



The Arbitration Review of the Americas

2020

**Center for Arbitration and Mediation
of the Chamber of Commerce
Brazil-Canada**

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Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada

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Summary

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In 2019, the Centre for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM-CCBC), the first Brazilian arbitral institution, celebrates 40 years since its foundation just after being chosen as the eighth most preferred institution globally and third in Latin America. [\[1\]](#)

The institution's recognition has been achieved over a long process throughout the years. In its first 20 years, from 1979 to 1998, the centre administered only four cases, but already furthered the study and development of arbitration in Brazil. From 1999 onwards, growth could already be perceived and by 2008 the centre had received 116 cases. However, since 2009, CAM-CCBC has received the significant amount of 898 cases, totalling 1,018 cases in its 40 years of existence.

This is the result of a modern and solid arbitration legal system in place in Brazil since 1996; of case administration best practices; and the centre's active role in the development of arbitration domestically and internationally, as will be further tackled throughout this article.

BRAZIL'S FAVOURABLE LEGAL SYSTEM

The country's legal system pertaining to arbitration is, although new, solid and reliable.

The enactment of the Brazilian Arbitration Act took place in 1996, [\[2\]](#) based on the UNCITRAL Model Law. In 2001, the Superior Court of Justice confirmed the constitutionality of arbitration through a decision rendered in a paradigm case. With that and the adoption of the New York Convention, ratified through a presidential decree on 23 July 2002, [\[3\]](#) the legal system established was arbitration-friendly and in line with international standards from its conception.

The Arbitration Act was reformed in 2015 [\[4\]](#) and came to include important topics that were already discussed by Brazilian scholars, such as emergency proceedings, matters of appointment of arbitrators by institutions and public administration-involving disputes.

Brazilian courts have also consistently shown a deep understanding and respect for party autonomy and for best practice in arbitration.

These are also the reasons why São Paulo, one of the most important financial hubs and largest business centres in Latin America (and where CAM-CCBC is located) is considered one of the safest seats in Latin America and the wisest choice for arbitration according to relevant arbitrators, lawyers and companies throughout the globe.

ARBITRATION BEST PRACTICE

The arbitration-friendly environment described above has helped the CAM-CCBC to continuously develop and improve the administration of arbitration and alternative dispute resolution methods (ADRs).

In order to keep evolving and fostering best practice, CAM-CCBC has been constantly improving its internal proceedings and its institutional work. The unique management formula, certified by the ISO 9001:2015 – a Brazilian certification of quality in administration processes – guarantees the promotion of efficiency and celerity to the arbitral proceedings.

Keeping up with international standards, the hearing centre is located in the heart of São Paulo's business hub. It has state-of-the-art infrastructure, providing the best environment for the development of the proceedings. The centre in São Paulo was remodelled in 2018

to provide even better infrastructure for clients and personnel. Special breakout rooms, simultaneous translation rooms and an auditorium with 90-attendees capacity are some of the key features.

In 2019, CAM-CCBC inaugurated a new unit in Rio de Janeiro due to local demand and market expansion of the centre. Rio is an important city in Brazil, as the second largest economy in the country. [\[5\]](#) The centre has administered over 70 arbitration proceedings with the seat in Rio, 37 of which are currently ongoing.

The state of Rio also now has the option to include arbitration clauses choosing CAM-CCBC in its contracts – with the requirement being a unit in the state. This may increase the centre's involvement in public administration-involving disputes, some of the largest and most important cases in the country.

Statistics

This continuous commitment and hard work has brought impressive results that reflect in the centre's statistics. Since CAM-CCBC's foundation, [\[6\]](#) the 1,018 arbitration proceedings initiated amount to almost US\$15 billion in dispute. [\[7\]](#)

Nowadays, there are 330 ongoing arbitrations, distributed among eight case managers and their respective assistants, with an average duration of 16 months (cases from 2014 to 2018 analysed). In the past five years, an average of 110 cases were initiated before CAM-CCBC per year.

