



The Arbitration Review of the Americas

2023

**CAM-CCBC: public consultation on
new arbitration rules**

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CAM-CCBC: public consultation on new arbitration rules

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CAM-CCBC (Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada)

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In summary

CAM-CCBC has made progressive institutional improvements to its case management regime, which are detailed below, along with a breakdown of the centre's caseload. A revised draft of new arbitration rules to replace those introduced in 2012 has been issued and opened to public consultation and aims to keep CAM-CCBC up to date with best international practice. The centre remains dedicated to promoting arbitration and other forms of ADR, and its outreach initiatives are summarised in this article.

Discussion points

- Brazil's arbitration-friendly legislative framework makes the country an attractive regional arbitration hub
 - CAM-CCBC has focused on fine-tuning procedures and infrastructure
 - New emergency arbitrator and expedited procedure rules recently introduced
 - Public consultation on a change to the institution's arbitration rules closed in November 2021
-

Referenced in this article

- Brazilian Arbitration Act
- Administrative Resolution 44/2020
- Administrative Resolution 46/2021

The Centre for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM-CCBC) is the best established and most pioneering arbitral institution in Brazil. CAM-CCBC has over 40 years of experience in administering arbitration proceedings. It also offers expedited proceedings for arbitration, mediation and dispute boards, besides acting as appointing authority in ad hoc proceedings on request.

The institution's good reputation has been achieved through years of dedication and consistent excellence in ADR case management. As of 2 June 2022, the centre had administered over 1,400 ADR proceedings with claims totalling approximately 130 billion reais.

This is mainly the result of: a modern and robust arbitration framework in Brazil, which was set up in 1996 and benefits from the support of state courts; the centre's adoption of best practice for case administration; and its active role in the development of arbitration in both domestic and international cases.

Brazil's ADR community faced unprecedented challenges in 2020 and 2021, and CAM-CCBC adapted its services in the covid-19 pandemic while maintaining high quality and prioritising health and safety for all. The obstacles presented by the pandemic did not prevent the institution from growing and developing its services. This brief overview summarises the latest developments at CAM-CCBC, including its key activities, statistics and new regulations.

Brazil's arbitration framework

Brazil's legal framework for arbitration has proven to be robust and reliable, setting the foundations that turned the country into an arbitration-friendly jurisdiction.

The Brazilian Arbitration Act^[1] was enacted in 1996 and is based on the UNCITRAL Model Law. In 2001, the Brazilian Superior Court of Justice confirmed the constitutionality of the Brazilian Arbitration Act through a decision rendered in a leading case.^[2] With that and the adoption of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, ratified through a presidential decree on 23 July 2002,^[3] Brazil established a legal framework in line with international standards.

The Brazilian Arbitration Act was revised in 2015,^[4] and included clarifications concerning emergency proceedings and disputes involving state entities. In addition, Brazilian courts have consistently shown a deep understanding of and regard for party autonomy, *Kompetenz-Kompetenz* and best practices in arbitration.

Specialised case managers and state-of-the-art facilities

The arbitration-friendly environment described above has helped the centre to continually develop and improve the administration of arbitrations and other forms of alternative dispute resolution.

To promote best practices, CAM-CCBC has been constantly improving its internal proceedings and its institutional work. The unique case management model, certified by ISO 9001:2015 – an international certification for quality service providers – guarantees the continued promotion of efficiency and speed in ADR proceedings. In 2019 the centre went through an independent audit process to expand the ISO certification to all services offered, ensuring a high-quality management standard not only for arbitration, but also for mediation and dispute boards.

CAM-CCBC created a pioneering case management model in Brazil. The centre continues to push forward its practices and internal procedures, bringing innovation to the Latin-American market and providing even better case management and support to over 300 ongoing cases.

