

# ICC Dispute Resolution Services



## **ICC Arbitration Process ICC Court of Arbitration ICC Dispute Resolution Services**

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Australia  
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**International Chamber of Commerce**  
*The world business organization*

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## Hallmark Features of ICC Arbitration Process

- Short, Simple and **Flexible** Rules
- **Quality Control** by Court, with assistance from Secretariat:
- **Control** of arbitrators
  - Confirmation/ appointment/ challenge etc.
  - Remove non-performing arbitrators (Art. 12(2) of Rules)
- **Regular Monitoring** of proceedings (prevent delays)
- **Time** control: Court closely monitors time; Terms of Reference; Procedural Timetable; pressure re Awards
- Full **Cost** control (Ad Valorem, transparency)
- **Award Scrutiny** – all draft awards reviewed (Secretariat and ICC Court). Does not interfere with merits.



## Composition of the Court

- An administrative body made up about 130 Court members (including one Chairman and 15 Vice Chairmen)
- From 86 countries worldwide
- Our current Chairman is from the United Kingdom
- Our 15 Vice Chairmen are from Algeria, Australia, Belgium, China, France, Mauritius, Sweden, Germany, India, Italy, Mexico, Russia, Switzerland, Brazil, United Kingdom and United States
- Court members are appointed for renewable three year terms by the World Council (governing body of the ICC)



## Key Functions of the ICC Court

- Deciding jurisdiction *prima facie*
- Fixing advances on costs
- Fixing the place of arbitration
- Constituting the arbitral tribunal
- Challenges and replacement of arbitrators
- Scrutinising draft awards
- Fixing the costs of arbitration



## Scrutiny of ICC Awards – Art 27

- All arbitral awards are submitted to the Court for scrutiny and approval. The scrutiny process raises the quality and enforceability of the award.
- Award scrutiny is labour intensive for both the Secretariat and the Court:
  - Reviewed by Counsel handling the case
  - by Deputy Secretary General
  - sometimes by Secretary General or General Counsel
  - sometimes by a “rapporteur” Court member
  - by other Court members
- Court can require changes to the *form* of the draft award, but may only suggest changes to the *substance*
- Potential problems are often discovered
  - 2010: 478 awards rendered, 444 returned to Arbitral Tribunal with comments



## Committee Sessions of the Court

- Committee Sessions of ICC Court take place each week at ICC headquarters in Paris
- At the Committee Sessions, three Court members are present
- Either the Chair or one of the Vice Chairmen will preside each session
- During Committee Sessions the Court makes nearly all required decisions
- However, some decisions are reserved for the Court's monthly Plenary Sessions

