



## INTERNATIONAL ARBITRATION COMMITTEE

### COVID-19 QUICK REFERENCE GUIDE

#### INTERNATIONAL ARBITRATION INSTITUTIONS' RESPONSES TO COVID-19<sup>1</sup>

*This document is meant to be a quick reference guide for U.S. practitioners as to the responses of various international arbitration institutions to the Covid-19 crisis. It also lists tools that practitioners around the world are using to manage lack of mobility and communication in the wake of the Covid-19 outbreak. It is by no means all-inclusive, does not represent itself as authoritative, and is not an endorsement of any the institutions or services listed herein.*

Pages 1 through 5: Responses by various international arbitration institutions.

Pages 6 through 9: Tools that practitioners are using to communicate and manage their disputes.

Pages 9 and 10: Practice-pointers provided by various law firms regarding Covid-19.

**Note:** The ICC and the AAA are listed first because of their widespread use amongst members of the Committee. The remaining institutions are listed in alphabetical order.

#### 1. The ICC International Court of Arbitration (ICC)

- All offices of the Secretariat of the ICC Court and the ICC ADR Centre are operational.
- Staff members are healthy and working remotely via mobile posts. Special arrangements have been put in place and will likely remain in force for the immediate future.
- **All communications with the Secretariat of the ICC Court/ICC ADR Centre are to be conducted by email.** The Secretariat of the ICC Court/ICC ADR Centre are equally observing the same rule for case management purposes and any other activity.
- Requests for arbitration (including pertinent exhibits), Requests in other ADR proceedings as well as applications for emergency arbitrator are to be filed with the Secretariat by email.
- Hearings and other meetings scheduled to take place at the ICC Hearing Centre in Paris until 13 April 2020 have been postponed or cancelled.
- All business travel by staff members has been suspended.

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<sup>1</sup> This document was prepared by Christopher (“Chris”) Campbell, Communications Vice-Chair of the International Arbitration Committee with the assistance of Romit Kohil, a third-year law student at NLU in India.

- Meetings scheduled to take place at their offices worldwide are being conducted virtually.
- Key Contacts (ICC [Announcement](#)):
  - Filing New Cases: [Request for ADR Proceedings/Arbitration](#). [Applications for Emergency Arbitrators](#).
  - [Assistance with Hearings](#).

## **2. American Arbitration Association (AAA) The International Centre for Dispute Resolution (ICDR)**

- **While the AAA-ICDR remains active and operational, no hearings will take place in AAA-ICDR hearing facilities after March 20<sup>th</sup> until at least April 17<sup>th</sup>.**
- In cities where governmental authorities have shut down activities, their physical offices will be closed immediately.
- Their case management staff will contact parties and arbitrators to discuss alternative arrangements, including the use of video, teleconferencing or postponements. The AAA-ICDR will assist with alternative hearing arrangements, including the use of video teleconferencing that will allow for remote participation in hearings.
- Their case, IT, and finance operations continue to function.
- All parties and their representatives have been encouraged to proceed in filing their arbitration and mediation cases – *but* to file them online.
- To the extent in-person hearings may be taking place outside the AAA-ICDR's facilities, certain guidelines have been provided on their website. For instance, individuals with certain symptoms listed on their website cannot attend in-person hearings.
- Public Announcement: [Link](#).

## **3. Brazil-Canada Chamber of Commerce (CAM-CCBC)**

- The face-to-face protocol for physical petitions is suspended at the CAM-CCBC headquarters, both at the São Paulo and Rio de Janeiro offices.

- At least until **April 1, 2020**, all petitions and other documents (attachments, letters, urgent measures, etc.) must be submitted by e-mail.
- CAM-CCBC recommends that no in-person hearings and meetings are held. In order not to hinder the progress of the arbitration cases, the CAM-CCBC Secretariat will send guidelines for conducting hearings remotely, via Microsoft Teams, with the accompaniment of the responsible case manager.
- The events organized and hosted by CAM-CCBC in the first semester of 2020 are postponed to a date to be defined and informed in due course.
- Key Contacts:
  - New Proceedings: [secgeral@ccbc.org.br](mailto:secgeral@ccbc.org.br)
  - General Qs: [cam@ccbc.org](mailto:cam@ccbc.org)

#### **4. The Hong Kong International Arbitration Centre (HKIAC)**

- HKIAC's premises at Two Exchange Square, Central, Hong Kong remain operational and accessible for hearings and meetings. However, parties may also consider using HKIAC's virtual hearing services.
- All guests coming to the Centre are required to complete a Health Declaration Form and to update HKIAC immediately on any changes to their declaration.
- Any person (including guests and staff) who has recently travelled outside of Hong Kong (to Mainland China, Macau, Taiwan or to a foreign country) will only be permitted to enter HKIAC's premises after having been in Hong Kong continuously for at least 14 days of their arrival in Hong Kong and then only if asymptomatic.
- All persons entering Two Exchange Square, which hosts HKIAC, will be subject to a temperature check. Entry will only be granted to individuals with a temperature below 37.8°C.
- HKIAC has implemented increased cleaning/sterilisation of impacted parts of the Centre.
- All HKIAC front-line service staff will wear face-masks at all times.