Each of the eight CAM-CCBC case managers are qualified lawyers with extensive practical and academic experience who closely follow every step of the proceeding, from the filing of the request for arbitration to the rendering of the final award. The case managers will also assist the tribunal and serve as a direct channel of communication between parties, counsel and arbitrators, always observing the principles of impartiality and fairness. Since 2018, each secretariat team has been assigned a specific area of expertise, such as intellectual property, construction, oil and gas, etc.

All case managers are trained in CAM-CCBC's case management style, operated under an ISO quality management system that evolves through constant monitoring and reports of micro-procedural developments. These activities are overseen by the secretariat coordinators and the general secretariat. CAM-CCBC aims to provide the perfect balance between transparent and standardised case management while also leaving room for flexibility and party autonomy.

Keeping up with international standards, CAM-CCBC's main hearing centre is located in Vila Olímpia, in the heart of São Paulo's business hub. It has state-of-the-art infrastructure, sound technology and IT, providing the best environment for the conduct of proceedings. The centre in São Paulo was remodelled in 2020, following social distancing specifications, and providing an even safer infrastructure for clients and personnel. CAM-CCBC also invested in the technological upgrade of all its hearing rooms, installing in each of the three rooms the best audio and video equipment, such as high-definition dual-cameras that provide superior recording of video conferences.

Given the unforeseen circumstances brought about by a global pandemic, remote and hybrid hearings became largely common in CAM-CCBC administered proceedings. The centre provided clear guidelines detailing the technical requirements needed for smooth online meetings and valuable insight on the planning and conduct of remote hearings.^[5] Additionally, CAM-CCBC put top-of-the-line cybersecurity measures in place, with several walls of protection ranging from the choice of equipment to the implementation of software and technical training of staff.

The information technology department is set up to assist remote hearings, and case managers have been trained to conduct virtual hearings following the best international arbitration practices. The parties can even choose the preferred platform to conduct meetings and hearings from a range of videoconferencing software.

To sum up, CAM-CCBC offers constant support throughout proceedings, as well as sophisticated hearing facilities and virtual resources at no extra cost. This is one of the main reasons why CAM-CCBC is an industry leader in Brazil and recognised globally for its excellence in every aspect of the administration of ADR proceedings. The work developed by the centre is based on six pillars: efficiency, transparency, impartiality, independence, confidentiality and continuous improvements. These principles, along with the secretariat's work, have set the benchmark for quality secretarial services and established a solid reputation for the centre both in Brazil and abroad.

Continuous technical improvement

To comply with its goals of promoting high levels of technicality and transparency, CAM-CCBC publishes administrative resolutions to supplement its rules on sensitive issues and make its services more effective.

Recently published administrative resolutions include the Expedited Arbitration Rules (AR 46/2021)^[6] and Rules on Emergency Arbitrator Proceeding (44/2020).^[7]

Administrative Resolution 46/2021 inaugurated new expedited, and more cost-effective, arbitration proceedings for CAM-CCBC administered arbitration. The rules apply automatically to disputes under 3 million reais where the corresponding arbitration

agreement has been signed after the administrative resolution came into force. The proceedings will preferably be conducted by a sole arbitrator and exclusively virtual. This significant technical development enables effective results in a shorter time frame, without forgoing CAM-CCBC's case management expertise.

To keep its regulations up to date with the best practices in international arbitration, CAM-CCBC revisited its 2018 rules on emergency arbitration proceedings and published Administrative Resolution 44/2020. The innovations introduced by the current emergency arbitrator rules are an opt-out procedure and electronic communications as default.

Apart from the above-mentioned regulations, CAM-CCBC is working on several other fronts to optimise its work and advance the transparency of the arbitration market. For instance, since 2019, CAM-CCBC has made publicly available on its website certain information regarding the arbitral tribunals constituted in its administered arbitration proceedings, such as: arbitrator name; arbitrator nationality; month and year of signature of the terms of reference; position in the arbitral tribunal (president/co-arbitrator/sole arbitrator); arbitrator appointer (parties/co-arbitrator/CAM-CCBC); and status of the proceeding (ongoing/suspended/closed).^[8]

Following the same transparency path, CAM-CCBC organised a working group in partnership with the University of São Paulo to conduct research on possible methodologies for the publication of extracts of arbitral awards. This constitutes one more stepping stone in CAM-CCBC's efforts to provide more transparency regarding its cases, as well as to publish the content of arbitral decisions for market usage.

