

**PUBLIC BILL**

*Second Reading*

**THE INTERNATIONAL ARBITRATION (MISCELLANEOUS  
PROVISIONS) BILL  
(NO. VI OF 2013)**

*Order for Second Reading read.*

**The Prime Minister:** Mr Deputy Speaker, Sir, I beg to move that the International Arbitration (Miscellaneous Provisions) Bill (No. VI of 2013) be read a second time.

Mr Deputy Speaker, Sir, ever since the enactment of the International Arbitration Act in 2008 and its commencement on 01 January 2009, Mauritius has made significant progress in establishing itself as a centre for international commercial conciliation and arbitration and in particular as the centre of reference for the arbitration of disputes relating to Africa.

I wish, in particular, to highlight the following developments -

- Mauritius has signed a Host Country Agreement with the Permanent Court of Arbitration at The Hague (PCA) which has, for the first time in its history, appointed a permanent representative outside The Hague to a different country, that is, Mauritius. It is the only time that The Hague has done this.
- Mauritius held a launch conference for its new international arbitration platform in December 2010. The Conference, which attracted some 400 delegates from Africa and beyond, was co-hosted by the International Council for Commercial Arbitration (ICCA), the Court of Arbitration of the International Chambers of Commerce, the London Court of International Arbitration (LCIA), the United Nations Commission on International Trade Law (UNCITRAL), the International Centre for Settlement of Investment Disputes of the World Bank (ICSID) and the PCA. MIAC 2012 was held on 10 and 11 December 2012 and once again was a success.
- A joint venture agreement for the creation of a state-of-the-art international arbitration centre was signed with the London Court of International

Arbitration in July 2011 at Marlborough House in London which is the seat of the Commonwealth Secretariat. The Mauritian international arbitration centre (LCIA-MIAC) is now fully operational, having published its rules of arbitration and conciliation. In addition to administering arbitral cases for those who opt into its rules, LCIA-MIAC will help in generating interest in the field, through a pro-active Users' Council, and will also channel the training assistance offered to us by institutions, such as UNCITRAL, the *Comité Français de l'Arbitrage* and the English Bar Council.

- In Singapore last year, ICCA awarded to Mauritius the right to host the 2016 ICCA Congress, in the face of strong rival bids from Copenhagen, Hong Kong and Sydney. The ICCA Congress, which is held every two years, is the key event in the international arbitration calendar. This is the first time that it will be hosted in Africa and I think we should take pride on this matter.

Those developments clearly show that the leading institutions in the field recognize the importance of an increasingly regional approach to the settlement of international disputes, and the role which Mauritius can play in that respect in Africa.

As I indicated, Mr Deputy Speaker, when I introduced the International Arbitration Bill in the House, in 2008, I said we will keep the legislation under review so that it is up to date and user-friendly. The Bill which is before the House today will ensure that this is the case.

Mr Deputy Speaker, Sir, I do not propose to take up the time of this House with a detailed explanation of every provision of a Bill which is by its very nature both highly specialized and technical.

I propose instead to focus on the salient features, which it is hoped will contribute to keeping Mauritius at the forefront of modern arbitral jurisdictions.

Clause 2 of the Bill relates to the enforcement and recognition of foreign arbitral awards in Mauritius.

Articles 1028 and 1028-1 to 1028-11 of our Code de Procédure Civile set out the regime and procedure for the enforcement in Mauritius of arbitral awards made outside Mauritius, in other words, foreign awards prior to their incorporation into our law in 2004 of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, better known as “the New York Convention”. The New York Convention, Mr Deputy Speaker, Sir, is the main international convention governing the recognition and enforcement of foreign arbitral awards, and has now been ratified by 148 countries.

Following the enactment of the International Arbitration Act (the IAA), there has been some debate as to whether Articles 1028 and 1028-1 to 1028-11 of the *Code de Procédure Civile* have been implicitly repealed with the coming into operation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards Act.

