



## Mauritius centre unveils new rules

22 May 2018

Alison Ross



Port Louis, Mauritius

The Mauritius Chamber of Commerce and Industry Arbitration and Mediation Centre, MARC, has unveiled innovative new rules as the first Mauritius Arbitration Week, chaired by **Neil Kaplan QC**, gets underway.

The new rules “reflect best international practice” and include a “comprehensive tool kit of tried and tested provisions as well as innovative provisions,” according to **Cheng-Yee Khong**, a former director and counsel of the ICC secretariat in Asia who now works for Australian funder IMF Bentham in Hong Kong, introducing them at a MARC conference in Mauritius’s capital Port Louis yesterday. She chaired the committee that drafted the rules together with Mauritian barrister Jamsheed Peeroo and Jalal El Ahdab, partner at Ginestie in Paris.

Long added that the overarching aim of the rules is to facilitate the conduct of arbitrations as swiftly as possible with a view to minimising time and costs.

In the spirit of the Mauritius Convention that applies to investment treaty arbitration, they also provide for greater transparency in the commercial cases that MARC administers.

The rules include a suggested clause referring disputes to MARC arbitration, with options to select Mauritian law and Port Louis as seat. If parties desire, they can also specify in the clause their preferred number of arbitrators and the language of proceedings.

For small claims for less than 25 million Mauritian rupees, the rules offer an expedited procedure lasting six months. There's also an emergency arbitrator procedure for claims of all value in the rules, which provides for an arbitrator to be appointed within 24 hours and decide any application for urgent interim or conservatory relief that cannot wait for the constitution of a tribunal within 14 days. And there's a procedure for the summary dismissal of claims or defences, applicable, like the emergency arbitrator procedure, only when the arbitration agreement is entered after 21 May 2018, the date on which the rules took effect.

Further articles allow joinder and consolidation of claims and provide for jurisdictional objections to be decided prima facie by the MARC Court if raised prior to the tribunal's constitution and otherwise by the tribunal itself,

The rules require more information at the commencement of the arbitration than was required previously, to ensure efficiency, and allow parties a free choice of arbitrators, without restricting them to a list. A special mechanism is provided for the appointment of three-member arbitral tribunals in cases with multiple claimants or respondents.

Striking and innovative opt-in provisions provide for the blind appointment of arbitrators so they do not know which party picked them and for parties to agree to only produce documents that they intend to rely on in their pleadings, subject to the tribunal's power to order production of additional documents in exceptional circumstances.

There's also a direction for early disclosure if a case is third-party-funded.

The rules state that unless otherwise agreed, tribunals may adopt any procedure they see fit to avoid unnecessary delay or expense, having regard to the complexity of the issues and amount in dispute, and provided that the procedure ensures equal treatment of parties and allows them a reasonable opportunity to present their case. It also includes a requirement that the tribunal and parties "do everything necessary to ensure the fair and efficient conduct of the arbitration".

In line with this, tribunals have the power to exclude new legal counsel from a case if their appointment may result in a conflict of interest.

A further key innovation gives them absolute discretion to state reasons in awards as succinctly as possible without any need to re-state the procedural history or the parties' submissions save to the extent necessary for its reasons.

Parties can request correction or interpretation of awards or additional award and, as another opt-in, can agree to the appeal of the award on points of law only.

The Mauritius Chamber of Commerce and Industry was founded in 1850 and is wholly independent from the government. It pioneered institutional arbitration in Mauritius in 1996 with the establishment of what was then called the MCCI Permanent Court of Arbitration. The name of the arbitral centre was changed in 2012, four years after Mauritius passed a new Arbitration Act and embarked on an initiative to establish itself as a platform for arbitration in sub-Saharan Africa.

Since 2013, MARC has handled a variety of domestic and international arbitration's. It is not to be confused with the Mauritius International Arbitration Centre, MIAC, which was established after the 2008 act and is 100% government-owned.

From last year, MARC has become more visible internationally with the formation of [a new court](#) presided over by Kaplan and including leading international practitioners from Africa, Asia, Europe and the US. It also formed a [new advisory board](#) chaired by the secretary general of the Hong Kong International Arbitration Centre **Sarah Grimmer**.

This week the court has been expanded with the addition of the former president of the UK Supreme Court **Lord Neuberger**, who now practises as an arbitrator at One Essex Court in London. This follows a visit he made to Mauritius in April, when he gave a seminar on ethics in arbitration and a speech on how arbitration facilitates investment in arbitration at a gala dinner attended by Mauritius's attorney general.

Mauritius Arbitration Week is now planned as an annual fixture to build on the international profile the island gained as a place of arbitration as a result of hosting the first ICCA Congress in Africa, in 2016. As well as the MARC conference yesterday, the week includes training sessions for practitioners, on award writing and making use of arbitral secretaries, a mock arbitration under the new MARC rules, events organised by the ICC Young Arbitrators Forum and MARC's own under 45 group and social and networking activities.

---

Copyright © 2017 Law Business Research Ltd. All rights reserved. | <http://www.lbresearch.com>  
87 Lancaster Road, London, W11 1QQ, UK | Tel: +44 207 908 1188 / Fax: +44 207 229 6910  
<http://www.globcompetitionreview.com> | [editorial@globalcompetitionreview.com](mailto:editorial@globalcompetitionreview.com)