

INTERNATIONAL
COURT OF
ARBITRATION®

INTERNATIONAL
CENTRE
FOR ADR

LEADING DISPUTE
RESOLUTION
WORLDWIDE

ICC DISPUTE RESOLUTION

A world of experience,
a wealth of expertise



International Chamber of Commerce

The world business organization

International Chamber of Commerce (ICC)

38, Cours Albert 1er, 75008 Paris, France
www.iccwbo.org

© International Chamber of Commerce (ICC) 2011
All rights reserved. This collective work was initiated by the ICC which holds all rights as defined in the French Code of Intellectual Property. No part of this publication may be reproduced or copied in any form or by any means, or translated, without the prior permission in writing of the ICC.

ICC, the ICC logo, CCI, the CCI logo, International Chamber of Commerce (including Spanish, French, Portuguese and Chinese translations), World Business Organization, International Court of Arbitration, ICC International Court of Arbitration (including Spanish, French, German, Arabic and Portuguese translations) are all trademarks of the ICC, registered in several countries.

Designed by Further™
furthercreative.co.uk

Printed in France in July 2012
by Imprimerie Port Royal

Dépôt légal juillet 2012

A HELPING HAND FOR INTERNATIONAL TRADE

At the ICC (International Chamber of Commerce), our goal is clear: to facilitate international commerce as a source of peace and prosperity throughout the world. Founded in 1919, the ICC has stayed true to this aim for almost a century.

Our unrivalled understanding of worldwide business arises from the expertise of our members, many of whom are involved in international commerce. The ICC has become a valued partner for all players involved in world trade. Businesses, states and international organizations, including the United Nations, the World Trade Organization, the World Bank and, most recently, the G20 look to the ICC as an authoritative voice in international trade and investment. All trust us to provide the support, insight and recommendations they require. Bridging both the public and the private sectors, the ICC stands apart as a unique organization capable of answering the manifold needs of all actors in international commerce.

Working to resolve international disputes

The ICC does more than support trade in today's global economy. We also help solve difficulties in international business through our administered dispute resolution services. These services, which are based exclusively on rules that only we are empowered and authorized to administer, include arbitration – a private procedure which parties can do much to shape, leading to a binding and enforceable decision. Our flagship International Court of Arbitration steers ICC arbitration.

Over the years, we have also launched additional complementary services, now gathered within our International Centre for ADR. They include mediation and other forms of amicable dispute settlement; sourcing experts to provide opinions on technical, legal and financial matters; and helping to set up and run dispute boards.

Companies and states the world over see our comprehensive services as attractive alternatives to litigation. That's because not only are they neutral and reliable solutions that help save time and money. They are also sufficiently flexible to accommodate the diverse interests and needs of parties in different parts of the world and different sectors of the economy.

Within these pages, you will find out more about who we are, what we do, and how we can help resolve disputes that arise when conducting business.

ICC ARBITRATION AT A GLANCE

Choosing ICC arbitration assures you of a quality service from an institution you can trust, recognized and respected the world over as the benchmark for international dispute resolution.

Like all ICC dispute resolution services, we base our arbitration solutions on rules that comply with international best practice. Not only are these rules available in many languages to assist businesses worldwide. We also update them regularly to make sure they match present situations and needs. For example, our latest Rules of Arbitration, in force from 2012, now meet the growing complexity of today's business transactions, the demand for greater speed and cost-efficiency, and take account of state interests in disputes subject to investment laws, bilateral treaties and free trade agreements.

Putting ICC arbitration into practice

The International Court of Arbitration, commonly known as the Court, comprises over one hundred members from many countries. They come from diverse professional, legal and cultural backgrounds. The Court is renowned for its unmatched experience and expertise as an international arbitration institution. It administers ICC arbitrations, overcomes obstacles in proceedings and strives to ensure ICC awards are enforceable.

Since its launch in 1923, the Court has been in the vanguard of making arbitration the preferred method of settling cross-border disputes. From straightforward sales contracts, to intellectual property matters, joint ventures, share purchase arrangements, or state-financed construction projects, to name but a few examples, the Court is widely viewed as the first choice for resolving disputes large and small.

