



# ARBlog

INTERNATIONAL ARBITRATION NEWS, TRENDS AND CASES

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## The International Chamber of Commerce launches new Expert Rules

On 14 January 2015, the International Chamber of Commerce (“ICC”) International Centre for ADR launched its 2015 Expert Rules, which set out procedures for the proposal and appointment of experts and neutrals, as well as for the administration of expert proceedings, by the ICC.

The new ICC Expert Rules will come into force on 1 February 2015 and will replace the 2003 ICC Rules for Expertise. The new rules are designed to clarify the range of expert services offered by the ICC (i.e., proposal, appointment and administration of expert proceedings) by providing a standalone set of rules for each distinct service:

- ICC Rules for the Proposal of Experts and Neutrals;
- ICC Rules for the Appointment of Experts and Neutrals; and
- ICC Rules for the Administration of Expert Proceedings.

Each set of new rules includes an explanatory preamble that provides examples of circumstances in which parties/tribunals/courts may wish to utilize the services offered. The appointment rules and the administration rules also provide example clauses for inclusion in contracts and detailed guidance for their use. The key changes introduced in the new rules include:

- **Express applicability to neutrals:** the proposal rules and the appointment rules now expressly apply to neutrals in addition to experts. Situations in which parties may wish to use these services include where they are searching for a mediator, conciliator or dispute board member.
- **Changes to promote efficiency:** the new rules include a number of provisions which appear to be designed to streamline the proposal and appointment processes and encourage the expeditious provision of expert services. In particular:

Any request for proposal/appointment/administration of expert proceedings must now include a *detailed* description of the work to be carried out by the expert and other information regarding the logistical arrangements which will apply.

Before proposal, appointment or confirmation (as applicable), the prospective expert or neutral must sign a statement confirming, among other things, his or her availability to act.

In confirming or appointing an expert or neutral, the ICC shall also consider the prospective expert’s or neutral’s ability to conduct the work to be carried out.

As regards the administration rules, there is an express requirement that the parties and the expert “*make every effort to conduct the expert proceedings in an expeditious and cost-effective manner.*”

All three sets of rules provide that in circumstances where the ICC is unable to propose/appoint one expert with all the attributes requested by the parties, it may ask the parties whether they wish it to propose/appoint more than one expert (who between them have the requested attributes).

As regards the administration of expert proceedings, if the parties disagree on the scope of the expert's mandate, the expert may continue with the proceedings to the extent that he/she considers that the issues set out in the expert's mission fall within the scope of his/her mandate.

- **Impartiality and independence:** Under all three new sets of rules, the expert or neutral must now not only be “independent”, in keeping with the previous rules, but also “impartial.” Additionally, the request for proposal/appointment/ administration must now contain the contact details of “*any person or entity relevant for checking potential conflicts of interest of the expert or neutral.*” Furthermore, under the new appointment rules, if a party is not satisfied that the expert or neutral is independent/impartial, it can now file a written objection with the ICC, which may lead to the replacement of the expert. Under the 2003 Rules, this was only possible when the ICC was administering expert proceedings.

The ICC was the first dispute resolution institution to implement a specific set of rules in relation to experts and remains one of the few institutions to have adopted such rules. A full copy of the 2015 Expert Rules can be found [here](#).

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