

## Conference Report: International Law & Economic Development in Africa

By *Romy Klimke*\*

From the 29<sup>th</sup> to the 30<sup>th</sup> of August 2015, the *African Association of International Law* (AAIL)<sup>1</sup> held a conference on *International Law & Economic Development in Africa: Challenges and Opportunities* in Libreville, Gabon. The conference served as a forum for legal scholars and practitioners to examine the role of international law in addressing the economic challenges on the continent. The event was hosted by the New York Forum Africa (NYF Africa), which took place in Gabon for the fourth time since 2012 and focused on the theme “Invest in the Energy Continent”.<sup>2</sup>

### *Background*

The AAIL, one of the first academic societies in Africa in the field of international law, was established in 1986 by the leading lawyers on the continent as, for instance, the later UN Secretary General Boutros Boutros-Ghali. While the first volume of the African Yearbook of International Law was published in 1993 and has continued to be published under the auspices of the African Foundation of International Law (AFIL) established in 2003, the AAIL had been dormant for some time. In 2012, the General Conference of the AAIL reactivated the Association at a meeting in Maputo and elected a new Executive Committee to coordinate the activities of the AAIL. In the following year, a special session on Africa and its future in international law took place in Geneva.<sup>3</sup> The new Executive Committee is devoted to ensuring that the AAIL will resume its role as a leading forum and intellectual resource for discussing the legal aspects arising in setting the agenda for the renaissance of the continent.

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1 For further information on the AAIL, look at: <aail-aadi.org>.

2 The NYFA has been initiated by Richard Attias, a Moroccan businessman, and focuses on economic development issues in Africa. For more information on the NYFA, see: <ny-forum-africa.com>.

3 A special edition of the African Yearbook of International Law on the session is still in preparation and is to be published soon.

*Inaugural lecture: “When the music changes, so does the dance”*

The conference was inaugurated with the newly established *Georges Abi-Saab-lecture*<sup>4</sup> held by *Edward Kwakwa*, Legal Counsel at the World Intellectual Property Organization.

Initially, *Kwakwa* identified the three most significant events this year in the development landscape: the Third International Conference on Financing for Development in Addis Ababa<sup>5</sup>, the United Nations Sustainable Development Summit in New York and the United Nations Climate Change Conference in Paris. Hence, the most important current international law conferences deal with financing for development, sustainability and climate change. The respective themes perfectly reflect the contemporary African reality: On the one hand, more than two thirds of the African states have enjoyed ten or more years of uninterrupted growth, and at least seven out of the ten fastest growing economies in the world are on the African continent. *Kwakwa* emphasized that these figures prove a greater awareness of the economic principles in African countries, and contradict many previously negative perceptions of Africa. On the other hand, poverty, drought, famines, terrorism, political fragility, corruption and other problems continue to impede inclusive growth and equal wealth distribution and threaten to crumble even the most stable economies in the region. As the world is in the process to craft the post-2015 development agenda, Africans are providing innovative contributions to the discourse. These innovations should be anchored in the rule of law, as it secures liberty and justice and equality, *Kwakwa* argued. He then introduced the bon mot “*When the music changes, so does the dance*”, which was subsequently used as a metaphor by numerous speakers, and argued that the new opportunities on the African continent brought by innovation and economic integration pose multidimensional challenges for governance, the private sector, and the civil society. Furthermore, the causes and consequences of climate change present a major challenge for Africa and should be prioritized by international law makers. According to the *Africa Progress Report 2015*<sup>6</sup>, no region has made a smaller contribution to climate change, and yet Africa will pay the highest price for the failure to address climate change issues.

*Panel 1: International Economic Law & Development*

The first panel on international economic law and development was opened by *Rostand Banzeau*, an independent researcher on international law, who discussed the impact of the

4 Georges Abi-Saab has written, lectured and published on virtually every subject in international law with a focus on international law and trade. He was a professor of international law at the University of Geneva, an ad hoc Judge of the International Court of Justice, a Judge of the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR), a Commissioner of the United Nations Compensation Commission, and a Chairman of the Appellate Body of the World Trade Organization.