In CAM-CCBC's view, these micro-reforms in procedural regulations and institutional initiatives are crucial for the development of arbitration in Brazil and Latin America, while also improving the quality and legitimacy of alternative dispute resolution methods.

Revision of Arbitration Rules and public consultation

The CAM-CCBC announced a public consultation for the revision of its Arbitration Rules on 18 October 2021 and received comments until 18 November 2021.

The draft of the revised Rules submitted to public consultation was the result of the work of a commission composed of some of CAM-CCBC's advisory board members, with the subsequent review and contributions of the presidency, the board of directors and the remaining advisory board members, considering the experience of nearly ten years applying the 2012 CAM-CCBC Arbitration Rules.

After almost two years of intense work, the proposal reached its final draft, with almost 300 comments received from scholars, counsel, arbitrators, experts and other arbitration professionals.

The revised rules compiled the improvements approved by the CAM-CCBC during the 10 years the 2012 Arbitration Rules remained in force, including the 2021 expedited arbitration rules and the 2020 emergency arbitrator procedure. It also has new provisions on:

- joinder of additional parties;
- consolidation of arbitral proceedings;

- multiple contracts; and
- data protection.

Statistical breakdown of claims

Since CAM-CCBC's foundation and up to 2 June 2022, the over 1,360 arbitration proceedings initiated amount to approximately US\$24 billion in dispute. In addition, the 92 mediation proceedings administered amount to over US\$2.4 billion.

At the time of writing, there are over 300 ongoing arbitration proceedings, shared among the eight case management teams. In the past five years, an average of 114 cases were initiated before CAM-CCBC per year and on average the proceedings closed in just over sixteen and a half months.^[9]

Throughout 2021, CAM-CCBC registered 10 new cases involving Brazilian state and state-owned enterprises, nine arbitrations and one dispute board. There were 42 ongoing arbitral proceedings featuring parties from various levels of the Brazilian public administration.

Among the 128 arbitration proceedings initiated in 2021, 62.5 per cent involved multiple parties as claimants or respondents. The overall number of parties involved in these proceedings was 604, an increase of 37.6 per cent in comparison with 2020 (which involved a total of 439 claimants and respondents). Those proceedings also featured parties from 21 different countries including Argentina, Brazil, China, Germany, Italy, the Netherlands, Norway, the Seychelles, Spain, the United Kingdom, the United States and Uruguay.

Corporate contracts still represented the majority of cases in 2021 (47.66 per cent). Business contracts for sale of goods or services, or both, (15.63 per cent) and construction-related contracts (17.19 per cent) also featured in many cases. Real estate, insurance, credit and loans agreements and concession agreements are among other identified recurring subjects in the caseload.

During 2020 and 2021 CAM-CCBC also took further steps into the diversification of ADRs proceedings administered by the centre. In 2021, it appointed two emergency arbitrators and three dispute boards were initiated. The centre also received 14 requests for mediation and administered 23 mediation proceedings throughout the year.

Institutional and social activities

CAM-CCBC is aware of the importance of its institutional role to promote ADR, concluding cooperation agreements with peer institutions, granting scholarships to law students, counsel and practitioners, promoting internships for students, granting sponsorships, supporting academic initiatives and promoting academic events.

Worldwide, CAM-CCBC has several partnerships with chambers, institutions, and universities, and is also active in many other initiatives. In Brazil, CAM-CCBC is recognised as a pioneering institution playing a significant role in assisting the study and practice of arbitration and ADR.

