



MAURITIUS

MARC

MARC MEDIATION RULES 2025

**PROTOCOL ON CLIMATE CHANGE-RELATED
DISPUTES**

INTRODUCTION

The Mediation and Arbitration Center (Mauritius) Ltd (“MARC”) recognises that the global response to climate change increasingly gives rise to complex legal, commercial, and policy-related disputes. These disputes often span multiple jurisdictions, involve a diversity of stakeholders, and require solutions that balance economic development with environmental stewardship and human rights.

In keeping with its mission to provide innovative and internationally aligned dispute-resolution mechanisms, MARC has developed this Protocol on Mediation for Climate Change-Related Disputes (“the Protocol”). The Protocol is the first in a series of specialised MARC Mediation Protocols designed to adapt the core framework of the MARC Mediation Rules to emerging sectors and global priorities.

The objective of the Protocol is to provide parties, mediators, and other stakeholders with a tailored procedural framework that ensures mediation of climate-related disputes is conducted with technical rigour, inclusivity, and transparency—while preserving the fundamental principles of voluntariness, confidentiality, neutrality, and party autonomy that characterise mediation under the MARC Mediation Rules 2025.

This Protocol acknowledges the unique features of climate-related disputes, which often:

- involve scientific and policy-driven questions requiring specialised expertise;
- affect a broad range of public and private interests, including those of future generations;
- engage principles of international law, sustainable development, and human rights; and
- call for creative, cooperative, and forward-looking solutions that litigation alone may not achieve.

By establishing dedicated provisions on mediator appointment, expert participation, stakeholder engagement, and measured transparency, the Protocol seeks to make mediation a trusted and effective mechanism for resolving disputes linked to the energy transition, green finance, climate adaptation, and sustainability commitments.

PROTOCOL ON MEDIATION FOR CLIMATE CHANGE-RELATED DISPUTES

Article 1: Scope and Definition

1.1 This Protocol applies to climate change-related disputes mediated under the MARC Mediation Rules 2025 (the “Rules”), where all parties agree in writing to its application.

1.2 For the purpose of this Protocol, a “climate change-related dispute” includes any dispute, controversy, and disagreement arising out of or relating to:

- (a) the effects and potential impact of climate change;
- (b) climate change legislation, policies, commitments, or measures;
- (c) the energy transition;
- (d) human rights affected by climate change; and
- (e) any issue falling within the scope of the *United Nations General Assembly Resolution 76/300* recognising the human right to a clean, healthy and sustainable environment.

1.3 In the event of any inconsistency between this Protocol and the Rules, the provisions of this Protocol shall prevail for mediations conducted under it.

Article 2: Appointment of Mediators

2.1 For climate change-related disputes, this Article replace Articles 6.1 to 6.4 of the Rules.

2.2 Where the parties:

- (a) have agreed to participate in mediation proceedings under the Rules, or their contract contains a clause referring to the Rules; and
- (b) have agreed to apply this Protocol,

MARC will provide the parties with a list of no fewer than five (5) persons who, in its view, are qualified to mediate the dispute.

2.3 In compiling the list, MARC will take into account:

- (a) expertise in climate change legislation and policy, including the relevant international framework;
- (b) relevant professional experience;
- (c) gender balance and diversity; and
- (d) the language(s), nationality, and cultural background of the parties.

- 2.4 Each party shall rank the proposed mediators in order of preference. Taking due account of the preferences expressed, MARC shall appoint two (2) co-mediators, unless the parties jointly request a sole mediator. Co-mediators shall act collaboratively and maintain equal authority.
- 2.5 The same procedure applies to the appointment of any replacement mediator(s) under Articles 6.6 and 7.3 of the Rules.

Article 3: Transparency & Publication

- 3.1 Notwithstanding Article 8.9 of the Rules, and unless the parties request otherwise in writing, MARC may publish on its website the fact that the parties have agreed to mediate under this Protocol.
- 3.2 Unless, and to the extent that, the parties request otherwise in writing, MARC may also publish:
- (a) that the mediation resulted in a settlement or partial settlement; and
 - (b) subject to appropriate redactions protecting confidential, commercial, or sensitive information classified as confidential by any party, the terms of settlement or partial settlement.
- 3.3 If the mediation is terminated under Article 8.12 of the Rules, and unless the parties request otherwise in writing, MARC may publish the fact that the mediation was terminated without an agreement.

Article 4: Information Sharing Between the Parties

- 4.1 Notwithstanding Articles 8.1, 8.2, and 8.9 of the Rules, where the mediator(s) receive information concerning the dispute from a party, they may disclose the substance of that information to the other party or other parties, with the submitting party's consent to such disclosure.
- 4.2 In making any such disclosure, the mediator(s) shall take appropriate measures to protect:
- (a) information classified as confidential by the disclosing party; and
 - (b) commercially sensitive or otherwise protected information.

Article 5: Experts

- 5.1 This Article supplement Article 8 of the Rules.
- 5.2 Where the mediator(s) consider it necessary for the effective resolution of the dispute, they may recommend, or (unless the parties object in writing) appoint, one or more independent experts to advise on scientific, technical, environmental, or financial matters relevant to the dispute.
- 5.3 Experts appointed under this Article are subject to the same confidentiality obligations as mediator(s) under Articles 8.1, 8.2, and 8.9 of the Rules.

5.4 The costs of any expert appointed under this Article shall be borne equally by the parties, unless they agree otherwise.

Article 6: Participation of Stakeholders

6.1 Where the mediator(s) consider that the involvement of stakeholders other than the parties may assist in achieving a settlement, they may, at any stage of the mediation proceedings, invite the parties to consider involving such stakeholders to participate in the mediation.

6.2 Any stakeholder admitted to participate shall be bound by the same confidentiality and good-faith obligations as the parties.

6.3 The extent of stakeholder participation shall be determined by the parties in consultation with the mediator(s), ensuring that inclusivity is balanced with procedural efficiency.