

THE IMPORTANCE OF ARBITRATION IN THE EASTERN CARIBBEAN: A CRITICAL IMPERATIVE FOR ECONOMIC DEVELOPMENT (Part 2)

■ Part 1 of this article, published in *The Ciaribbean News* - Vol. 2 No. 4, explored the significance of, and the variations in, the arbitration frameworks across the Eastern Caribbean. Part 2 examines the relationship between developing economies and arbitration, recent arbitral awards in the region and the urgent need for jurisdictions to modernize their arbitration laws.

Arbitration and Developing Economies: A Necessary Clause for Growth

Developing economies, particularly in the Eastern Caribbean, rely heavily on foreign direct investment (FDI), tourism, and trade. Without a clear and enforceable arbitration framework, these economies risk deterring international businesses that require certainty in dispute resolution.

Arbitration provides several advantages:

- **Investor Confidence:** Investors prefer jurisdictions with robust arbitration laws, as these provide a predictable and neutral forum for dispute resolution.

- **Judicial Efficiency:**

Many Eastern Caribbean courts face backlogs, making litigation a slow and expensive process. Arbitration offers a more efficient alternative.

- **Economic Growth:**

A strong arbitration framework positions a country as an attractive destination for international contracts and trade.

In a globalized economy, businesses insist on arbitration clauses in their agreements, and jurisdictions that fail to accommodate this reality risk missing out on vital investment opportunities.

Recent Arbitral Awards in the Caribbean & Lessons Learned

Recent arbitration cases in the Caribbean have underscored the need for strong arbitration regimes. A few notable cases include:

- **RSM Production Corporation v. St. Lucia (2019):** This case highlighted the importance of adherence to international arbitration norms, as St. Lucia faced substantial legal costs due to poor procedural strategies.

- **Jamaica's Bauxite Arbitration Dispute (2021):**

A dispute between a foreign mining company and the Jamaican government emphasized the need for arbitration clauses in natural resource agreements to prevent costly and prolonged litigation.

- **Grenada Private Power Limited & WRB Enterprises, Inc. v. Grenada (ICSID ARB/17/13):**

This dispute emerged from the 1994 privatization of Grenada Electricity Services Ltd. (GRENLEC), where the government sold a controlling interest to a U.S.-based company. When Grenada later attempted to repurchase the shares, the disagreement over valuation led to arbitration under the ICSID framework in Washington, D.C. The tribunal awarded over US\$58 million to WRB Enterprises. The absence of a local arbitration centre forced the matter abroad, highlighting the urgent need for regional arbitration infrastructure.

These cases highlight that jurisdictions with outdated arbitration frameworks expose themselves to legal uncertainties, increased litigation costs and reputational damage.

Furthermore, a worrying trend is emerging where arbitrators from outside the Caribbean are being appointed to sit on panels involving disputes concerning Caribbean parties, businesses or governments.

While international expertise is valuable, it underscores the need to cultivate a cadre of qualified regional arbitrators who understand the local context. The ideal scenario is to have Caribbean arbitrators resolving Caribbean disputes seated in the Caribbean.

No Time to Wait: The Urgency for Legal Reform

The time for hesitation is over. The global legal landscape is evolving rapidly and jurisdictions that fail to modernize will be left behind. While some Eastern Caribbean nations deserve praise for reforming their arbitration laws, others like Grenada, St. Vincent, St. Kitts and Dominica must act now or risk being bypassed by investors and international businesses.

A lack of reform means investors will divert business to more arbitration-friendly jurisdictions; domestic courts will remain overwhelmed with commercial disputes and economic growth will be stifled by legal uncertainty.

It is imperative that these countries enact arbitration laws based on the UNCITRAL Model Law and establish independent arbitration centres. Without these changes, they will continue to lose out to regional competitors like Barbados, Jamaica and the BVI.

