K&L GATES

Guide to Leading Arbitral Seats and Institutions

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INTRODUCTION

K&L Gates' Guide to Leading Arbitral Seats and Institutions

A key advantage of arbitration over litigation is that it enables the parties to retain a degree of control over how their dispute will be resolved.

In drafting an arbitration clause, or in negotiating a post-dispute arbitration agreement, the parties are able to make choices about certain key characteristics of the arbitration process. Two critical choices are the choice of legal seat of the arbitration and the choice of arbitral institution.

To assist in this process, lawyers in K&L Gates' International Arbitration Group have prepared a short guide to the leading global seats and institutions. Please note that this guide contains summary information only and legal advice should always be sought when selecting a seat of arbitration and arbitral institution as part of an arbitration agreement.

Seats of Arbitration

The seat of arbitration is the legal place where the arbitration proceeds. By choosing the seat, parties choose the arbitration legislation that will apply, and which national courts will have supervisory jurisdiction over the arbitration. For example, a choice of a Paris seat will mean that articles 1442 to 1527 of the French Code of Civil Procedure will apply, and that any court applications (e.g. for measures to support the arbitration, or challenge an award) will be to the courts of France.

Whilst all of the leading seats have modern, sophisticated and arbitration-friendly legislation, parties should be aware of variations between the various jurisdictions (e.g., as to confidentiality of the process), and the unique features of certain seats, that could be of strategic importance in a dispute.

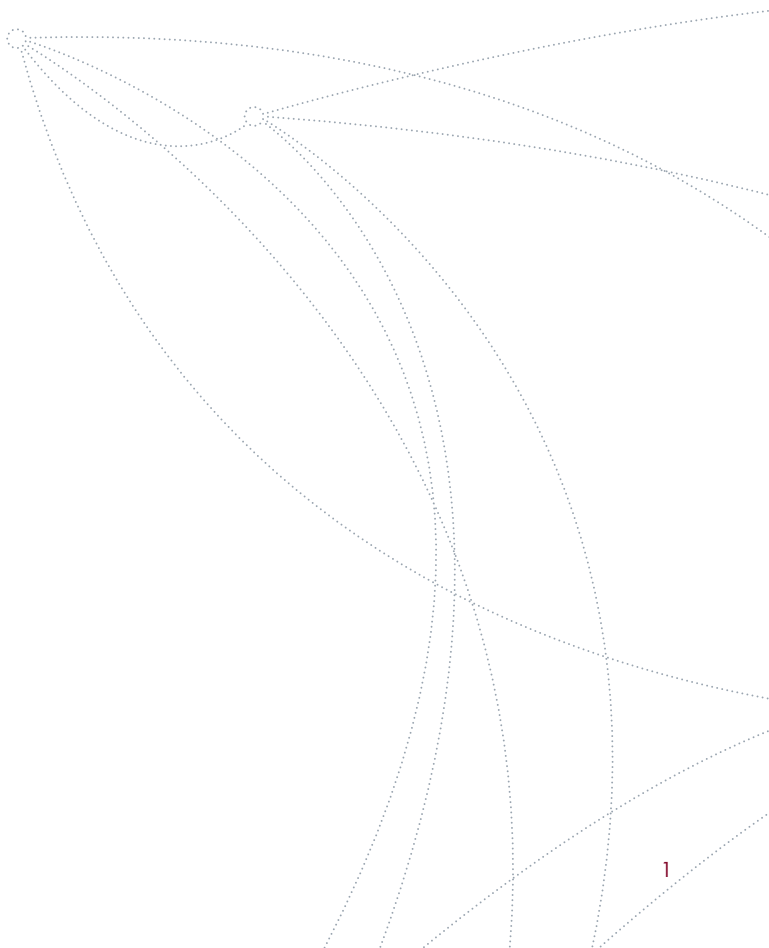
In this guide we provide summary information regarding the following seats: Beijing, Shanghai, Cairo, Dubai, Frankfurt, Geneva, Zurich, Hong Kong, London, Mauritius, Moscow, New York, Washington, D.C., Paris, Singapore, Stockholm, and Vienna.

Arbitral Institutions

The rise of arbitration as a means of resolving international commercial disputes has been accompanied by a proliferation of institutions offering administrative services and rules of procedure. Whilst it is common for parties to choose an institution located in their chosen seat (e.g., the Swiss Chambers for arbitration in Switzerland), that is neither compulsory nor universal. It is not unknown, for example, for a Singapore-seated arbitration to proceed under the London Court of International Arbitration (LCIA) Rules.

The choice of institution carries with it a choice of institutional rules to provide a basic procedural framework for the arbitration (subject in many cases to the parties' agreement on different rules). The institution will typically play a role in arbitrator selection or confirmation, administration of the arbitration, and (in some cases) scrutiny of arbitration awards.

In this guide we provide summary information regarding the following institutions: CIETAC (Beijing), CRCICA (Cairo), DIAC and DIFC (Dubai), DIS (Germany), Swiss Chambers, HKIAC (Hong Kong), LCIA (London), ICC (Paris), ICDR/AAA (US), CPR (US), ICAC (Moscow), JAMS (US), SIAC (Singapore), and SCC (Stockholm).



SEATS OF ARBITRATION

Beijing and Shanghai, China

Arbitration Legislation

China's Arbitration Law 1994 permits arbitration of three broad categories of dispute: contractual and property, labour, and farming collective. Arbitration for contractual and property disputes is further divided into foreign-related and domestic disputes. A foreign-related case must have a foreign element (for example, a party thereto or the subject matter). There is some uncertainty, however, as to whether a foreign-invested Chinese entity constitutes 'foreign-related' under Chinese law.

Foreign-related cases may be resolved by arbitration via submission to one of China's arbitration commissions, with the largest being the China International Economic and Trade Arbitration Commission (CIETAC).

Approach of the Courts to Arbitration

In 2006, the Chinese Supreme Court issued 'Certain Interpretations of Chinese Arbitration Law Application' ('New Interpretation') which sought to reform many aspects of Chinese arbitration law.

Judicial decisions prior to the New Interpretation reflected the Chinese courts' formalistic approach to determining the validity of an arbitration clause. An otherwise valid arbitration clause was held null and void on purely minor technical grounds, such as inaccuracy of the name of the arbitration institution, even though all parties involved knew to which institution the clause referred. However, with the New Interpretation, the Supreme Court has taken a more flexible approach toward arbitration clauses.

Interim Measures

The CIETAC Rules state that the arbitral tribunal may not order provisional remedies, which must instead be sought from national courts. Application for such remedies is made to the CIETAC Commission, which then forwards it to the relevant court. Several kinds of interim remedies are available under China's Civil Procedure Law, including attachment, security and preservation of evidence. However, anti-suit injunctions and security for costs are not available.

In addition, property preservation measures may not be requested until CIETAC has been entrusted with a case. Under Chinese arbitration law and practice, no pre-arbitration preservation measures are available.

Confidentiality

The CIETAC rules do not contain any express provisions on the publication of awards. Its practice is to provide redacted and edited reports on arbitral proceedings selected by the Cases Edition Committee within CIETAC. These awards are published online, often in Chinese and also in English. In keeping with the principle of confidentiality, all published awards are redacted to avoid identification of the parties or otherwise confidential information.

Costs

Arbitration fees must be paid upon submission of the application to arbitrate. Fees are calculated using rate schedules appended to the rules; generally they are a percentage of the amount claimed and include arbitrator remuneration, which is relatively modest.

Under the CIETAC arbitration rules, a tribunal may award a portion of the expenses incurred by the winning party, based on the award, the degree of complexity of the case, the workload of the winning party and their lawyers, and the amount in dispute. The winning party may recover the arbitration fee collected by CIETAC.

Enforcement

Foreign awards may be enforced in China in accordance with international treaties, such as the New York Convention. In addition, China and Hong Kong have an agreement for reciprocal enforcement of arbitration awards, with constraints similar to those outlined in the New York Convention. The enforcing court is the Intermediate People's Court (IPC). An applicant has no right to appeal a decision not to enforce a foreign or foreign-related award, though there is a review procedure that may be conducted by the Higher People's Court.

Cairo, Egypt

Arbitration Legislation

Egypt's arbitration law applies the UNCITRAL Model Law on Arbitration with limited exceptions.

