BVI International Arbitration Centre announces Virtual Arbitration Services

06 April 2020 - ROAD TOWN, BRITISH VIRGIN ISLANDS --- The BVI International Arbitration Centre (BVI IAC) announced today the availability of all its services online. This is a progressive and modern resource that will allow business continuity and assist parties and arbitrators globally in light of the Coronavirus (COVID-19) pandemic.

The BVI IAC operates through a cloud-based, secured IT infrastructure, and from inception has supported online dispute resolution remotely and seamlessly. As a result, the Centre can support clients to transition their existing or new arbitrations, appointing authority cases, fund holding cases and expert determination cases to a virtual platform.

“Sadly, this is a situation reminiscent of the situation after Hurricane Irma”, explained CEO Francois Lassalle. “Now, our team is able to draw on what we learned from that experience so that we can operate seamlessly as we did following the 2017 devastation.”

Mr. Lassalle went on to say, “Our Centre can assist you to transition to 100% online, whether to start or continue a BVI IAC, UNCITRAL or ad hoc arbitration.”

The BVI IAC boasts a number of online tools for hearings and video conferences. As experts in – Based audio/video conferencing tools, the Centre’s staff stands ready to ensure everything runs seamlessly. The BVI IAC also uses NetDocuments, a secure cloud-based document management system that enables the institution to create safe virtual filling rooms for parties and tribunals to share documents. The BVI IAC also can cater to your live reporting/streaming requirements.
The BVI IAC Rules and the BVI Arbitration Act are supportive of virtual arbitrations.

For instance, Article 17(1) of the BVI IAC Rules\(^1\) gives a broad discretion to the arbitral tribunal as to how to conduct the arbitration, provided the parties are treated with equality and each party is given a reasonable opportunity of presenting its case. Also, the tribunal is required to conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties’ dispute. Article 17(3) of the BVI IAC Rules allows for a document-based arbitration if the parties do not request that a hearing take place.

Importantly, Article 28(4) of the Rules expressly provides for witness examination by videoconference.\(^2\)

While the BVI Arbitration Act is an UNCITRAL Model Law statute, Article 18 of the Model Law (which includes that “each party shall be given a full opportunity of presenting his case”) has been substituted (in section 44(3) of the Act) by a provision that “the arbitral tribunal is required to act fairly and impartially as between the parties, giving them a reasonable opportunity to present their cases and to deal with the cases of their opponents; and to use procedures that are appropriate to the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for resolving the dispute to which the arbitral proceedings relate.”\(^3\)

As well, the BVI Commercial Court has introduced virtual hearings thereby enabling the Court to continue to provide all the functions of the Court under the Act in support of arbitrations whether seated in BVI or elsewhere.

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\(^1\) 17 (1). Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting its case. The arbitral tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties’ dispute.

\(^2\) 28 (4) The arbitral tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

\(^3\) 44 (1) Article 18 of the UNCITRAL Model Law is substituted by this section.

(2) The parties to an arbitration shall be treated with equality.

(3) When conducting arbitral proceedings or exercising any of the powers conferred on an arbitral tribunal by this Act or by the parties to any of those arbitral proceedings, the arbitral tribunal is required (a) to be independent; (b) to act fairly and impartially as between the parties, giving them a reasonable opportunity to present their cases and to deal with the cases of their opponents; and (c) to use procedures that are appropriate to the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for resolving the dispute to which the arbitral proceedings relate.
During these uncertain, difficult and rapidly changing times, the BVI IAC would like to reassure you of our continued support and our capabilities to help you to resolve disputes efficiently and cost-effectively. Visit www.bviiac.org for further information.

Please do stay safe!

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