Statistical Data Supporting Arbitration Development

- **World Bank Ease of Doing Business Report (2023):** Countries with strong arbitration frameworks rank higher in business confidence indicators.
- **UNCITRAL Report (2022):** Over 80% of international contracts include arbitration clauses, demonstrating its necessity in modern trade.
- **Caribbean Court of Justice (CCJ) Data:** Over 60% of regional commercial disputes involve foreign parties, reinforcing the need for an efficient dispute resolution mechanism.

The Way Forward: A Strategic Blueprint

For those Eastern Caribbean nations that have yet to modernize their arbitration laws, a good starting point includes:

- **Establishing a Chartered Institute of Arbitrators (Ciarb) Chapter:** This would promote best practices, professional development and awareness around arbitration.
- **Lobbying governments for legal reform:** Academics, legal practitioners and business leaders must collectively advocate for the adoption of modern arbitration laws.
- **Encouraging arbitration clauses in contracts:** Stakeholders should champion the inclusion of arbitration clauses specifying the seat of arbitration within a Caribbean jurisdiction.

- **Developing local expertise:**

Training arbitrators, legal professionals and court personnel is critical to the credibility and functionality of arbitration centres.

- **Establishing regional collaboration:** Cooperation between Eastern Caribbean states can foster shared resources, joint training initiatives and harmonized arbitration practices.

- **Raising public and commercial awareness:** Educating stakeholders on the advantages of arbitration will increase its usage and acceptance across industries.

These steps will not only position the Eastern Caribbean as a competitive hub for dispute resolution but also foster regional economic development and judicial efficiency.

Conclusion

The Eastern Caribbean stands at a crossroads. In today's competitive global market, arbitration is not just an option—it is a necessity. Without urgent reform, the lagging jurisdictions will continue to forfeit economic opportunities, deter investment and burden their courts with avoidable disputes. The message is clear: **The time for arbitration reform in the Eastern Caribbean is now. ▲**

This article was submitted by Dr. Dawn De Coteau, FCI Arb, Vice-Chair of Ciarb Caribbean Branch (Grenada)

INSTITUTE FOR TRANSNATIONAL ARBITRATION ANNOUNCES NEW CO-CHAIRS OF THE CARIBBEAN TASK FORCE

■ The Institute for Transnational Arbitration recently announced the appointment of two new Co-Chairs for its Caribbean Task Force, **Nancy Thevenin**, FCI Arb of Thevenin Arbitration & ADR (New York, USA) and **Theominique D. Nottage**, MCI Arb of McKinney, Bancroft & Hughes (Nassau, The Bahamas).

Nancy is an international arbitrator and mediator with extensive and varied experience in global dispute resolution. She is closely connected with the Caribbean through her Haitian heritage and maintains a commitment to the development of ADR in the region through initiatives like the Task Force.

Theominique is a Bahamian Counsel and Attorney-at-Law and an active contributor to the global dispute resolution community through her leadership roles in several professional organisations for young ADR practitioners. She formerly served as Deputy Chair of the Task Force.

Nancy and Theominique join the **Honourable Barry Leon**, FCI Arb in the leadership of the Task Force. Barry, a Canadian based in BVI, is an international arbitrator and mediator who formerly served as the Presiding Judge of the British Virgin Islands Commercial Court.

The Institute for Transnational Arbitration (ITA) is part of The Centre for American and International Law (CAIL) and is one of the world's leading educational fora in international arbitration.

The ITA, through its educational programmes, scholarly publications and membership activities, provides advanced continuing education and networking opportunities for attorneys, members of the judiciary, academics, government officials and other professionals concerned with transnational arbitration of commercial and investment disputes.

The ITA Americas Initiative was established in 2003 with its mission to enrich knowledge, debate and personal relationships within the international arbitration community in the Americas.

The ITA Americas Initiative launched the Caribbean Task Force at the 2021 ITA Workshop with the core objectives of raising awareness of, and advancing, international arbitration practice throughout the Caribbean, to enhance international arbitration practices in the Caribbean and to raise awareness of, and address, any perceived deficiencies of existing laws and practices in the region.

