

A wooden gavel with a dark handle and a light-colored head, resting on a stack of several books. The books have white pages and dark covers. The background is a warm, textured brown. A semi-transparent white rectangular box is overlaid on the center of the image, containing the text.

*5th Annual
Arbitration and Investment Summit
– Caribbean, Latin America and Other Emerging Markets*



The Role of Arbitration Institutions in the Development of Arbitration : How to be competitive in the Global Marketplace



**FIFTH ANNUAL ARBITRATION AND
INVESTMENT SUMMIT – CARIBBEAN, LATIN
AMERICA, AND OTHER EMERGING MARKETS**

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Introduction



The following 5 tools need to be in place for any arbitration institution to be viable in modern dispute resolution landscape:

- Modern arbitration rules
- Modern and efficient administrative and technological facilities
- Security and safety of documents
- Expertise within its staff
- Some serious degree of permanence.

Introduction



- National vs. Regional arbitration institutions
 - **Regional Arbitration Institutions** : these are institutions whose services have a regional reach.
 - **National Arbitration Institutions** : these are other arbitration institutions that do not market themselves as having a regional reach but primarily administer disputes that are domestic or international in nature.



Part I: Role and Functions of Arbitrations Institutions

Role and functions of arbitration institutions

- **It is the role and functions of arbitration institutions to provide the following:**
 - **Rules and procedures:** modern and flexible rules for the parties and the arbitrators as a means to form an effective procedure adapted for each the individual case.
 - **Facilities of the institution:** either a forum or any other facility for the resolution of disputes by consent of the parties.
 - **Dissemination of relevant information** about the institution, as well sensitisation programmes around the country to introduce arbitration to business and in particular to leaders in micro and macro businesses.

Part I: Role and functions of arbitration institutions

- **Appointment of arbitrators:** Appointment and accreditation arbitrators is a critical procedure for assuring the public about the qualifications and integrity of the designated members of the arbitration panels.
- **Qualified personnel to facilitate references in the institution:** The mechanisms work best when a well-resourced, neutral and credible body administers the process.
- **Awareness campaign and other arbitration related services by the institution:** Promote opportunities for educating the key stakeholders of the arbitration and the public in general through seminars, workshops or simply reading materials.
- **Relationship between the institution, state, courts, and arbitration practitioners and arbitration users**



Part II: The expectations of Users from the Institutions

Expectation from users of arbitration

- **Services of the institutions that are considered fit for purpose:** Communication frequency/ black-outs; interaction/liaison with users ; information centre or website; addressing concerns that party may have promptly, monitoring of deadlines, sending reminders, holding deposits, etc...
- **Services of the institutions that need improvements:** More communication from arbitration centers / transparency: the need for transparency by institutions on the arbitrators listed on their panels; need to publish awards for scrutiny; languages used by institutions; communication by institutions of their annual reports and events; and finally the need for institutions to focus on intra-regional trade and disputes arisen there from; keep rules and procedures short and simple
- **Gaps in the current ordering of these institutions:** create a forum for institutions to share experience, and engage with foreign law firms as collaborators

Expectation from users of arbitration



- **Gaps in the current provisions of these institutions:**
engagement with judiciary and government ; involvement in legislative change.
- **Services these institutions could (and should) also provide:**
implementing an arbitration moot competition but for judicial officers (not only for students as is the norm) with judges acting as arbitrators for the moot.



Part III: Projecting Arbitration in the Caribbean – Latin America and other emerging markets

Projecting arbitration institution

- **Some stakeholders and steps to take in projecting arbitration institutions in the emerging market markets as attractive destination for arbitration**
 - Arbitrators of local origin
 - Arbitration institutions in the region
 - National courts and laws
 - Commercial parties/investors in the region
 - States and cities.