

How law firms can make a sustainable impact with green arbitration

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27 Feb 2024

The concept of 'green arbitration' can be explained as the process to reduce the impact international arbitrations have on the environment. In 2019, international arbitrator Lucy Greenwood made a promise to manage her arbitrations in an environmentally friendly manner. This resulted in a Campaign for Greener Arbitrations, and a 'Green Pledge', committing pledgees to minimise their carbon footprint when working on arbitration-related matters.



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Today, the Green Pledge is something that can be signed by all stakeholders in the arbitration space, including counsel, arbitrators, parties to disputes, and institutions. The pledge focuses on taking action to reduce environmental impact by encouraging arbitrators to:

- **Prioritise electronic communication**, effectively eliminating the need for physical documents. This not only minimises the environmental impact of paper production, but also reduces the footprint associated with shipping and storing bulk files.
- **Leverage video conferencing technology as an alternative to travel** to reduce and take action to offset carbon emissions associated with modes of transportation such as car and aeroplanes.

Sustainable arbitration rules

These mechanisms to make arbitrations greener have been incorporated into some of the model clauses and rules of international arbitral institutions. The new London Court of International Arbitration (LCIA) and the International Chamber of Commerce (ICC) Arbitration Rules, reflect the special attention paid to environmental sustainability.

Article 4.1 of the LCIA Arbitration Rules 2020 now provides that requests and responses for an arbitration should be submitted electronically. Article 4.2 further provides that any written communication in relation to the arbitration should be delivered electronically. The new ICC Rules not only provide for electronic filing but also give the arbitral tribunal the power to decide, after consulting with the parties, and based on the relevant circumstances of the case, that hearings be conducted remotely by videoconference. Equivalent provisions are contained in the LCIA Rules 2020.



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Embracing virtual arbitration is something that emerged during the Covid-19 pandemic, but a positive spin off has been the reduced impact on the environment. Minimising travel and associated emissions will result in a more sustainable legal landscape.

Location, location, location

In matters where a physical arbitration is unavoidable, The Green Pledge requires that parties not only take measures to offset their carbon footprint but also consider the energy-efficiency of the arbitration venue. Arbitrations must be held in venues that follow environmentally friendly practices, such as being powered by renewable energy sources, and using energy-efficient stationery, lighting, heating, and cooling systems. Furthermore, the pledge encourages using local vendors and suppliers who are also committed to reducing their carbon footprint.

For the Green Pledge to be successful, education and awareness have been underscored as key priorities, as the pledge needs to be supported by as many stakeholders (including arbitrators and legal practitioners) as possible. In addition, when appointing an arbitrator, it is vital that the chosen arbitrator should promote good environmental practices.



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ESG considerations

In this context, environmental, social, and governance (ESG) considerations have become increasingly important, and this stretches to arbitration. In the context of ESG, green arbitrations require stakeholders to consider the integration of environmental and sustainability factors, as well as social and governance aspects in the dispute resolution processes.

For example, if a company is involved in a dispute related to environmental practices, such as pollution, habitat destruction, or failure to meet ESG standards, the arbitration process should not only consider legal aspects, but also the company's adherence to ESG principles. Finally, clients must be educated about the benefits of eco-friendly arbitration practices.

The path to green arbitrations lies not just in individual actions, but in transforming the entire ecosystem. Legal

practitioners, clients and institutions must collaborate and work together to actively embrace practical measures for environmental sustainability and demonstrate a commitment to responsible corporate citizenship.

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