



Critical Reflections on the ICC Procedural Rules for Arbitration

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Introduction

The purpose of this work is to discuss the 1998 ICC Rules of Arbitration, which was approved on the 8 of April 1997 by the Council of the International Chamber of Commerce in Shanghai (China), throughout grasping some of critical criteria in the 1998 ICC Rules.

The ICC International Court of Arbitration was established by the ICC In 1923, in Paris. The aim was that it should be available for investors, producers, and traders of every state. A global organization can arrange to solve international commercial disputes, without having to go through formal legal proceedings. After more 75 years of operation, around 10,000 commercial disputes have been handled by the ICC Court, which is now broadly recognized as the foremost institution for resolving international commercial disputes¹.

This paper argues that, although the ICC Court of Arbitration is one of the most efficient, if not the most popular, for resolving commercial disputes, and notwithstanding the very recent review of the ICC Rules of arbitration, and the international character of the ICC Rules, there are some issues on which the new ICC Rules can be criticized, which ought to be considered in the future. The argument addresses a number of issues related to the ICC Rules, such as the terms of reference, time-limit and confidentiality, to reach a final conclusion.

The essay is divided into several sections as follows: An excessive amount of Institutional Interference, Criticism of Absolute Immunity of the Institution, Terms of Reference, Confirming, Appointing and Independence of Arbitrators, Interim Measures, Time-limit, and finally Confidentiality. The essay ends with a conclusion.

¹ Yves Derains & Eric A. Schwartz, *A Guide to the New ICC Rules of Arbitration*, Kluwer Law International, London, 1998, p1