5 For more information, look at: <[un.org/esa/ffd/ffd3](http://un.org/esa/ffd/ffd3)>.

6 The Africa Progress Report is available from: <[africaprogresspanel.org/publications/policy-papers/2015-africa-progress-report](http://africaprogresspanel.org/publications/policy-papers/2015-africa-progress-report)>.

organizations of regional integration (RECs) on the economic development in Africa, especially taking into account the experiences with CEMAC and ECOWAS. He argued that neither of these RECs provided for a mechanism to control whether the decisions taken by the executive committee were carried out in the actual states, resulting in a fundamental lack of implementation in both regions. Thus, in the region of ECOWAS, ten member states of the community still belong to the least developed countries in the world although ECOWAS has been in existence since 1975. As one of the underlying factors, *Banzeau* identified tariff barriers as a main barrier to development and trade. Furthermore, he observed an urgency of dialogue because too many action plans and policies are being drafted by the AU and the RECs without any general consistency regarding content and timeframe. Considering these deficiencies, the *Tripartite Arrangement of the Common Market for Eastern and Southern Africa, East African Community and Southern Africa Development Community* which has been signed in June this year gives hope with regard to regional markets and inter-African commerce as it provides for the creation of a vast market with a GDP of \$ 1.3 Trillion, a population of 565 million and a combined landmass of 17 million square kilometers.<sup>7</sup>

*Tafadzwa Pasipanodya*, Foley Hoag LLP, presented her excellent paper on ‘The Law of the Sea’s Role in Steering Africa’s Blue Economy’, in which she examined the oceans as a new frontier for Africa’s economy and legal framework. Africa’s waters are three times the size of its landmass and provide great opportunities for economic development with regard to import and export, fishing as a major component of food security, and the extraction of minerals. Until today, Africans have not been the greatest beneficiaries of their waters. In addition, there are problems such as overfishing, the degradation of marine environment, transnational organized crime, climate change and the over-exploitation of newly found resources. *Pasipanodya* then introduced the blue economy approach: a marine based approach to economic development that would lead to human wellbeing and social equity. First, she referred to recent policy activities and instruments: In 2013, the African Union adopted the 2050 Africa Integrated Maritime strategy. In addition, the first continental conference on the empowerment of African women in maritime affairs was held in March 2015. Then she presented three examples on how international law can support these political efforts, especially the law of the sea as one of the oldest branches of international law. As a legal basis serves the United Nations Convention on the Law of the Sea (UNCLOS).

The first example dealt with the quest for legal certainty following the historic oil finds in 2007 at the border of Cote d’Ivoire and Ghana. The discovery transformed Ghana into a major oil producing country. However, the Ivorian authorities had been laying claim to the discovery. Therefore, Ghana initiated arbitration proceedings under the UNCLOS, seeking a declaration that it has not encroached on Cote d’Ivoire’s territorial waters in the exploration of oil. The state filed its suit based on Article 287 Annex VII UNCLOS. The decision

7 For further details see, e.g.: *Zamfir*, The Tripartite Free Trade Area project. Integration in southern and eastern Africa, Briefing of the European Parliamentary Research Service, PE 551.308, March 2015.

will not be made before 2017. The case shows that African states should seek legal certainty over their maritime rights to be able to fully benefit from the waters off their shores. It also proves once more that African states that are no strangers to conflicts and disputes over natural resources can peacefully settle their disputes. The Special Chamber of the International Tribunal of the Law of the Sea (ITLOS) could play an important role in supporting the African blue growth.

