily urban and regional planning laws, and a codified national standard for construction – the National Building Code 2018. Other pieces of legislation address environmental concerns and regulate the conduct of professionals in the construction industry. Also worth noting is the Nigeria Oil and Gas Industry Content Development Act 2010, which provides minimum local content requirements for the Nigerian oil and gas industry, including in respect of construction contracts and projects in the industry.

1 Babatunde Fagbohunlu, SAN is a senior partner and Ngo-Martins Okonmah is a senior associate at Aluko & Oyebode.
Public procurement is regulated by the Public Procurement Act 2007 (PPA) (including its applicable regulations – the Public Procurement (Goods and Works) Regulations 2007 and the Public Procurement (Consultancy Services) Regulations 2007) and the Infrastructure Concession Regulatory Commission Act 2005.

### iii Current trends

International standard forms of construction contracts, such as International Federation of Consulting Engineers (known as FIDIC) contracts, Joint Contracts Tribunal (or JCT) contracts and, in rare cases, the New Engineering Contract, are the procurement forms used for private projects. In the energy sector, it is typical to use bespoke engineering, procurement and construction contracts, or engineering, procurement and construction management contracts, in procuring construction works. For public projects, the 2011 General Conditions of Contract (GCC), prepared by the Bureau of Public Procurement (BPP) for the procurement of works, is used. Other government agencies at both federal and state level have developed bespoke construction contract forms for procuring construction works.

The Nigerian construction industry struggled in 2020, with output declining by 7.7 per cent in real terms, owing to disruptions caused by the covid-19 outbreak and the subsequent lockdown measures. According to the National Bureau of Statistics, the Nigerian construction industry contracted by 31.8 per cent year on year in the second quarter of 2020, although the industry recovered in the third quarter with year-on-year growth of 2.8 per cent. In 2021, the industry is expected to recover in line with the slowdown in covid-19 cases and the recovery in the global economy.\(^4\)

Post-2021, the industry is predicted to achieve an annual average growth rate of 2.8 per cent in real terms between 2022 and 2025, supported by the government’s plan to invest in the country’s infrastructure. The 2021 Appropriation Bill, presented by President Buhari to the National Assembly in October 2020, is designed to continue achieving the goals of the Economic Sustainability Plan, which provides a road map for post-covid-19 economic recovery to transition from the Economic Recovery and Growth Plan (2017–2020) to the successor Medium-Term National Development Plan (2021–2025).\(^5\)

Nigeria recently passed into law the Petroleum Industry Act (PIA), which is expected to bring in new investments in energy infrastructure. The PIA aims to increase government revenue from oil and establish a strong legal and regulatory framework for the Nigerian oil industry.

## II YEAR IN REVIEW

In 2020, despite the covid-19 pandemic and the related decline in commercial activity, there were a number of ports, housing and railway projects undertaken in Nigeria. The federal government made improving national infrastructure a priority as a matter of policy.

One major project of note that is currently ongoing is the Lekki Deep Sea Port, which is projected to be Sub-Saharan Africa’s deepest port and Nigeria’s first deep seaport. The Lekki Deep Sea Port is being built over 90 hectares of land at the centre of the Lekki Free Trade Zone (LFTZ) with China Harbour Engineering Company and Louis Berger Group as the

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\(^4\) Research and Markets, *Construction in Nigeria – Key Trends and Opportunities to 2025*.

\(^5\) ibid.
contractors. The project is being financed by a US$629 million facility between the federal government and the China Development Bank. The project is currently on the breakwater construction phase and is slated to be completed in 2022.

Another project of note is the Lagos to Ibadan railway line, completed in 2021. In December 2019, the government announced that it planned to start construction of the US$5.3 billion Ibadan–Kano railway line, as executed by China Civil Engineering Construction Company. The 156km of railway line from Lagos to Ibadan was commissioned and began full operation in June 2021. The Ibadan–Kano portion of the railway line is due to be completed by 2023.

In housing, there are a number of public–private partnership projects under way in the sector, including the integrated mixed-use city development in Lagos called Alárò City, which occupies over 2,000 hectares in the LFTZ. The project is led by developer Rendeavour in partnership with the Lagos state government. The city will house industrial, warehouse and logistics facilities, as well as offices, homes, schools, hotels, parks, and healthcare and entertainment facilities.

