

## **New procedure before Paris Commercial Court and Court of Appeal for the settlement of international commercial disputes**

The Paris Bar signed on February 7, 2018, two protocols with Paris Commercial Court and Paris Court of Appeal which establish a new procedure for the settlement of disputes relating to international trade contracts before the two courts<sup>1</sup>.

These protocols provide the possibility for parties to opt for a new procedure before the international chamber of Paris Commercial Court (created in 1995, which merged in 2015 with the European Union law chamber, itself created in 1997) which is more adapted to this type of disputes and establish a new international chamber within the Court of Appeal of Paris (called in French "CICAP").

These two chambers have now jurisdiction to hear cross-border economic and commercial disputes such as disputes over commercial contracts and termination of business relationships, transport, unfair competition, action for damages for anticompetitive practices and transactions in financial instruments, framework agreements on financial contracts, instruments and products. In addition, the CICAP is competent for hearing appeals introduced against first instance decisions involving international arbitration matter.

It is also possible for contracting parties to insert in international trade contracts a jurisdiction clause conferring jurisdiction to the international chamber of both Parisian courts to settle their disputes.

**This new procedure introduced by the two protocols has several advantages.**

First of all, a greater place is left for the **use of English language at various stages of the proceedings**. Indeed, **English language can be used, without translation, for the exhibits, the hearings of the parties, witnesses or experts and the decision is rendered in French with an English translation** (only the pleadings must be written in French). Also, if one of the parties, an expert or a witness wishes to speak in a foreign language, other than English, a simultaneous translation could be provided by a translator chosen by the parties and at the expenses of the party who asked for this hearing.

Secondly, these two international chambers are staffed with **English-speaking judges, who have extensive training and experience in international business law cases and a strong knowledge of main foreign laws customarily chosen by the parties to settle their disputes, in particular of the Common Law principles**.

Thirdly, **the proceedings before these two courts are more suitable for the needs of international trade litigants, particularly in terms of speed of proceedings and predictability**. Indeed, the parties may, together with the pre-trial judge, set the imperative timetable of the proceedings (the dates

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<sup>1</sup> To download the protocols (in French): <http://www.avocatparis.org/creation-de-la-jurisdiction-commerciale-internationale>

on which the parties will have to exchange their pleadings, will be invited to personally appear before the jurisdiction, will have to make known the written statement of their witnesses, the dates on which the hearings of the lawyers, witnesses and experts will be held, the date of the final order that closes the arguments and the date on which the decision will be rendered). This allows the parties to better organize themselves and to anticipate the proceedings. In addition, **the new procedure leaves more room for the oral part of the debates namely to the hearings of the parties, witnesses and experts. The parties may also question the witnesses themselves (recalling the cross-examination in the United States).**

These protocols apply to proceedings initiated from March 1<sup>st</sup>, 2018. It should be noted that the parties must agree to use the procedure provided by these protocols to settle their disputes.

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These protocols aim to, as stated in their preambles, "*meet the expectations of economic operators who wish to benefit from a more attractive legal system*".

The Ministry of Justice has asked the Legal High Committee for Financial Markets of Paris (HCJP) to conduct a study on the creation of special tribunals for international business disputes in order to adapt the French court system to the contemporary international economic and legal context. In its recommendations dated May 3, 2017<sup>2</sup>, the HCJP underlines that "*in international contracts, contracting parties can choose both the law applicable to their business relationship and the courts that will resolve any disputes such relationship may generate [and] as a result, there is a worldwide, as well as European, competition between courts*".

As this report points out, the UK's decision to withdraw from the European Union will weaken the attractiveness of London as a forum for the resolution of international disputes because the court decisions rendered in this city, will have, in order to be enforced in countries of the EU, to comply with the exequatur procedure in effect in each Member State; in other words, those decisions will no longer benefit from the efficiency of automatic enforcement in EU countries (Council Regulation (EU) No 1215/2012 of 12 December 2012 on jurisdiction and the recognition of judgements in civil and commercial matters, also called "Recast Brussels I Regulation").

In this context, Paris would have an important role to play to attract within its jurisdiction the resolution of international business disputes. The introduction of this new procedure before Paris Commercial Court and Paris Court of Appeal will complement the French offer of international legal services. Indeed, Paris is already a very important legal forum, particularly in the field of international arbitration, the International Chamber of Commerce and so the International Court of Arbitration, being located in Paris.

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<sup>2</sup>To download the report (in English) : [https://publications.banque-france.fr/sites/default/files/rapport\\_07\\_a.pdf](https://publications.banque-france.fr/sites/default/files/rapport_07_a.pdf)