

## FLASH NEWS

### TERMINATION OF THE JOINT VENTURE BETWEEN THE GOVERNMENT OF MAURITIUS AND THE LONDON COURT OF INTERNATIONAL ARBITRATION (LCIA)

Established in 2011 as a joint venture between the London Court of International Arbitration (LCIA) and the Government of Mauritius, the LCIA-MIAC Arbitration Centre has, along with other arbitration institutions in Mauritius, helped Mauritius to develop its reputation as an 'Arbitration Hub' in the Indian Ocean.

The joint venture between the Government of Mauritius and the London Court of International Arbitration (LCIA) has, however, been terminated by mutual consent, replacing LCIA-MIAC by the independent arbitral institution Mauritius International Arbitration Centre ("MIAC"). This termination took effect on the 27th of July 2018.

This termination imposes on MIAC a renewal of the applicable arbitration rules and the establishment of new significant structures for the management of these arbitrations, all of which, were previously governed and managed by the LCIA.

We note that MIAC has received a favourable reception from most Mauritian authorities and is supported by an Advisory Board, a Secretariat, the Permanent Court of Arbitration (PCA) and even receives financial support from the Government of Mauritius, while at the same time ensuring a strict principle of non-interference guaranteed in the MIAC Constitution. We note that according to the MIAC Rules 2018, the Secretary General of the PCA is the appointing authority and the PCA will advise on general management, including management of the MIAC secretariat and will provide relevant trainings. It was also announced that the Advisory Board of MIAC will be chaired by Mr. Emmanuel Gaillard.

#### The impact on LCIA-MIAC arbitration clauses

To ensure continuity, provisions have been adopted so that the transition is done in a smooth way. Arbitration agreements concluded prior to 31st of August 2018, providing for arbitration under the LCIA-MIAC rules, will be construed as providing for arbitration by the LCIA.

This will have a major impact on these arbitration agreements in as much as, being governed by the LCIA-MIAC, they were governed by an arbitral institution described as being predominantly Africa-oriented whereas now disputes arising from these agreements will be managed by a London based institution.

Mediation or arbitration of disputes arising out of agreements which are already executed and which refer to LCIA-MIAC as the arbitral institution, will be administered by the LCIA, but under the amended rules. Regarding disputes arising from LCIA-MIAC clauses inadvertently concluded on or after 1st of September 2018, they will be managed by MIAC. Of course, in principle, such clauses should not exist since the LCIA-MIAC no longer exists.

As mentioned above, MIAC has promulgated new arbitration rules based on the UNCITRAL Rules and follow the tested provisions of the Mauritian Arbitration Act for arbitral appointments and challenges.

Naturally, the parties may still agree to review these transitional provisions and to assign their disputes in preference to the LCIA, MIAC or another African arbitration institution. If such an agreement is not possible or not valid, the arbitration will again be performed by default by the LCIA or the MIAC depending on the date on which the clause was made.

For more information and assistance, please do not hesitate to contact us.



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