The year 2020 also saw the resolution of a significant construction dispute in which the federal government of Nigeria agreed to pay $200 million to Sunrise Power and Transmission Company Limited (Sunrise Power) in final settlement of a dispute over a US$4.8 billion hydroelectric project, which is expected to become Africa’s second-largest hydropower plant. The 3,050-megawatt Mambilla facility, which is awaiting construction, will be a complex of dams on the Donga River in the eastern Taraba state, to be built by a consortium including China Energy Engineering Corp and Sinohydro Corp Ltd. In 2017, the government was accused by Sunrise Power of breaching its 2003 agreement when it granted a separate contract to Chinese companies. Sunrise Power therefore sought an arbitration award of US$2.3 billion from the International Chamber of Commerce (ICC) in Paris. The resolution of this dispute has removed the major impediment to construction of the proposed power plant, the output of which is estimated to be equivalent to a quarter of Nigeria’s currently installed capacity.

There are a number of other notable construction arbitration disputes under way in Nigeria, including one with which the authors’ firm is involved, between a Serbian subcontractor and a free zone enterprise. This arbitration is being administered by the ICC, is seated in Switzerland and is governed by Nigerian law. The subject of the claim is in relation to unpaid invoices and outstanding retention payments totalling almost €3 million, arising under a subcontract for the construction of a multi-modal manufacturing, servicing, training and administration facility in the Calabar Free Trade Zone.

III COURTS AND PROCEDURE

Nigeria is a federation comprising 36 states and the Federal Capital Territory (FCT). The Constitution of the Federal Republic of Nigeria (the Constitution) provides for a high court in each state and in the FCT. The Constitution also mandates the establishment of the Federal High Court, with specialised jurisdiction over specific subjects. Appeals emanating from the state high courts and the Federal High Court are made to the applicable court of appeal and a further appeal may be made to the Supreme Court.
There are no special courts or tribunals with jurisdiction over construction disputes. The state high courts will usually exercise jurisdiction over disputes arising under construction contracts.\(^6\) Generally, the courts in the state where the construction contract is implemented or ought to be performed have jurisdiction to hear the dispute.

Where the dispute concerns any of the matters within the exclusive jurisdiction of the Federal High Court, such as mining, mines and minerals, or cases in which the Nigerian government or any of its agencies is a party, the Federal High Court will have exclusive jurisdiction.\(^7\)

An issue that often arises in relation to the court’s jurisdiction is where the construction contract contains an arbitration agreement and a party institutes proceedings before a court in breach of that agreement. In these circumstances, the Arbitration and Conciliation Act (ACA)\(^8\) permits the counterparty to apply to court to enforce the arbitration agreement. The party seeking to enforce the arbitration agreement must show (1) that there is no sufficient reason why the dispute should not be referred to arbitration in accordance with the arbitration agreement; and (2) that it is ready and willing to do all things necessary for the conduct of the arbitration. If these elements are established, the court will strike out the suit or stay further proceedings pending the determination by arbitration.

There is also the question of the statute of limitations. By virtue of a decision of the Supreme Court in \textit{City Engineering v. Federal Housing Authority},\(^9\) the time to enforce an award runs from the date of the breach of the underlying (transactional) agreement. As such, a party that intends to enforce an award in Nigeria must consider, at the time of instituting the arbitration, the possibility of concluding the arbitration process and commencing an action to enforce the ensuing arbitral award before the expiration of the statutory limitation period. This is particularly significant for the construction sector considering the increasing adoption of arbitration to resolve construction disputes and the fact that the dispute resolution clauses in most construction contracts contain mandatory pre-arbitration steps that must be observed before arbitration is initiated.

The rules guiding the conduct of civil proceedings in Nigeria, including construction disputes, are the civil procedure rules of the various courts, the statutes that establish the courts, the Constitution, relevant prior judicial decisions, practice directions issued by the courts, and special statutes on procedure. These rules make provisions for joinder, consolidation, interim injunction orders, etc.