Clause 2 of the Bill resolves that ambiguity by expressly repealing these articles of the *Code de Procédure Civile* and by replacing Article 1028 by a new article which provides that arbitral awards made in foreign countries are governed by the Foreign Arbitral Awards Act and the IAA.

I must here point out, Mr Deputy Speaker, Sir, that, when the New York Convention was ratified by Mauritius, Mauritius agreed to enforce foreign arbitral awards in accordance with the Convention, but excluded from that agreement awards rendered in countries which had not themselves ratified the New York Convention - as it was quite entitled to do pursuant to Article I(3) of the Convention.

In order to ensure that the repeal of Articles 1028 and following of the *Code de Procédure Civile* leaves no gap in the laws of Mauritius, Mauritius is taking steps to withdraw this reservation of reciprocity. A decision to that effect was taken by Government on 01 March of this year and the relevant notifications are being deposited with the Secretary-General of the United Nations.

The new section 3A, which is sought to be inserted in the Foreign Arbitral Awards Act by clause 3(a) of the Bill, ensures, for the avoidance of any possible doubt, that the New York Convention will now govern the recognition and enforcement of all foreign awards in Mauritius.

Clause 3(b) of the Bill introduces a number of further technical changes to the Foreign Arbitral Awards Act, which are designed to make our jurisdiction more user-friendly and attractive:

- By virtue of the proposed new section 4A, French and English are each deemed to be an official language for the purpose of Article IV of the New York Convention. This, Mr Deputy Speaker, Sir, will avoid unnecessary translation of awards and ensure that awards rendered in both anglophone and francophone arbitrations are enforceable without unnecessary expense and delay in our jurisdiction.

- The new section 4B clarifies, for the avoidance of doubt, that actions for the recognition and enforcement of foreign awards in Mauritius are not subject to any domestic period of limitation or prescription.

Clause 4 of the Bill seeks to make a number of amendments to the IAA.

Clause 4(a) to (e) will make a number of structural changes to section 3 of the IAA. The structure of that section of the IAA departed significantly from the UNCITRAL Model Law, on which our legislation is based, and that has not proven straightforward to apply in practice. A decision has accordingly been taken to restructure the opening part of the IAA in a manner more in line with the Model Law, with a distinction being drawn between preliminary provisions properly speaking (which will remain in Part I of the Act), and the provisions which define the scope of the application of the Act (which had been placed in a new Part IA).

These changes are purely structural and do not affect the meaning or effect of the relevant provisions, save for the following two substantive changes:

- Firstly, one of the effects of clause 4(b) of the Bill will be to replace the provisions of the existing section 3(10) of the IAA by similar provisions in a new section 2C, which deals with the important disconnection which the IAA has operated between international arbitration and our domestic arbitration regime. The new section 2C(1) effectively reproduces the contents of section 3(10) of the IAA, but a new subsection (2) has been added in order to clarify, for the avoidance of doubt again, that the procedure to be applied in applications under the IAA and under the Foreign Arbitral Awards Act is separate from that applied in other civil matters, that specific rules of Court may be made pursuant to section 198 of the Courts Act, setting out a comprehensive and stand-alone procedural code for such applications, and that these rules may provide for the hearing of these matters by Designated Judges. This subsection will, in particular, provide an express statutory underpinning for any rules of Court on international arbitration that may be made by the Chief Justice.
- Secondly, clause 4(e) of the Bill will, inter alia, replace the provisions of section 3(6) of the IAA by those of a new section 3D, which relates to the incorporation of arbitration agreements in the constitution of GBL companies. The existing section 3(6) was meant to provide an option to the shareholders

of GBL companies to arbitrate their disputes under the constitution of the company in circumstances where the only forum for the resolution of such disputes had thenceforth been the Mauritian Courts. The wording of the subsection, however, appears to have created some confusion as to the exact scope of that provision, and it is accordingly proposed under the new section 3D to make it absolutely clear that section 3D is dealing solely with arbitration clauses incorporated in the constitution of a GBL company. It does not affect the right of the shareholders of the company to agree to the arbitration of disputes concerning or arising out of agreements other than the constitution of the company, for example, the shareholders' agreement. This amendment will ensure that the purpose of the provision to introduce an option to arbitrate where none existed before is clearly put into effect without any risk of harming pre-existing arrangements or of limiting the parties' choice of arbitral seat for agreements other than the constitution of the company.