CAM-CCBC regularly organises events with highly recognised universities abroad such as NYU, Columbia University, Bucerius Law School and SciencesPo. The centre also grants scholarships to Brazilian law students and practitioners in events and universities such as the Washington College of Law (American University) and organisations such as the Max-Planck Institute for Comparative and International Private Law in Germany.

As a not-for-profit organisation, CAM-CCBC has also provided financial aid on numerous occasions to law students and numerous sponsorships to events such as the International Arbitration Competition of Asunción, the International Negotiation Competition, the Consensual Dispute Resolution Competition (IBA-VIAC Mediation and Negotiation Competition). Additionally, the Centre has been an annual sponsor of the Willem C Vis International Commercial Arbitration Moot. As well as providing sponsorships for the teams participating in the Vis moot, CAM-CCBC also organises two pre-moots. One in São Paulo and the other in Hamburg. Because of social distancing policies, in 2021, CAM-CCBC trialled its first virtual pre-moot. The São Paulo Pre-Moot had 40 teams participating from seven countries and over 300 people logging in from all around the globe to compete and act as arbitrators. The Hamburg Pre-Moot had 38 teams participating from 14 countries.

CAM-CCBC launched in 2019 the NewGen Commission, a group to promote the next generation of dispute resolution practitioners. The commission promotes worldwide integration, provides academic opportunities and coordinates other initiatives to assist the development of the upcoming names in ADR, with a focus on cultural, regional, ethnic and gender diversity. In the past two years several projects have been developed, such as NewGen Blog, newsletters, a call for papers on the impact of GDPR on ADR and the publication of the first NewGen e-book, as well as scholarships, workshops and webinars.

Furthermore, CAM-CCBC holds an annual international arbitration congress and organises São Paulo Arbitration Week, a collaborative calendar of events put together by several institutions and law firms dedicated to the best practices in international arbitration.

Owing to covid-19 restrictions last year, the CAM-CCBC Arbitration Congress was conducted remotely from a 3D digital studio in São Paulo. The eighth edition of the CAM-CCBC Arbitration Congress brought together more than 1,600 registered viewers, 24 sponsors and 24 institutional supporters in a two-day event. This new model of the event fostered the internationalisation of the congress. As a result of holding the event virtually, the congress's reach was greater than in previous years. Even though Brazilians formed the majority of participants, the eighth CAM-CCBC Arbitration Congress was watched by delegates from 29 different countries – including Angola, Belgium, France, Germany, Japan, Turkey and the United States. A carefully selected line-up and the dynamic broadcast platform created the ideal environment for a high-level debate with the most important players in the market. Diversity was also a fundamental factor. Half the speakers were women, and panellists from various backgrounds and 14 different nationalities featured.

Research and data analysis are another important branch of CAM-CCBC's institutional activities as the centre is committed to bringing empirical clarity to the ADR community. Throughout 2021 CAM-CCBC contributed to several pieces of research including initiatives conducted by the International Council for Commercial Arbitration (ICCA), Brazilian Arbitration Commission (Cbar) and Asociación Latinoamericana de Arbitraje (ALARB).

CAM-CCBC is actively developing its institutional activities remotely and in-person, including, for instance, research, events and committees. Creativity, innovation and socially responsible

leadership are the main goals for the years to come, and in 2022, the international arbitration community can expect further innovations from CAM-CCBC's institutional initiatives.

Final remarks

CAM-CCBC is constantly challenging itself to raise its standards in case management and institutional activities, leading the Brazilian and Latin American market and standing out in the international market for an increasingly efficient service and promotion of ADR in Brazil.

The Arbitration Rules in force since 2012 and complemented by the Administrative Resolutions are aligned with the most internationally respected arbitration rules and are one of the key elements to the centre's success. They are guided mainly by the principle of party autonomy and seek to inject a considerable degree of flexibility in arbitral proceedings. The upcoming version of CAM-CCBC's Arbitration Rules aims to maintain CAM-CCBC's internationally recognised level of excellence and adapt the CAM-CCBC framework into modernised rules.