\(^7\) Section 251 Constitution of the Federal Republic of Nigeria (as amended) 1999 'Notwithstanding anything to the contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters – (a) relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party.'
\(^8\) Section 5 Arbitration and Conciliation Act, Cap. A18, LFN 2004.
However, there may be a procedural challenge where a party seeks interim relief in support of arbitration. This is because the ACA does not expressly empower the courts to grant injunctions in support of arbitration. Based on this, an argument could be made that a court cannot grant interim measures in support of arbitration unless the substantive dispute itself is submitted to court.10 Notwithstanding this legal hurdle, Nigerian courts have granted interim relief in support of arbitration.11 It is unclear whether these decisions will be upheld on appeal.

iv Evidence

Matters pertaining to evidence are regulated by the provisions of the Evidence Act 2011. The submission of evidence in Nigeria follows the principle of ‘front-loading’, whereby parties are required to submit their documents in advance (i.e., pleadings, witness statements on oath and documents to be relied on at trial).

In Nigeria, discovery of facts is referred to as interrogatories and this process is governed by the civil procedure rules of the applicable court. Under the rules, a party seeking to discover certain facts is required to deliver its interrogatories in writing to the other party. Responses to interrogatories are required to be made on oath.

In the same way, the rules regulating the discovery of documents requires a party to request documents in writing, and the counterparty is under an obligation to produce those documents if the documents are in its custody, within the time permitted under the rules.12

Although parties requested to produce documents do so by attaching a copy of the documents to their affidavit, the rules also contain a procedure known as ‘notice to produce’ whereby a party is requested to produce documents referred to in its pleadings or otherwise in its custody.13 If the documents are not produced, the requesting party may rely on copies of the documents to establish its case.

The Evidence Act 2011 also regulates the procedure for taking expert witness testimony.14 According to the rules, expert evidence is permissible under Nigerian law.15

IV ALTERNATIVE DISPUTE RESOLUTION

i Statutory adjudication

There is no statutory framework for adjudication under Nigerian law. As such, parties intending to resolve their dispute by adjudication must incorporate it in the dispute resolution clause. As there is no statutory framework for adjudication, there is always the question of enforcement of the adjudicator’s decision. This could be done by suing on the decision under the common law.

Arbitration

Arbitration is the most common method of ADR in Nigeria. The statutory framework regulating Nigerian-seated arbitration is the ACA. Generally, Nigerian courts adopt a pro-arbitration stance in the enforcement of arbitration agreements.

Nigeria is a signatory to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), which will apply to awards made in states with reciprocal legislation recognising the enforcement of arbitral awards made in Nigeria in accordance with the provisions of the Convention.

Also, a foreign arbitral award recognised as a judgment of the applicable foreign court (after the foreign court has granted an application for leave to enforce the award as a judgment of that country) may be enforced in Nigeria in the same way as a foreign judgment under the Foreign Judgments (Reciprocal Enforcement) Act. The Foreign Judgments Act permits the enforcement of judgments issued in foreign countries that accord reciprocal treatment to judgments issued in Nigeria.

While Nigerian courts have no jurisdiction to nullify a foreign award, they may refuse to recognise or enforce a foreign award. The ACA sets out limited grounds on which a foreign award may be refused recognition, which are substantially the same as those listed in the New York Convention. There is little scope and opportunity for a full merits review.

Also, Nigeria ratified the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the ICSID Convention) in 1966, on the basis of which the ICSID Act was enacted. Section 1(1) of the ICSID Act provides that if it is expedient to enforce in Nigeria an award made by the International Centre for Settlement of Investment Disputes (ICSID), a copy of the award duly certified by the Secretary-General of ICSID shall be filed with the Supreme Court by the party seeking its recognition for enforcement in Nigeria. The award shall for all purposes have effect as if it were an award contained in a final judgment of the Supreme Court and be enforceable as such.

Mediation

It is not uncommon to have mediation or conciliation as a preliminary step to arbitration in domestic construction contracts. Usually, the contract will require the process to be administered by the relevant multi-door courthouse and under the rules developed by that institution. Mediation is an ADR process whereby a neutral third party facilitates the resolution of the dispute in line with the parties’ agreement. If the parties are unable to agree terms, the mediator cannot make binding decisions.

Expert determination

Expert determination is a procedure in which a dispute or a difference between the parties is submitted, by agreement of the parties, to experts who make a determination on the matter referred to them. The determination is binding unless the parties have agreed otherwise.

