

Emirates Maritime Arbitration Centre (EMAC) launched in September 2016

Earlier this year, the Middle East saw the creation of the Emirates Maritime Arbitration Centre (EMAC). This new institution, aimed at filling the gap in maritime dispute resolution centres in the region, started operating on 25 September 2016 under the helm of an eminent Board of Trustees.

EMAC foundation

On 20 April 2016, the UAE Vice President, Prime Minister and Ruler of Dubai, His Highness Sheikh Mohammed Bin Rashid Al Maktoum issued Decree No. 14 of 2016 establishing the Emirates Maritime Arbitration Centre and Decree No. 16 of 2016 appointing the First Board of Trustees for the Emirates Maritime Arbitration Centre. The Chairman of the Board is Sir Anthony Colman (former English High Court Judge of the Commercial Court and former Deputy Chief Justice of the DIFC Court in Dubai) and the Vice Chairman and Secretary General is Majid Obaid Bin Bashir (former Legal Consultant to a Dubai Government department and founder of his own practice). In total, fifteen Trustees have been appointed by His Highness for three years on a renewable basis, including Clyde & Co partner, Christopher Mills. Five Board members are lawyers, while the other ten members have been drawn from across the UAE maritime industry.

At the First Board meeting on Thursday 23 June 2016, the Trustees adopted the Arbitration Rules and Fees, the Mediation Rules, appointed a Secretary General and an Executive Committee, and agreed membership and panel fees and admission criteria for arbitrators and mediators.

Operation

EMAC, which commenced operating on 25 September 2016, is a specialised maritime arbitration centre intended to fill the geographic/time zone gap in the international arbitration market and to meet some of the needs of regional and international companies operating in the area.

EMAC aims to provide services for resolving international and domestic maritime disputes through arbitration and mediation. The services include online filing and online case management systems, as well as an online payment facility for fees.

The Rules

EMAC Rules are based on UNCITRAL 2010¹, with certain relatively minor modifications. The default seat of any arbitration is the Dubai International Financial Centre and, therefore, unless the parties agree another seat, the supervising Court (where supervision is required) will be the DIFC Court², an English language, English common law Court, sitting in the Dubai International Financial Centre, which has proven to be pro-arbitration.

The DIFC Courts are party to a Memorandum of Guidance with the Dubai Courts, and together with the provisions of Dubai Law No. 12 of 2014 (the Judicial Authority Law), this provides for the automatic reciprocal enforcement of judgments (including arbitral awards in respect of which the DIFC Courts have ordered recognition and enforcement) without a review of the underlying merits of that judgment or the underlying award. Further, judgments of the DIFC Court are enforceable regionally under several bilateral and multilateral agreements and treaties.

¹ United Nations Commission on International Trade Law Arbitration Rules (as revised in 2010).

² Dubai International Financial Centre Courts.

For arbitration in the region, the advantage of EMAC in having a DIFC seat is the potential to limit a recalcitrant party's ability to challenge, without merit, an order or award of the Tribunal. Any final award rendered in an EMAC DIFC seated arbitration will also be enforceable in any New York Convention signatory state, the UAE having signed up to the New York Convention in 2006.

The EMAC Rules will adopt a "light touch" approach to case management, and will seek to ensure that disputes are handled as quickly and as cost effectively as possible. Parties can also select a "fast track" procedure and, at the time of writing this article, there is ongoing discussion over the introduction of a set of rules governing a speedy and low cost arbitration procedure for lower value claims.

Under the standard Arbitration Rules, once proceedings are deemed closed, the arbitral tribunal is obliged to issue the final award within ninety days, unless the EMAC Executive Committee agrees to extend that time limit.

There is also an emergency arbitrator procedure. In case of exceptional urgency, at any time prior to the formation of the arbitral tribunal, a party may apply to the Secretariat for the immediate appointment of a temporary sole arbitrator to conduct emergency proceedings, pending the formation of the tribunal.

Awards of Costs

The arbitral tribunal is given quite wide discretion when it comes to costs awards and, in principle, the costs of the arbitration will be borne by the unsuccessful party. It is, however, within the power of the tribunal to apportion costs between the parties if it determines that apportionment is reasonable.

Fees

Registration fees range from AED1,000 (approx. US\$272) to AED10,000 (approx. US\$2,720) for an arbitration where the amount in dispute exceeds AED100 million (approx. US\$27,211,000). There are also administrative fees and these range from AED4,000 (approx. US\$1,100) to AED60,000 (approx. US\$16,325) for claims over AED100 million which, compared to many other administered arbitrations, are very modest.

Please see below to view a table of EMAC Administration Fees or click [here](#) for full details. Arbitrators' fees will follow the LMAA concept of charging on an hourly/time spent basis, rather than a fee (or range) depending on the amount in dispute.

Mediation

In addition to the Arbitration Rules, there is a separate set of EMAC Mediation Rules. One feature of note is that, should the mediation result in a settlement, the settlement may be registered in writing in the form of an agreed arbitration award made by consent, in which case the mediator becomes an arbitrator, is not bound to give reasons for the award, and simply records the parties' agreement in the form of an agreed arbitration award. The benefit of this is that, should one or the other party not abide by the terms agreed at the conclusion of the mediation, there is no need for a fresh set of proceedings for breach of the agreement, and the arbitral award can simply be enforced.

Mediation Fees

There is a mediation registration fee of AED1,000, an administration fee of AED4,000 and the mediator's fees which will be determined on an hourly basis in consultation with the parties and EMAC.

Membership

Parties will shortly be able to apply for membership of EMAC. Membership benefits will include discounted fees for events, publications and interactive connection between members.

For those wishing to apply for a place on the panel of arbitrators, in addition to meeting the criteria set by EMAC, they are required to become an EMAC member.

Annual membership fees stand at US\$100 for individuals and US\$200 for corporates (allowing three individual nominations per corporate registration). Membership will be open internationally and will not be limited to UAE companies and individuals.

Further Information

Further information (including a model EMAC arbitration clause) can be obtained from the EMAC website (<http://www.emac.org.ae>).

EMAC Administrative Arbitration Fees

DISPUTED AMOUNT IN AED	CENTRE'S ADMINISTRATIVE FEES
Up to AED 200,000/-	AED 4,000/-
From AED 200,001 up to AED 500,000/-	AED 6,000/-
From AED 500,001 up to AED 1,000,000/-	AED 8,000/-
From AED 1,000,001 up to AED 1,500,000/-	AED 10,000/-
From AED 1,500,001 up to AED 2,000,000/-	AED 12,000/-
From AED 2,000,001 up to AED 2,500,000/-	AED 14,000/-
From AED 2,500,001 up to AED 5,000,000/-	AED 16,000/-
From AED 5,000,001 up to AED 10,000,000/-	AED 18,000/-
From AED 10,000,001 up to AED 20,000,000/-	AED 21,000/-
From AED 20,000,001 up to AED 30,000,000/-	AED 24,000/-
From AED 30,000,001 up to AED 40,000,000/-	AED 27,000/-
From AED 40,000,001 up to AED 50,000,000/-	AED 30,000/-
From AED 50,000,001 up to AED 60,000,000/-	AED 33,000/-
From AED 60,000,001 up to AED 70,000,000/-	AED 35,000/-
From AED 70,000,001 up to AED 80,000,000/-	AED 40,000/-
From AED 80,000,001 up to AED 90,000,000/-	AED 45,000/-
From AED 90,000,001 up to AED 100,000,000/-	AED 50,000/-
Above AED 100,000,000/-2	Maximum 60,000/-



Author:
Christopher Mills