

The Campaign for Greener Arbitration's Green Protocols: Actions Not Words

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The Campaign for Greener Arbitrations was founded by Lucy Greenwood in 2019 with the goal of reducing the carbon footprint of international arbitrations. Led by a Steering Committee comprised of various stakeholders from the arbitration community, the Campaign produced a set of Guiding Principles outlining suggested actions to this end.

While the Guiding Principles define broader measures for consideration, the Steering Committee determined early on that a set of tangible action items with clear instructions would aid those eager to reduce the environmental impact of their arbitration practices.

A working group was formed in early 2020 with the goal of developing practical steps which could be implemented to accomplish the Campaign's Guiding Principles. Members of law firms, institutions, hearing centers, and arbitrators came together in the working group to produce a set of Green Protocols, a concise set of directives intended to guide members of the community in the effort to reduce the environmental impact of international arbitrations.

Members of the Green Protocols Working Group: Anish Patel, *Three Crowns*;

Cherine Foty, *Jones Day*; Christine Falcicchio, *Sopra Legal*; Kiran Sanghera, *HKIAC*; Maguelonne de Brugiere, *Herbert Smith Freehills*; Nicola Peart, *Three Crowns*; Rekha Rangachari, *NYIAC*; Sarah Vasani, *Addleshaw Goddard*; Stuart Bruce, *ICC UK Energy & Environment Committee*.

The Green Protocols primarily focus on three critical areas in which changes in the behavioural practices of arbitration practitioners could have the largest impact in substantially reducing our carbon emissions. Specifically, the community is encouraged to: (i) adopt clean forms of energy, (ii) reduce or eliminate long-haul travel and (iii) minimize waste, for example by eliminating hard copy filings altogether.

Arbitration stakeholders who are committed to effectuate change should begin by reviewing the Protocol(s) which are most relevant to their practices. The below summaries provide an overview of each Protocol prepared by the Working Group.

The Framework for the Adoption of the Green Protocols

All stakeholders should begin with a review of the Framework file. This document provides the roadmap to help navigate through the Protocols and outlines the sustainable measures that reoccur throughout each Protocol. In addition, the Framework highlights the accompanying matters to be contemplated when endeavouring to adopt the Protocols, such as diversity and cost considerations.

The Green Protocols are proposed as a voluntary commitment for members of the arbitration community. They are not intended to derogate from any existing rules, arbitration agreements or orders.

The Green Protocols

The Green Protocol for Arbitral Proceedings and the Model Green Procedural Order

Perhaps the quintessential Protocol, the Arbitral Proceedings Green Protocol (and accompanying Model Procedural Order) offers guidance from inception through completion of an arbitration matter. It outlines a series of measures suggested to conduct proceedings in a more environmentally mindful manner. Use of this

Protocol may be initiated by the Parties or Tribunal, and it is best followed from the outset of a matter.

As with all Protocols, the suggested measures are intended to be adopted individually or in their entirety, as appropriate. To the extent possible, stakeholders are encouraged to subscribe to as many of the measures as practical. Examples of measures contained in the Arbitral Proceedings Protocol include conducting remote proceedings, refraining from printing materials and avoiding unnecessary travel.

The associated Model Procedural Order is included to catalyse efforts to conduct greener arbitrations. The clauses herein may be inserted into Procedural Orders, or used in their entirety, to direct the measures to be used during the course of an individual arbitration.

The Green Protocol for Law Firms, Chambers and Legal Service Providers Working in Arbitration

This Protocol shifts focus to the day-to-day operations of organisations. To encourage compliance amongst colleagues, firms are urged to appoint “Green Ambassadors”, whose role shall be to help develop policies and best practices within their organisations to subscribe to more environmentally friendly procedures. Firms may also explore the use of incentive programs to motivate adherence to this Protocol and the adoption of its suggested sustainable measures.

The Green Protocol for Arbitrators

Individual arbitrators may seek guidance from this Protocol. Once again, the key components of energy, travel and waste considerations are noted as they pertain to the working environments and proceedings practices of arbitrators.

As arbitrators are appointed to matters, they are encouraged to set the tone by suggesting the use of the Green Protocols, specifically by integrating the Model Procedural Order.

The Green Protocol for Arbitral Institutions

With direct input from Institutional representatives, the Working Group developed this Protocol to provide guidance for both the internal operations of Institutions and in their case management. Institutions are encouraged to empower and guide Tribunals and Parties toward the goal of operating more environmentally sound proceedings conducted under their rules. While the COVID-19 pandemic has forced temporary remote proceedings, Institutions should continue to provide options for remote proceedings where practical thereafter.

The Green Protocol for Arbitration Conferences

Stakeholders who plan and host arbitration events should consult the Arbitration Conferences Protocol. Here, the Working Group addresses event planning and implementation, as early on as venue selection through execution and follow-up measures. Organisers are encouraged to partner with “green” organisations, those that practice sustainable behaviours in their operations and offerings. This applies to venue selection, accommodations (for in-person events), caterers and the like.

While the goal of conferences is to gather and engage participants, consideration should be given to hosting virtual events rather than in-person at times, particularly for those who plan multiple conferences annually.

The Green Protocol for Arbitration Hearing Venues

Facilitators of hearing venue spaces are referred to the measures included in this Protocol. Among the actions offered here, Facilitators are encouraged to employ technology platforms to promote digital presentations and file sharing as a way to reduce the reliance on paper during proceedings. Particular consideration should be given to powering venues through the use of cleaner forms of energy, wherever practical.

Conclusion

The global launch of the Green Protocols in early 2021 was followed by a public consultation period during which the Working Group has sourced feedback on the draft protocols from the global arbitration community. A series of regional roundtables and workshops for public comment were organized in regions worldwide. The community voiced overwhelming support for this initiative, with the Campaign winning the GAR Award for Best Development in 2020. Participants in the consultation process further indicated a commitment to do their part to adhere to these measures.

Following the integration of the comments received, the final Green Protocols are now available on the Campaign's website. The final Protocols officially launch today on Earth Day 2021 (22 April), but they must be heeded every day in order to truly effectuate change.

The Working Group, in conjunction with newly formed Regional Sub-Committees of the Campaign designed to implement the Green Protocols in each region of the world with particular attention to regional specificities, will now focus in the coming year on implementation efforts. These bodies will focus on providing tools, instructions, support, and resources to members of the international arbitration community in order to enable them to practically and effectively implement the Green Protocols. Individuals and companies can sign the Green Pledge to stay informed of all future developments and initiatives to promote greener arbitrations.

The guidance shared in the Protocols is part of the Campaign's larger effort of a voluntary agreement among the arbitration community to shift behaviours and act with continuous attention to the impact of our actions on the environment. The collective effect of even small shifts of behaviours, particularly in terms of travel and energy, will have a tangible impact when practiced by this global community. While some of the suggested measures outlined in the Protocols may seem inconvenient or difficult, they will ultimately lead to positive developments in the field and a better future for this community and beyond.

Now is the time for actions not words.