It is not uncommon to have expert determination in construction contracts with a significant engineering element. These types of projects are typical in the oil and gas and energy sector, where the issues in dispute are often technical in nature.

Hybrid methods

Hybrid ADR methods are utilised in Nigeria, such as mediation-arbitration (med-arb) or arbitration-mediation (arb-med). In med-arb, the process is not over if the mediation ends in an impasse or the issues remain unresolved. The parties will simply have their dispute resolved by arbitration. The mediator can assume the role of an arbitrator (if he or she is qualified to do so) and render a binding decision. Alternatively, an arbitrator can take over the case after consulting with the mediator.

If the parties have opted for an arb-med solution, the parties will first have their dispute determined through the arbitration process. However, the decision of the arbitrator will not be disclosed to the parties, as the parties will be required to undergo the mediation process with a view to settling the dispute. If a settlement is reached, the arbitrator’s decision will stay sealed and will not bind the parties. However, if the parties are unable to settle through mediation, the decision of the arbitral tribunal will bind the parties.

CONSTRUCTION CONTRACTS

Public procurement

The principal legislation regulating public procurement in Nigeria is the PPA. The PPA applies to the procurement of goods, works and services carried out by the federal government and all procurement entities, and other entities that derive at least 35 per cent of the funds appropriated or proposed to be appropriated for any type of procurement described in the Act from the Federation share of the Consolidated Revenue Fund.

The PPA provides a mechanism for resolving disputes involving public contracts. It provides that a bidder may seek administrative review for any omission or breach by a procuring or disposing entity under the provisions of the Act by submitting a complaint against a procuring or disposing entity to the accounting officer. Upon reviewing the complaint, the accounting officer is required to give a decision indicating the corrective measures to be taken, including the suspension of the proceedings if necessary.

If the bidder is not satisfied with the decision of the accounting officer, it can make a complaint to the Bureau for Public Procurement. Upon receipt of a complaint, the Bureau shall promptly give notice of the complaint to the procuring or disposing entity concerned and suspend any further action by that entity until the Bureau has settled the matter. The Bureau is required to rule on the complaint. Where the Bureau fails to render its decision within the stipulated time, or the bidder is not satisfied with decision of the Bureau, the bidder may appeal to the Federal High Court.18

If an appeal is made to the Federal High Court, the contracting authority is not bound to respect a standstill in view of the bidder’s appeal, unless the bidder secures injunctive orders restraining the conclusion of the bid process.

ii Contract interpretation

In general, under Nigerian law, words used in a contract will be construed according to their ordinary and plain meaning. Where the terms of a contract are clear and unambiguous, the courts will presume that the parties intended what they have written. The duty of the court is to interpret the terms of the agreement on its clear wordings.

Where there is some ambiguity or absurdity brought about by a literal interpretation of a contract, the courts will take into account surrounding circumstances to determine the parties’ intention. In doing so, the court is careful to not create a new contract for parties. In this context, pre-contract documentation and discussions are relevant to the interpretation of the contract and in ascertaining the parties’ intentions.

Post-contract conduct may also be relevant provided it does not directly conflict with the express terms of the contract. Whether the parties’ contract was modified or any rights waived may also be relevant to arguments.

VI SUBSTANTIVE ISSUES AND REMEDIES

i Time bars as condition precedent to entitlement

Nigerian courts have yet to address the specific question of the effect of time-bar clauses in construction contracts. However, the question whether such a clause would be construed as mandatory or directional would depend on the exact terms of the contract. Generally, the courts is likely to take the view that timelines in construction contracts are advisory rather than mandatory unless the clause clearly states that the party with a claim will lose the right to bring that claim if it fails to comply with the required timeline. As time-bar clauses operate to deprive a party of its entitlement to claim under the contract, to enforce such a clause as a condition precedent, the court will satisfy itself that the parties intended it to operate as such.

ii Right to payment for variation and varied scope of work

If a contract contains a variation clause permitting the employer to vary or alter the agreed scope of work, the court is likely to enforce the clause. Also, a variation clause entitles the contractor to payment for the varied work.