Mr Deputy Speaker, Sir, the existing sections 6(2), 23 and 42 of the Act provide that interim measures applications in international arbitration matters must be heard before a panel of three Judges, in the same way as all other international arbitration matters. This, however, has proved cumbersome in practice, in particular for urgent applications. The Bill addresses this problem by providing that these applications will henceforth be heard and determined by a Judge in Chambers in the first instance, but will be returnable before a panel of three Judges once the return date is fixed. This strikes a balance between the need for expediency and the assurance that international arbitration matters ultimately remain the subject of a collegiate decision.

The above amendments also introduce two further features -

- First, section 23(1) of the IAA is being amended to make it clear that the Supreme Court shall have the same power to issue an interim measure in relation to arbitration proceedings as it has in relation to proceedings in Court, whether that power is usually exercised by a Judge in Chambers or otherwise. This will prevent argument as to the extent of the jurisdiction available to the Judge in Chambers in applications under section 23;

- Secondly, a new subsection (2A) is being introduced in section 23 of the IAA to provide that (subject to any contrary agreement of the parties) the Court shall exercise its power to issue interim measures in order to support, and not to disrupt, existing or contemplated arbitration proceedings. This is in line with the Act's object to create the most favourable environment for international arbitration to thrive in Mauritius, and will ensure that the easier access which parties are given to the Court to apply for interim measures - by giving them access to the Judge in Chambers for that purpose - is not abused by parties in order to disrupt arbitral proceedings in Mauritius or abroad.

Mr Deputy Speaker, Sir, the IAA does not at present provide for what is to happen to a matter if an arbitral award is set aside by the Supreme Court, either partly or wholly. A new section 39A will now make specific provision for this matter.

Mr Deputy Speaker, Sir, section 10(9) and (10) of our Constitution provides that hearings before our Courts must be held in public save, *inter alia*, where (i) the parties otherwise agree or where (ii) the Court is empowered by law to hold the hearing in private and considers this necessary or expedient in circumstances where publicity would prejudice the interests of justice.

Mr Deputy Speaker, Sir, the confidential nature of certain types of arbitration renders it desirable for our Courts to be able to hold hearings in private in appropriate circumstances. Clause 4(i) of the Bill seeks to introduce a new section 42(1B) into the Act, which will provide the necessary legal basis for the Courts to be able to hold proceedings in private for applications under the IAA or the Foreign Arbitral Awards Act where appropriate, taking into account the specific features of international arbitration, including any expectation of confidentiality which the parties may have had when concluding their arbitration agreement or any need to protect confidential information. The new section 42(1C) makes consequential provisions with respect to the publication of information.

Mr Deputy Speaker, Sir, clause 4(j) of the Bill introduces a new section 43 in the Act, which will put in place a system of six Designated Judges to hear all international arbitration matters in Mauritius. This is in line with the practice in many leading arbitral jurisdictions, including Singapore, the UK and France, and will ensure that all applications under the IAA or the Foreign Arbitral Awards Act are heard by specialist Judges. In addition to the specialist knowledge which the Designated Judges will accumulate from hearing all international

arbitration matters, it is intended that they will receive specialist training in this field both in Mauritius and abroad.

Mr Deputy Speaker, Sir, the proposed new section 44 of the IAA specifies the procedure for appeals to the Judicial Committee of the Privy Council under section 42(2) of the IAA and under section 4(3) of the Foreign Arbitral Awards Act.

The proposed new section 45 of the IAA makes provision for the use of witness statements in Court proceedings under the IAA and under the Foreign Arbitral Awards Act, and for the applicable sanctions where a person knowingly makes a false statement. Witness statements are now a recognised feature of international arbitration worldwide, and giving international parties the ability to use them in Court proceedings under our legislation in the stead of, or in addition to, the more traditional affidavits, will contribute to making our jurisdiction even more user-friendly.