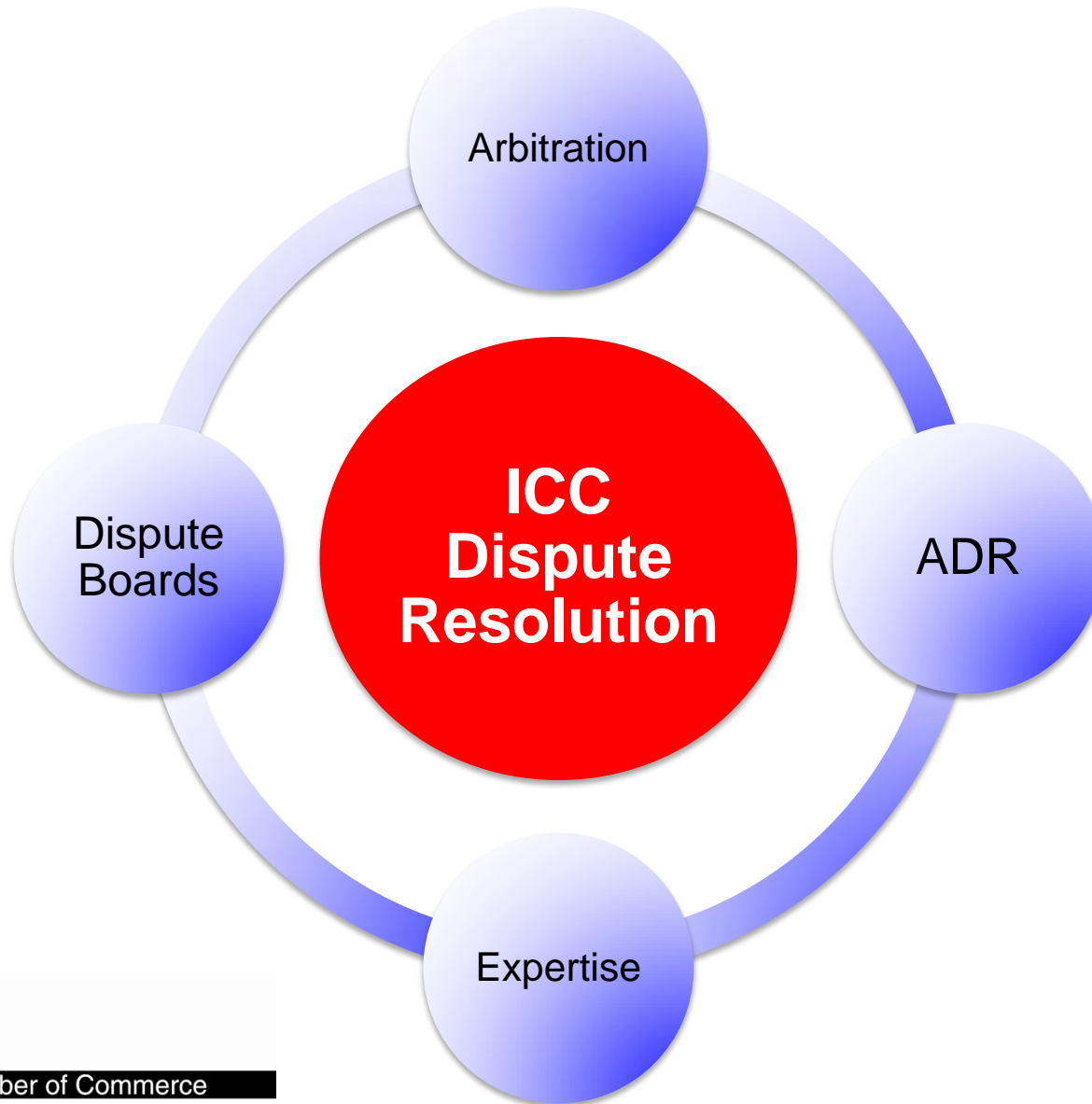


## Plenary Sessions of the Court

- Generally 30-50 Court members present
- The number of cases considered is much smaller than at a Committee Session, usually around 10
- Court decides upon challenges, State entities, complex legal questions, as well as draft awards where an arbitrator has filed a dissenting opinion
- For each case submitted, a Court member volunteers to serve as a reporter, who studies the case and presents a report to the Court



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## **ADR Rules and Services: *Amicable* dispute resolution – ICC ADR Secretariat**

- Mainly **mediation** but also neutral evaluation, conciliation, mini-trial, adjudication etc.
- Leads to settlement of the dispute arising from the contract
- Procedure administered by ICC

## **Rules for Expertise – ICC International Centre for Expertise**

- Proposal, appointment of experts
- Experts from all sectors and nationalities
- Procedure administered by ICC

## **Dispute Board Rules – ICC Dispute Board Centre**

- Standing dispute resolution panels
- Non-administered procedure if not specifically requested by the parties (eg. scrutiny) or if there are procedural difficulties (eg. challenges)

## **DOCDEX Rules – ICC International Centre for Expertise**

- Quick, document-based expert determination procedure for cases involving ICC banking rules
- Administered procedure
- Experts chosen from a closed list



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- It is not uncommon for dispute resolution clauses to provide for more than one method of settling disputes. Arbitration could be the second or third step taken when attempts to find an amicable settlement fail.
- Holistic ICC DRS infrastructure – combination of two complementary methods. **Another hallmark feature of ICC**
- Example: **Obligation to submit dispute to ADR, followed by arbitration if required**

*“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.”*



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## ICC ADR statistics: Ten Year Snapshot 2001 – 2010

- almost 120 administered cases
- parties from over 65 countries
- 80% cross-border, 20% domestic cases
- 80% mediation, 20% other settlement techniques
- average amount in dispute: US\$20 million - but equally broad spread like in arbitration
- average duration from transfer of the file to the Neutral until settlement: 4 months
- average costs for Neutral's fees, expenses and ICC administrative expenses: US\$20000 – US\$25000
- success rate: around 80% of the cases transferred to the Neutral settle
- Asian parties included parties from China, Singapore, India, Philippines, Malaysia, Japan, Korea . General increase in the number of cases in 2010 and also in 2011.



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## THANK YOU !

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