In June 2023, the Task Force published its **Final Report of Caribbean Task Force**

recommending that, for the Caribbean, the ITA prioritise:

1. Model Law implementation;
2. Capacity building among legal practitioners;
3. Judicial education and training about arbitration;
4. Assisting legal educators in the Caribbean; and
5. Raising the profile of Caribbean arbitration in the Americas.

This year, the Task Force met with arbitration academics in the Caribbean to discuss how it can assist in offering educational and training programmes along with the University of the West Indies' Cave Hill Campus and the Council of Legal Education Law Schools.

The Task Force hopes to partner with regional bar associations and other professional organisations, such as the Chartered Institute of Arbitrators Caribbean Branch and Bahamas Branch, to offer arbitration education and training to practitioners as part of its efforts to build arbitration capacity in the Caribbean.

The **Caribbean News** asked the three Co-Chairs to share with readers their views on the goals and objectives of the Caribbean Task Force.

Co-Chair Barry Leon shares: *"Our objectives from the outset have included supporting existing and future regional and local arbitration initiatives in the Caribbean, raising awareness and use of arbitration in the Caribbean consistent with international best practices, and encouraging Caribbean countries to adopt the Model Law if they have not done so already. I look forward to carrying on the Task Force's work with Nancy and Theominique and the continuing strong support of the ITA."*

Barry's sentiments are echoed by Co-Chair Nancy Thevenin who comments: *"I am thrilled to serve as a Co-Chair of this Task Force alongside Barry and Theominique. The ITA's establishment of the Task Force focusing on the Caribbean recognizes the region's unique characteristics as one of the most diverse in the world. This diversity necessitates outreach to stakeholders in various languages and a deep understanding of their distinct legal and cultural perspectives. Our goal is to assist in building capacity for international arbitration throughout the region, and I look forward to our collaboration with stakeholders in the region to achieve this important mission."*

Co-Chair Theominique Nottage says: *"The Task Force has the opportunity to play a pivotal role in amplifying the Caribbean's place in the global dispute resolution community. Beyond 'sun, sand and sea' the Caribbean offers so much more and it's time that we do more to strengthen our growth in international arbitration."*

The Task Force was formerly co-
led by the late Calvin A. Hamilton, C. Arb. FCIArb, who, throughout his lifetime, remained committed to the growth and development of arbitration in the Caribbean. The Task Force will continue its work in his memory and with gratitude for his many contributions to arbitration in the region. In June 2025, the ITA paid special tribute to Calvin at its annual Advisory Board Dinner during the ITA Workshop. ▲

COMMITTEE MEMBERS

At the Ciarb Caribbean Branch AGM, members approved the election of Ms. Talibah Byron-Chiverton (St. Kitts & Nevis), Sir Marston Gibson (Barbados) and Mr. Miles Weekes (Barbados) as Branch Committee members. The outgoing members are Mr. Joshua Hamlet (Trinidad & Tobago), Ms. Shani Nembhard (Jamaica) and Mr. Mandish Singh (St. Lucia).

UPCOMING TRAINING

■ Ciarb Caribbean Branch offers the following online courses:

Introduction to International Arbitration

- Cost: GB£ 225.00

Dates: 29 & 30 July 2026

Registration closes 8 July '26

Introduction to Mediation

- Cost: GB£ 225.00

Dates: 2 & 3 September 2026

Registration closes 12 August '26

Module 3 - Award Writing in International Arbitration

- Cost: GB£ 900.00

Dates: 5 September to 21

November 2026

Registration closes 14 August '26

Further details can be viewed on www.ciarbcaribbean.org

UPCOMING EVENT

■ The Ciarb Barbados Chapter will be hosting a half-day, in person Arbitration Practitioners' Workshop titled "Fundamentals of Arbitration for Counsel" on Wednesday, 26 August 2026. Save the date and contact the Chapter for further details at barbadoschapter@gmail.com.

IT'S TIME! HAVE YOUR SAY

■ If you have an article or case update or just a comment on any area of ADR, please let us know and we will publish it in **The Ciaribbean News**. ▲

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Submissions, views and comments should be sent by e-mail to info@ciarbcaribbean.org

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