Clause 5 of the Bill makes transitional arrangements, and will provide that the International Arbitration (Miscellaneous Provisions) Act shall apply to all proceedings in Court under the IAA or the Foreign Arbitral Awards Act which are pending on the date of the commencement of the Act, that is, 01 June of this year.

Mr Deputy Speaker, Sir, as I stated to this House when introducing the International Arbitration Act four years ago, I am convinced that there is considerable scope for Mauritius to develop as a state-of-the-art and attractive jurisdiction for international arbitration given the very real advantages which we can put to use in this field, including our perfect geographical location to become a centre of reference for disputes involving Africa, South East Asia, India, China and Europe, our infrastructure, the facility Mauritians have with languages, and the great advantage of being, and of being perceived as, a neutral country from both a developed world and a developing world perspective.

The presence of the United Nations Legal Counsel, Mrs Patricia O'Brien, as the keynote speaker of our MIAC 2012 Conference, served as a timely reminder that – in addition to its commercial importance to our services industry – our International Arbitration Project is more than a commercial venture. It is, at its core, Mr Deputy Speaker, Sir, about the legitimacy of international systems of dispute resolution in Africa and in the developing world, and about the rule of law.

While developing countries are consistently – and rightly – encouraged to accept the process of international arbitration as an effective means of dispute resolution, be it as part of

their commercial deals or as a necessary corollary of investment flowing into their countries from developed countries, there is a significant risk that arbitration may be perceived as a 'foreign' process imposed from abroad.

Our International Arbitration Project aims to ensure that our region has its say in the process and in the development, and for international arbitration progressively to become part of our legal culture. Our goal, Mr Deputy Speaker, Sir, is to create a platform run for the benefit of the region as a whole, to build capacity in the field of international dispute resolution, so that – within a generation – Mauritius and Africa can draw on the expertise of specialist Mauritian and African arbitrators and lawyers.

Mr Deputy Speaker, Sir, these are ambitious goals, but the significant recognition of our project which has been achieved in a short amount of time is very encouraging indeed.

Mauritius is now regularly cited alongside the major international arbitral centres, and is fast becoming the first option for parties wishing to arbitrate in our region.

Mauritius chaired the UNCITRAL Commission last year, and has been chairing the work of its Arbitration Working Group for the past three years. The result of this work will be the creation of a worldwide transparency registry, which will allow civil society to access information relating to the arbitration of investment disputes held under the UN rules. This increased transparency will in turn help to foster the legitimacy of investment arbitration.

Mr Deputy Speaker, Sir, the present Bill is a further step towards the development in Mauritius of a new and currently non-existent service industry at the highest level.

As such, it is an integral part of Government's efforts to create the right conditions for Mauritius to thrive as an arbitral jurisdiction.

Before concluding, I should like to place on record once more – as I have consistently done since the inception of this project – that Government is acutely aware that its role is, and will only ever be, to ensure the existence of the most favourable conditions for international arbitration in Mauritius, with absolutely no interference in this field beyond that assistance; that is the cardinal rule. The present Bill is and remains true to that principle.

Mr Deputy Speaker, Sir, I wish to place on record my thanks to the Attorney General and the State Law Office, which have put in a considerable amount of work in the drafting of this Bill, including through the helpful preparation of Explanatory Notes which explain the purpose of the legislation in more detail. These will be published, in the same way as the

*travaux préparatoires* of the International Arbitration Act were published in 2008, in order to assist in the future interpretation of the legislation. I also wish to put on record my deep appreciation of the active and significant contribution made by Mr Salim Moollan of Essex Court Chambers, London, who has been, I can say “*la cheville ouvrière*” behind this Bill and behind our international arbitration endeavours.

With these words, Mr Deputy Speaker, Sir, I commend this Bill to the House.

**The Deputy Prime Minister rose and seconded.**

(7.20 p.m.)