Today, the Court is at the leading edge of change. It continuously seeks to improve efficiency, control time and costs, and aid enforcement and confidentiality by introducing innovative new arbitration tools and procedures. This ongoing focus ensures the Court is always in touch with the concerns and interests of trading partners across the world.

Supporting our arbitration services

The Court Secretariat comprises a permanent staff of over eighty lawyers and support personnel working together on the Court's daily tasks. English and French are the Court's official working languages. However, we can administer cases in any language, with staff capable of communicating in all major languages including Arabic, Chinese, German, Italian, Portuguese, Russian and Spanish.

At any time, the Court Secretariat administers around 1,500 cases. Although headquartered in Paris, the Secretariat manages cases all over the world. A global network of delegates also represents the Court worldwide, with presences in the regions of North America, Asia and Pacific, Eastern Mediterranean, Middle East and Africa, Latin America and the UK.

Everyone in the Court Secretariat attends to the needs of our cases. Each case management team, directed by a counsel and at least two deputies, has the regional experience, insights into cultural sensitivities, legal expertise and linguistic skills to make our solutions truly adapted to your needs. The Secretary General considers such factors as the parties' nationalities, place of arbitration, and the languages and laws involved, and assigns the best team for each case. This team then becomes the main point of contact for all players in a dispute. It advises parties, counsel and arbitrators on applying the rules and briefs the Court on its decisions.

The experts behind our evolving services

It's vital that our dispute resolution services and rules adapt to legislative and technological developments and meet practitioners' changing needs. The ICC Commission on Arbitration helps us achieve these aims.



Etienne Clémentel, French statesman and the first President of both the ICC and its International Court of Arbitration. Sculpture by Auguste Rodin.

This global forum comprises over 600 lawyers from around 90 countries, including partners in international law firms, in-house counsel, law professors and experts in various dispute resolution services. All contribute their expertise and ideas to ensure our services continuously improve. Among its many activities, the Commission addresses how new policies and practices affect international arbitration, examines technical matters, considers the legal and procedural aspects of our work, and is responsible for drafting our arbitration and other dispute resolution rules.

A CLOSER LOOK AT THE COURT'S SERVICES

Arbitration is the main solution within our administered dispute resolution services. It is a process that carries the hallmark of the ICC Court from start to finish.



The ICC Court meets weekly to take the decisions necessary to keep cases moving forward.

To ensure cases proceed as they should, the Court's responsibilities include:

- confirming, appointing and replacing arbitrators, and deciding on any challenges made against them
- monitoring the arbitral process to ensure that it is performed correctly and with the required speed and efficiency
- scrutinizing and approving all arbitral awards, primarily to ensure their quality and enforceability
- setting, managing and, if necessary, adjusting fees and advances
- overseeing emergency proceedings before the start of the arbitration.

Appointing the arbitral tribunal

An arbitration is only as good as its arbitrators. That's exactly where the Court can help, by confirming those that the involved parties have nominated or appointing suitable arbitrators when there is no nomination.

When appointing arbitrators, the Court can select from a wide choice of talent. This access to so many skilled arbitrators comes thanks to our global network of over ninety national committees and our place at the heart of the world's arbitration community.

Within the Court, we have also developed sophisticated ways to overcome problems setting up arbitral panels and reduce the risk of difficulties occurring later. These measures include ensuring all arbitrators are independent and available, regardless of whether the parties nominated them. Every candidate arbitrator must provide a statement for this. If doubts remain, we may seek an alternative candidate.

Our experience and expertise in constituting arbitral tribunals can be of help outside ICC arbitration. We can assist in appointing arbitrators and deciding on challenges against arbitrators in *ad hoc* arbitrations. To provide these and other services in *ad hoc* proceedings, the Court applies a special set of rules designed for use both in proceedings under the UNCITRAL Arbitration Rules and in other *ad hoc* proceedings.

