INTERNATIONAL | INTERNATIONAL | LEADING DISPUTE COURT OF ARBITRATION® | CENTRE FOR ADR COURT OF

RESOLUTION WORLDWIDE

## ICC DISPUTE RESOLUTION SERVICES



### **INTRODUCTION TO ICC**

### Founded in 1919, ICC is a worldwide organization with members and regional offices in 130 countries.

Almost 200 staff members, representing more than 30 nationalities, work at ICC Global Headquarters in Paris. The international secretariat develops and performs the ICC work programme through policy products and advocacy, and by offering rules, codes and practical services to facilitate trade.

### ADVOCACY

ICC develops its policy positions through specialized commissions in many sectors. These include banking, commercial law, competition, corporate responsibility and anti-corruption, e-business, IT, environment and energy, financial services and insurance, intellectual property, marketing and advertising, taxation, trade and investment, transport and logistics, as well as dispute resolution. Businesses, states and international organizations, including the United Nations, World Trade Organization, World Bank and the G20, view ICC as an authoritative voice in international trade and investment.

### **RULE-MAKING AND RESEARCH**

The ICC Commission on Arbitration and ADR is ICC's rule-making and research body for dispute resolution services, and a unique think tank on international dispute resolution. The Commission drafts and revises the various ICC rules for dispute resolution, covering arbitration, mediation, experts and expertise, and dispute boards.

The ICC Institute of World Business Law combines the finest legal minds to strengthen links between international business practitioners and the legal profession. Its mission is to foster knowledge and develop international business law and practices.

"Further the development of an open world economy with the firm conviction that international commercial exchanges are conducive to both greater global prosperity and peace among nations"



Commission on Arbitration and ADR www.iccwbo.org/About-ICC/ Policy-Commissions/Arbitration

### Institute of World Business Law

www.iccwbo.org/about-icc/ organization/institute-ofworld-business-law

### ICC DISPUTE RESOLUTION SERVICES

In today's global economy, international commercial disputes are commonplace. Resolving these disputes is vital to trade and investment. ICC Dispute Resolution Services perform this critical role, giving business partners a wide choice of administered procedures for settling disputes outside the courts.

### ICC INTERNATIONAL COURT OF ARBITRATION

Our flagship service is ICC arbitration, which carries the hallmark of the ICC International Court of Arbitration: a world leader in resolving international commercial disputes. Since its creation in 1923, the Court has administered over 20,000 cases from across the world.

### ICC INTERNATIONAL CENTRE FOR ADR

Our International Centre for ADR provides complementary services, including:

- Mediation and other forms of amicable dispute settlement
- Sourcing experts to provide opinions on technical, legal and financial matters
- Helping to set up and run dispute boards
- Specialist services relating to documentary credits and domain names.

Within these pages, you will discover why our services are compelling alternatives to litigation.



www.iccadr.org www.iccarbitration.org

### TEN GOOD REASONS TO CHOOSE ICC DISPUTE RESOLUTION

### ACCESSIBLE

Our dispute resolution services are available to anyone: companies, individuals, states and state entities. We also provide the tools and help needed to make them work, including model clauses and support from our staff.

### AUTHORITATIVE

We strive to ensure rulings are watertight, scrutinizing arbitral awards and expert determinations to improve their convincingness and enforceability. ICC's stamp of approval also provides additional authority.

### CONFIDENTIAL

We rigorously uphold the privacy of all ICC dispute resolution proceedings. Our rules include provisions to protect confidentiality and case information is disclosed only to those involved.

### EFFICIENT

We are committed to resolving disputes as quickly and economically as possible. We also monitor proceedings closely to check that time limits are respected, and can intervene to keep them on course.

### FLEXIBLE

Parties can exercise their choice over many procedural aspects. For example, they can agree on the number of arbitrators and nominate them. They can also choose the place and language of the proceedings, and adapt time limits if necessary.

### GLOBAL

Our global reach is unrivalled. Parties from some 200 countries and territories have used our services. Through our network of offices and national committees we have access to arbitrators, mediators and experts worldwide.