**Mr V. Baloomoody (Third Member for GRNW & Port Louis West):** Mr Deputy Speaker, Sir, of course, on this side of the House, we welcome the Bill and the Amendment to the main Act, as we did whilst the main Act was before the House in 2008. It is a fact that the amendments being brought today are not controversial in nature and we can only hope that they will further contribute to the creation of a robust and user-friendly legal framework. As the hon. Prime Minister just mentioned, it is quite a technical Bill and I do not propose to address each and every clause but I will make general remarks.

Sections 2 and 3 of the Bill will eliminate a potential ambiguity in our regime for the recognition and enforcement of foreign arbitral awards. We know that, in the past, in the case of **Macsteel International Fareast Ltd versus Desbro International Ltd**, that issue of whether the *Code Civil* would apply was raised. This, at least, will remove the ambiguity.

The creation of special judges for the hearing of international arbitration matters through section 4 (b) of the Bill is in line with the development in most major arbitrations. The *Tribunal Fédéral Suisse*, the London High Court through its commercial division, the Singapore High Court and the Paris *cour d'appel* have now, whether formally or *de facto*, all adopted this approach which allows for a faster development of relevant expertise.

The streamlining of the structure of the opening section of the Act through section 4 (a) to (e) and to the end of the processes for application for interim measures, under section 4 (g) and (i), will also assist our Court in its task of interpreting and applying legislation.

So, it is a fact, as the hon. Prime Minister just said, we have made significant progress since the passing of the Act with regard to our legislation. We have the legal framework but, unfortunately, this is not enough. It is only one aspect. The regulatory framework is however

one aspect of the effort which must be put in to see Mauritius truly develop as an arbitral centre in the way in which Singapore has developed now and many other countries. We have to see why is it that after four years now, I am being informed that there is not much international arbitration in Mauritius. And, there is a lot to be done on this site.

The first thing that we have to sincerely look into is to put in place a state-of -the-art hearing facility for arbitration as they have in Singapore at the Maxwell Chambers. To date, we do not have an equivalent facility with both the PCA and the MISC officers currently being hosted within the CyberCity. It seems to me that it is essential that such facility be provided. We should have a centre where all the facilities are given. I was informed recently - by mere coincidence I met somebody whom I know from Zimbabwe and is now the Clerk of a Registrar of the African Court - that in December they had a hearing in Mauritius and there were no facilities! Do you know where they had to do it? It was at the Plantation Hotel! In a hotel! It apparently created some inconveniences which, of course, they did not inform the authority but, among the judges themselves they were not happy with the facilities provided here when the African Court sat in December in Mauritius. So, we have to go for a proper state-of-the-art technology facility arbitration centre.

We need to ensure that proper interpretation, translation and transcription facilities are in place and are readily accessible to arbitrating parties. This is another important issue. People come here for arbitration and they want to have quick, readable and accessible transcription facilities. Do you know that today in the Supreme Court if you want to have a transcript of the recording, it takes four to six weeks? At the Intermediate Court, it is the same and there is a problem of this facility in Mauritius.

We need to create the conditions for our judges and lawyers to receive expert training in this field. We have to have experts and I would like the hon. Prime Minister - he has mentioned it in his speech - to enlighten us of what facilities will be made available to lawyers, especially judges, because now we know that for the professionals we have courses which are being run but, I do not see any magistrate attending these courses. Sometimes some judges do turn up but not the magistrates, I do not see any of them; I don't know whether it should be compulsory probably for these people to attend a certain hours of lectures per year so as to keep up-to-date with arbitration rules and regulations.

I will now refer to the arbitration centre here in Mauritius. I have been informed that that there is an arbitration centre, there is only a Registrar there. There is no director, it is

understaffed and it is more or less dormant. It organises conferences every two years, otherwise there are no road shows held by this institution. We say that we want to be the giant in the region or to be the arbitration centre in the region, especially for Africa. But, I understand that there have been no road shows missions down there! So, there is a need probably for a director or, like in the case of Scotland where they have an ambassador.