The next example relating to the fishing industry: western Africa has one of the highest levels of unreported, unregulated and illegal fishing (IUU), with up to half of the region's fish. The IUU fishing was exacerbated by the *flag of convenience*-system that allows many of those involved to act with impunity. In order to address this problem, the Sub-Regional Fisheries Commission (SRFC), founded in 1985, submitted a request to ITLOS to decide what the obligations of these ships were. In its *SRFC advisory opinion*, the tribunal concluded that the flag state is under a due diligence obligation to take all necessary measures to ensure compliance with the law and to prevent IUU fishing by fishing vessels flying its flag. In case of a breach with these obligations, the flag state may be held liable.<sup>8</sup>

As a third example on how a blue economy may prove beneficial for Africa, *Pasipandoya* referred to the *Benguela Current Convention*, a treaty signed by Angola, Namibia and South Africa in 2013, aimed at the long term conservation, protection, rehabilitation, enhancement and sustainable use of the Benguela Current Large Marine Ecosystem to provide economic environmental and social benefits. The convention could also serve as a blueprint on how to work jointly to protect and sustainably use the environment.

*Sikhulile Ngcobo* of the University of the Witwatersrand, South Africa, discussed the case of South Africa as an example on how to regulate alternative sources of energy. Due to its growing economy, South Africa currently faces an energy crisis. About 91 per cent of the country's energy is generated by coal. Fracking could present a promising alternative as gas currently only amounts to 2.3 per cent of the South African energy supply. However, according to Ngcobo, the regulations proposed by the government are a result of "copy and paste" from the United States whose geographical conditions differ substantially from South Africa. *Ngcobo* furthermore criticized that the standards of the draft proposal that shall ensure the safe exploration and exploitation of the soil are very technical in nature and fail to adequately deal with the environmental impact associated with fracking. Above that, *Ngcobo* argued that fracking poses a serious threat to the environment, and therefore, regulations allowing for industrial fracking would constitute a violation of the right to environmental protection as enshrined in Art. 24 of the South African Constitution. Hence, the legislator should find a balance between the urgency to solve the energy crisis and to create

8 For further detail, see: Request for an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC Advisory Opinion), Advisory Opinion of Apr. 2, 2015, ITLOS, <[itlos.org/fileadmin/itlos/documents/cases/case\\_no.21/advisory\\_opinion/C21\\_AdvOp\\_02.04.pdf](http://itlos.org/fileadmin/itlos/documents/cases/case_no.21/advisory_opinion/C21_AdvOp_02.04.pdf)>; *Tim Stephens*, ITLOS Advisory Opinion: Coastal and Flag State Duties to Ensure Sustainable Fisheries Management, ASIL Insights Volume 19 Issue 8, 2015, available from: <[asil.org/insights/volume/19/issue/8/itlos-advisory-opinion-coastal-and-flag-state-duties-ensure#\\_edn1](http://asil.org/insights/volume/19/issue/8/itlos-advisory-opinion-coastal-and-flag-state-duties-ensure#_edn1)>.

jobs on the one hand, and the protection of the environment on the other hand. As guiding principles of environmental management, she proposed the sustainability of development, public participation, the public interest, and the principle of integration.

*Thierry Ngosso* of the University of St. Gallen added a valuable philosophical perspective to the panel and presented his thoughts on the intergenerational challenges affecting sub-Saharan Africa, raising the question whether it is possible to reconcile the urgency of development and the urgency of the protection of the planet. He suspected that the extreme poverty in Africa could be used as an excuse to not put in place action or establish certain instruments required to protect the environment. However, one should not lose sight of the fact that both concepts do not contradict each other, but that the improvement of the environment is a contribution to the living conditions of the people in itself. In order to transform these challenges into opportunities, *Ngosso* proposed to create a legal nexus between development and environmental protection, e.g. by making citizens directly accountable for the environment.

#### *Panel 2: Foreign Investment in Africa*

The second panel focused on questions relating to foreign investment in Africa.