However, CAM-CCBC's work goes far beyond the delivery of cutting-edge services in the administration of ADR proceedings. The centre is constantly contributing to the development of the market in its daily activities. This, along with the serious commitment to its role in the administrative, institutional and international fields, guaranteed CAM-CCBC the leadership among the arbitral institutions not only in Brazil and Latin America, but worldwide.

Aware of its leading position in the Brazilian arbitral community, CAM-CCBC is prepared to tackle future challenges with the best and most reliable structure, norms and internal processes to increase the professionalisation and internationalisation of its services and it will continue to support and publicise arbitration and other forms of alternative dispute resolution in Brazil and abroad.

Footnotes

[1] Law No. 9,307, 23 September 1996.

[2] STF SE-AgR 5206, available at <https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=AC&docID=345889>.

[3] Decree No. 4,311, 23 July 2002.

[4] Law No. 13,129, 26 May 2015.

[5] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/remote-hearings/>.

[6] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/ar-46-2021-expedited-arbitration-rules/>.

[7] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/ar-44-2020/>.

[8] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/administrative-resolutions/ar-35-2019/>.

[9] This statistic considers cases initiated between 2018 and 2021.

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BRAZIL'S ARBITRATION FRAMEWORK

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INSTITUTIONAL AND SOCIAL ACTIVITIES

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CAM-CCBC is actively developing its institutional activities remotely and in-person, including, for instance, research, events and committees. Creativity, innovation and socially responsible leadership are the main goals for the years to come, and in 2022, the international arbitration community can expect further innovations from CAM-CCBC's institutional initiatives.

FINAL REMARKS

CAM-CCBC is constantly challenging itself to raise its standards in case management and institutional activities, leading the Brazilian and Latin American market and standing out in the international market for an increasingly efficient service and promotion of ADR in Brazil.

The Arbitration Rules in force since 2012 and complemented by the Administrative Resolutions are aligned with the most internationally respected arbitration rules and are one of the key elements to the centre's success. They are guided mainly by the principle of party autonomy and seek to inject a considerable degree of flexibility in arbitral proceedings. The upcoming version of CAM-CCBC's Arbitration Rules aims to maintain CAM-CCBC's internationally recognised level of excellence and adapt the CAM-CCBC framework into modernised rules.

However, CAM-CCBC's work goes far beyond the delivery of cutting-edge services in the administration of ADR proceedings. The centre is constantly contributing to the development of the market in its daily activities. This, along with the serious commitment to its role in the administrative, institutional and international fields, guaranteed CAM-CCBC the leadership among the arbitral institutions not only in Brazil and Latin America, but worldwide.

Aware of its leading position in the Brazilian arbitral community, CAM-CCBC is prepared to tackle future challenges with the best and most reliable structure, norms and internal processes to increase the professionalisation and internationalisation of its services and it will continue to support and publicise arbitration and other forms of alternative dispute resolution in Brazil and abroad.

Endnotes

- 1 Law No. 9,307, 23 September 1996. [^ Back to section](#)
- 2 STF SE-AgR 5206, available at <https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=AC&docID=345889>. [^ Back to section](#)
- 3 *Decree No. 4,311*, 23 July 2002. [^ Back to section](#)
- 4 *Law No. 13,129*, 26 May 2015. [^ Back to section](#)
- 5 <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/remote-hearings/>. [^ Back to section](#)
- 6 <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/ar-46-2021-expedited-arbitration-rules/>. [^ Back to section](#)
- 7 <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/ar-44-2020/>. [^ Back to section](#)
- 8 <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/administrative-resolutions/ar-35-2019/>. [^ Back to section](#)
- 9 This statistic considers cases initiated between 2018 and 2021. [^ Back to section](#)



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