

28 July 2017

Mr V Ramaano
The Portfolio Committee on Justice
and Correctional Services
email: vramaano@parliament.gov.za

Dear Mr Ramaano,

1. I write on behalf of the Arbitration Foundation of Southern Africa ("AFSA") in support of the International Arbitration Bill. AFSA is a non-profit company dedicated to the provision of administrative services for the resolution of commercial and investment disputes. It was established in 1996 and launched by the then Minister of Justice, the Honourable Dullah Omar, who defined its mandate as providing an alternative form of access to justice for the business community.
2. Since that time, AFSA has administered many hundreds of arbitration and mediation disputes, domestic, regional and international.
3. These services enhance business and trade efficiency by providing a fair and expedited resolution of disputes.
4. South Africa is an engine room for business in Africa and is a natural regional centre for international arbitration comparable to Singapore, Cairo and Hong Kong, all of which contribute significantly to business and economic activity in their respective countries.
5. South Africa has been handicapped in taking its rightful place in international arbitration by the lack of legislation based on the Model Law. This Bill, if passed into legislation, will meet a vital need. I wish in that regard to draw attention to the Judgment of the Supreme Court of Appeal in *Zhongji Development Construction Engineering Company Limited, 2015 (1) SA 345 (SCA)* where the following was said:

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Pretoria,
Southern African Grain Arbitration Services Association, Tugendhaft Wapnick Banchetti & Partners, Webber Wentzel, Werksmans Attorneys.

“The South African courts not only have a legal but also a socio-economic and political duty to encourage the selection of South Africa as a venue for international arbitrations. International arbitration in south Africa will not only foster our comity among the nations of the world, as well as international trade but also bring about the influx of foreign spending to our country.”

The Supreme Court of Appeal was correct to emphasise these particular advantages which accrue to any country which hosts an attractive international arbitration centre. Those advantages are extremely significant.

6. I can say from personal experience and knowledge of international arbitration practice that the provisions of the Bill match international best standards. There is every reason to believe that the passage of the Bill will make South Africa an attractive destination for the resolution of cross-border disputes and that it will have a significant impact in enhancing trade and investment in South Africa.
7. If it is possible for me to make oral representations to the Committee at its meeting, I will be happy to do so.

Yours faithfully,



M.D. KUPER SC
CHAIRMAN
THE ARBITRATION FOUNDATION
OF SOUTHERN AFRICA