Ensuring everything proceeds smoothly

Once set up, the arbitral tribunal is responsible for deciding on the merits of a dispute. The Court's role is to monitor the arbitral process from start to finish, making sure every case runs smoothly and correctly. It regularly reviews the progress of each case to ensure it advances at the right speed and in line with our rules.

Scrutinizing arbitral awards

Scrutiny is a distinctive feature of ICC arbitration and a key to its success. No arbitral award is issued until it has been approved by the Court. The Secretariat first reviews the award and alerts the arbitral tribunal to any issues that may be problematic. The award then undergoes examination by the Court, which may prescribe formal changes and draw attention to points of substance. The aim is to strengthen the enforceability of all arbitral awards and to flush out flaws that could lead to challenges in national courts. Thanks to scrutiny, over 90% of awards are adjusted and improved before being issued. This is an important assurance for parties, as arbitral awards are not generally subject to appeal.

Setting arbitrators' fees

Our rules allow us to control fees closely. Rather than leaving arbitrators free to set their own fees or hourly rates, the Court decides remuneration. It bases the figure on the amount in dispute, the case's complexity, and the arbitrator's efficiency and performance. This helps avoid unnecessarily protracted proceedings.

Before beginning an arbitration, parties can estimate how much the arbitration will cost using our online arbitration cost calculator at www.iccarbitration.org. However, the calculator's figures are only a guide. You should not assume the results will accurately reflect the final costs and expenses.

Addressing emergencies

Sometimes, parties may encounter a problem that needs solving immediately. If they cannot afford to wait until the arbitral tribunal has been set up, the 2012 Rules of Arbitration allow them to apply for the appointment of an emergency arbitrator. In this way, the problem can normally be solved within two weeks. If parties prefer to make other arrangements to address urgent issues, they are entirely free to do so, including opting for the ICC's pre-arbitral referee procedure.

DISPUTE RESOLUTION FOR EVERY SITUATION

Business transactions in today’s world are infinitely varied. The ICC offers a range of dispute resolution solutions that respond to the need for diversity and flexibility.

ICC dispute resolution services deliver more than arbitration. They also embrace many additional solutions. Each is different but their aims remain the same: to help parties resolve their disputes. Some might require one service. Others may require a blend of our offerings. Whatever they need, our services are always available to support them in their quest for an effective outcome.



Managing and overcoming issues

The International Centre for ADR oversees our amicable dispute resolution, expertise, dispute boards and work involving DOCDEX (Documentary Instruments Dispute Resolution Expertise). It endeavours to ensure that every solution fully addresses the parties’ interests. A world leader in administered mediation, the Centre has a staff of experienced international lawyers. Not only do they oversee the settlement of disputes, but also provide support in contract drafting, all with a view to minimizing lost time and resources. The range of disputes and disagreements handled by the Centre gives it a unique insight into even the most complex cases, including those involving states and state entities.

Securing amicable results

Our amicable dispute resolution service gives businesses a procedural framework for settling matters cordially, rapidly and cost-effectively. Working with a third party, known as a neutral, the parties can choose different settlement techniques. These include mediation, where the neutral assists the parties’ negotiations and helps them reach a mutually acceptable agreement. This is the standard approach for parties that do not select another method. Another technique is neutral evaluation. This involves the neutral providing an opinion on or assessing a relevant issue. In ADR

proceedings, the role of the International Centre for ADR lies chiefly in facilitating communication between the parties, appointing neutrals, dealing with objections to appointments, monitoring the progress of the proceedings and fixing their financial aspects. Successful ADR proceedings will lead to a contractually binding settlement agreement between the parties.

Harnessing international expertise

Technological advances and globalization have created increasing demand for expert dispute resolution services. Today's organizations, whether public or private, require specialists who can advise them on technical, financial and legal matters; act as witnesses; solve differences; and assist in many other areas.