Approach of the Courts to Arbitration

Courts in Egypt are said to be arbitration-friendly following the enactment of the country's 1994 comprehensive legal reform.

Arbitration Institutions

The Cairo Regional Centre for International Commercial Arbitration (CRCICA) applies the (1976) UNCITRAL Arbitration Rules with minor amendments.

Interim Measures

Under CRCICA rules, an arbitral tribunal may take any interim measures it deems necessary in respect of the subject matter of the dispute, including measures for the conservation of the goods forming the subject matter in dispute, such as ordering their deposit with a third person or the sale of perishable goods.

The president of the Cairo Court of Appeal is competent to issue orders for interim measures or to assist the arbitral tribunal with the taking of evidence at the tribunal's request.

Confidentiality

CRCICA rules require the parties to keep confidential all awards in their arbitration, together with all other documents, expert reports, and witness testimonies. Parties may contract out of this provision.

Costs

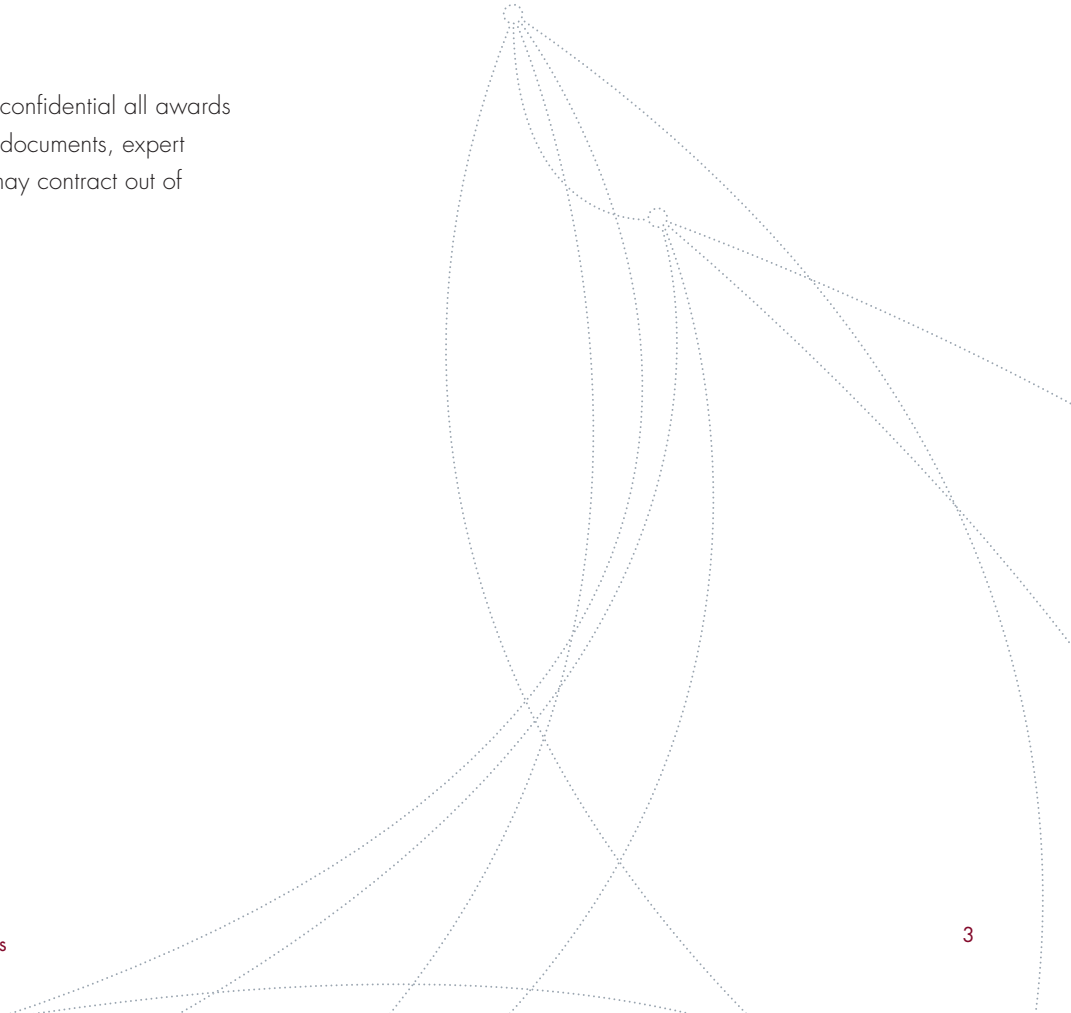
In CRCICA arbitration, both the administrative costs and the arbitrators' fees are a function of the value of the claim.

Grounds for Challenge

A textual reading of Egyptian arbitration law suggests a relatively high threshold for a successful challenge to an award. An exhaustive list of seven bases for challenge is enumerated in Article 53 of the arbitration law.

Enforcement

Egypt is party to the New York Convention. The enforcement of international commercial arbitration awards is the exclusive jurisdiction of a specialized circuit at the Cairo Court of Appeal.



Dubai, U.A.E

Arbitration Legislation

Within the DIFC, arbitration is governed by the recently enacted DIFC Arbitration Law 2008, which is based on the UNCITRAL Model Law on International Commercial Arbitration.

Outside the DIFC, UAE Civil Procedure Law of 1992 (CPL) applies. Many commentators consider the CPL an inadequate legal framework for arbitration, as it provides broad grounds on which an award debtor can resist enforcement. Further, if one party commences proceedings in the courts of the UAE, and the other party does not object to the court proceedings at the first hearing, then any alternative arbitration agreement that may have existed between the parties is deemed cancelled.

The CPL is under review, and a proposed reform was circulated in 2010 based on a hybrid of the UNCITRAL Model Law and Egyptian arbitration law. If enacted, it would repeal the current provisions of the CPL governing arbitration and would provide a new legal framework for arbitrations.

Approach of the Courts to Arbitration

The DIFC has its own courts of first instance and appeal which are staffed by a pool of international judges experienced in international arbitration. It is anticipated that these courts will be arbitration-friendly.

The UAE's courts are not as arbitration-friendly. Emblematic of this disposition is the decision of the UAE Court of Cassation in *Dubai Aviation Corporation v. Bechtel* (2004), in which the court annulled an arbitral award on grounds that the witnesses relied upon in the contested arbitration had not been properly sworn in.

Arbitration Institutions

There are two arbitration centres in Dubai. The first, within the DIFC, is the DIFC-LCIA, which operates in conjunction with the London Court of International Arbitration.

The second is the Dubai International Arbitration Centre (DIAC). The DIAC rules were amended in 2007 to make them more international. The new rules replaced the Rules of Commercial Conciliation and Arbitration of Dubai Chamber of Commerce and Industry No. (2) of 1994.

Interim Measures

DIFC rules permit a tribunal to order interim measures. Parties also have the power to request interim measures of relief from competent courts. *Ex parte* applications for preliminary orders are not permitted. In addition, a party to the arbitration may not apply to DIFC courts to overturn or modify an order or direction granted by the arbitral tribunal.

Under DIAC rules, the tribunal has the power to order interim measures, such as preservation of the subject matter of the dispute.

Confidentiality

DIFC rules state that the general rule is that all awards, orders, materials used, and documents produced in the proceedings are to be kept confidential pursuant to Article 41. Parties may contract out of this provision provided they do so in writing.

The DIAC rules have a similar provision.

Costs

Fees in DIFC-LCIA arbitrations, both administrative and arbitral, are calculated on an hourly basis.

DIAC fees operate according to a scale depending on value of the claim. This is a shift from the pre-2007 rules, which imposed hourly rates.

Grounds for Challenge

For parties seeking to challenge an award in the UAE, there are limited grounds on which a court can overturn an arbitral award. These include instances where (1) a party to arbitration lacks a legal basis to arbitrate; (2) the award exceeds the scope of the Tribunal's authority, and; (3) the award is contrary to public policy in the UAE.

Enforcement

The UAE is a party to the New York Convention, and thus arbitral awards issued in it are enforceable in other Convention states.

To enforce an award rendered in international arbitration in the UAE, the appropriate venue is the Abu Dhabi Federal Court of Appeal. An application must include a certified translation of the award if the original is not in Arabic. DIFC awards are currently more readily enforceable within the UAE, as they are not subject to challenge in Dubai courts (unlike arbitral awards obtained outside the DIFC).

