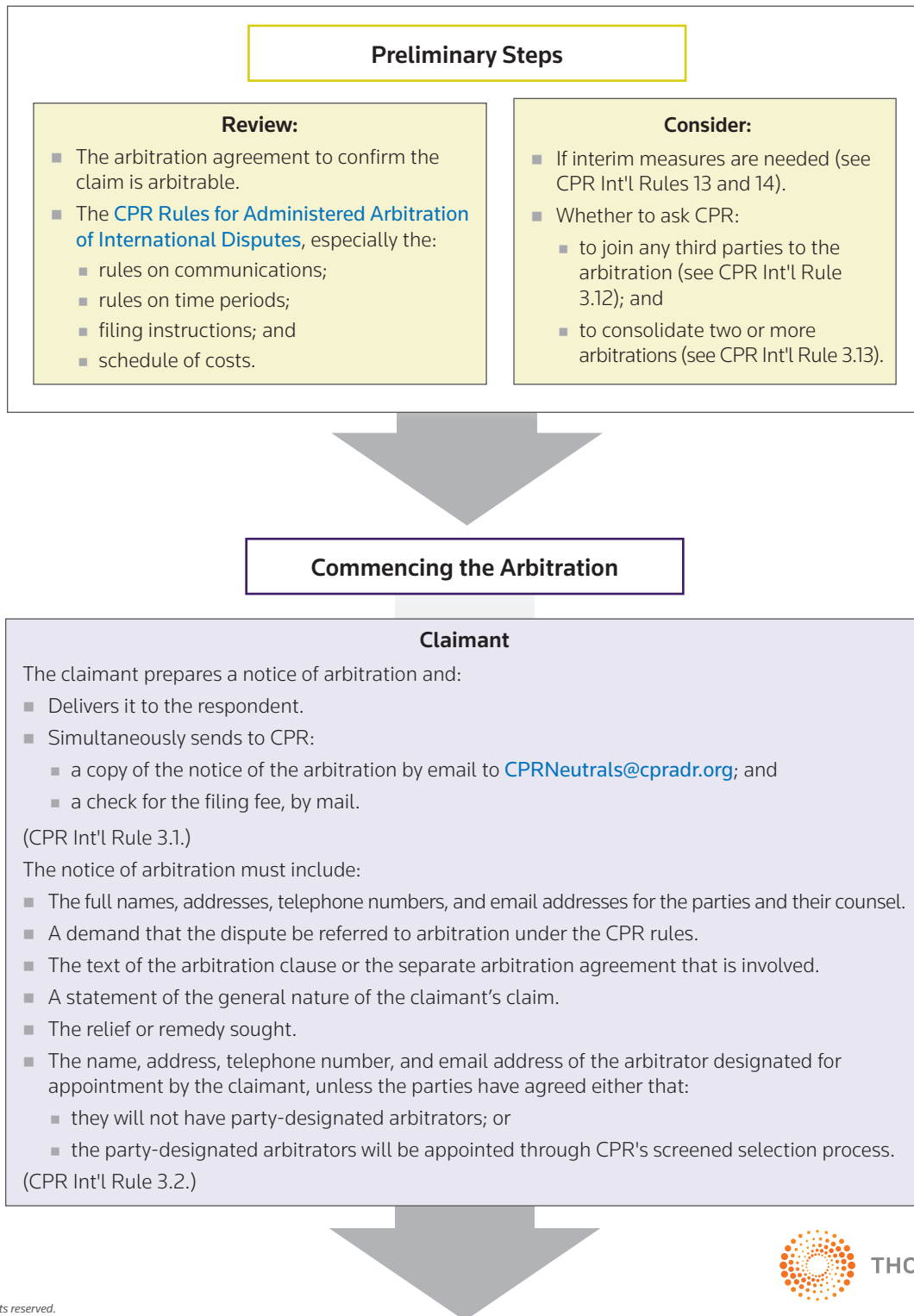


CPR International Arbitration Flowchart

PRACTICAL LAW ARBITRATION, WITH OLIVIER P. ANDRÉ, INTERNATIONAL INSTITUTE FOR CONFLICT PREVENTION & RESOLUTION, INC.