- All HKIAC staff will maintain a high standard of personal hygiene which includes frequent hand-washing (with sterilising soaps), compulsory when returning from outside of the office or after contact with a person or public surfaces.
- Except for essential operational staff and when case management so requires, HKIAC staff shall work from home.
- Public Announcement: [Link](#).

## **5. The International Centre for Settlement of Investment Disputes (ICSID)**

- The ICSID Secretariat is fully-operational from remote work-stations and coordinating with Tribunals and parties to minimize disruption to cases.
- New [requests for arbitration](#) or [post-award applications](#) may be filed electronically only (hard-copies will only be needed if requested by the other party). The same applies for a request for [conciliation](#) or [fact-finding](#) proceeding. ICSID also encourages parties and Tribunals to implement electronic-only filing of written pleadings.
- Public Announcement: [Link](#).

## **6. The London Court of International Arbitration (LCIA)**

- The LCIA has been working remotely since Thursday, 19<sup>th</sup> March 20.
- Parties have been directed to file all Requests through their online filing system or by email.
- Parties and arbitrators have been directed to send all other questions, documents and correspondence to the LCIA by email only.
- The LCIA will, in all but exceptional cases, correspond with parties and arbitrators by email.
- Arbitrators have been requested to deliver their awards by email.
- The LCIA will, in all but exceptional cases, transmit awards to parties electronically, with originals and certified copies to follow, once the LCIA office has re-opened.
- Key Contacts (LCIA [Announcement](#)):

- Filing New Cases: <https://onlinefiling.lcia.org/> or [casework@lcia.org](mailto:casework@lcia.org)
- Awards/General Qs: [casework@lcia.org](mailto:casework@lcia.org)

## **7. The Singapore International Arbitration Centre (SIAC)**

- SIAC remains fully operational with staff available in the office during working hours.
- SIAC has implemented a ‘split teams’ arrangement. On a rotating basis, each team will work from the office, or from home, and there is no physical contact between members of each team.
- All business travel has been put on hold and in-person meetings are being conducted by teleconference and videoconference.
- Users have been encouraged to take note of the precautionary measures stipulated by Maxwell Chambers if in-person meetings or hearings are scheduled within the premises.
- Users have been encouraged to consider using the Maxwell Chambers Virtual ADR Services for their cases in place of in-person meetings or hearings.
- Users have been directed to communicate with the SIAC Secretariat via email; including filing any Notice of Arbitration and any application for emergency interim relief.
- All communications from SIAC, including Awards issued by the Registrar, will first be transmitted via email, with original copies to follow (where applicable).
- Public Announcement: [Link](#).
  - Correspondence: [ops@maxwellchambers.com](mailto:ops@maxwellchambers.com)

## **8. The Stockholm Chamber of Commerce Arbitration Institute (SCC)**

- The SCC infrastructure already in place at the time of the outbreak of the COVID-19 has supported a smooth transition to working remotely. The SCC case management has been fully

digitalized since 2013, and with the introduction of the SCC Platform in September 2019, the digital service was extended to parties, counsel and arbitral tribunals.

- Requests for arbitration and applications for the appointment of an emergency arbitrator are to be filed using email.
- The case management is fully operational, working remotely.
- To uphold certain necessary operational steps related to the serving of new requests for arbitration, a team of one legal counsel and one case manager is in the office, and other team members are working from home. The team in the office will be rotated every two weeks.
- The workday is jointly organized to support efficiency and companionship, with daily team planning calls and joint virtual “*fika*” – the traditional Swedish coffee break.
- Plans have been developed and measures taken to safeguard operations should many or all members of the case management teams be unable to work at the same time.
- [Public Announcement](#):
  - Key Contacts: [Request for Arbitration](#). [Emergency Arbitrator](#).

## **9. Judicial Arbitration and Mediation Services (JAMS)**

- All staff is currently in remote-work struck in accordance with federal, state and local directives.
- Proceedings will continue virtually or telephonically subject to input from the parties.
- Key Contacts provided in Advisory [Link](#).



## **TOOLS FOR DISPUTING PARTIES DURING COVID-19**

Whether to continue with a scheduled in-person hearing, to delay, or use video conference technology for all or part of a hearing involves a cost-benefit analysis of a variety of factors, including whether hearing participants are able to travel to the hearing location, whether hearing participants will be admitted into the hearing location, and whether any hearing participants have an increased risk of developing a severe form of COVID-19.

Navigating the alternatives to in person hearings requires creativity and cooperation, and it remains to be seen whether or how arbitral institutions or arbitration tribunals may pressure or force parties to participate in non-traditional hearing procedures. The Arbitration Rules of most major arbitral institutions allow parties flexibility in hearing format.