Frankfurt, Germany

Arbitration Legislation

German arbitration law is contained in Book Ten of the German Civil Procedure Code (*Zivilprozessordnung, ZPO*), (text accessible in German, English, French, Russian, Spanish, and Chinese at www.dis-arb.de). The ZPO provisions govern all arbitration proceedings with their seat in Germany without distinguishing between domestic and international arbitration. The provisions are based on the UNCITRAL Model Law. They provide default provisions governing the constitution and powers of the arbitral tribunal, appointment of arbitrators, and general procedural rules.

German arbitration law has adopted a liberal and expansive view of the notion of arbitrable disputes, encompassing any claims involving an economic interest (*vermögensrechtliche Ansprüche*). Claims not involving an economic interest are arbitrable in limited circumstances.

To be enforceable, an arbitration agreement must meet specific formal requirements, inter alia that the arbitration agreement be contained either in a document signed by the parties or in an exchange of letters or other means of telecommunication providing for a record of the agreement. Even in the absence of a written agreement, however, an agreement to arbitrate can be found by the parties' participation in the substance of the dispute in the arbitral proceedings without having made an objection to jurisdiction. A party who has objected to jurisdiction is not thereby deprived of its right to defend the case on the merits on an alternative basis.

Approach of the Courts to Arbitration

German courts tend to be supportive of arbitration. In many of the German federal states (*Länder*) arbitration-related proceedings are often concentrated either at one Higher Regional Court (*Oberlandesgericht*) (e.g., Bavaria) or, if only one Higher Regional Court exists, at a special Civil Senate (*Zivilsenat*) of these courts (e.g., Frankfurt am Main in Hesse). In order to facilitate court proceedings in international commercial disputes, certain German courts (i.e., Higher Regional Court Cologne as well as the Regional Courts (*Landgerichte*) Aachen, Bonn and Cologne) even provide for special chambers or senates offering oral hearings in English. There are also legislative initiatives aiming at allowing, beyond that, oral as well as written court proceedings in English.

Arbitration Institutions

The most prominent German arbitration institution is the German Institution of Arbitration (*Deutsche Institution für Schiedsgerichtsbarkeit*, DIS).

Other important arbitration institutions in Germany are the Chinese European Arbitration Center (CEAC) and the Frankfurt International Arbitration Center (FIAC). The FIAC serves as a cooperation facility of ICSID for investment treaty arbitrations in Germany.

Interim Measures

The existence of an arbitration agreement does not prevent a court from granting, at the request of a party before or during arbitral proceedings, interim measures relating to issues in dispute in the arbitral proceedings.

Unless agreed otherwise, the arbitral tribunal may, at the request of a party, order such interim measures as it may consider necessary relating to the subject-matter of the dispute. Orders for interim measures issued by an arbitral tribunal are not enforceable as such and a party must apply to a court for enforcement.

Confidentiality

Since German arbitration law does not provide for confidentiality, the parties should consider making provision for confidentiality in the arbitration agreement.

Costs

The basic rule is that failing party agreement, the arbitral tribunal shall allocate the costs of the arbitration as between the parties at its discretion whilst considering the circumstances of the case, in particular the outcome of the proceedings. Recoverable costs include costs incurred by the parties necessary for the proper pursuit of their claim or defence, costs of the arbitrators, and legal fees.

Grounds for Challenge

There are limited grounds upon which an arbitral award may be set aside (e.g., incapacity of the party to the arbitration agreement, matter not covered by a valid arbitration agreement, applicant was unable to present its case due to lack of proper notice, irregularities with respect to the composition of the arbitral tribunal or the arbitral procedure, conflicts with German public policy). A party can only apply to the German courts if the award was rendered in Germany. Unless agreed otherwise, an application for setting aside can only be made within three months of the applicant receiving the award.

Enforcement

Germany is a party to the New York Convention (with no reciprocity or territorial reservations), as well as other several multilateral conventions and bilateral agreements relating to foreign arbitral proceedings, and recognition and enforcement of awards. Being also based on the New York Convention, the German provisions for enforcement of domestic awards are substantially the same as for foreign awards. According to case law, German statutory provisions, which are more enforcement friendly, take precedence over the New York Convention in certain circumstances (e.g., in relation to translation requirements).

Geneva and Zurich, Switzerland

Arbitration Legislation

Domestic arbitration is governed by the Inter-Cantonal Concordat on Arbitration of 27 March 1969. International arbitration is governed by Chapter 12 of the Federal Private International Law Act of 18 December 1987. While not expressly based on the UNCITRAL Model Law, the provisions are in effect broadly the same.

The Swiss Law of international arbitration emphasises both party autonomy and the discretion of the arbitral tribunal for all matters which have not been decided by the parties.

Approach of the Courts to Arbitration

Generally the courts in Switzerland are supportive of arbitration.

Arbitration Institutions

The most prominent arbitration institutions in Switzerland are the Swiss Chambers (an arbitration institution formed by six major Swiss Chambers of Commerce) which administer arbitrations under the Swiss Rules of International Arbitration.

Interim Measures

Both the courts (before and after the arbitration proceedings have been initiated), and the arbitral tribunal may order provisional or conservatory measures. Swiss law does not provide for a limited list of provisional measures.

Confidentiality

The Swiss law of arbitration is silent on confidentiality. The issue of confidentiality in arbitration remains discussed among practitioners. Parties therefore often include a confidentiality clause in the arbitration agreement.

Costs

There are no rules governing the allocation of costs. The arbitral tribunal is free to allocate costs as it deems reasonable. However, the general practice in Switzerland is "costs follow the event", i.e., the losing party pays the other party's reasonable costs and expenses including the arbitrator's fees.

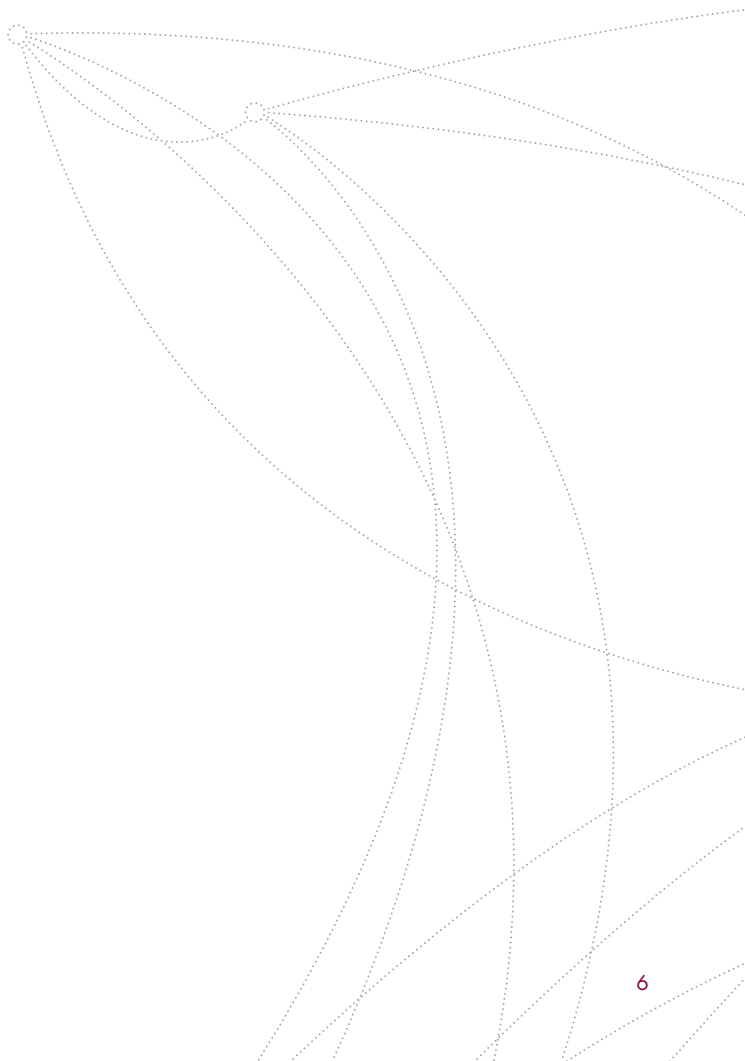
Grounds for Challenge

Arbitration awards are final and may not be appealed on the merits. According to article 190(2) of the 1987 Act, there are limited grounds upon which an arbitration award may be set aside (e.g., the arbitral tribunal was incorrectly constituted or appointed, the arbitral tribunal wrongly assumed or denied jurisdiction, the arbitral tribunal decided beyond the claims submitted to it or failed to decide one of the claims, the principles of equal treatment or right to be heard were infringed, the award is in violation of public policy).