### MULTIFUNCTIONAL

We are a one-stop-shop for your dispute resolution needs. At ICC, you find arbitration, mediation, expert appraisal and dispute boards all under one roof.

### NEUTRAL

ICC is an autonomous organization with the neutrality necessary to work for parties from different countries and cultures. Our proceedings can take place in any country and any language, supervised by independent and impartial decision-makers.

### PREDICTABLE

Our administrative expenses are fixed according to a published scale and the amount in dispute. So costs are proportionate and parties know straightaway how much they are likely to pay.

### REPUTABLE

Our tradition of quality and excellence has earned the respect of businesses, governments, judges, lawyers and academics worldwide.

### **ICC ARBITRATION**

Arbitration involves one or a panel of three independent arbitrators resolving a dispute with a binding decision enforceable at law.

http://www.iccwbo.org/products-and-services/ arbitration-and-adr/arbitration/ Arbitral proceedings at ICC take place under the supervision and with the aid of the International Court of Arbitration, a body of over 100 international dispute resolution specialists from almost as many countries who take decisions necessary for the proceedings to progress. Their diverse and complementary professional, legal and cultural backgrounds ensure every case is treated sensitively and objectively. A Secretariat of over 80 lawyers and administrators supports the Court. The Court and Secretariat administer proceedings, provide essential assistance, and ensure quality at every step.

The ICC Court is renowned for enhancing arbitration throughout the world. During its long history it has improved global awareness and understanding of arbitration, and provides advice across many channels. It was the main initiator of the 1958 New York Convention, which is instrumental to enforcing awards worldwide. Through the Court and International Centre for ADR, ICC also works with many international public and private organizations to develop dispute resolution standards, rules and tools. These organizations include the United Nations, European Commission, World Bank, International Bar Association and UNIDROIT.

### THE ICC ARBITRATION PROCESS AT A GLANCE

# REQUESTS, ANSWER& URGENT INTERIM RELIEF

SETTING THE PROCEDURE IN MOTION

TERMS OF REFERENCE & CASE MANAGEMENT

ARBITRAL PROCEEDINGS

& AWARD

### PARTIES

Claimant submits a Request for Arbitration. The Secretariat transmits it to Respondent. Respondent has 30 days to submit an Answer. A party wishing to join an additional party to the arbitration may submit a Request for Joinder.

#### **EMERGENCY ARBITRATOR**

A party seeking urgent interim relief may request emergency measures under the ICC Emergency Arbitrator Provisions, unless the parties have expressly excluded their application.

#### SECRETARY GENERAL

The Secretary General may confirm arbitrators and reports them to the Court. If the Secretary General considers a person should not be confirmed, the matter is submitted to the Court.

After receiving the Request for Arbitration, the Secretary General normally asks Claimant to pay a provisional advance.

#### COURT

The Court takes decisions, where necessary, on the:

- arbitration agreement
- constitution of the arbitral tribunal
- place of arbitration.

As soon as practicable, the Court fixes the advance on costs for the entire proceedings.

FILE

#### ARBITRAL TRIBUNAL

The arbitral tribunal draws up its Terms of Reference, which it signs with the parties, and holds a case management conference to discuss with the parties how to conduct the proceedings as efficiently as possible. A procedural timetable is established and communicated to the Court.

The arbitral tribunal establishes the facts of the case, after which it declares the proceedings closed, and prepares a draft award.

#### COUR

If one of the parties refuses to sign the Terms of Reference or participate in drawing them up, they are submitted to the Court for approval.

COURI

The Court scrutinizes the draft award. Once approved, the award is transmitted to the parties.



### **KEY FEATURES OF ICC ARBITRATION**

#### THE COURT

- confirms, appoints and replaces arbitrators, and decides on challenges made against them.
- monitors the arbitral process to ensure it is performed quickly, efficiently and correctly.
- scrutinizes and approves arbitral awards, primarily to ensure their quality and enforceability.
- sets, manages and, if necessary, adjusts fees and advances.
- oversees emergency proceedings before arbitration.