Scotland now is working very hard to be an arbitration centre to compete with London. They have named somebody as an ambassador who goes around selling the centre, visiting countries to ensure that businessmen and people are aware of that institution. This is probably another issue which we have to look into.

The hon. Prime Minister refers to the conference which was held in 2010. In that conference quite a lot of issues were raised. So, I want to know from the hon. Prime Minister - I have checked this morning, there are no rules in the Supreme Court. The Chief Justice himself said that there will be a drafting of specific rules of Court for international arbitration. That was said in 2010; we are in 2013 and I have not seen any up to now! So, I want to know whether it will be for the Supreme Court to have the rules or for the Arbitration Centre. The President of the Supreme Court of the United Kingdom, at the same conference, stated that we need a fast track with regard to arbitration. I will quote his speech where he said –

“I have been talking to your Chief Justice and agreed that we must cooperate in putting in place procedures which will ensure that, any application that is made to the court in relation to an arbitration receives the fast track and this is essential if there is to be guaranteed the (...) efficacy that should make arbitration attractive.”

I know that our Chief Justice, the Court or the Judiciary are not happy with this question of fast track. In fact, it had to be removed when the hon. Minister for Housing and Lands came to an amendment last week for the Land Acquisition Act that the purpose of that Act was to give interim payment and to ensure a fast track, that fast track was removed! Are we going to have a fast track in the Court?

Even now we are giving the opportunity for the parties to go to the Judge in Chambers but, if they want to go on appeal before the three judges, are we going to have a fast track? Is there a fast track for Mauritius because when hon. Lord Phillips of Worth Matravers who is the President of the Supreme Court of the United Kingdom say, “Have we been able to establish a fast track between our Supreme Court and the Privy Council”? Because he said he

was going to discuss that in 2010. I hope that in that two or two and a half years we have been able to have some developments on that issue of fast track because it is very important. In other jurisdictions, the court do allow fast track when they had to intervene in cases of arbitration. But unfortunately, it would seem, according to my information, that there is reluctance here by the Judiciary to accept that fast track. This will be a hindrance. If we do not have a fast track, then there is no point to go for arbitration and court. Otherwise, we might as well go direct to the court. So, we have to address that issue of fast track.

There is another question which is very important - everybody reads papers now, go through the internet and communication is over - the issue of law and order. People, especially respected arbitrators, who come with important documents in their brief, will not come where there is a problem of law and order. The rule of law is the most important. Like we have received recently, the executive summary of the Human Rights Report, there is not a good reading, when it said that people are arrested arbitrarily in a country. So, these issues are important if we want to have a proper arbitration centre. Why a country like South Africa which is richer and bigger than us, has no arbitration centre? Nobody wants to go there because of security reason. Another issue which is also important for us to address is when it comes to sell Mauritius as an Arbitration Centre.

Before I conclude, I would like to address the issue which has been of controversy recently and which has not been dealt with. It is the issue of whether Judges can be arbitrators. I know that the issue has been raised on domestic arbitration, but when it comes to international arbitration, we must have an equal level plain field. Internationally, Judges are not allowed to be arbitrators. In UK, Judges are allowed to be arbitrators in domestic cases with the permission of the Chief Justice and all the revenues that it collected go to the judiciary. This is done not during working time, but if the workload allow them. Unfortunately, in Mauritius we have had the problem recently, where Judges, and in some cases even Presiding Magistrates, were sitting as *Président* in a case of Disciplinary Committee. We need to have a rule. Either the Chief Justice has to come with proper guidelines with regard to whether Judges can sit as arbitrator, be it on domestic or international arbitration. We have to tackle this issue because it is still live, it is still a current practice and it is still happening.

To conclude, Mr Deputy Speaker, Sir, there is no doubt that this amendment will improve our legal framework and it will facilitate the arbitrators' service, but there is a long

way to go when it comes to the marketing of our centre. This is where I think we have to target. It is four years now that we have the institute. We have the *appui* of international organisation, but we have to look at our own institute, to have a Director or an Ambassador to go around and to make sure that people is aware of Mauritius as a centre.

Thank you, Mr Deputy Speaker, Sir.