Non-Swiss parties may in their arbitration agreement (or a subsequent agreement) exclude or limit the right to apply to set aside an award.

Enforcement

Switzerland has signed and ratified the New York Convention and withdrew its reciprocity reservation in 1993. Non-Swiss arbitration awards may therefore be enforced in Switzerland regardless of the country in which the award was issued.



Hong Kong

Arbitration Legislation

On 10 November 2010 Hong Kong's Legislative Council passed the Hong Kong arbitration bill, which extended the UNCITRAL Model Law (with minor modifications) to international and domestic disputes. The previous arbitration law was a hybrid regime in which the UNCITRAL Model Law applied only to international disputes, with domestic disputes subject to the English Arbitration Acts under which a court had greater authority to supervise and intervene. The Model Law enacted encompasses the 2006 amendments, which include important provisions for addressing tribunal-ordered interim measures and confirming the legitimacy of electronic agreements to arbitration.

The new law entered into force in 1 June 2011.

Approach of the Courts to Arbitration

Generally, the local courts in Hong Kong are supportive of arbitration and have adopted a hands-off approach. Only in limited circumstances will the court intervene to assist arbitration proceedings.

Arbitration Institutions

The Hong Kong International Arbitration Centre (HKIAC), established in 1985, is widely regarded as one of the two most credible arbitration centres in Asia, with the other being the Singapore International Arbitration Centre.

Interim Measures

The courts' powers have recently been extended to allow them to grant interim relief in relation to foreign proceedings. Under the new legislation, in relation to arbitration proceedings that have been or are to be commenced in a place outside Hong Kong, a Hong Kong court may make an order granting an interim injunction or other interim measure, if the arbitration proceedings are capable of giving rise to an arbitral award which may be enforced in Hong Kong.

Confidentiality

Generally, arbitration is a private process. Privacy is protected by the various procedural rules. Notwithstanding that, a successful party can generally disclose details of the award for the purposes of enforcing it, subject to statutory restrictions. Parties may, however, provide in their arbitration agreement for complete confidentiality.

Costs

For administrative services, the HKIAC imposes a flat fee based on the value of the claim. Arbitral compensation is not set by the centre, though it will consult with a tribunal in an effort to facilitate a fee arrangement.

In Hong Kong arbitrators usually act on the basis that the unsuccessful party should cover at least part of the successful party's reasonable costs.

Grounds for Challenge

Hong Kong law adopts the limited grounds for setting aside an award contained in the Model Law. Error of law is not a ground for challenge.

Enforcement

The New York Convention applies to Hong Kong and arbitral awards obtained in another contracting state are enforceable in Hong Kong, where the courts have generally shown a pro-enforcement bias.

Hong Kong has traditionally taken a tough line in relation to enforcement of awards. In the April 2009 decision of *A v R*, the High Court rejected a losing party's attempt to resist an arbitration award being enforced in Hong Kong. The unsuccessful party was penalised in costs. The decision sends out a strong message that unless the challenging party has serious grounds for resisting enforcement under the New York Convention, the court will consider a heavier than usual costs order against an unsuccessful party seeking to resist enforcement.

London, England

Arbitration Legislation

The Arbitration Act 1996 governs all arbitrations seated in England and Wales or Northern Ireland. It was enacted with the intention of making arbitration law more accessible and user-friendly, and to bring English law into line with modern standards in international arbitration. It follows the broad structure of the UNCITRAL Model Law and uses similar language.

The key principles of the Act are that arbitration should resolve disputes fairly, impartially and without unnecessary delay or expense, and with minimum intervention by the courts. The underlying policy is that of party autonomy, such that parties are free to agree on the arbitration procedure subject to mandatory exceptions in certain well-defined areas. The Act supports arbitrations both by setting out minimum mandatory rules on matters such as the duties of an arbitrator, the powers of the court to remove arbitrators, and challenges to and enforcement of awards, and by supplying a range of default procedural rules, which apply where the parties have not made any specific agreement on the procedure to be followed.

Approach of the Courts to Arbitration

The English courts take an openly pro-arbitration stance. An expansive, anti-formalist approach to the interpretation of arbitration agreements was confirmed recently by the House of Lords (the *Premium Nafta* judgment). Conversely, a strict approach is taken to the grounds for challenge of an arbitral award.

Arbitration Institutions

London is home to the London Court of International Arbitration (LCIA) and a range of sector-specific arbitration institutions and trade and commodities associations, each with their own rules and procedures. The arbitration rules of these bodies typically require arbitration to be held in London. They include:

- AIDA Reinsurance and Insurance Arbitration Society (ARIAS);
- London Maritime Arbitration Association (LMAA);
- Federation of Oils, Seeds and Fats Association (FOSFA);
- Grain and Feed Trade Association (GAFTA); and
- London Metal Exchange (LME).

Interim Measures

The courts' supportive attitude is backed by real and effective statutory powers. Under the Act, the courts have power to grant orders in support of arbitration, including orders for the protection of evidence or property, or "anti-suit injunctions" to prevent parties bringing court proceedings in breach of an agreement to arbitrate. The latter power has been limited in the EU context by the European Court of Justice's recent decision in *West Tankers*, but the courts' readiness to exercise the jurisdiction in appropriate circumstances outside the EU is unaffected.

Confidentiality

Recognising that confidentiality is an indispensable feature of the arbitration process, the courts have evolved a firm common law rule that all documents produced in or created for the purpose of arbitration proceedings are confidential, subject only to certain limited exceptions.

Enforcement

Under the Act, an award made by a tribunal in England and Wales or Northern Ireland can be enforced in the UK in the same way as a court order or judgment. Enforcement outside the UK is facilitated by the UK's being party to the New York Convention. A party against whom it is sought to enforce an award may resist enforcement only on limited and specified grounds provided for in the Act, and may lose the right to resist enforcement in certain circumstances (e.g. in relation to a plea that the tribunal lacked substantive jurisdiction, where the party failed to raise the point before the tribunal).

Mauritius

Arbitration Legislation

International and domestic arbitration are governed by separate regimes. International arbitration is governed by the 2008 International Arbitration Act, which is largely based on the 1985 UNCITRAL Model Law, but incorporates some elements of the English Arbitration Act and certain of the 2010 amendments to the Model Law. Domestic arbitration is governed by the Civil Procedure Code.

Approach of the Courts to Arbitration

New civil procedure rules are currently being drafted to make Mauritian courts more arbitration-friendly. Generally, the courts are considered favourable to arbitration.

Arbitration Institutions

The main arbitration centre in Mauritius is the Mauritius Chamber of Commerce and Industry (MCCI) Permanent Court of Arbitration. The International Arbitration Act reserves certain administrative functions to the MCCI Permanent Court, such as the appointment of arbitrators, rulings on challenges to arbitrators and the determination of fees to be paid to the tribunal. There has also been an agreement for a joint venture among LCIA, the Government of Mauritius and the Mauritius International Arbitration Centre Limited for the establishment of LCIA-MIAC. The ICC's revised Rules of Arbitration entered into force on 1 January 2012.

Interim Measures

Interim relief remains within the purview of the courts; applications are decided by a three-judge bench of the Mauritian Supreme Court. Interim relief is only granted once it has been shown that there is genuine urgency and that the arbitration tribunal will be unable to act. Interim measures ordered by foreign courts may be enforced on application to the Supreme Court.

Confidentiality

The International Arbitration Act contains no express provision for confidentiality. The parties may include specific provisions within their arbitration agreement.

Grounds for Challenge

Grounds for challenge to arbitrators are those set down in the Model Law. Challenges are heard by three judges of the Supreme Court, with an automatic right of appeal to the Privy Council.

Enforcement

Mauritius is a party to the New York Convention. Mauritian courts have responded favourably to the enforcement of foreign awards within Mauritius.