To meet this growing need, the ICC created its International Centre for Expertise in 1976. The Centre proposes and appoints experts in almost every aspect of business. Additionally, the Centre may:

- administer the expertise proceedings in a way that helps ensure efficiency and cost-effectiveness, and includes scrutinizing the expert's report
- propose experts for arbitral tribunals – a free service when requested by a tribunal acting under the ICC Rules of Arbitration
- appoint procedural experts, e.g. to act as dispute board members, adjudicators, mediators or other dispute resolution neutrals
- administer expertise proceedings relating to objections to applications for new generic Top-Level Domain Names filed with the Internet Corporation for Assigned Names and Numbers (ICANN).

Providing professionals for ongoing assistance

Disputes are likely to occur during the terms of complex contracts. That's why many companies entering medium or long-term contracts often agree to securing the services of an ICC dispute board: a standing body with one or three members that helps resolve disagreements and disputes. ICC dispute boards are widely used in construction and infrastructure projects, and other fields such as IT and intellectual property.

With an ICC dispute board in place, businesses can enjoy greatly reduced settlement costs, and avoid expensive delays and disruption. An ICC dispute board may informally assist parties to help them overcome disagreements, while providing recommendations or decisions on any disputes referred to it.

We have developed a set of documents that provide a comprehensive framework for operating ICC dispute boards across different contract types in many industries. These include the ICC Dispute Board Rules, which enable us to support parties in, for example, appointing dispute board members, deciding on challenges raised against them, and reviewing their decisions.

Settling banking disagreements

Our International Centre for Expertise also administers DOCDEX: a fast, cost-effective and straightforward way of settling letter of credit disputes. DOCDEX also helps resolve disagreements concerning bank-to-bank reimbursements, collections and guarantees.

A panel of three hand-picked independent experts assesses each DOCDEX case according to the relevant ICC banking rules. To ensure compliance with the rules, the decision is checked by a technical expert from the ICC's Banking Commission. If all parties agree, the panel's decisions can also be binding.

YOUR EASY ACCESS TO OUR SOLUTIONS

We are with you at every stage of resolving a dispute, from helping you to draft appropriate dispute resolution provisions to implementing those provisions in effective dispute resolution proceedings. Our concern is always to make our services relevant and readily available.

You don't need to be a member of the ICC to benefit from our administered dispute resolution services. Anyone – a company, individual, state or state entity – that recognizes the advantages of the solutions we offer can put us to work. All appreciate our expertise, insight, services in their language and location, and rules that cover every contractual issue.

Corporate counsel and lawyers working independently or in legal practices typically use ICC dispute resolution services. Whatever the size of the case, each values our rigorous approach, efficient processes, and strong and practical rules. Indeed, a 2010 research survey for the School of International Arbitration at Queen Mary, University of London, revealed that 50% of respondents selected the ICC as their preferred arbitration institution. Just 14% of respondents chose the next-placed institution.

Taking steps to resolve issues early

Ideally, organizations should stipulate the ICC as their choice for dispute resolution when they negotiate their contracts or treaties. We provide standard and suggested clauses for this purpose, subject to adjustments required for national law and any special requirements of the deal. Naturally, parties can draft their own clauses. And even if they don't put a clause in their contract, they can still agree on the ICC later when a dispute arises. However, placing a recommended clause in a contract or treaty as early as possible provides each party with a clear route forward should a dispute occur.



The ICC website is your gateway to a wealth of news, information and resources on ICC dispute resolution: www.iccwbo.org.

A spectrum of services

The dispute resolution services offered by the ICC can be used separately, successively or sometimes concurrently. Parties involved in arbitration may require an expert to give an independent opinion on a question relevant to the outcome of their dispute, or they may decide they wish to settle their differences through mediation under the ICC ADR Rules. Parties using the ICC's Dispute Board Rules may encounter a problem that cannot be resolved through a determination of the dispute board and needs to be referred to arbitration. Parties engaged in expertise proceedings administered by the ICC may find it necessary to refer the issue in dispute to arbitration to be finally settled.

The diagram overleaf shows the permutations of services available to you when you take a dispute to the ICC. Whatever service or combination of services you choose, an appropriately drafted dispute resolution clause will help ensure that your preferences are respected when the dispute arises. You can find all our recommended clauses in various languages at www.iccarbitration.org.