Generally, Nigerian courts will uphold the parties’ contract. The question whether the courts will allow payment where the written procedure stipulated in the contract has not been observed will depend on the exact terms of the contract. If the contract makes it mandatory to comply with certain procedures to be entitled to claim payment for the performance of additional works, the court is likely to enforce this provision as a condition precedent to making a claim under the variation clause. However, if the contract is not so expressed, the court may treat the procedure set out in the contract as merely indicative, especially if there is evidence before the court that additional works were indeed performed by the contractor with the knowledge of the employer, and if insisting on strict compliance with

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19 Ojo v. ABT Associates Incorp. [2017] 9 NWLR.
21 Nika Fishing Co. Ltd. v. Lavina Corp. [2008] 16 NWLR (Pt 1114) 509.
contractual terms may deprive the contractor of its entitlement to claim payment under the contract. The court may determine that the policy objective behind inserting the procedural requirement is to ensure that the employer approves additional work to be performed by the contractor to better manage its budget and if the evidence suggest that the employer was indeed aware of the varied work performed by the contractor, then non-compliance with the strict contractual terms should not deprive the contractor of its entitlement to make a claim under the variation provision.

iii Concurrent delay

We are not aware of any Nigerian authority that has addressed the question of concurrent delays in a construction contract. However, the prevention principle, as a rule of common law, is likely to apply where the contractor’s inability to meet the project completion deadline is attributable to the employer.

There is no authoritative position in Nigerian law on the question whether the principle of apportionment will apply in the event of concurrent delays. As such, it is unclear whether a court would adopt the apportionment principle or simply award time (and not costs) to the contractor in the event of concurrent delays. Therefore, parties are usually advised to address the question of concurrent delay in their contract.

iv Suspension and termination

There are no special procedures to be followed to suspend or terminate obligations under the contract other than by complying with the terms of the contract. Suspension or termination of work by either party without regard to the provisions of the contract may make that party liable for breach of contract.24 As such, a party seeking to suspend or terminate the contract must ensure that it gives the required notice as stipulated in the contract and that the basis for suspension or termination falls within the grounds contemplated by the contract.

v Penalties and liquidated damages

Parties are free to make provisions for loss occasioned by breach of contract by inserting a liquidated damages clause. For the liquidated damages clause to be enforceable, it must constitute a genuine pre-estimate of the loss that would arise from a breach of contract. However, if the court considers the liquidated damages clause to constitute a penalty, it will be unenforceable under Nigerian law.25

Unlike courts in some jurisdictions, courts in Nigeria lack the power to alter a liquidated damages clause. The court will either enforce the clause as provided in the contract if it considers it justifiable to do so or declare it unenforceable. If it is declared enforceable, the innocent party may be able to recover damages under general contract law unless the contract provides otherwise.

vi Defects correction and liabilities

Nigerian law does not impose any statutory liability for defects. Usually, the employer and contractor agree in their contract for the employer to retain a percentage of the contract sum for a defect liability period and where the contractor fails to remedy defects during this period.

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period, the contractor will not be paid the balance of the contract sum. The parties would also typically specify any intention or agreement for the contractor's liability to extend beyond the defect liability period in the contract.

After the expiration of the defect liability or rectification period, the employer may still enforce a claim against the contractor (such a claim will generally be for damages arising from the defect) but cannot contractually compel the contractor to remedy the defects in the same way it was able to during the defects liability or rectification period. In practice, a contractor (assuming the defect is not disputed) will often rectify the defect itself as it tends to be more cost effective than paying the costs of a third-party service provider engaged by the employer.

vii Bonds and guarantees
It is not uncommon for construction contracts to require the contractor to take out performance bonds or guarantees for the benefit of the employer as security for the performance of the contractor’s obligations under the contract. The contract may also require the contractor to provide an advance payment bond as security for the advance payment made to it by the employer.

A call on such bonds may be restrained if there is evidence before the court that the performance bond no longer subsists or that the guarantor has been discharged, or if the guarantor successfully pleads that the performance bond was not the deed of the guarantor or never emanated from the latter.

viii Overall caps on liability
There are no statutory caps or exclusions on liability. Liability caps and exclusions are typically achieved through limitation of liability clauses in the contract. It is not unusual for contractors to exclude liability for indirect and consequential loss. Construction contracts may also include caps on liability. The scope of such caps is fixed by the agreed commercial terms, based primarily on the risk allocation mechanism of the project. It is also possible to agree certain carve-outs from the operation of the liability cap. For instance, a party may expressly exclude deliberate default or gross negligence in which case the limitation of liability cap will not apply where a breach arises through either of these.