Moscow, Russia

Arbitration Legislation

Two statutes regulate arbitration proceedings: the Law on International Commercial Arbitration of 1993, which is the primary statute governing international arbitration (the International Arbitration Law); and the Federal Constitutional Law on Arbitral Tribunals in the Russian Federation of 1995, governing the system of national commercial courts and arbitration of domestic disputes (the Domestic Arbitration Law). In addition, there is the Arbitration Procedural Code of 2002, governing proceedings before the national commercial courts. The International Arbitration Law, unlike the Domestic Arbitration Law, is based on the UNCITRAL Model Law.

Approach of the Courts to Arbitration

The approach of the Russian courts to arbitration is reported as being variable between regions and levels of court.

Arbitration Institutions

The most prominent arbitration institutions in Russia are the International Commercial Arbitration Court (ICAC) at the Chamber of Commerce and Industry (CCI) of the Russian Federation; and the Maritime Arbitration Commission (MAC) at the CCI.

Interim Measures

Under the International Arbitration Law and the ICAC Rules, an international arbitral tribunal may, at the request of any party to a dispute, order another party to take such interim measures of protection in respect of the subject matter of the dispute as it considers appropriate. In the ICAC context, such interim measures of protection usually take the form of an interim award. However, an award of interim measures is not subject to compulsory enforcement in the state courts. Therefore, when seeking interim measures, it is often more advantageous for the request to be made to a court rather than the arbitral tribunal.

The issue of whether a Russian court may order interim measures to support international arbitration, especially with a seat outside the Russian Federation, was not clear until recently. In April 2010, the Presidium of the High Arbitration Court of the Russian Federation issued a decision concluding that Russian courts may order interim measures in aid of international commercial arbitration.

Confidentiality

The International Arbitration Law does not address the issue of confidentiality. There is therefore no statutory requirement to keep arbitral proceedings and awards confidential unless the parties agree otherwise. However, the ICAC Rules provide that the arbitrators, reporters, experts appointed by the arbitral tribunal, ICAC and its staff, the CCI of the Russian Federation and its staff must refrain from disclosing information about disputes settled by ICAC, which they become aware of and which may impair the legitimate interests of the parties.

Costs

The International Arbitration Law requires the arbitral tribunal to allocate fees and costs between the parties in the written award. However, the International Arbitration Law does not provide specific rules for such an allocation. Russian domestic procedure provides for the allocation of fees and costs to the winning party "within reasonable limits." In making its allocation decision, the arbitral tribunal may be guided by the Schedule of Arbitration Fees and Costs attached to the ICAC Rules.

Grounds for Challenge

An international arbitral award made in Russia may be set aside by a Russian court on the basis of one or more of the grounds in Article 34 of the International Arbitration Law. Those grounds include (i) incapacity of one of the parties to the arbitration agreement; (ii) invalidity of the contract; (iii) failure to properly inform a party of the arbitration proceedings or depriving a party in some other way of the opportunity to present its arguments; (iv) where the award dealt with matters beyond the scope of the arbitration agreement; and (v) where the composition of the tribunal, or the arbitration procedure, was not in compliance with the parties' agreement.

Certain of the grounds for invalidity of an award, including lack of arbitrability of the subject-matter of the dispute and breach of Russian public policy, are mandatory grounds which the parties may not contract out of.

Enforcement

Russia is a party to the New York Convention, as successor of the Soviet Union, subject to the reciprocity reservation.

New York and Washington, D.C., USA

Arbitration Legislation

Arbitrations seated in New York are governed either by the New York Civil Practice Law and Rules, or by the Federal Arbitration Act (FAA). The latter governs whenever the matter in dispute qualifies as either a maritime transaction or one involving interstate or foreign commerce. Those categories are very broad and will encompass most international disputes.

Both statutes reflect a policy strongly favoring arbitration and make agreements to arbitrate valid and enforceable unless infected by fraud or similar grounds for rescission. They provide similar procedures for compelling arbitration, staying court litigation of arbitrable disputes, and applying to courts to confirm or vacate arbitration awards, and similar grounds for vacating or modifying awards. The main differences between the New York Act and the FAA lie in the standards of review and the determination of the statute of limitations period.

Arbitration Institutions

Arbitration institutions active in the United States include the American Arbitration Association (AAA), JAMS and the CPR Institute for Dispute Resolution. Specialist institutions with extensive arbitration programs include the New York Stock Exchange and the National Association of Securities Dealers.

Confidentiality

The American Bar Association's Code of Ethics for Arbitrators in Commercial Disputes provides guidance on ethical issues related to arbitration. Some arbitration institutions provide for confidentiality of the proceedings: for example, Article 27 of the ICDR rules provides that confidential information disclosed during the proceedings shall not be divulged by an arbitrator or the administrator. The CPR rules also make provision for confidentiality. However, other organizations do not make express provision. The parties should therefore consider providing for confidentiality in their agreement. Even in the absence of an express provision in the arbitration agreement, arbitrators may make appropriate confidentiality orders.

Costs

Arbitrator fees and related costs are generally split between the parties, subject to the parties expressly agreeing how the costs are to be borne. In the award, the tribunal may assess fees, expenses, and compensation among the parties as it deems appropriate. The award can include interest from the date the tribunal deems appropriate, and attorneys' fees if all parties have requested such an award or if it is authorized by law or by their arbitration agreement.

Enforcement

The United States has ratified the New York Convention.

Paris, France

Arbitration Legislation

Domestic and international arbitration proceedings seated in France are governed by articles 1442 to 1527 of the French Code of Civil Procedure. France chose not to adopt the UNCITRAL Model Law, but French arbitration law is broadly in line with the general principles of the Model Law.

A key feature of French arbitration legislation is a strong emphasis on party autonomy. The parties are free to organize their arbitration as they see fit, subject only to minimal standards of due process. The parties can therefore chose their arbitrators the language of the arbitration and the rules of law they wish to apply.

Approach of the Courts to Arbitration

The French courts are actively supportive of arbitration, and refuse to intervene in any dispute where an arbitration clause may apply.

The Paris Civil Court (Tribunal de Grande Instance) includes specialized judges who hear all applications relating to the appointment of arbitrators or the commencement of arbitral proceedings.

The Paris Court of Appeal also has a specialized section that deals expeditiously with all proceedings relating to international arbitration.

Arbitration Institutions

The most prominent international arbitration institution in France is the International Court of Arbitration of the ICC.

Interim Measures

Before arbitration proceedings have been initiated, the parties can resort to the *juge des référés* (i.e., the judge competent to decide on urgent matters). The *juge des référés* can order measures such as fact-finding measures (often appointment of a court expert), conservatory measures aimed to protect the enforcement of any future award, and any conservatory measure necessary to prevent irreparable harm.

After arbitration proceedings have been initiated, arbitral tribunals may grant a wide range of interim measures, except freezing orders and security, which remain the exclusive competence of the courts. A tribunal will typically order interim measures in the form of an interim award which will be enforced by the courts.

Confidentiality

Arbitration proceedings in France are subject to the principle of confidentiality. This may be provided for in the arbitration agreement. The parties can by agreement reinforce the confidentiality principle in respect of certain elements of the arbitration, or indeed limit its application.

Costs

There are no statutory rules governing the allocation of costs. The arbitral tribunal is free to allocate costs as it deems reasonable. However, the general practice in France is that the losing party pays the other party's costs and expenses, including the arbitrator's fees.

Grounds for Challenge

Arbitration awards are final and may not be appealed on the merits, unless the parties agree otherwise.

A party may apply for an arbitration award to be set aside on the basis of the limited grounds contained in Article 1492 of the Code of Civil Procedure. These grounds include where a tribunal has wrongly assumed jurisdiction, irregularity in the constitution of the arbitral tribunal, failure by the tribunal to comply with the terms of reference, failure to give one party an opportunity to present its case, and violation of a rule of international public policy.

Enforcement

France has signed and ratified the New York Convention (subject to a reciprocity reservation). Foreign arbitration awards may therefore be enforced in France regardless of the country in which the award was issued.

Singapore

Arbitration Legislation

International arbitrations in Singapore are governed by the International Arbitration Act, Cap. 143A, which is expressly based on the 1985 UNCITRAL Model Law.

