

**The Society of Construction Law
Mauritius Branch in association with the Mauritius Branch of the
Chartered Institute of Arbitrators
Municipality of Port Louis**

19 August 2010

Speech by the Hon. Attorney General

His Worship, the Lord Mayor of Port Louis

Mr. J. Behan, President of the Chartered Institute of Arbitrators of Great Britain

Mr. Ben Daby-Seesaram, President of the Mauritius Branch of the Chartered Institute of Arbitrators

Mr. K. Dabeesingh, Chartered Arbitrator and President of the Society of Construction Law, Mauritius Branch

Members of the construction and legal professions

Ladies and Gentlemen,

I am very pleased to be amongst you this afternoon to make a key note address for the talk on dispute resolution organised jointly by the Society of construction Law (Mauritius Branch) and the Mauritius Branch of the Chartered Institute of Arbitrators. I would like to thank the organisers of this event for inviting me.

At the outset, may I join Mr. Ben Daby- Seesaram in extending a warm welcome to the Guest Speaker, Mr. J. Behan, President of the Chartered Institute of Arbitrators of Great Britain.

The Society of Construction Law (Mauritius Branch) and the Mauritius Branch of the Chartered Institute of Arbitrators are both new entrants to the civil society landscape of Mauritius. The former has been established with the intention of promoting greater and more in depth knowledge of construction law and related subjects in Mauritius whilst the latter has an

underlying objective to promote Alternative Dispute Resolution in the country.

Given the economic significance of the construction sector and the contentious nature of business in construction, the establishment of both institutions is important for the industry to flourish. It is a recognised fact that construction has become a contentious sector of business in Mauritius. It requires little convincing that the role of a competent dispute resolution service is vital for the industry.

In this country the State has made tremendous efforts to meet the need for a just resolution of disputes by the provision of civil courts. It is a matter of legitimate pride that we have an independent judiciary to resolve disputes. But the task of dispute resolution is too much for the courts alone. Alternative Dispute Resolution, effectively, arbitration, adjudication and mediation can supplement the tasks of the courts and can be efficient tools for dispute resolution.

Traditionally, in this country the means of dispute resolution have been formal. Mediation is another method by which dispute can be solved. Parties should now consider mediation as a serious option.

Litigation is not suitable for all types of disputes.

The actual cost of an Alternative Dispute Resolution can be high but, in construction law time equates with money as idle time brought about by litigation is very costly. Alternative Dispute Resolution can offer a very speedy resolution of dispute and in that aspect it may be more appealing cost wise.

In litigation, polarised positions may damage long established commercial relationships and expose construction litigants to the public, which is not necessarily an appealing feature of their goodwill.

Times are changing. The idea that there is only one just result for every dispute which the court can deliver is illusory. Moving into the world of today, there are other tools in the box to achieve the best commercial outcome in any dispute.

The major advantages that Alternative Dispute Resolution are as follows:

- Celerity in resolving dispute;
- Preserving business ties;
- Resolving dispute and private which in itself offers countless advantages, encouraging more and more litigants in the construction and commercial world around the globe to opt for this mode of dispute settlement.

The government has a very ambitious Public Sector Investment Programme for the next decades. Construction projects are becoming more sophisticated and as such becoming more complex, technically, legally and financially with more and more different players involved in one single project.

It is needless to say that disputes are unproductive and represent a distraction that absorbs time and resources which could be more profitably employed elsewhere. Substantial sums of money are spent with great trepidation due to the high level of disputes and delay that are referred to arbitration or the courts.

Dispute unfortunately more often than not is inevitable. But when it comes it is the manner in which it is tackled and resolved which is important. In that respect, whilst the current objectives of both branches of the Society of Construction Law and the Chartered Institute of Arbitrators in Mauritius are focussed on enhancing professional knowledge and skills of professionals on construction law matters and dispute resolution, I believe that both branches will seek to improve the quality of dispute resolution service to the industry. An efficient dispute resolution service competently delivered will translate into greater efficiency, higher quality and lower costs which will be beneficial not only for the industry but for the country as a whole. But more importantly it will have collateral effect of breeding confidence in foreign investors in the context of economic international cooperation at the regional level.

This is consistent with the government objective to develop Mauritius into a Regional Centre for international arbitration which will provide a neutral ground for the settlement of disputes in trade, commerce and investment within the African Regional Grouping.

Mauritius has also an International Arbitration Act 2008 which has set the base to facilitate international arbitration and make Mauritius an attractive location for the settlement of international commercial disputes.

The Presidential address elaborating the Government Programme 2010-2015 under the Primeministership of Dr. the Hon. Navinchandra Ramgoolam states at paragraph 95:

“Government will establish an International Arbitration Centre and take necessary action to promote legal process outsourcing.”

This shows the vision of the present government as regards promoting the country as a centre for dispute resolution. An international conference on arbitration will also be held in Mauritius in December of this year.

I hope the Society of Construction Law (Mauritius Branch) and the Mauritius Branch of the Chartered Institute of Arbitrators will continue to organise such events on a regular basis so as to give an opportunity to construction professionals and members of the legal profession to share views on construction law matters and dispute resolutions.

Thank you again for inviting me this afternoon. I wish you all a very rewarding and successful event. For the president of the Chartered Institute of Arbitrators, I hope you will find some time to enjoy the sights and sounds of this island before going back.

Thank you for your attention.