

Arbitration in Jamaica – a rising seat in the Caribbean

Vijay K Bange and **Gordon Chan** of **Irwin Mitchell LLP** argue that several Caribbean jurisdictions deserve credit for the success of efforts to become viable arbitral alternatives to the well known centres like London and Singapore. Jamaica in particular now offers a credible and efficient forum for resolving cross-border disputes.

KEY POINTS

- Surveys indicate that Caribbean and Latin American respondents prefer to arbitrate in London, Paris, New York, Singapore, and Miami – but Jamaica can and should be considered a viable local alternative to these global hubs.
- Jamaica's investment landscape is strengthening, attracting considerable inward infrastructure investment; reservations regarding arbitrating on the Island should be allayed by a sophisticated regulatory regime and strong local practice.
- Those seeking a neutral Caribbean seat for arbitration should be pleased to find that Jamaica's 2017 Arbitration Act adopts the UNCITRAL Model Law in full. Notably, arbitral awards are narrowly defined and aligned to the grounds found in other Model Law jurisdictions.
- The 2017-established Jamaica International Arbitration Centre's arbitration rules are largely modelled on the UNCITRAL Arbitration Rules, offering local arbitration opportunities that are largely aligned with global model law standards, and mediation under its own rules – offering parties a swift and amicable route to resolution.
- Furthermore, the island's ratification of the New York Convention in 2002 means that foreign arbitral awards are enforceable in Jamaica, and subject to very limited grounds of refusal.

Globalisation of infrastructure projects requires stable dispute resolution process for contracting stakeholders. Arbitration has

firmly been the preferred option over local domestic courts, particularly where parties are from different jurisdictions. The efforts by Caribbean jurisdictions to enhance arbitration are to be applauded.

Historically, international arbitration has been concentrated in major global cities. The Caribbean, by contrast, has not traditionally been recognised as a preferred seat of arbitration. The latest *International Arbitration Survey* by Queen Mary University of London suggests that even for respondents from the Caribbean or Latin America, the top five most preferred seats are London, Paris, New York, Singapore and Miami respectively – none of which are within their own region.

Nonetheless, developments in jurisdictions outside the top-tier seats also warrant attention. Over the past two decades, several Caribbean states have modernised their arbitration laws and established institutions to support international dispute resolution. The British Virgin Islands launched the BVI International Arbitration Centre in 2016, while Barbados, Bermuda, and Trinidad and Tobago have adopted the UNCITRAL Model Law, signalling a regional shift towards global standards.

This evolution reflects potentially a broader decentralisation of arbitration. The Caribbean's strategic location, improving legal infrastructure, and growing engagement with international commerce are contributing to its emergence as a viable alternative for parties seeking to sign up to a neutral and efficient arbitral seat. Jamaica, in particular, is playing a leading role in this transformation.

Investment Trends in Jamaica

Jamaica's investment landscape has strengthened in recent years, as has that generally of the Caribbean. Macroeconomic reforms have supported sustained growth, reduced unemployment, and improved fiscal

stability. The US Department of State's Integrated Country Strategy identifies Jamaica as central to trans-Caribbean trade and home to the region's largest English-speaking population. Bilateral trade with the United States exceeds \$3 billion annually, with American companies active across key sectors.

At the same time, Jamaica has also attracted significant investment from China, particularly through the Belt and Road Initiative. According to Forbes and as of 2022, Chinese-backed infrastructure projects in Jamaica exceeded \$2.1 billion, which underscores the country's strategic importance in regional development. Significant infrastructure projects involve countries from outside jurisdictions. These investment flows, coupled with Jamaica's geographic positioning and improving business climate, have created a growing demand for reliable and neutral mechanisms to resolve commercial disputes, making arbitration increasingly relevant.

"Kingston, Jamaica is at last reaping the benefits of its position as the first major English-speaking port east of the Panama Canal and one of the world's largest natural deep water harbours. The Jamaican government's very recent investment of US\$80 million to expand port facilities across 15 hectares shows its commitment to long-term development as a regional hub," said Matthew J. McCarthy, who is active in the Caribbean markets.

"Jamaica is an international trade hub on the rise. As global businesses come to trade, they will occasionally come into conflict. I intend to be part of providing these businesses with effective and efficient counsel through Jamaica's new international arbitration forum."

"By Jamaica having established, professional, and reliable arbitration centre based on UNCITRAL rules, then business will be encouraged to invest in the region and be more amenable to entering into agreements with Jamaica as a seat of any dispute under that agreement. Bilateral trade agreement disputes are a difficult and lengthy process. The Jamaican Arbitration Centre can be a huge positive for business in the region," said Colin Loughran, who has extensive experience of major infrastructure projects in the Caribbean.

Jamaica as a Seat of Arbitration

Jamaica's current legal framework for arbitration is aligned with international standards and offers a stable foundation for parties seeking a neutral seat. The country ratified the New York Convention on 10 July 2002, which ensures that foreign arbitral

awards are enforceable in Jamaica (subject to very limited grounds for refusal such as public policy). This ratification is a critical feature for international parties, as it provides confidence that awards rendered abroad can be recognised and enforced locally.