For detailed information on arbitration under the CPR international rules, see [Practice Note, Administered International Arbitration with the CPR Institute: A Step-by-Step Guide](#).



CPR

The commencement date of the arbitration is the date on which CPR receives both:

- The notice of arbitration.
- The filing fee.

CPR notifies the parties of the arbitration commencement date. (CPR Int'l Rules 3.4 and 3.5.)

Respondent

The respondent has 30 days after the commencement date to deliver a notice of defense, which must include:

- The full names, addresses, telephone numbers, and email addresses for the parties and their counsel.
- Any comment on the notice of arbitration that the respondent deems appropriate.
- Any statement of the general nature of the respondent's defense.
- The name, address, telephone number, and email address of the arbitrator designated for appointment by the respondent, unless the parties have agreed either that:
 - they will not have party designated arbitrators; or
 - the party-designated arbitrators will be appointed through CPR's screened selection process.

(CPR Int'l Rules 3.6 and 3.7.)

Counterclaims and Responses

The respondent may include in the notice of defense any counterclaim within the scope of the arbitration clause. There is no additional filing fee for counterclaims.

Any additional claims or counterclaims within the scope of the arbitration clause may be added, amended or withdrawn:

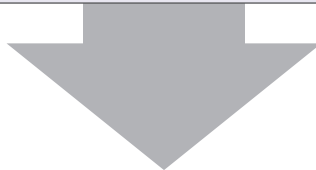
- Freely, prior to the appointment of the tribunal.
- Only with the consent of the tribunal once it is constituted.

If a respondent asserts a counterclaim, CPR notifies the claimant that within 30 days after CPR's receipt of the counterclaim, the claimant must both:

- Deliver a response to counterclaim to the respondent.
- Send a copy of the response to counterclaim to CPR by email.

If any party fails to respond to claims or counterclaims asserted against it, the claims or counterclaims are deemed denied.

(CPS Int'l Rules 3.8-3.10.)



Appointing the Tribunal

Unless the parties have agreed otherwise in writing, the tribunal consists of three arbitrators:

- One designated for appointment by each of the parties in the notice of arbitration and the notice of defense respectively.
- The third arbitrator who is the chair of the tribunal and is appointed by CPR with the parties' input (CPR Int'l Rule 6).

Optional Screened Selection Process

Party-designated arbitrators may be selected through CPR's screened selection process:

- On request, CPR provides the parties with a list of qualified CPR arbitrator candidates from the CPR panels of distinguished neutrals.
- The arbitrator designated by a party need not be a CPR panel member.
- CPR queries the arbitrators designated by the parties for:
 - potential conflicts of interest;
 - rates; and
 - availability.
- CPR circulates the arbitrators' disclosures to the parties.
- The parties have ten days to object in writing to CPR, with a copy to the other party. Objections to the appointment of a candidate may be for lack of independence and impartiality (CPR Int'l Rule 7).
- CPR rules on the objection.
- If there is no objection to a party-designated arbitrator or CPR overrules an objection, CPR appoints the party-designated candidate.

(CPR Int'l Rule 5.4.)

Appointing the Chair

CPR appoints the chair with input from the parties through a vetting process:

- CPR convenes a conference call with the parties to discuss the selection criteria for the arbitrator, such as desired:
 - qualifications;
 - experience;
 - geographic pool; and
 - any other selection criteria.
- CPR queries arbitrator candidates for potential conflicts of interest, rates, and availability.
- CPR sends the parties the names, biographies, and disclosures of at least five candidates.
- Within ten days, the parties must either:
 - agree on a candidate; or
 - send CPR their respective rankings of at least six of the names in order of preference. CPR appoints the candidate for whom the parties collectively have indicated the highest preference.

(CPR Int'l Rule 6.)