(5.34 p.m)

**The Prime Minister:** Mr Deputy Speaker, Sir, I am glad that the hon. Member from the Opposition side finds that it is a good thing that we are doing. I took note of the criticisms that have been said. Let me try to address them, Mr Deputy Speaker, Sir.

First of all, about the four years and according to the hon. Member not much has been done, in fact, it is not right. A lot of things have happened. Just now, I said how we had fierce competition from Sydney, Hong Kong and Copenhagen, and yet it is Mauritius which was chosen. We have just started. My learned friend mentioned Singapore. Singapore started in the 1980s and it is only around 2005 that we saw Singapore come up as an Arbitration Centre. Similarly, for our offshore, we have the legislations and it took some time. It is going to take the time it takes, but we will, of course, give all the facilities that we can.

The hon. Member also mentioned about the Hearing Centre. Let me say that we are in the process of discussions to find this Centre. We want to have - as he rightly said - all the technological innovations that we need to have, a proper building for this. Discussions are being held with - perhaps I should not say which parties - but the Ministry of Finance is involved in that. We are looking into that. The hon. Member mentioned the case of Zimbabwe where they had to go. Was it Zimbabwe or Zambia?

*(Interruptions)*

The African Court! But I must tell the hon. Member that we have found out that they did not go through the proper channels. They should have contacted the PCA or the LCIA-MIAC. They did not. They could have made the arrangements, but they did not.

I think the hon. Member mentioned about the services, that is, the translation capacity, the interpreters, the transcripts and all this. I must say that the PCA has done a survey both for the Hearing Centre and for the services that we need to provide. They are going to be

responsible for that administration, not us. They will be assisted by LCIA-MIAC. They are satisfied that these services would be available.

Another point that the hon. Member raised was about the training of Magistrates. I think he made the point that Magistrates were not there. There is training available to them. But the idea of concentration on six designated judges, we do not want the whole Judiciary. Everybody can come and listen, but we are not going to train the whole Judiciary. We must do what we can do. That is why the idea of six judges. So that we can focus on specialist training, in addition to, in other words, the general training that they will have.

I must also say, Mr Deputy Speaker, Sir, that the two conferences that we had, that is, in December 2010 and then in 2012, the purpose was not just for them to attend the conference, the purpose was also for them to learn about arbitration and to look at the live issues that are there. I must also say that the ICCA – last year there was the New York Convention, what we call the Roadshow. It is a worldwide programme for African Judges and Lawyers. This was launched in Mauritius last year. They must also learn from maybe the process of osmosis as well. As the hon. Member rightly said there are lectures for them to go and attend if they want to attend.

I think the hon. Member mentioned about the rules of Court. This, I must say, has been circulated to the whole Bar some two months ago. It has been circulated, maybe the hon. Member has not seen it, but it has been circulated.

*(Interruptions)*

It has been circulated, I can assure the hon. Member and it will be promulgated at the same time as the Bill, that is, on 01 June of this year.

I must also say, Mr Deputy Speaker, Sir, that the idea of raising awareness, we mentioned the Roadshow and all these, but the first requirement is to establish credibility. I think we have already moved a long way to get this. Our legislation, I must say, is being praised as one of the best. There have been articles written in the law magazines. Believe it or not, our law is being actually taught in one University in South Africa because they find that it is a good model. I must also say, Mr Deputy Speaker, Sir, that some of our neighbours - perhaps I should not mention names - have approached UNCITRAL to try to develop their legislation model on ours because they have seen what kind of reviews we have got. Besides, I must say that the ICCA Council has the top lawyers in Arbitration.