### THE SECRETARIAT

- is the main link between parties, arbitrators and the Court.
- manages around 1,500 cases every day through nine teams. Each team focuses on a different region and is headed by a legal counsel with assistance from at least two deputies.
- communicates in numerous languages including Arabic, Chinese, English, French, German, Italian, Portuguese, Russian and Spanish.
- has offices in Paris and Hong Kong, and SICANA serves as its office in New York.
- engages in outreach activities through a network of regional directors, increasing awareness and understanding of arbitration through education/training and publications.

### RULES

We conduct ICC arbitration in accordance with rules that comply with international best practice. These rules are available in many languages and are updated regularly to match present situations and needs. The current Arbitration Rules, in force from 2012, meet the growing complexity of today's business transactions and the demand for greater speed and cost-efficiency. They also accommodate state interests in disputes subject to investment laws, bilateral treaties and free-trade agreements.



www.iccwbo.org/Products-and-Services/ Arbitration-and-ADR/Arbitration/Rules-ofarbitration/Download-ICC-Rules-of-Arbitration/ ICC-Rules-of-Arbitration-in-several-languages

### MODEL 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 are free to adapt the clause to their particular circumstances. ICC offers guidance on how to use the clause as well as variants, including escalation clauses providing for a combination of dispute resolution procedures.



www.iccwbo.org/products-and-services/ arbitration-and-adr/arbitration/standardicc-arbitration-clauses

### DISPUTE RESOLUTION FOR ALL SITUATIONS

ICC dispute resolution services deliver more than arbitration. Our International Centre for ADR offers a range of additional procedures. Each is different but their aims remain the same: to help parties resolve their disputes in the most appropriate and effective way.

The services offered by the ICC International Centre for ADR cover mediation, expert appraisal (including a service specifically for letter of credit disputes) and dispute boards. 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.

The dispute resolution services offered by 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 Mediation 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 ICC may find it necessary to refer the issue in dispute to arbitration to be finally settled.

Whatever service or combination of services is required, it is wise to include an appropriate dispute resolution clause in your contract or treaty. We provide a range of model clauses for this purpose. An appropriately drafted dispute resolution clause will help ensure that your preferences are respected when the dispute arises. Naturally, parties can draft their own clauses. And even if they don't put a clause in their contract, they can still agree on 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.

### **ICC MEDIATION**

Mediation is a flexible and consensual technique in which a neutral facilitator helps the parties reach a negotiated settlement of their dispute. The parties have control over the decision to settle and the terms of any settlement agreement. Settlements are contractually binding and widely enforceable

### **ADVANTAGES**

The mediation process is designed to give parties a better understanding of each other's business needs so that they can look for a win-win solution that upholds their respective interests. The result always remains in the parties' hands, which can reduce potential risks associated with other forms of dispute resolution.

Mediation can be a useful approach when the parties in dispute have an ongoing relationship, such as a joint venture or long-term supply contract, which they wish to preserve. For instance, they may wish to renegotiate the terms of their contract. This is possible in mediation but there is unlikely to be any legal basis for seeking such relief in arbitration or litigation.



www.iccwbo.org/products-and-services/ arbitration-and-adr/mediation/introduction

### **KEY FEATURES**

- Administered procedure conducted under the supervision of an independent and experienced institution:
  - Assists with the appointment and, if necessary, the replacement of mediators.
  - Oversees financial aspects, including the fixing of the mediator's fees.
  - Facilitates the setting-up and supervises the conduct of proceedings.
  - Answers parties' questions and provides assistance throughout the entire process.
- New rules reflecting modern mediation practice and offering flexibility to customize proceedings.
- More than mediation: the rules offer parties the possibility of choosing another settlement technique such as conciliation, neutral evaluation, or a combination of techniques.

### **ICC MEDIATION WEEK**

The International Centre for ADR regularly organizes conferences and training events around the world. Foremost among these is the ICC International Commercial Mediation Competition, which takes place in Paris in February each year. It is ICC's biggest educational event, bringing together students and professionals from all cultures and continents. For the students, the competition is a unique opportunity to develop their skills in mock mediation sessions under the eves of experienced professionals. In addition to the competition. the Mediation Week offers a programme of side events, both social and educational, including the International Mediation Roundtable at which professional mediators discuss latest developments and best practices in mediation.