*Kehinde Folake Olaoye* of King's College, London, discussed the need for a reform of the bilateral investment treaties (BITs) regime in order to promote sustainable development in Africa. After providing a historical overview on the development of BITs beginning with the first BIT between Germany and Pakistan in 1959, she argued that bilateral treaties nowadays are the most important legal regulation in international investment law, with a current total of 2929 BITs. African countries are increasingly entering investment treaties, although these BITs have not always led to greater foreign investment. Recently, South Africa pulled out of BITs in accordance with a new investment bill with the purpose, inter alia, to protect natural resources. In fact, sustainable development is not included in most of the continent's BITs. However, its incorporation in investment treaties could practically achieve a balance between the development and growth needs of African countries and the desire to attract foreign investment. Hence, *Olaoye* argues that the future relevance of BITs is dependent on a shift of the current paradigm to sustainable development. African countries should review their investment regime in entirety and develop investment policies designed for comprehensive purpose, which would serve as a guideline for negotiations.

*Oliver Ruppel* of the University of Stellenbosch, South Africa, presented a paper on 'Foreign Direct Investment Protection in Africa — Contemporary Legal Aspects between BITs and BRICS'. The paper has resulted from a joint project with doctoral students and investigates the interplay between FDI, BITs, RECs and Chinese investments in Africa. The analysis had shown that new developments confirm a growing skepticism from the African side towards BITs, which consequently become more elaborate and longer. Nevertheless, global investment in clean energy is a good example of the relevance of a favorable investment climate. Given that the private sector is the major source of investment in re-

newable energy and energy efficiency worldwide, a positive investment climate is essential for increased investment also in Africa. Innovative solutions and technologies can, however, only be implemented if there are adequate conditions for inclusive climate investment, leveraging private-sector resources and seizing opportunities for innovation. Various factors, including poor governance, institutional failures, macroeconomic policy imperfections and inadequate infrastructure, as well as rampant corruption, bureaucratic red tape, insecurity of property rights, weak legal systems and a lack of transparency in government departments, all lead to an unfavorable investment climate. Although it remains difficult for Africa to attract foreign capital and mobilize adequate and sustained levels of domestic private investment, some African countries have made progress and could achieve higher levels of investment.<sup>9</sup> Mobilizing investment for sustainable development in Africa requires political commitment to overcome substantial barriers at various levels as well as adequate regulatory frameworks in order to give investors the necessary confidence. As a most appropriate approach, *Ruppel* proposes the adherence to and promotion of the rule of law while creating incentive structures for investors to act sustainably and to respect national social development goals, empowerment policies, labor standards and human rights.

*Roundtable discussion: Africa and the judicial and arbitral settlement of disputes*

To conclude the first day of the conference, a roundtable discussion on the relationship of Africa and the judicial and arbitral settlement of disputes took place.

*Guled Yusuf* of the London bureau of Clifford Chance, gave an overview on international investment treaties and Africa.<sup>10</sup> Currently, 516 treaties are in place, thereof 471 BITs and 45 others. However, Africans play a very limited role in arbitration proceedings, despite the many African lawyers qualified to fill these voids. Currently, the dispute system lacks representativeness with only 2 per cent of arbitrators being African nationals.

*Brooks Daly*, Deputy Secretary-General of the Permanent Court of Arbitration (PCA), confirmed these statements in his overview on the relationship of the PCA and arbitral settlement of disputes in Africa. The PCA, the oldest arbitral institution in the world,<sup>11</sup> today counts 117 member states. Thereof, 23 are African. *Daly* referred to several concerns that worry most African countries with regard to arbitral settlement of disputes and investment treaties. First, he argued that investment treaties generally neither promote nor inhibit economic development. Therefore, African countries that choose to agree to international arbitration should do so as efficiently as possible. Also, treaties should be drafted in consideration of the public interest and e.g. contain exception clauses in order to protect public wel-

9 See World Bank, *Doing Business 2015: Going Beyond Efficiency*; UN Conference on Trade and Development, *World Investment Report 2015*.