A party in breach of a fundamental term of a contract with a third party will generally not be allowed to benefit from or resort to exclusion clauses to limit liability. Likewise, courts are unwilling to enforce clauses limiting liability where there was negligent execution of the contract. Limitation of liability clauses are also not applicable in instances of fraud or wilful misconduct.

VII OUTLOOK
In addition to multiple major pending construction projects in the Nigerian transport sector, there are also a number of both new and anticipated statutes and regulations that promise to restructure the industries that intersect with construction. The Nigerian Local Content Development and Enforcement Bill 2020 before the National Assembly seeks to promote

indigenous participation in key sectors of the economy (information and communications technology, mining, construction, oil and gas, and power). If enacted, the law will ensure Nigerian content in the procurement of construction works in industries beyond the oil and gas sector.

Also expected is the National Transport Commission Bill, seeking to establish the National Transport Commission, which is designed to be an independent regulatory authority in the transport sector. Establishment of the National Transport Commission is expected to hasten the privatisation of the rail system in Nigeria and perhaps drive more construction projects in the transportation sector.

Finally, Nigeria seeks to amend its federal arbitration legislation, the ACA, via an amendment bill (the Bill) currently in the final stages of the legislative process. The Bill contains innovative provisions that, when passed into law, have the potential to reform arbitration law and practice in Nigeria in line with international best practice. Among the innovative provisions to be introduced by the Bill are interim protection measures; emergency arbitrators or reliefs; joinder, consolidation and concurrent hearings, coherent grounds of recourse against awards; award review tribunals; third-party funding; and limitation periods. These provisions will undoubtedly have a positive effect on dispute resolution generally and in the area of construction disputes in particular.
ABOUT THE AUTHORS

BABATUNDE FAGBOHUNLU, SAN
Aluko & Oyebode
Babatunde Fagbohunlu, SAN is a senior partner and head of the litigation, arbitration and ADR practice group at Aluko & Oyebode. He specialises in commercial litigation and has litigated on an extensive range of issues, including maritime, intellectual property, telecommunications, taxation, finance and banking, contracts, receiverships and insolvency, commercial law transactions and general litigation both at trial and appellate levels. He has advised clients in numerous industries, including oil and gas, construction and infrastructure, financial services and telecommunications.

He regularly represents Nigerian as well as foreign and multinational clients in ad hoc arbitrations and arbitrations administered by arbitral institutions such as the International Court of Arbitration of the International Chamber of Commerce.

He is a member of the London Court of International Arbitration (LCIA), a fellow of the UK Chartered Institute of Arbitrators and a member of the International Arbitration Institute (IAI) in Paris. He is also a former member of the LCIA Court, serves on the board of directors of the Lagos Court of Arbitration (LCA) and chairs the management board of the Lagos Chamber of Commerce International Arbitration Centre (LACIAC).

NGO-MARTINS OKONMAH
Aluko & Oyebode
Ngo-Martins Okonmah is a skilled litigator with an international focus, with expertise including but not limited to construction law, oil and gas, arbitration, intellectual property, and shipping and aviation law. He has experience in advising on major standard forms of construction and engineering contracts, namely FIDIC, JCT and bespoke funder-led EPC and EPCM contracts in a variety of sectors, including oil and gas, power and general infrastructure. He has acted as arbitrator and counsel in both domestic and international arbitration seated in Switzerland, London, Florida and Nigeria respectively. He was also recognised by Africa Arbitration as a Rising Star in 2020.

Ngo-Martins oversees the construction and engineering practice at Aluko & Oyebode and is also a key member of the arbitration practice. He is the founder and executive director of Africa Construction Law, a pan-African initiative to promote construction law within Africa. He is also a founding member and director of the Africa Arbitration Academy, an initiative established to improve expertise and the training of arbitration practitioners across Africa, and which has achieved global acclaim.
ALUKO & OYEBODE
1 Murtala Muhammed Drive
Ikoyi
Lagos
Nigeria
Tel: +234 803 402 0537
   +234 810 300 2289
tunde.fagbohunlu@aluko-oyebode.com
ngo-martins.okonmah@aluko-oyebode.com
www.aluko-oyebode.com