- The parties may object to any of the nominated candidates on grounds of lack of independence and impartiality (CPR Int'l Rule 7).
- If a party objects to any of the nominated candidates, CPR rules on the objection.

Other Appointment Methods

The parties may agree in writing on another method for the selection and constitution of the tribunal.

Arbitrator Challenges

All arbitrators must be independent and impartial, including arbitrators designated for appointment by the parties.

Any arbitrator may be challenged if circumstances exist or arise that give rise to justifiable doubt regarding that arbitrator's independence or impartiality.

A party may challenge an arbitrator only by sending a notice:

- To CPR, with a copy to the other party.
- To the tribunal, unless the challenged arbitrator is a party-designated arbitrator selected through CPR's screened selection process.
- No later than 15 days after the challenging party either:
 - receives notification of that arbitrator; or
 - becomes aware of circumstances giving rise to justifiable doubt regarding that arbitrator's independence or impartiality.

The notice must state with specificity the reasons for the challenge. The notice must not be sent to the tribunal when the challenged arbitrator is a party-designated arbitrator selected through CPR's screened selection process.

Unless the challenged arbitrator withdraws voluntarily, the challenge is decided by CPR in accordance with the CPR Challenge Protocol (available at www.cpradr.org). In its discretion, CPR may refer a challenge to an independent three-member Challenge Review Committee selected from CPR's Challenge Review Board.

(CPR Int'l Rule 7.)

Pre-Hearing Matters

Pre-Hearing Conference

Promptly after the tribunal is constituted, it must hold an initial pre-hearing conference with the parties for the purpose of discussing, planning and scheduling:

- Procedural matters.
- Early disposition of issues.
- Appointment of experts.
- The possibility of settlement.

To define and clarify the issues, the tribunal may issue pre-hearing orders and instruct the parties to file:

- More detailed statements of claim and defense.
- Pre-hearing memoranda.

After the initial pre-hearing conference, the tribunal may hold additional pre-hearing or other conferences as it deems appropriate.

(CPR Int'l Rule 9.)

Disclosure

The tribunal may require and facilitate such discovery as it deems appropriate under the circumstances, taking into account:

- The needs of the parties.
- The desirability of making disclosure expeditious and cost-effective.

The tribunal may issue orders to protect the confidentiality of proprietary information, trade secrets and other sensitive information disclosed in discovery.

(CPR Int'l Rule 11.)

The Hearing

A hearing may be held at the request of any party or if the tribunal decides to hold one (CPR Int'l Rule 12.2).

The tribunal decides:

- The manner in which the parties present their cases, which generally includes the submission of pre-hearing memoranda.
- Whether testimony may be presented in written or oral form.

The tribunal is not required to apply the rules of evidence used in judicial proceedings.

The tribunal may appoint neutral experts. (CPR Int'l Rule 12.)

The tribunal cannot make an award based solely on the default of a party. If a party fails to appear or present a case, the non-defaulting party must produce evidence and legal argument in support of its contentions. (CPR Int'l Rule 16.)

The Award

In most cases:

- The final award should be rendered within 12 months of the constitution of the tribunal.
- CPR must approve any scheduling orders or extensions that would result in a final award being rendered more than 12 months after the constitution of the tribunal.

(CPR Int'l Rule 15.8.)

All awards must be reasoned and in writing (CPR Int'l Rule 15.2).

The tribunal sends the award to CPR in draft form for a limited review for format, clerical, typographical or computational errors (CPR Int'l Rule 15.4).

After CPR reviews and returns the award, the tribunal must deliver to CPR an executed copy of the award, with any dissenting opinion, within three days. CPR delivers the award to the parties. (CPR Int'l Rule 15.5.)

Changes to the Award

Within 20 days after receipt of the award, either party, with notice to the other party and CPR, may ask the tribunal to:

- Clarify the award to correct any clerical, typographical, or computational errors.
- Make an additional award as to claims or counterclaims not determined in the award.

The tribunal has 30 days after the request to make any clarification, correction, or additional award, at which point the award becomes final and binding (CPR Int'l Rule 15.6).