### ICC EXPERT AND DISPUTE BOARD SERVICES

### **EXPERTS**

### Impartial appraisal by a specialist

Experts are specialists offering independent opinions and advice on technical, financial and legal matters. They may act as witnesses, solve differences and help ensure contracts are properly performed. Experts can also serve as neutrals in other procedures, e.g. arbitration, mediation, adjudication and dispute board proceedings.

### ICC EXPERT SERVICES AT A GLANCE

- Proposing experts: requesting party is free to accept or reject the person proposed.
- Appointing experts: ICC acts as appointing authority and the appointment is binding on the parties.
- Administering expert proceedings: services available include coordinating between the parties and the expert, monitoring deadlines, supervising costs, reviewing the expert's report. These services respond to the parties' need for efficiency and cost-effectiveness.

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http://www.iccwbo.org/products-and-services/ arbitration-and-adr/expertise/

### DOCDEX

A specialist service for trade finance

ICC DOCDEX is a document-based procedure leading to a decision by three experts on a dispute over a documentary credit, collection or demand guarantee.

### FIND OUT MORE ONLINE

http://www.iccwbo.org/products-and-services/ arbitration-and-adr/docdex/

### **DISPUTE BOARDS**

Ongoing dispute resolution assistance

Dispute boards are permanent panels set up to accompany the performance of a contract and help resolve difficulties as and when they arise. ICC provides tools and support for establishing and operating dispute boards.



http://www.iccwbo.org/products-and-services/ arbitration-and-adr/dispute-boards/

### **KEY FEATURES**

- Fast, cost-effective, straightforward procedure usually completed within two to three months.
- Authoritative and impartial decision useful for courts, arbitral tribunals or as a negotiating tool.
- ICC banking and dispute resolution expertise combined in a specialist procedure.

### ICC DISPUTE BOARD RESOURCES

- Essential documents for operating dispute boards (rules, model clauses, dispute board member agreement).
- Choice between three different types of dispute boards (Dispute Review Board, Dispute Adjudication Board, Combined Dispute Board).
- Administrative support: appointing and deciding on challenges against dispute board members, reviewing dispute board decisions.

### **RESOURCES FOR PRACTITIONERS**

#### PUBLICATIONS

ICC develops its globally-used rules and standards, guidelines, reference books and model contracts from the work of ICC's commissions, divisions and other international specialists.

Guidance and resources for dispute resolution practitioners include:

- ICC International Court of Arbitration Bulletin
- Reports from the ICC Commission
  on Arbitration and ADR
- Dispute Resolution Library a searchable web service containing essential ICC publications and documentation.

#### **TRAINING AND CONFERENCES**

Our extensive range of training seminars and conferences brings ICC's expertise to a worldwide audience. Internationally renowned and open to everyone, including non-members, they provide a unique insight into our rules, practices and procedures.

### YOUNG ARBITRATORS FORUM (YAF)

The ICC Young Arbitrators Forum (YAF) maintains and improves international arbitration standards by providing young professionals with opportunities to improve their knowledge and skills in international arbitration. These include events and networking possibilities where individuals can discuss best practice, career development and other topical issues with experienced practitioners. Quickly approaching 10,000 members, ICC YAF offers a rich calendar of educational programmes and social gatherings organized worldwide by each of the five regional chapters.

#### **ICC HEARING CENTRE**

A dedicated facility in the heart of Paris for arbitration hearings and other dispute resolution proceedings.



Publications www.storeiccwbo.org

Dispute Resolution Library www.iccdrl.com

Training and Conferences www.iccwbo.org/training-and-events

ICC Arbitration online training www.iccwbo.org/training-and-events/ online-training/icc-arbitration-online-training

Young Arbitrators Forum www.iccyaf.org

#### **ICC Hearing Centre**

www.iccwbo.org/products-and-services/ hearing-centre



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### FIND OUT MORE ONLINE

Contact details for ICC around the world can be found at www.iccwbo.org/contact-icc