The International Arbitration Act establishes that to a large extent the parties are free to agree on the procedures to be followed by the arbitral tribunal in conducting the proceedings, subject only to a small number of mandatory procedural rules. The default rules set out in the 1985 UNCITRAL Model Law apply if the arbitration agreement is silent, or if parties are unable to agree on which set of procedural rules to apply.

The International Arbitration (Amendment) Act 2009, which came into force on 1 January 2010, incorporated some of the key amendments that were introduced by the 2006 UNCITRAL Model Law.

Approach of the Courts to Arbitration

In general, the Singapore courts have adopted a hands-off approach with regards to arbitration to support Singapore's efforts in encouraging the use of the arbitral process to resolve commercial disputes, especially in disputes which involve international parties.

Arbitration Institutions

The most prominent arbitration institution in Singapore is the Singapore International Arbitration Centre (SIAC).

Interim Measures

Since the coming into force of the 2009 Act, the Singapore Courts have power to grant interim orders in aid of international arbitration, irrespective of whether Singapore is the place of arbitration. This amendment is in line with Article 17J of the 2006 UNCITRAL Model Law.

The scope of the new powers is limited to interim measures in support of arbitration, for example interim injunctions to preserve assets. They do not extend to procedural or evidential matters dealing with the actual conduct of the arbitration itself – like discovery, interrogatories, or security for costs. These procedural matters fall within the province of the arbitral tribunal and must be decided by the tribunal itself.

Confidentiality

Courts in Singapore recognise that arbitration is confidential in nature and it is therefore a term that the courts will imply into the arbitration agreement. Confidentiality covers the arbitration proceedings and any documentation generated in or obtained during the arbitration, subject to an implied exception where disclosure is reasonably necessary. Confidentiality will also apply to the arbitral award when a successful party is seeking to register the award and enforce it.

Costs

The general practice in Singapore is that costs follow the event, i.e., the losing party pays the other party's reasonable costs and expenses including the arbitrator's fees.

Grounds for Challenge

For international arbitrations there is no right of appeal to a court on a question of law against an award made by an arbitral tribunal. Under the International Arbitration Act, an award can only be challenged by way of an application to have it set aside. The grounds for such an application are limited. They include the invalidity of the arbitration agreement, breach of public policy in the award, decision on matters beyond the scope of the submission to arbitration, non-arbitrability of the subject matter of the dispute, and breach of the rules of natural justice. The International Arbitration Act is silent on whether parties can exclude a right to have the award set aside.

Enforcement

Singapore has ratified the New York Convention; therefore an arbitral award made in Singapore is enforceable in most other jurisdictions. Likewise, foreign awards can be enforced in a Singapore court either by action or, if the New York Convention applies, by entering them as judgments or orders of the High Court.

Stockholm, Sweden

Arbitration Legislation

The Swedish Arbitration Act of 1999 governs domestic and international arbitration proceedings sited in Sweden. The Swedish Arbitration Act is, in substance, broadly similar to the UNCITRAL Model Law.

The Swedish Arbitration Act provides that the arbitrators shall handle the dispute in an impartial, practical and speedy manner. The Act contains very few rules governing procedure, such that the procedural steps adopted are to a large extent left to the parties and the arbitrators to decide.

Approach of the Courts to Arbitration

Generally the courts in Sweden are supportive of arbitration.

Arbitration Institutions

The most prominent arbitration institution in Sweden is the Arbitration Institute of the Stockholm Chamber of Commerce (SCC Institute).

Interim Measures

An order for interim measures issued by an arbitral tribunal is not enforceable; so when seeking interim measures it is often more advantageous for the request to be made to a court rather than the tribunal.

The new (2009) SCC Institute General Rules state that the tribunal can order interim measures in the form of an award, which may facilitate enforcement.

Confidentiality

Under the Swedish Arbitration Act the parties are not under a general duty of confidentiality. Whilst there are certain other statutory obligations which may preserve confidentiality, if complete confidentiality is desired consideration should be given to including a confidentiality clause in the arbitration agreement.

Costs

The general practice in Sweden is costs follow the event, i.e., the losing party pays the other party's reasonable costs and expenses including the arbitrator's fees.

Grounds of challenge

Arbitration awards are final and may not be appealed on the merits. There are limited grounds upon which an arbitration award may be set aside (e.g., the matter is not covered by a valid arbitration agreement, the tribunal has exceeded its mandate, or irregularity in the course of the proceedings that is presumed to have affected the outcome). Non-Swedish parties may limit or exclude these grounds for setting aside an award.

There are certain mandatory grounds upon which an award will be deemed "invalid", which may not be contracted out of (in brief: issue not arbitrable under Swedish law; violation of Swedish public policy; award not in writing or not signed by a majority of the arbitrators).

Enforcement

Sweden has signed and ratified the New York Convention with no reservations, so non-Swedish arbitration awards may be enforced in Sweden regardless of the country in which the award was issued.

Vienna, Austria

Arbitration Legislation

Arbitration proceedings in Austria are governed by sections 577 to 618 of the Austrian Code of Civil Procedure (*Zivilprozessordnung*, *ZPO*) which are primarily based on the UNCITRAL Model Law and apply to both domestic and international arbitrations. The ZPO was last amended by the 2006 Arbitration Act.

Recognition and enforcement of arbitral awards is governed by the Austrian Enforcement Act (*Exekutionsordnung*, *EO*), which provides for separate procedures for the enforcement of domestic and foreign awards.

To be enforceable, an arbitration agreement must meet specific formal requirements under Austrian arbitration law; it must, *inter alia*, be contained either in a document signed by the party or be concluded by current or future means of telecommunication providing for a record of the arbitration agreement. However, any defects of form are cured if the defect is not raised, at the latest, together with the defence on the merits (*Einlassung in die Sache*).

The constitution and jurisdiction of the arbitral tribunal is a matter for agreement of the parties or, failing that, default procedural rules.

Approach of the Courts to Arbitration

Austrian courts generally look favourably upon arbitration.

Arbitration Institutions

The International Arbitral Centre of the Austrian Federal Economic Chamber (VIAC) is the most prominent arbitration institution in Austria. Historically, the VIAC gained importance in administering disputes arising out of East-West business relationships.

Interim Measures

Arbitrators may order interim measures of protection against a party to an arbitration agreement. Such interim measures are enforceable in Austria by the state courts in the same way as interim measures ordered by the courts. Either before or during arbitral proceedings, the courts may grant any type of interim relief provided for in the Enforcement Act. Since an arbitral tribunal can only order an interim measure of protection "*after hearing such party*" it follows that *ex parte* interim measures are excluded from the jurisdiction of arbitral tribunals. The parties can exclude the power of an arbitral tribunal to grant interim measures of protection by agreement.

Confidentiality

Since Austrian arbitration law does not provide for confidentiality the parties should consider making provision for confidentiality in the arbitration agreement.

Costs

The new arbitration law contains detailed provisions concerning the decision on the costs of arbitration. As a basic principle, upon termination of the arbitral proceedings the arbitral tribunal shall decide upon the obligation to reimburse costs of the proceedings provided that the parties have not agreed otherwise. When considering the circumstances of the case and in particular the outcome of the proceedings, the arbitrators are free to determine the costs of arbitration and to apportion these among the parties as they deem justified. Recoverable costs include any and all reasonable costs appropriate for the proper pursuit of the action or defence, costs of arbitrators, administrative costs of arbitral institutions (if any), and legal fees.

A tribunal also has the power to order that a respondent be reimbursed his costs if the tribunal denies its jurisdiction on the grounds that there is no arbitration agreement.

Grounds for Challenge

Arbitral awards are final and may not be appealed on the merits unless the parties agree on a two-tier system with a second arbitral instance for review on the merits.

Within three months of receiving the award each party may file an application for setting aside an award on grounds including, *inter alia*, lack of a valid arbitration agreement or denial of the arbitral tribunal's jurisdiction despite the existence of a valid agreement, violation of the right to be heard or to present one's case, irregularities with respect to the composition of the arbitral tribunal or the arbitral procedure, conflicts with Austrian public policy or lack of arbitrability of the subject-matter.

Enforcement

A domestic arbitral award is - upon confirmation of enforceability by the arbitral tribunal on the award - enforceable as such and has the status of a final and binding decision of the civil courts. An *exequatur* by a state court is, therefore, neither necessary nor does it exist under Austrian law.

