



**KISII UNIVERSITY**  
**UNIVERSITY EXAMINATIONS**

**FOURTH YEAR EXAMINATION FOR THE AWARD OF THE**  
**DEGREE OF BACHELOR OF LAWS**  
**SECOND SEMESTER, 2023/2024**  
**(JANUARY-APRIL, 2024)**

**LLBK 426: INTERNATIONAL COMMERCIAL DISPUTE RESOLUTIONS**

**STREAM: Y4 S2**

**TIME: 2 HOURS**

**DAY: TUESDAY, 9:00 – 11:00 A.M.**

**DATE: 09/04/2024**

---

**INSTRUCTIONS**

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE and any TWO other Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

**QUESTION ONE**

When a dispute arises between the parties, arbitration provisions suddenly becomes one of the most important terms of the contract. Counsel should not repeat the mistakes of many who simply cut and paste ambiguous and flawed arbitration clauses into contract. In this context contract is extremely important since arbitration right and duties arise from the contract itself.

- (a) Discuss the considerations to be taken when drafting arbitration contract.  
(10 Marks)
- (b) Discuss the concept of recognition and enforcement of international arbitral award.  
(10 Marks)
- (c) Discuss the circumstance under which arbitral award may be declined.  
(10 Marks)

## **QUESTION TWO**

International Chamber of Commerce was founded in 1919 to serve world business by promoting trade and investment, open market for goods and services and the free flow of goods.

- a) Discuss the two ways of becoming a member of international chamber of commerce. (4 Marks)
- b) Discuss the governing body of international chamber of commerce. (8 Marks)
- c) Discuss the dispute settlement mechanism by international chamber of commerce. (8 Marks)

## **QUESTION THREE**

“No set of rules can or should specify every aspect of the procedure that might arise. Much depend on the background of the parties, their representatives and the parties” anonymous

- a) Evaluate similarities and differences between institutional and *ad hoc* arbitration. (10 Marks)
- b) Discuss the place of national laws in international commercial arbitration. (10 Marks)

## **QUESTION FOUR**

Investment arbitration has a history of its own that intertwines with that of international commercial arbitration. On one hand, the foreign investor commits a significant amount of money for a long period in a country in which it may not have complete confidence in the system of government, its courts and political stability.

From the foregoing, discuss the conduct of investment arbitration between a foreign investor and host government. (20 Marks)

## **QUESTION FIVE**

Write explanatory notes on the following:

- (a) *Lex loci arbitri* (5 Marks)
- (b) Commercial. (5 Marks)
- (c) negotiations vis a vis mediation (5 Marks)
- (d) foreign arbitration. (5 Marks)