10 For further information see *Karel Daele*, *Investment Arbitration Involving African States*, in: Lise Bosman (ed.), *Arbitration in Africa: A Practitioner's Guide*, Alphen aan den Rijn 2013.

11 It was established in 1899 on the basis of the Convention for the Pacific Settlement of International Disputes.

fare, human rights or the environment. *Daly* also pointed out that arbitral settlement of disputes is not generally financially inaccessible to developing countries and referred to options of financing such as Pro Bono Council and Third Party Funding by private sponsors. As one of the greatest challenges, *Daly* identified the phenomenon that African entities would not choose African arbitrators, which he referred to as the so-called “colonial hang-over”. Every country has the right to name four arbitrators, but of the 23 African member states to the PCA, only five have accounted African arbitrators to the court.

*André Nollkaemper*, University of Amsterdam and President of the European Society for International Law (ESIL), provided some insights on the UN Agenda 2030 and the Sustainable Development Goals (SDGs), and argued that they could also serve as an important framework for an institutional reform: Firstly, the Agenda 2030 reaffirms the link between economic development, the international rule of law, and the judicial dispute settlement as a means to a stable environment. The Agenda 2030 also calls for the continued strengthening of the national legal structure – an important aspect as domestic courts can sometimes provide a credible alternative to international courts and prevent disputes from becoming international.

### *Panel 3: Human Rights, Justice & Economic Development*

The second day of the AAIL conference began with a panel on human rights, justice and economic development.

*Akinola Akintayo* of the University of Lagos examined the constitutions of Nigeria and South Africa with regard to the question what legal framework would guarantee socio-economic rights in Africa. Through his comparative analysis of the legal implications of South Africa’s entrenched socio-economic rights regime and Nigeria’s directive principles regime, he concluded that South Africa’s framework is more likely to further political action and has the potential to enable politics in at least five ways: First, by providing a forum for political action for materially disadvantaged persons and groups. Two, by providing rights-mediated mechanisms to hold governments to account. Three, through the provision of platform around which curial and extra-curial poverty-related struggle may be furthered. Four, through the framework’s likelihood to materially empower the poor to participate as peers in society. And finally, by taking socio-economic entitlements out of the depredations of electoral majorities. Therefore, *Akintayo* argued that an entrenched socio-economic rights regime appears to be a more conducive legal framework for sustained economic growth and a more appropriate foundation for the post-2015 development agenda in Africa.

*Gérard Aivo* of the University of Geneva discussed the impact of terrorism on development. By referring to the Kofi Annan Report 2007, he argued that there is a nexus between security and development. Confronted with armed conflict and terrorism, it is then questionable how a state can at all fulfill his obligation to ensure the protection of human rights.

*Romy Klimke*, the author of this contribution, commented on the unused economic potential of women in Africa and identified challenges and opportunities in the context of the

post-2015 agenda. According to recent estimates by the OECD, African women provide approximately 70 per cent of agricultural labor and produce about 90 per cent of all food. In Sub-Saharan Africa, women have the world's highest labor-force participation rate with a value of 61.9 per cent. However, they predominantly work in the informal sector, characterized by inadequate earnings, occupational segregation, exploitative working conditions as well as low productivity. In addition, several obstacles hinder women to develop their full economic potential, e.g. harmful traditional practices such as child marriage, son preference and female genital mutilation, as well as discriminatory laws that refuse women access to credit and resources, deny them the right to own property, to inherit, or to seek legal protection from violence. Furthermore, high maternal mortality and morbidity ratios as well as an average number of 5.2 children diminish the ability of women to join the labor force and to contribute productively to the economic market. To overcome gender inequality on the African continent could lead to macroeconomic gains up to 27 per cent of the GDP per capita in certain regions. The African Union (AU) and the Regional Economic Communities (RECs) could play a pivotal role in this struggle. However, the analysis of the existing legal and policy frameworks of the AU and the RECs on gender equality and the status of women revealed some room for improvement. While the communities of SADC, COMESA and EAC have fairly elaborated legal and policy frameworks to address gender equality, in the regions of ECCAS, AMU, and CEN-SAD, there is hardly any evidence to conclude that regional integration has contributed to women's empowerment and gender equality in this region so far. The author furthermore argued that a holistic approach to gender equality in Africa needs to be based on the concept of sexual and reproductive health and rights.