The enforcement of foreign arbitral awards in Austria requires a declaration of leave to enforce. Austria is a party to the New York Convention (without the reciprocity reservation) as well as several other multilateral conventions.

Arbitral Institutions

China International Economic and Trade Arbitration Commission (CIETAC)

The China International Economic and Trade Arbitration Commission (CIETAC) is the largest arbitration institution in the People's Republic of China. CIETAC is located in Beijing with sub-commissions in Shanghai and Shenzhen and liaison offices in many other cities.

The CIETAC arbitration rules, adopted in 1994, are used in most foreign-related arbitrations. They were revised in 1998, 2000 and, most recently, 2005, in an effort to bring the institution's practices up to date with other international arbitration institutions. Some examples of recent reforms include party autonomy to select a non-CIETAC arbitrator as well as the option to select between adversarial- and inquisitorial-style proceedings.

CIETAC rules have the following key features:

- Power for the tribunal to award costs
- Provision for challenges to arbitrators
- Express exclusion of the Tribunal's power to order interim measures - application must be made to CIETAC who will forward to the relevant Court.

In 2007, CIETAC received 1,118 new arbitration references, nearly twice as many as the ICC in Paris.

Cairo Regional Centre for International Commercial Arbitration (CRCICA)

The Rules of CRCICA are modelled on the (1976) UNCITRAL Arbitration Rules with minor amendments.

CRCICA rules have the following key features:

- Provision for an arbitral tribunal to order interim measures;
- Provision for confidentiality; and
- Administrative costs and arbitrators' fees are a set according to the value of the claim.

Dubai International Arbitration Centre (DIAC)

The Dubai International Arbitration Centre (DIAC) rules were amended in 2007 to make them more international. The new rules replaced the Rules of Commercial Conciliation and Arbitration of Dubai Chamber of Commerce and Industry No.2 of 1994.

DIAC rules permit a tribunal to order interim measures and make express provision for confidentiality.

DIAC fees operate according to a scale depending on value of the claim.

Dubai International Financial Centre - LCIA

The Dubai International Financial Centre - LCIA operates within the DIFC. DIFC rules permit a tribunal to order interim measures and make express provision for confidentiality.

Fees in DIFC-LCIA arbitrations, both administrative and arbitral, are calculated on an hourly basis. DIFC awards are currently more readily enforceable within the UAE, as they are not subject to challenge in Dubai courts (unlike arbitral awards obtained outside the DIFC).

German Institute of Arbitration (DIS)

The German Institution of Arbitration was established in 1974 by a consortium of trade associations and arbitration practitioners.

The DIS offers an administered arbitral procedure for parties who have agreed to settle their disputes according to the DIS Arbitration Rules (accessible in German, English, French, Spanish, Russian, Turkish, and Chinese at www.dis-arb.de). It aims to provide as much autonomy as possible to the parties whilst the DIS branch offices (Berlin, Cologne and Munich) assist the parties throughout the whole process. The current DIS Arbitration Rules, in force since 1 July 1998, follow in major aspects German arbitration law. The DIS also provides a set of Supplementary Rules for Expedited Proceedings (Fast Track Proceedings). If the parties agree on these Supplementary Rules, the DIS Arbitration Rules remain applicable to the proceedings to the extent that the Supplementary Rules do not contain more specific provisions.

Under the DIS Arbitration Rules parties are free to choose their arbitrators. The DIS makes, upon request, recommendations for the selection of arbitrators.

The DIS Arbitration Rules contain a very broad confidentiality provision applicable to the parties, the arbitrators and the DIS Secretariat. Persons acting on behalf of any person involved in the arbitral proceedings are bound by the confidentiality rule.

The fees for arbitrators are determined on the basis of the amount in dispute according to Schedules of Costs. The current Schedule of Costs came into force on 1 January 2005. The DIS also offers guidelines for the reimbursement of expenses of arbitrators under the DIS Arbitration Rules.

Swiss Chambers' Court of Arbitration and Mediation

The Swiss Chambers' Court of Arbitration and Mediation was established in 2004 to administer arbitrations under the Swiss Rules of International Arbitration.

Since the creation of the Swiss Chambers, 150 cases have been conducted. 50% of the parties were from Western Europe, 23% from Switzerland, 6% from Eastern Europe and Russia, 10% from Asia/Middle East and 5% from North America.

The Swiss Chambers determine the fees of the arbitral tribunal and the administrative fee of the Chambers based on the amount in dispute, i.e., the total value of all claims and counterclaims.

The Swiss Rules, which came into force on 1 January 2004, give the parties freedom to choose the arbitrators, the place of arbitration and the applicable rules of law. As to confidentiality, they provide that, unless agreed otherwise by the parties, the parties and the arbitral tribunal shall maintain confidentiality of the arbitration and the award. This undertaking also applies to the arbitrators, the tribunal-appointed experts, the secretary of the arbitral tribunal and the Chambers.

Section V of the Swiss Rules provides for an expedited arbitral procedure. Under article 42 of the Swiss Rules, this procedure is compulsory for disputes involving amounts in dispute of less than CHF 1 million. If the parties so agree, the procedure is also available for disputes involving larger sums. The procedure is popular for its cost-effectiveness and speed. The Swiss Rules are currently under review and new Rules are expected to be published in 2012.

Hong Kong International Arbitration Centre (HKIAC)

Established in 1985, the Hong Kong International Arbitration Centre administers a variety of disputes, most typically large commercial disputes.

The HKIAC administers arbitrations under various sets of Rules, including the Domestic Arbitration Rules, the Short Form Arbitration Rules and (most commonly) the Procedures for the Administration of International Arbitration. The latter are designed for use in conjunction with the UNCITRAL Arbitration Rules. The HKIAC also acts as appointing authority to appoint arbitrators from its own panels.

London Court of International Arbitration (LCIA)

The London Court of International Arbitration has existed since the late nineteenth century and is one of the world's leading arbitration institutions. Its international case load continues to grow, and in 2008 it took on 215 new cases.

The distinguishing features of LCIA arbitration include the following:

- Arbitrators' fees and administrative fees based on hourly rates, rather than by reference to the sums in dispute;
- No formal Terms of Reference procedure; and
- No scrutiny of the final award. The LCIA Arbitration Rules are expected to be updated in 2012.

International Center for Dispute Resolution (ICDR)

The International Center for Dispute Resolution (ICDR) (http://www.adr.org/icdr) was established by the American Arbitration Association (AAA) in order to administer the AAA's international matters. ICDR arbitrations are governed by the International Dispute Resolution Procedures and International Arbitration and Mediation Rules (http://www.adr.org/sp.asp?id=33994).

International Institute for Conflict Prevention and Resolution (CPR)

The International Institute for Conflict Prevention and Resolution (http://www.cpradr.org/) is a nonprofit organization based in New York City, which serves as a multinational resource for avoidance, management, and resolution of business-related and other disputes.

CPR promotes systematic early dispute resolution and establishes a flexible framework for helping to resolve complex multi-party disputes. CPR promotes the "ADR Pledge," a pledge to consider alternatives to litigation when disputes arise with other signatories, which has been signed by more than 4,000 operating companies and more than 1,500 law firms.

CPR maintains a list of prospective neutrals and their resumes, categorized by industry, practice area, and expertise. CPR assists clients in identifying the right neutral with the particular expertise necessary for each case, but does not "administer" cases in the general sense.

Typically, once a neutral is selected and a procedure has begun, the matter is administered by the neutral and CPR's role is extremely limited.

Judicial Arbitration and Mediation Services, Inc. (JAMS)

JAMS (http://www.jamsadr.com/) is a large private alternative dispute resolution provider, which specializes in mediating and arbitrating complex, multi-party, business and commercial cases. JAMS offers more than 250 full-time mediators and arbitrators ("neutrals") who handle an average of 10,000 cases per year, in different locations throughout the world.

JAMS provides a full range of ADR mechanisms, including facilitative and evaluative mediation, binding arbitration, neutral case evaluation, settlement conference, minitrial, summary jury trial, neutral expert fact finding, special master, discovery referee, class action settlement adjudication, project neutral, and dispute review board services.

JAMS has a specific set of arbitration rules applicable to international matters. The JAMS International Arbitration Committee, composed of former judges and lawyers experienced in international arbitration, deals with issues such as challenges to and replacement of arbitrators.

