

**PROTOCOL RELATING TO THE PROCEDURE BEFORE  
THE INTERNATIONAL CHAMBER OF THE PARIS COMMERCIAL COURT<sup>1</sup>**

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In the presence of Nicole BELLOUBET, Keeper of the Seals, Minister of Justice,

The President of the Paris Commercial Court,

The Paris Bar, represented by the head and the elected head of the Paris Bar,

Have concluded and decided the following:

***Preamble***

The Chamber of International Law was created at the Paris Commercial Court in 1995; it merged in 2015 with the Chamber of European Union law, itself established in 1997.

Today named International Chamber, it has ten judges, with its President, who are all Anglophones. The disputes allocated to it by the Placement Chamber are of an economic and commercial nature with an international dimension and in particular those in which provisions of European law or of a foreign law apply or are likely to apply.

In all cases in which the nature of the dispute requires seeking the competence of judges of specialized chambers of the court, such as cases involving competition law or the abrupt termination of commercial relations, the International Chamber will enlist, in its deliberation, judges from those specialized chambers.

The purpose of the present protocol is to specify the procedures by which cases will be examined and judged before this Chamber, in which ample room has been made for the use of the English language and for testimonial evidence, in order to meet the expectations of economic actors who wish to benefit from an attractive jurisdictional system.

The court will apply, to the merits of the case, French law or any other rules of foreign law applicable to the case.

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<sup>1</sup> Translated by Chloé Vialard and Max Hulme of Shearman & Sterling LLP. Thanks go to Thomas Parigot of Shearman & Sterling LLP for his valuable comments.

## **Article 1 : The jurisdiction of the International Chamber**

- 1.1 The placement Chamber, and if applicable, the President's delegate having authorized, in case of urgency, a writ of summons with short notice under article 858 of the Code of Civil Procedure refer to the International Chamber disputes of an economic and commercial nature with an international dimension and in particular those in which provisions of European law or of a foreign law apply or are likely to apply.
- 1.2 In this context, the following disputes in particular may fall within the jurisdiction of the International Chamber:
- disputes regarding commercial contracts and the termination of commercial relationships;
  - disputes regarding transport;
  - disputes regarding unfair competition;
  - actions for damages arising from anticompetitive practices;
  - disputes regarding operations on financial instruments, framework agreements, and financial contracts, instruments and products.
- 1.3 The Chamber's jurisdiction may derive from a contractual clause giving jurisdiction to the courts situated within the Paris Court of Appeal's judicial authority.

## **Article 2 : Language of the procedure**

- 2.1 The procedure before the Commercial Court is oral.
- 2.2 The procedural documents are drafted in French.
- 2.3 Exhibits in English may be submitted into evidence without translation.
- 2.4 Pleadings take place in French, without prejudice to what is stated in article 2.5 hereafter.
- 2.5 Parties appearing before the judge, witnesses, and any technical witnesses, including experts, as well as parties' counsel, when they are foreign and authorized to plead before the Paris Commercial Court, are authorized to express themselves in English, if they wish to do so.
- 2.6 Hearing notes and minutes are made in French by the clerk, as dictated by the President.

## **Article 3 : Procedural calendar**

- 3.1 The judge can set a mandatory procedural calendar including, in particular:

- the date(s) on which the parties will be asked to appear in person;
- the date(s) on which parties must submit the written declarations of the witnesses they have requested to hear and which shall form the basis on which those witnesses will be heard;
- the date(s) on which any witness and expert testimony will take place;
- the date on which counsel will be heard on their closing statements, after which the trial shall be declared closed;
- the date on which the decision will be rendered.

3.2 This calendar may be modified throughout the proceedings, in particular in the event of an incident or of additional requests that delay the review of the merits of the case.

#### **Article 4 : Judicial administration of the taking of evidence**

##### **4.1 Requests for mandatory production of documents held by a party or by a third party**

4.1.1 Requests for mandatory production of documents held by a party or by a third party are examined by the judge assigned to hear the case pursuant to the rules set forth in articles 11 and 138 to 142 of the French Code of Civil Procedure.

4.1.2 Parties may seek the production of precisely identified categories of documents.

##### **4.2 Personal appearance of parties**

4.2.1 The personal appearance of parties will take place under the conditions set forth in articles 184 to 198 of the French Code of Civil Procedure. The judge carries out the examination of the parties by asking those questions he considers useful on all facts upon which evidence is admitted by law. Each party may thereafter be invited by the judge to respond to the questions that the other parties wish to ask.

