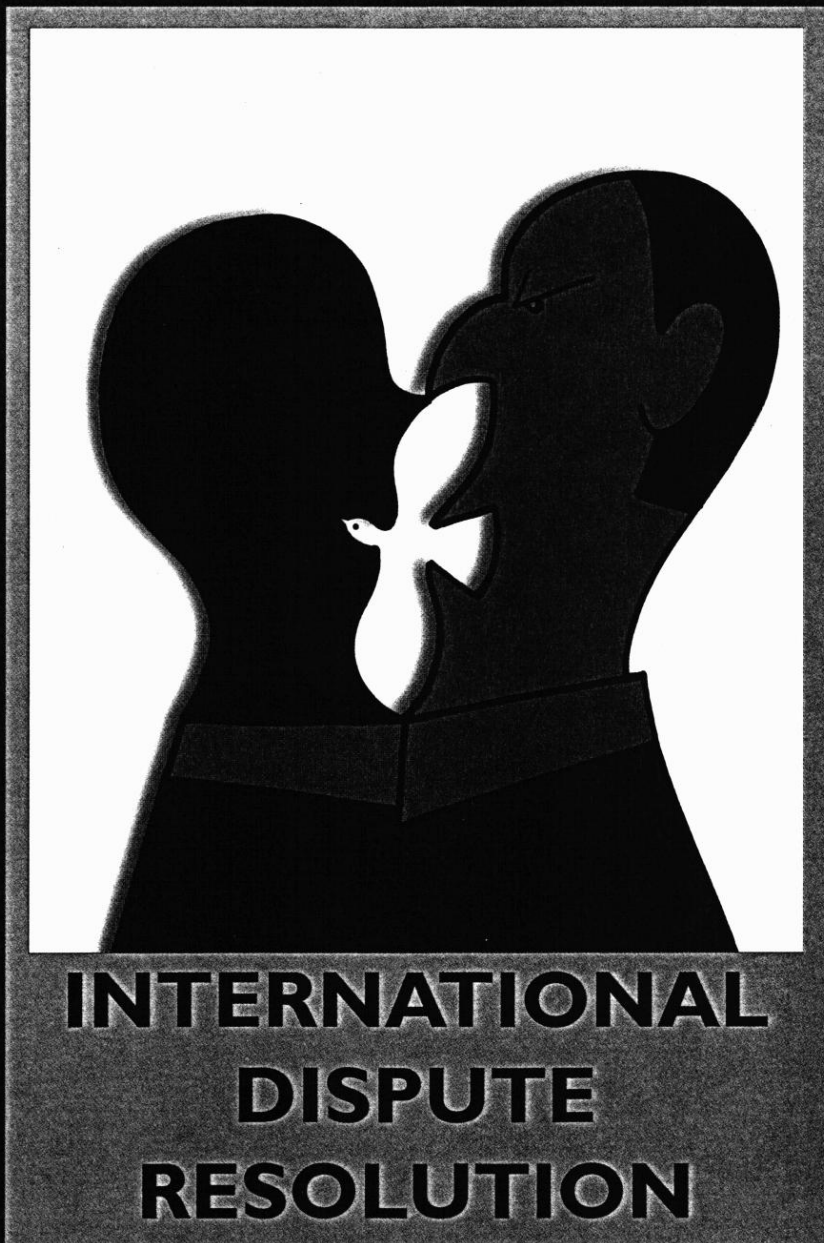


# AsiaLaw

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# The ICC International Court of Arbitration

The International Chamber of Commerce, the world business organisation, speaks with authority on behalf of enterprises from all sectors and every part of the globe. In 1919, a multinational group of businessmen created ICC to promote international trade and investment and the market economy system, to make rules to govern the conduct of business across borders, and to provide essential services to transborder business operators. Today, with thousands of members in over 130 countries, it is the preferred partner of international and regional organisations seeking the views of business on global issues.

Foremost among the ICC's services are its dispute resolution systems, and particularly the International Court of Arbitration, the world's leading institution of its kind.

Since founding the court in 1923, the ICC has seen arbitration receive worldwide acceptance as the preferred method of resolving international commercial disputes. Most countries have modernized their legislation, governments have ratified treaties, and arbitration has become part of the curriculum in many law faculties. Each year, the ICC Court sees a steady increase in the number of cases presented to it. As it prepares to celebrate its 75th anniversary, the Court draws on the experience of nearly 10,000 cases, involving parties from over 100 countries and taking place in a myriad of legal, economic cultural and linguistic milieus.

Notwithstanding this growth, the percentage of ICC arbitrations involving parties from Asia has always been relatively small. Some observers speculate that this is due to the Asian cultural aversion to disputes and courts and their preference for face-saving negotiations. However, as political and trade barriers come down, and business relationships go global, inevitably the risk of disputes increases. Asian companies are not exempt. And though, like most interna-

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tional operators, they might prefer to resolve disputes on the familiar home territory of their own national courts, frequently their partners call for ICC arbitration. In 1995, for the first time, the number of ICC arbitrations involving parties from Asia exceeded that of the Americas. Currently, ICC arbitrations are taking place in Australia, China (both mainland and Hong Kong), India, Indonesia, Japan, Korea, New Zealand, Singapore, Taiwan and Thailand.

