

ICC Amicable Dispute Resolution Services



**ITU European Workshop on Dispute
Resolution**

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The ICC ADR Rules *settling disputes amicably*

**In force as from
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Overview of the ADR Rules

1. Scope of the Rules
2. Commencement of procedure
3. Appointment of Neutral
4. Process
5. Termination
6. Confidentiality
7. Costs

Scope of the Rules (article 1)

- Applicable exclusively to business disputes.
- Rules may be used for both international and domestic disputes.
- Rules may be modified (subject to ICC approval) : ICC ADR proceedings are intended to be party-controlled to the greatest extent.

Commencement of the proceedings (article 2)

Two alternative methods:

- When there is no prior agreement to submit the dispute to ICC ADR: the proceedings commence when receiving the other party's notice of agreement to participate in the ADR proceedings. Failing such agreement the proceedings cannot commence.
- When an agreement between the parties already exists: in the contract or subsequent agreement.

Suggested ICC ADR clauses

- Optional ADR.
- Obligation to consider ADR.
- Obligation to submit the dispute to ADR with automatic expiration mechanism.
- Obligation to submit the dispute to ADR, followed by ICC arbitration as required.

Appointment of the Neutral (article 3): by the ICC or by the parties

- Flexibility in the appointment process.
- Qualifications: language, background, expertise, location.
- Independence, unless otherwise agreed by the parties.

Conduct of the procedure (Article 5)

- The Neutral and the parties are free to choose any ADR technique: mediation, neutral evaluation, mini-trial, any other technique.
- Mediation is technique by default.
- The Neutral conducts proceedings as he/she sees fit.
- The parties shall cooperate in good faith with the Neutral.

Termination of the proceedings (Article 6)

- Settlement agreement.
- One party withdraws (must have gone through the first discussion).
- The completion of the Neutral 's work.
- The decision by Neutral that the proceedings will lead nowhere.
- Expiration of any time-limit set for the proceedings.
- ICC notifies that the parties have not made payment of the deposit or that a Neutral could not be appointed.

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9

Confidentiality: essential feature of ICC ADR (Article 7)

- Documents, suggestions, views, communications submitted by the other party.
- Views or proposals by the parties or the Neutral.
- Settlement agreement.

***Two Exceptions:** *when required by applicable law or when agreed to by the parties.*

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10

Fees and Costs (Article 4)

- At the outset, ICC fixes a deposit, calculating (i) the Neutral's fees (ii) the Neutral's expenses plus (iii) the ICC administrative expenses.
- The ICC administrative expenses shall not exceed US\$ 10 000, and they comprise a registration fee of US\$ 1 500.
- The neutral's fees are fixed based on an hourly rate in consultation with the Neutral and the parties.
- Costs shall be borne in equal shares by the parties.

Salient characteristics of ICC ADR

- Flexibility - Party-controlled - Adaptable to parties' needs.
- Do not impose a particular ADR technique.
- Confidentiality.
- When parties have agreed to ICC ADR: obligation to hold first discussion.
- Speedy and relatively inexpensive.
- Short, simple and open-ended.

Additional information:

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