Our standard and suggested dispute resolution clauses include clauses both for individual services and for various combinations of services, such as arbitration as a fallback to amicable dispute resolution, expertise or dispute boards. Here are some sample clauses:

Standard ICC arbitration clause

“All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.”

Parties wishing to exclude the emergency arbitrator procedure should state so in their clause by adding to the above: “The Emergency Arbitrator Provisions shall not apply.”

Multi-tier clause providing for ADR followed by arbitration

“In the event of any dispute arising out of or in connection with the present contract, the parties agree to submit the matter to settlement proceedings under the ICC ADR Rules. If the dispute has not been settled pursuant to the said Rules within 45 days following the filing of a Request for ADR or within such other period as the parties may agree in writing, such dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration.”

International Court of Arbitration

ARBITRATION

Formal procedure in which an independent arbitrator or panel of arbitrators resolves a dispute with a binding decision enforceable at law.

Procedures for obtaining urgent measures:

Emergency arbitrator procedure

Available as an integral part of ICC arbitration, unless specifically excluded.

Pre-arbitral referee procedure

Distinct procedure requiring a specific agreement.

International Centre for ADR

ADR

Mediation and other settlement techniques designed to resolve disputes amicably with the help of a neutral third party.

EXPERTISE

Assistance in finding experts and administering procedures to obtain independent opinions on technical, legal, financial or other issues.

DISPUTE BOARD

Permanent panel set up to accompany the performance of a contract and help resolve difficulties as and when they arise.

APPOINTING AUTHORITY

Assistance in appointing arbitrators and deciding on challenges against arbitrators in *ad hoc* proceedings.

DOCDEX

Document-based procedure leading to a decision by three experts resolving a dispute over a documentary credit, collection or demand guarantee.

A WORLD OF OPPORTUNITIES

We want to do more than help trading partners worldwide resolve their differences. We aim to improve standards of international dispute resolution and support people in their careers.

To achieve these ambitions, the ICC runs a comprehensive programme of training events and conferences throughout the year, focusing on particular audiences, regions and industries. Open to everyone, including non-members, they provide unique insight into our rules, practices and procedures, and are widely regarded as providing the best education in international arbitration and contract negotiation. Our events and conferences also support Continuing Professional Development (CPD) and Continuing Legal Education (CLE). For more information, visit www.iccwbo.org/training-and-events and www.iccarbitration.org.

Unlocking opportunities for young professionals

The ICC Young Arbitrators Forum (YAF) aims to maintain and improve international arbitration standards by providing up and coming professionals with learning and networking opportunities. These include events and mentoring relationships where individuals can discuss best practice, career development and other issues with experienced practitioners. Participants can also join working and social forums to exchange ideas, information and papers with other YAF members. To catch up with what's happening at ICC YAF, visit www.iccwbo.org/training-and-events/young-arbitrator-forum.

Giving students a new direction

To help students attain exceptional professional standards, we provide a number of two-month internships every year within the Court Secretariat and the International Centre for ADR. For more information, visit www.iccarbitration.org.

Students also participate in our renowned ICC International Commercial Mediation Competition. This annual six-day tournament sees competitors applying the ICC ADR Rules to solve international commercial disputes. Student teams from law and business schools around the world meet to test their advocating, negotiation and problem-solving skills in mock sessions led by some of the world's leading commercial mediators. Read more at www.iccadr.org.



ICC conferences, seminars and other events on international dispute resolution attract large audiences worldwide.

To give students an insight into our work, we regularly host group visits to our Paris offices and are always open to requests for visits. Please email arbevents@iccwbo.org.

Advancing dispute resolution across the globe

The International Court of Arbitration plays a major role in enhancing arbitration throughout the world. For example, it was the main initiator of the New York Convention of 1958. Under the auspices of the United Nations, the Convention aims to ensure the effectiveness of foreign arbitral awards by setting clear enforcement conditions and limiting grounds for objection.