The court's new rules will come into force on January 1 1998. They constitute the first major revision in more than 20 years, following an intensive, worldwide consultation process. Amendments will bring reduced delays and increased clarity, while retaining the universality, flexibility and court supervision for which the ICC arbitration system has always been respected.

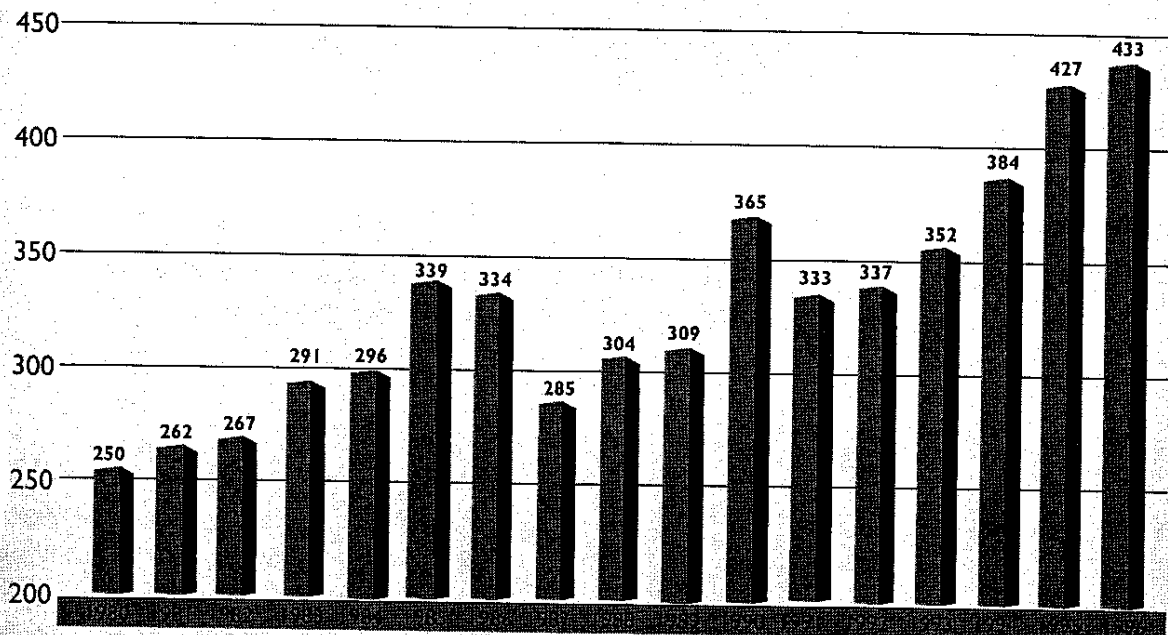
The ICC court, despite its name, does not decide disputes on their merits. That is the task of the arbitral tribunal, which more often than not is chosen by the parties themselves. The parties are also free, if they so desire, to decide between them the place of the arbitration, the law to be applied to their dispute, and the language to be used in the procedure. Of course, if they are unable

to agree, the ICC court will do it for them once the request for arbitration and answer have been filed.

When a claimant sends a request for arbitration to the court, a file is opened and assigned to one of six teams of the court secretariat. After ascertaining that the parties did clearly intend to submit their dispute to ICC arbitration, the team forwards the request to the respondent who has 30 days to reply. From that point on, the court and its secretariat are charged with supervising the entire procedure from start to finish, in order to ensure that once rendered, the award will be enforceable at law. The secretariat also serves as the link between the parties and arbitrators throughout the process, providing practical information and advice to keep the process running efficiently.

Recognizing the importance of the dynamic and growing economies of Asia, the ICC opened its very first regional office in January 1997. ICC Asia's role illustrates the ICC's responsiveness to the demands of Asian business. Its small bureau in central Hong Kong is a resource centre, providing information, advice and publications about ICC arbitration as well as the assurance that ICC arbitration means fair, competent and effective dispute resolution for parties from all parts of the world.

## Request for Arbitration



433 requests for arbitration were filed in 1996 thus confirming the significant increase noted during the preceding year (427 requests received in 1995).

Source: The ICC International Court of Arbitration Bulletin Vol. 8/No. 1 - May 1997

## Cases Submitted to the ICC in 1996

### South Asia and Northern Asia

	Cl.	Def.	Total
China (People's Republic)	1	10	11
Hong Kong (SAR)	5	9	14
India	7	8	15
Indonesia	3	1	4
Japan	11	4	15
Korea (People's Democratic Republic)	0	1	1
Korea (Republic of)	6	11	17
Malaysia	0	2	2
Philippines	3	12	15
Singapore	7	3	10
Taiwan	3	2	5

### Oceania

	Cl.	Def.	Total
Australia	7	5	12
New Zealand	0	1	1
Vanuatu	1	3	4
Western Samoa	1	0	1