The *Arbitration Act 2017*, which adopts the UNCITRAL Model Law in full, further strengthens Jamaica's position as a modernised and predictable arbitral seat for international parties. The Court's power to intervene in Jamaica-seated arbitrations under the Act is limited to specific circumstances, such as assisting with the appointment of arbitrators, granting interim measures and challenging / enforcing awards. Courts may also issue orders to preserve assets or evidence in support of arbitration, either before or during proceedings.

One salient feature of the Act is that challenges to arbitral awards are narrowly defined and mirror the grounds found in other Model Law jurisdictions. Awards can only be set aside or denied enforcement only on limited bases, including incapacity of a party, invalidity of the arbitration agreement, lack of proper notice, and/or conflict with public policy. These provisions align with international norms and are comparable to those in advanced jurisdictions such as England and France, reinforcing Jamaica's compatibility with global arbitration practice.

Experts agree that alignment with the UNCITRAL Model Law just one of many attributes that make Jamaica attractive to international arbitrators. Anumrita Dwarka-Gungabissoon – a Legal Director specialising in cross-border litigation and international arbitration – commented that:

"Jamaica is increasingly positioning itself as a credible and attractive venue for international arbitration, particularly for commercial disputes. By aligning its arbitration framework with the UNCITRAL Model Law, the country demonstrates its commitment to internationally accepted standards of neutrality, procedural fairness, and predictability. This alignment not only enhances the legitimacy of Jamaica's arbitration regime but also reassures foreign investors and international parties that their disputes will be handled in accordance with globally recognised principles."

"One of Jamaica's key advantages is its status as an English-speaking country with a common law legal system. This makes it particularly appealing to parties from jurisdictions such as the United Kingdom, the United States, and other

Commonwealth nations, where legal practitioners and businesses are already familiar with common law principles and English-language proceedings. This familiarity can significantly reduce the learning curve and improve the efficiency of dispute resolution processes.

"In today's arbitration landscape, parties are increasingly seeking alternatives to traditional, high-cost arbitration centres such as London, Paris, or Singapore. Cost-efficiency, business relevance, and contextual understanding are becoming more important than prestige alone. Jamaica offers a compelling value proposition in this regard. Its arbitration services are competitively priced, making it an attractive option for parties seeking high-quality dispute resolution without the financial burden associated with more established seats. Moreover, Jamaica's geographic location and cultural context offer unique advantages for regional and international parties. For businesses operating in or with interests in the Caribbean, Jamaica provides a neutral and accessible forum for resolving disputes involving regional assets, entities, or stakeholders. The country's cultural familiarity and local knowledge can be particularly beneficial in disputes where understanding regional business practices, customs, or regulatory frameworks is essential. This contextual awareness can improve communication between parties, reduce misunderstandings, and ultimately lead to more effective and amicable resolutions.

"Jamaica's legal infrastructure is also evolving to support its ambitions as an arbitration hub. The country has invested in modernising its judicial and legal systems, and there is growing support from both government and private sectors to promote arbitration as a preferred method of dispute resolution. Institutions such as the Jamaica International Arbitration Centre (JAIAC) are playing a pivotal role in building capacity, raising awareness, and providing administrative support for arbitration proceedings."

Institutional Support: Jamaica International Arbitration Centre

Furthermore, the Jamaica International Arbitration Centre (JAIAC), established in 2017, plays a crucial role in the country's arbitration infrastructure. Originally launched as the Mona International Centre for Arbitration and Mediation, JAIAC now operates as a not-for-profit institution offering dispute resolution services, key ones being

administering arbitrations and/or mediations (under its own rules, to be discussed below). Consistent with the trend in other arbitration institutions, JAIAC also offers its proprietary online dispute resolution platform known as "I-NEUTRAL" which enables parties to conduct proceedings virtually, thereby enhancing accessibility and procedural flexibility of administering dispute resolution under JAIAC.

JAIAC's own arbitration rules are largely based on the UNCITRAL Arbitration Rules, which is again a familiar framework for international users. JAIAC-administered arbitrations are also comparatively quicker than those administered elsewhere. For example, arbitrator appointments can be made within 48 hours and awards are typically rendered within three months of final submissions, both of which are significantly faster than the norm at major arbitral institutions. This is particularly relevant for commercial parties seeking timely outcomes.

In addition to procedural benefits, JAIAC offers a competitive fee structure and lower ancillary costs compared to other Caribbean jurisdictions.

JAIAC also supports mediation under its own rules, offering parties a structured yet adaptable process for resolving disputes amicably. The Centre's strategic partnerships with institutions such as the Asian International Arbitration Centre and the Jamaica Chamber of Commerce further enhance its credibility and international reach. Combined with Jamaica's geographic location and growing commercial sectors, JAIAC is well-positioned to serve as a regional hub for dispute resolution.

This growing institutional strength and regional positioning have drawn attention from senior trade leaders. Samantha Cohen CVO OBE, Chief Executive of the Commonwealth Enterprise and Investment Council, says:

"The Caribbean is rightly recognised for its incredible potential, and as more businesses look to invest in the region, it is important that they have the legal infrastructure to support them. The improvements that Jamaica has made to its arbitration laws and institutions are an encouraging sign, which will give investors from across the Commonwealth - and beyond - the confidence that they need to invest in the Caribbean. There is no substitute for local knowledge and expertise, and institutions like the Jamaica International Arbitration Centre are well-placed to deliver exactly that." **CL**