*Malgosia Fitzmaurice* of the Queen Mary University in London, commented on a ruling by the African Commission on Human and People's Rights condemning the expulsion of the *Endorois* people from their lands in Kenya to make way for a national reserve and tourist facilities.<sup>12</sup> It was the first ruling of an international tribunal to find a violation of the right to development as enshrined in Art. 22 of the African Charter of Human and Peoples Rights, and to define the term of indigenous people within the African context.<sup>13</sup> The Commission relied on the failure of the Kenyan authorities to respect the right of the *Endorois* to consent to development, and to provide them adequate compensation for the loss they had suffered, or any benefit from the tourism. *Fitzmaurice* stressed that the right to development also embodies the right of choice to well-being, and thus, the *Endorois* had suffered a loss of well-being through the limitations on their choice and capacities by not being involved in the development process.

12 See Human Rights Watch, Kenya: Landmark Ruling on Indigenous Land Rights, 4th February 2010.

13 The African Commission developed a set of four criteria to identify indigenous people: the occupation and use of a specific territory, the voluntary perpetuation of cultural distinctiveness, self-identification as a distinct collectivity as well as recognition by other groups, and the experience of subjugation, marginalization, dispossession, exclusion or discrimination; see further: ILO Convention No. 169 on Indigenous and Tribal People.

*NYFA Session: Creating a legal framework for a new Africa*

Subsequent to the 2<sup>nd</sup> Panel, some speakers of the conference were invited to represent the AAIL on a panel of the NYFA to discuss the development of a clear, transparent and effective legal framework for Africa's finance sector.

*Jean-Luc Konan*, United Bank for Africa, and *Stephen Karangizi*, Director of the African Legal Support Facility (African Development Bank), spoke about the new challenges for the African legal frameworks posed by the digital revolution, as many of the digital services nowadays take place in the informal environments. Thus, legislators are asked to react proactively with regard to adapting to new technologies. *Karangizi* called for an equal playing field between foreign and local investors, as local investors are more likely to develop long-term and sustainable projects and not to leave the country after a certain period of business. He also stressed the importance of reducing the cost of doing business: For instance, it should be easier to obtain information on taxes or to get access to credit. With regard to savings and microfinance, quite a number of countries have already started to develop innovative legal frameworks. In addition, *Karangizi* emphasized the need for capacity building in African states and proposed, inter alia, a partnership with the AAIL on negotiating BITs.

*Vincent Nmehielle*, general legal counsel and director for Legal Affairs of the AU Commission, expressed the opinion that the AU has already created a sufficient legal framework for economic development in Africa. Thus, no additional regulations would be necessary. However, he emphasized that African lawyers should approach legal issues specifically from an African perspective and unaffected by colonial terms. This includes the revision and consideration of traditional customary law which could help to create a new regulatory system that is adapted to the current needs of the African people. In many cases, customary law had proven very useful, e.g. with regard to the question of land rights. As an example for important current legal projects, *Nmehielle* referred to the process of launching an African passport that shall enable people to travel freely around Africa.

*Panel 4: International Economic Law & Trade*

The fourth and last panel of the conference centered on current issues of international economic law and trade.

