

# International arbitration in Mauritius

By [Marc Hein](#)

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Arbitration has been firmly established in Mauritius since the Constitution of 1791 and the island has travelled a long way since then. The Mauritian jurisdiction is now moving ahead to establish itself as a jurisdiction of choice for international arbitration. The island is a logical choice as it is a safe, stable and democratic jurisdiction where the Rule of Law prevails with regular democratic elections entrenching the separation of powers. Mauritius has also in the last twenty years developed into an international financial centre attracting international business and finance to its shores. It is a corollary of any decent international financial centre to provide to the investors, shareholders and business entities using it, for ways and means to settle their disputes when the latter arise.



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## Promote Alternative Dispute Resolution

The country is now firmly committed to promote Alternative Dispute Resolution as a valuable alternative to litigation, for local and international business. The development of international arbitration worldwide has facilitated the creation of a new international legal practice, autonomous from the national laws and attuned to the necessities of the business world. To provide an adequate framework to international arbitration, Mauritius enacted the International Arbitration Act of 2008 influenced by the UNCITRAL model. The law was amended subsequently to refine certain aspects and keep in touch with international developments.

What is interesting to note is that there is unanimity within the business community, the political class and the judiciary to promote international arbitration as a credible means of settling disputes within the parameters of the Mauritian jurisdiction and of its international arbitration laws. Mauritius will host in 2016 the International Congress of the International Council for Commercial Arbitration thereby establishing itself clearly on the world map of international arbitration. This congress, which puts together some 3,000 arbitration experts in one conference every four years, will for the first time be held in Africa.

## Global business companies 'controlled and managed' from Mauritius

At the level of international financial services, global business companies (previously known as offshore companies) are now being encouraged to establish more commercial and economic 'substance' in Mauritius and amendments were recently brought by the Financial Services Commission to its Guide on Global Business to consider arbitration in Mauritius as one such additional criteria to establish 'substance'. This means that global business companies have an incentive to put in their constitutions an inbuilt clause to resolve disputes within shareholders through arbitration in Mauritius. This measure helps to consider such global business companies being regarded as 'controlled and managed' from Mauritius and has established itself as pioneering in the field of international financial services. Many South African investors using companies on the island should be concerned by this measure.

The Mauritian jurisdiction is today at the centre of a large number of cross border transactions involving parties from developing nations. International arbitration can only be truly international if developing countries of the world are also truly participative. Hence arbitration centres like ours have a duty to progress so as to provide alternatives to developing nations and business from such nations. International arbitration should not be limited to developed nations only and Mauritius is a good example of what can be achieved in a developing country.

## ABOUT MARC HEIN

Marc Hein is the head of practice at JuristConsult Chambers, Mauritius - a member of the DLA Piper Africa Group.  
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