The Court also seeks to improve awareness and understanding of arbitration among countries with little experience of its benefits. It invests significantly in providing advice and information across many channels, including outreach visits, publications and online materials.

Through the Court and the International Centre for ADR, the ICC works closely with other international organizations, public and private, including the United Nations, European Commission, World Bank, International Bar Association and UNIDROIT, to develop standards, rules and tools in all areas of international dispute resolution.

WITH YOU AT EVERY STEP

At the ICC, we believe everyone should have the opportunity to learn more about our dispute resolution services and how we can be of help. That's why we provide easy access to a range of resources in print and online.

Publishing our expert insights

Our publications include the ICC International Court of Arbitration Bulletin: an authoritative journal distributed three times a year featuring contributions from distinguished international arbitrators. The Bulletin is the primary source of information on our awards and includes essential details concerning our arbitration procedure.

We also publish reports from the ICC Commission on Arbitration and provide an online business reference bookstore specializing in every aspect of international trade and dispute resolution: www.iccbooks.com.



The ICC Hearing Centre offers fully-equipped rooms for meetings of all sizes.



Delivering a wealth of online information

Our extensive online presence features a wealth of resources covering every area of arbitration. They include the Dispute Resolution Library at www.iccdrl.com: a dynamic and searchable resource containing over a thousand documents from our publications on arbitration. We are also putting our training expertise online. Find out more at www.iccwbo.org/training-and-events.

Providing a dedicated Hearing Centre

We have launched a dedicated facility in Paris for arbitration hearings and other dispute resolution proceedings. The 800 square-metre Hearing Centre is the first facility of its kind in Paris, providing flexible space and full logistical and technological support. For more details, visit www.icchearingcentre.org.

Further information about the services described in this brochure may be obtained from the following addresses:

ICC International Court of Arbitration
www.iccarbitration.org

Paris headquarters
38 Cours Albert 1er
75008 Paris, France
T +331 49 53 29 05
F +331 49 53 29 29
arb@iccwbo.org

Asia office
Suite 2, 12/F, Fairmont House
8 Cotton Tree Drive
Central, Hong Kong
T +852 3607 5600
F +852 2523 1619
ica8@iccwbo.org

North America office
New York
Opening Fall/Winter 2012
Details will be available at
www.iccarbitration.org

ICC International Centre for ADR
www.iccadr.org

Paris headquarters
38 Cours Albert 1er
75008 Paris, France
T +331 49 53 30 52
F +331 49 53 30 49
adr@iccwbo.org

Information can also be obtained locally from our regional directors/consultants:

North America

Josefa Sicard-Mirabal, Director
ICC Arbitration and ADR, North America
c/o US Council for International Business
1212 Avenue of the Americas
New York, NY 10036-1689, USA
T +1 212 703 5065/+1 212 354 4480
F +1 212 575 0327
jsl@iccwbo.org

Latin America

Katherine González Arrocha, Director
ICC Arbitration and ADR, Latin America
Calle 50 y 53, Edificio Banco Atlántico
Piso 5, P.O. Box 0832-1236
Suite 11181, World Trade Center
Panama City, Panama
T +507 301 1311
F +507 301 1399
kga@iccwbo.org

Asia

Kim Kit Ow, Director
ICC Arbitration and ADR, Asia and Pacific
ICC Regional Office, Asia
32 Maxwell Road #02-11
Maxwell Chambers
Singapore 069115
T +65 6225 9081
F +65 6225 9083
drs@iccasia.com.sg

Eastern Mediterranean,

Middle East & Africa
Sami Houerbi, Director
ICC Arbitration and ADR, Eastern Mediterranean, Middle East and Africa
P.O. Box 363, cité Mahrajen
1082 Tunis, Tunisia
T +216 71 840 297
F +216 71 286 917
shi@iccwbo.org

United Kingdom

John Rushton
Consultant for ICC Arbitration and ADR
T +44 20 7838 9363
F +44 20 7235 5447
jrushton@international-chamber.co.uk