International Chamber of Commerce (ICC)

The ICC International Court of Arbitration was established in 1923. The Court is one of the world's leading institutions for resolving international commercial and business disputes.

The total number of cases handled by the Court since it was founded is more than 16,000. In 2008 alone, 663 cases were filed, involving 1,758 parties from 120 countries.

The ICC Court determines the fees of the arbitral tribunal and the administrative fee of the ICC based on the amount in dispute i.e., total value of all claims and counterclaims.

The ICC applies the ICC Rules of Arbitration in force as from 1 January 2012. Some of the most significant changes brought into effect by the 2012. Rules include: provisions on joinder, multi-party proceeding, the appointment of an emergency arbitrator, an express provision that states that only the ICC Court is authorized to administer arbitration under ICC Rules, and various provisions aimed at insuring the proceedings are dealt with cost-efficiently and expediently. Under the ICC Rules, the parties are free to choose the arbitrators, the place of arbitration and the applicable rules of law.

A key feature of ICC arbitration is that all awards are scrutinised by both the ICC Secretariat and the International Court of Arbitration before being issued. This process is intended to maintain the quality of ICC awards.

The ICC has also enacted Rules for a Pre-arbitral Referee Procedure which enable parties who have agreed to apply the procedure to seek urgent measures from a referee before the constitution of the arbitral tribunal.

International Commercial Arbitration Court at the Chamber of Commerce and Industry at the Russian Federation (ICAC)

ICAC is a successor to the Arbitration Court at the Chamber of Commerce and Industry of the USSR which was established in 1932. It is an independent, permanently functioning arbitral institution. ICAC is not a part of the judicial system of the state. It operates in accordance with the Russian Federation Law of 1993 on International Commercial Arbitration, which contains the Statute of the ICAC in an Annex, and the ICAC Rules (http://www.tpprf-mkac.ru/en/2010-06-13-13-33-51/regleng).

In accordance with the International Arbitration Law, ICAC may resolve two types of disputes: those arising in the course of foreign trade, provided the place of business of one of the parties is situated abroad, and disputes arising in connection with activity of enterprises with foreign investments, international organizations and associations based in the Russian Federation. ICAC also resolves disputes which are subject to its jurisdiction by virtue of international treaties and agreements involving the Russian Federation or USSR.

Every five years, the Chamber of Commerce approves a list of arbitrators which includes more than 100 specialists, some of them foreign citizens.

Singapore International Arbitration Centre (SIAC)

The majority of arbitrations involving large commercial disputes in Singapore take place under the auspices of the Singapore International Arbitration Centre (SIAC). Its procedural rules, the SIAC Rules, are widely adopted for international arbitrations in Singapore.

The SIAC was established in 1991 to meet the demands of a largely developing international business community in Singapore and the needs of a fast-developing Asia which called for a neutral, efficient and reliable dispute resolution institution.

Between 2001 and 2008, the SIAC administered a total of 457 international cases. 2009 saw a significant increase in the number of cases with 114 being administered by the SIAC in that year.

The SIAC's role includes assisting parties in appointment of arbitrators when they cannot agree on an appointment, management of the financial and other practical aspects of arbitration, and facilitation of the smooth progress of arbitration.

The SIAC administration fee is linked to the quantum of the claim, and counterclaim if any; arbitrators' fees are similarly linked to the quantum in dispute.

Arbitration Institute of the Stockholm Chamber of Commerce

The SCC Institute was established in 1917 and, by the 1970s, developed a reputation for dealing with East-West trade disputes.

In January 2007 the SCC Institute adopted new arbitration rules, intended to conform to modern international best practice. The changes from the previous (1999) rules included revised provisions for the formation of the tribunal in multi-party cases; procedures for consolidation following consultation with the arbitrators and the parties; and a power for the tribunal to issue interim measures in the form of an award and to make an award ordering a party to reimburse another for any share of the advance on costs paid on its behalf.

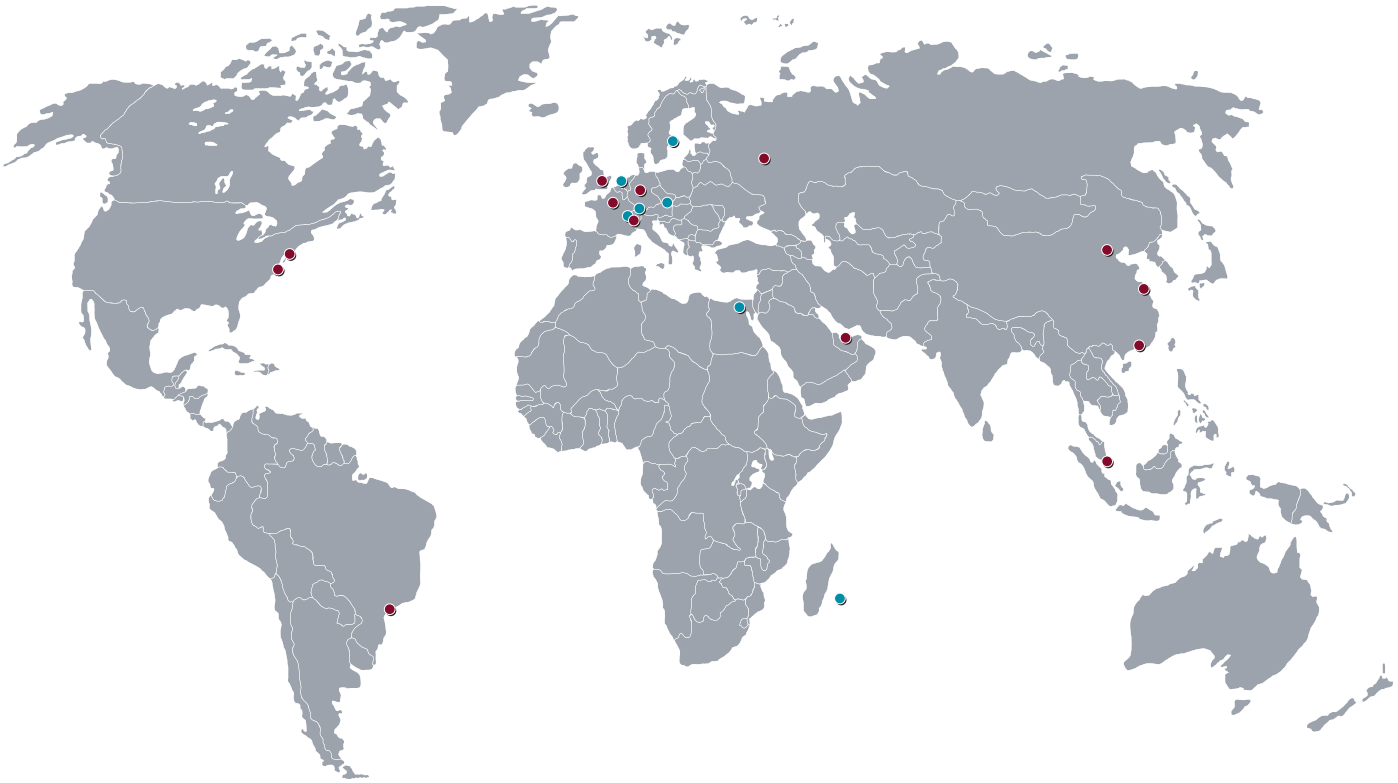
The SCC Institute rules provide that, unless agreed otherwise by the parties, the SCC Institute and tribunal shall maintain confidentiality of the arbitration and the award.

The SCC Institute also publishes Rules for Expedited Arbitration, under which, for example, the arbitral tribunal always consists of a sole arbitrator and there are restrictions on the numbers of written submissions that may be made by the parties.

The SCC Institute determines the fees of the arbitral tribunal and the administrative fee of the SCC Institute based on the amount in dispute.

In 2008, 178 cases were filed with the SCC Institute, a new record. The majority of cases filed with the SCC Institute tend to be international (i.e., involving at least one non-Swedish party).

Leading Seats of International Arbitration



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- The Hague
- Vienna
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For more information, please visit our website at klgates.com.

NB: Whilst this comparative assessment affords the reader the opportunity to see a number of material differences between the leading seats of arbitration most commonly encountered, making a decision on the seat of arbitration, whether any arbitration should be administered or unadministered and if administered, which institutional rules should be adopted, is far from straightforward.

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