They would never have considered Mauritius as the host country for the congress that we have mentioned in 2006, if they had thought that we were not credible or if they had thought that there is a problem of law and order. In every country there is a problem. But I must tell the hon. Member, let us not shoot ourselves in the leg. If we look at what is happening in the world, we are, in fact, one of the lowest places – the hon. Member mentioned South Africa, it is very true that South Africa has become a very dangerous place. Recently, the hon. Minister for Foreign Affairs, Regional Integration and International Trade mentioned that - even our own delegates going in a car - it is absolutely very dangerous. There are countries where the Arbitration Centres – I will not mention names – where actually we are having bombs being planted all over the place, riots and all those things. One crime is one crime too many, but comparatively we are not in that situation. I must also say that if we do not have credibility, that is the most important thing, we are dead in the water. As the hon. Member rightly says, South Africa has got this problem.

Secondly, perhaps I could say to the House, for example, the African Development Bank, for the first time, they are considering having their arbitration in Africa. They never had it in Africa. I must say that they have shortlisted three countries and I do not want to mention the names because they have not yet decided. Among the three countries, Mauritius is one of them. I also know that lawyers both in UK and France, at least, are recommending Mauritius for business; if we are concerned with the Business Law, African Law within African States.

Maybe I can also tell the House that there is a conference - nothing to do with us - that lawyers in Paris have decided to hold their own evolution and they have chosen Mauritius for that Conference, which will be in September 2013. They have gone through the system. They have contacted the PCA. They have contacted us and all those things. We also want to make sure, if we want to be an Arbitration Centre that the disputes do not get settled before they come to arbitration, but that is another point. I feel we have this momentum. This is about capacity building, it is not anything else. We want to ensure that we have this.

As for the rules of the fast track - if you had a chance to look at it - they have given very strict and tight timetables. They have been circulated also. There is a limited time, we cannot just go on and on without anything else.

As for the Ambassador, perhaps I think that is what the hon. Member mentioned for the Director. I must tell the hon. Member that we are actually chairing **UNCITRAL**, that is, a

marvellous exposure that we are getting thanks to our friend. We cannot get more visibility than that, Mr Deputy Speaker, Sir, in the field of international arbitration. It is a matter of pride that it is a Mauritian who is chairing this. Imagine also the reason about the fast track, as I have said, now we can go to one Judge ex-party, but it does not mean that it is over. When the date comes for the ruling, we will have to go in front of the three Judges. The difficulty was having three Judges at one go at the beginning and that is why we have done this and that is why also we have designated six Judges, I mean the Chief Justice, because we want it to go fast and they will gain the experience and they can go fast.

As for what happens if it goes to the Supreme Court and the Privy Council, this also is being looked at. The Privy Council is aware that we want to have it as a fast track, but the whole process idea of arbitration is that we do it quickly. That is the whole idea as the hon. Member rightly said.

I think the last point the hon. Member made was about the Judges as arbitrators. It is a domestic issue which is not linked to this international arbitration and I think that we should keep them separate so that we do not allow this debate to go into this. That is why there are six designated Judges. The other issue is the domestic issue that is being looked at. I know some people are looking at it. I don't want to go into further details.

But having said that, Mr Deputy Speaker, Sir, I think we have made quite a big leap forward and that is why I wanted to thank the people who have contributed, Mr Moollan, the State Law Office and the Attorney General's Office. They really have been moving in the direction that we should have in a rapid rate because all this would not have happened had we not done it in such a systematic and profound manner of trying to lobby for Mauritius to be the arbitration centre. The proof of the pudding remains in the eating, Mr Deputy Speaker, Sir, and, as I said, they would not have chosen to have the conference here, the bi-annual Conference that they do every two years. Also, we see that others are trying to copy our law and we are getting a lot of praise for the way the law has been. In fact, some people are saying it is the best law.

So, with these words, I thank you, Mr Deputy Speaker, Sir.

*Question put and agreed to.*

*Bill read a second time and committed.*

## **COMMITTEE STAGE**

*(The Deputy Speaker in the Chair)*

*The International Arbitration (Miscellaneous Provisions) Bill (No. VI of 2013) was considered and agreed to.*

*On the Assembly resuming with the Deputy Speaker in the Chair, the Deputy Speaker reported accordingly.*

*Third Reading*

*On motion made and seconded, the International Arbitration (Miscellaneous Provisions) Bill (No. VI of 2013) was read the third time and passed.*