In this regard, the different tools parties might utilise are:

### **1. Checklist for Conducting In-Person Hearings:**

[Delos](#) is a dispute resolution organization that has taken a proactive role in administering and resolving disputes online in the wake of Covid-19. They provide [Checklist](#), [Guides](#), and other tools for assisting parties in resolving their disputes both generally, online, but also during the global pandemic.

## **2. Video-Conferencing**

Available methods for video-conferencing hearings include (non-exhaustively);

- i) [Skype for Business](#),
- ii) [Court video link](#),
- iii) [BT MeetMe](#),
- iv) [Zoom](#),
- v) [GoToMeeting](#),
- vi) [FreeConferenceCall.Com](#) (They have free and paid plans for video and conference calling).

Most video-conferencing platforms do not require special hardware or software, thereby allowing participation from any location. A computer with an internet connection and webcam is sufficient for effective and secure participation.

The parties will all need to log in or call in to the dedicated facility in-time for the stated start time of the remote hearing. In a Skype, Zoom or BT call, the arbitrators will then be invited in by the parties or the relevant arbitral institute. Most platforms allow all participants to have the ability to share audio and video, as well as content such as PowerPoint presentations. A virtual chat function allows participants to communicate individually amongst each other or with the entire group.

However, it may not always be the case that a video link is a viable solution. It may depend upon the jurisdiction(s) involved and the access of the person(s) involved to workable technology, and whether or not access can be made available, whether by the other party or otherwise. The fact that members of the tribunal are physically located in different places (and may need to be so located) may make a video conference hearing more challenging.

## **3. Tele-Conferencing**

Where internet connectivity is poor, participants may also conduct hearings by telephone. Submissions based on points of law and/or factual points arising from documents only are likely to be capable of being conducted by telephone hearing alone.

However, where witness and/or expert evidence is in dispute, cross-examination is likely to require video conference facilities, given that demeanour is an important aspect of the assessment of witness and expert evidence.



#### **4. Document Sharing**

It is possible for parties to agree to dispense with hearings altogether and have the entire dispute decided “on the papers”. A number of arbitral rules expressly provide for this (See e.g. Art 19.1 of the LCIA Rules 2014 and Art 25(4) of the ICC Rules 2017).

However, tribunals will be reluctant to abandon oral hearings altogether, as opposed to holding them remotely, even **if** they have the power to do so in the present circumstances, unless this is the express wish of all parties.

#### **5. Hybrid Hearing**

If some, but not all, required persons can be present, the parties should consider whether it is both safe and fair to each side to conduct part of the hearing in person and have some persons, such as witnesses, participate virtually.

Ultimately, the precise solution will depend upon the specific circumstances of the case.

#### **6. Covid-19 Alerts:**

*\*Credit to the [NYIAC](#) for compiling the below list and circulating via its Listserv.*

- [Winston & Strawn LLP’s COVID-19 Client Resource Center](#)
- [Wilmer Cutler Pickering Hale and Dorr LLP’s Coronavirus \(COVID-19\) Center](#)
- [White & Case LLP’s Coronavirus Hub: Managing Business Impact and Legal Risks](#)
- [Thompson & Knight LLP’s COVID-19 Updates](#)
- [Sullivan & Cromwell LLP’s Coronavirus Updates](#)
- [Simpson Thacher & Bartlett LLP’s COVID-19 Resource Center](#)
- [Sidley Austin LLP’s COVID-19 Resource Center](#)
- [Shearman & Sterling LLP’s COVID-19 Resource Center](#)
- [Proskauer Rose LLP’s](#)

- [Paul, Weiss, Rifkind, Wharton & Garrison LLP's Coronavirus \(COVID-19\) Relief Center](#)
- [Patterson Belknap Webb & Tyler LLP's Coronavirus Resource Center](#)
- [Orrick, Herrington & Sutcliffe LLP's Coronavirus \(COVID-19\) Resource Center -- COVID-19 Briefing & Conversation](#)
- [Norton Rose Fulbright US LLP's Coronavirus: Legal Implications of a Global Pandemic](#)
- [Latham & Watkins LLP's COVID-19: Resources for Responding to Business and Legal Issues](#)
- [Kramer Levin Naftalis & Frankel LLP's COVID-19 Legal Resource Guide](#)
- [King & Spalding LLP's Coronavirus Capabilities/Crisis Practice](#)
- [Kelley Drye & Warren, LLP's COVID-19 Response Resource Center](#)
- [K&L Gates LLP's Responding to COVID-19 Hub -- Planning for and Managing a COVID-19 Crisis in the Digital Age](#)
- [Hughes Hubbard & Reed LLP's COVID-19 Resource Center](#)
- [Greenberg Traurig LLP's Health Emergency Preparedness Task Force: Coronavirus Disease 2019 Update](#)
- [Fried, Frank, Harris, Shriver & Jacobson LLP's Coronavirus \(COVID-19\) Resource Center](#)
- [Freshfields Bruckhaus Deringer LLP's Coronavirus Alert Hub](#)
- [Foley Hoag LLP's](#)