4.2.2 The personal appearance of a legal entity means the appearance of a party's legal representative or of any *mandataire social* or employee of the legal entity with the power to represent it.

##### **4.3 Written declarations by third parties**

4.3.1 Declarations by third parties to the procedure take the form of statements conforming to the requirements set forth in article 202 of the French Code of Civil Procedure.

4.3.2 As an exception to article 202 of the French Code of Civil Procedure, third parties' statements may be typed, with the parties giving up the right to claim any defect of form on that basis.

**4.4 Witnesses testimonies (articles 199 et seq. of the French Code of Civil Procedure)**

**4.4.1** Any person may be heard as a witness, upon the decision of the judge assigned to hear the case, or of the court depending on the case, ruling on its own initiative or at the request of a party.

**4.4.2** Testimony of witnesses (third parties, knowledgeable parties, etc.) proposed by a party will take place on the basis of a declaration written by the witnesses, which may be typed, and which will contain the information provided for by article 202 of the French Code of Civil Procedure.

**4.4.3** Testimony of witnesses is governed by articles 206 et seq. of the French Code of Civil Procedure. It is noted that in accordance with articles 206 and 207 of the French Code of Civil Procedure, whoever is legally required to testify must do so, under penalty of a civil fine.

**4.4.4** The judge carries out the examination of witnesses, by asking those questions he considers useful on all facts for which evidence is admitted by law. Witnesses may thereafter be invited by the judge to respond to the questions that the parties wish to ask.

**4.4.5** The judge assigned to hear the case, or the court depending on the case, is free to take into consideration the written statement of a witness who, for a legitimate reason, did not appear, and to draw any inferences from a non-appearance for which there is no legitimate reason.

**4.4.6** Each party ensures the summons of the witnesses whose testimony it is soliciting in a timely manner as to permit the testimony to occur, and will bear any advance payment of those witnesses' costs.

**4.5 Technical witnesses' testimonies (articles 245 and 283 of the French Code of civil procedure)**

**4.5.1** The judge assigned to hear the case, or the court depending on the case, orders the testimony of judicially appointed technical witnesses<sup>2</sup>, when requested by the parties, unless it makes such an order on its own initiative.

**4.5.2** The judge assigned to hear the case, or the court depending on the case, uses its discretion to grant requests for the testimony of technical witnesses designated by the parties. In support of their requests, parties produce the report prepared by the technical witness who they wish to hear as well as his last name, first name and address.

**4.5.3** The procedures provided for in articles 4.4.2 to 4.4.6 above apply as reasonable to technical witnesses whose testimony is organized.

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<sup>2</sup> In particular experts.

**Article 5 : Oral arguments**

Trials are public unless the court decides that they will take place in the Council Chamber (*Chambre du Conseil*), pursuant to article 435 of the French Code of Civil Procedure.

**Article 6 : Translations**

- 6.1** In the event of a disagreement between the parties with regards to the unofficial translation of exhibits freely filed by one of the parties, the judge may order a sworn translation of the exhibits, with costs advanced by the party chosen by the judge (article 269 of the French Code of Civil Procedure).
- 6.2** Trials in French, including any participation by experts or witnesses, may be subject to a simultaneous translation for the convenience of one of the parties, with costs advanced by that party. The simultaneous translation will be carried out by an interpreter designated by the court, whose name will be proposed by the party having asked for the translation of the trial.
- 6.3** Should a party, his counsel, an expert or a witness wish to express himself in a foreign language, a simultaneous translation is carried out by an interpreter chosen by agreement of the parties, with costs advanced by the party that requested to express himself in a language other than French. In case of disagreement between the parties on the choice of the translator, within the time limit set by the judge, the judge will proceed to designate the translator.

**Article 7 : The judgment**

The judgment made by the International Chamber and the ordinances of the judge assigned to hear the case are drafted in French and accompanied by a sworn translation in English made under the responsibility of the clerk and the cost of which is included in the costs of the procedure.

**Article 8: Entry into force**

The present protocol applies to actions commenced on or after 1 March 2018.

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*Paris, 7 February 2018*  
*In two original copies*

**M. Jean MESSINESI**  
**President of the Paris Commercial Court**

**Me Marie-Aimée PEYRON**  
**Head of the Paris Bar**