*Joyce Williams* of the International Law Institute in Washington, DC, presented her paper on 'The WTO's Agreement on Trade Facilitation in the African Region', and raised the question whether trade facilitation can be provided for Africans by Africans. The Trade Facilitation Agreement (TFA) has been adopted by the WTO as part of the Bali Package in 2013.<sup>14</sup> It provides for the simplification and harmonization of international trade proce-

14 See for more information on the TFA, e.g. *Frank Zeugner*, Das WTO Trade Facilitation-Übereinkommen vom 7. Dezember 2013: Hintergrund, Analyse und Einordnung in den Gesamtkontext der Trade Facilitation im internationalen Wirtschaftsrecht, Beiträge zum Transna-

dures, and includes special and differential treatment provisions. Furthermore, it is the first and only treaty adopted by the WTO since its establishment in 1995. As of the 30<sup>th</sup> of August 2015, 12 member states have ratified it. *Williams* noted a number of challenges for trade facilitation, such as transportation, communication, the payment systems, as well as burdensome customs procedures. As possible solutions, she stressed the active engagement of both the private sector and the public sector in order to achieve more transparency and predictability, and to strengthen the existing institution, such as RECs and the AU. However, Africans should continuously consider the questions of who the stakeholders are and who stands to benefit.

*J. Michael King* of the Law Office of Peter C. Hansen, LLC in Washington, DC, gave a detailed overview on ‘The Role of the East African Rift Countries in the Development and Reform of International Investment Agreements and Investor-State Dispute Settlement’. The East African Rift Valley is the largest seismically active rift system in the world. Although access to electricity is currently still very low, renewable energy capacities are increasing, with Kenya and Tanzania as standouts. The East African Rift Countries are currently parties to 192 BITs, of which, however, only 85 are in force. In comparing these BITs, *King* detected the following features as characteristic for newly signed IIAs:

- Sustainable development
- The right to regulate
- Corporate social responsibility
- Conformity with domestic and international law
- Minimum ownership/ substantial business activities
- Transparency and publication.

*Sakina Badamasuiy*, *McKinsey*, and *Obinna James Edeh* of the Organisation for the Prohibition of Chemical Weapons (OPCW), presented their paper on ‘The Legality of Soft Power and Its Effect on Manpower in Africa’. The contribution focused on the economic activities of China and Brazil in Africa during the last decades and the impact of these activities on labor rights and standards. Having conducted two case studies in Mozambique and Nigeria, *Badamasuiy and Edeh* came to the conclusion that in the unabated desire to attract foreign direct investment, Africa has failed to work out a sustainable program to guarantee the protection of labor rights and compliance with international standards. Thus, workers without the means to seek redress from multinational companies (MNCs) are usually left without remedy when their rights are violated. Therefore, *Badamasuiy and Edeh* called for the adoption of more effective instruments to protect the African workers. MNCs operating in Africa should be compelled to employ an unbiased in-house legal counsellor to advise the workers on their rights and benefits as a staff of the corporate entity. Also, the memorandum of understanding between MNCs and their host governments in Africa should have an enforceable clause to protect the workers at all times.

tionalen Wirtschaftsrecht, Heft 131 (11-2014), Institut für Wirtschaftsrecht, Martin-Luther-Universität Halle Wittenberg.

### *Conclusion*

The participants all felt that the conference was a great success. To cite *Mpazi Sinjela*, Dean of the Faculty of Law of the University of Zambia, the broad range of topics and the high quality of the delivered reports were as educational as “one semester of learning”. The panel discussions had confirmed that international law can serve as a means to address and resolve numerous African issues, such as the management of the abundance of natural resources on the continent or corruption. Also, international dispute settlement mechanisms provide for an important alternative if domestic courts prove inefficient.

Another recurrent topic of the conference was the issue of the so-called *brain drain* on the African continent, as talented and highly educated young lawyers continue to seek work abroad where their efforts are better appreciated. This underlined the need for incentives for African experts on law and other fields to work and teach in Africa. In addition, African international lawyers themselves should act more inclusively, e.g. by providing legal training for academic talents, but also participate effectively and competitively in international forums.

The next meeting of the AAIL will take place in 2016 on the occasion of the 30<sup>th</sup> anniversary of the organization.