INSOL Africa Round Table
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It started at INSOL Shanghai. A conference rather better remembered for the lure of Lehman which decimated the ranks of the attendees after the news broke.

One lone question was raised in the by-then substantially emptier venue about why there was no attention given to Africa. Félix Addo of PWC in Ghana takes credit for putting his hand up. Since then, Africa has in fact become one of the focus points to which INSOL has turned its global attention.

An Africa Round Table1: the project was born, given life under the direction of then INSOL President Sumant Batra, with enthusiastic support from the World Bank and from the African participants themselves. An inaugural meeting was held in Dubai in February 2010. Later last year the first Africa Round Table event was hosted in Abuja, Nigeria.

In September this year, the Africa Round Table, in its second incarnation, was held as an extremely successful project in Cape Town, South Africa, firmly claiming its place on the annual calendar of events. Some 50 delegates from across the continent took part. Judges, practitioners, regulators and policy-makers attended.

“Preserving value in distressed businesses” was the central theme. As echoed by most of the attendees, this is a concern of massive importance in the African context, more so (said some of the participants) than in the mature markets. The theme was fleshed out and debated in various forms – out of court restructurings, formal workouts, and the roles of the judiciary, regulators and practitioners in developing a formula to achieve the elusive value preservation.

Even before the event it was apparent that the divergences on the African continent were great. The experiences shared by the delegates highlighted this. A dedicated commercial court has been established in Uganda. Mauritius is implementing a series of criteria by which aspirant insolvency practitioners would be judged and allowed to practice, or not. But by far the majority of the jurisdictions represented reported that capacity building for the Courts and regulation of practitioners was a uniform problem. Corruption was raised as an issue of serious concern.

The jurisdictions represented were many and varied. Hugely different perspectives were reported from Ghana, Kenya, Liberia, Malawi, Mauritius, Nigeria, South Africa, Tanzania, Zambia, and in addition various representatives from the OHADA countries. South Sudan, an infant jurisdiction, and the newest kid on the African block, was represented. Experiences (both positive and less so) were shared and debated. Best practices were proudly reported, and frank admissions were made about shortcomings.

Even South Africa, for now the largest economy on the continent, had to report that insolvency practitioners remain unregulated, that the “Cross-Border Insolvency Act” (based upon the UNCITRAL Model Law), whilst having been enacted, has been rendered ineffective by a requirement of reciprocity, with states having to be designated to take advantage of the provisions of the law. Thus far, not one state has been so designated. There are no dedicated commercial or bankruptcy courts, and matters take years to reach finality.

The final session was devoted to the view going forward. There was general agreement that the impetus should not be lost, and that the value which could be taken away should be shared with the policy-makers themselves in each of the jurisdictions represented.

It was an outstandingly successful event. And if the delegates had any reason to stray, (which didn’t happen, as the debate was lively), the weather was sparkling, and the waterfront venue world-class. INSOL’s organisation of the event was flawless. But that was the expected part.

1 Attendance at the Africa Round Table is by invitation only.