From CAM-CCBC's cases:

- 40 involved public administration entities, with over US\$4 billion in dispute;
- eight involved third-party funding; and
- approximately 200 were multiparty arbitrations.

Foreign parties are from countries as Japan, Germany, Australia, China, the United Arab Emirates, the United Kingdom and others; while seats include São Paulo, London, Rio de Janeiro and Brasília – Brazil's capital city.

Concerning the subject of the cases administered, corporate matters in 2018 still represented the majority of cases at 40 per cent of the total. Business contracts, civil construction and energy, contracts for goods and services, international contracts and intellectual property issues also stood out as subjects in many cases.

The list of arbitrators had great improvements and increased the number of professionals to 148 in 2019, reaching the rate of 41 per cent of non-Brazilian arbitrators from several different nationalities, including American, Argentinian, Belgian, British, Chilean, Colombian, Costa Rican, French, German, Greek, Italian, Peruvian, Portuguese, Spanish and Swedish.

New Administration

In 2019, CAM-CCBC had new administration elections, opportunity in which I (Eleonora Coelho) had the honour of taking on the presidency. Our Advisory Board and vice presidency were also renewed.

Under my administration, the centre is undergoing a continuous process of professionalisation and case management processes are being reviewed for optimisation and better transparency, equality, cost-benefit and other advantages.

The project of the mandate is not only to maintain CAM-CCBC's leadership position and service quality, but also to improve technical tools and strengthen our benchmark. We are aware of the social and economic importance of an efficient and transparent conflict resolution centre and we intend to anticipate ourselves to the market's needs, ensuring judicial security.

CASE MANAGEMENT

One of the main reasons why CAM-CCBC is an industry leader in Brazil and Latin America is because of its excellence in every aspect of the administration of ADR proceedings. The work developed by the centre is based upon six major pillars: efficiency, transparency, impartiality, independency, confidentiality and continuous improvements. These principles, along with the secretariat work, have set the benchmark for quality secretarial services and established a solid reputation for the centre both in Brazil and abroad.

Each of the CAM-CCBC case managers, all certified lawyers with extensive practical and academic experience, will closely follow every step in the development of the proceeding, from the filing of the request for arbitration until the rendering of the final arbitral award.

The case managers will also assist the arbitral tribunal and serve as a direct channel of communication between parties, counsel and arbitrators, always observing the principle of impartiality. Since 2018, each secretariat has had a specialty, including intellectual property, mediation, dispute boards, civil construction, maritime law, sport law, oil and gas, and so forth.

For complying with its goal of promoting transparency of its practice, CAM-CCBC publishes administrative resolutions (ARs) to complement its rules, to discipline sensitive issues and provide more effectiveness to its services.

The latest ARs published concern:

- electronic communications during the administrative phase of the arbitration proceeding;
- equality of gender representation;
- proceedings of the emergency arbitrator;
- conduction of proceedings governed by the UNCITRAL Arbitration Rules; and
- reduction of costs in the event of arbitration and mediation proceedings initiated for the same dispute.

Each one of these norms has improved a different aspect of CAM-CCBC's case management, promoting the expected efficiency to the disputes submitted to its administration.

Electronic communication during the administrative phase of arbitration proceedings

The resolution [\[8\]](#) concerning electronic communications aims to make the proceedings faster and even less costly before the constitution of the arbitral tribunal. In short, all communications are electronically forwarded and no files are physically kept until, at least, the constitution of the tribunal. All parties must opt in and the secretariat will ensure that all messages are dully received in proper time.

The initiative may also lead to an increase in full electronic proceedings. Parties may be tempted, after a great experience in the administrative phase, to continue the whole proceeding only electronically.

Equal Opportunities For Women In The Field Of Arbitration

Aligned with both the Sustainable Development Goals established through the United Nations, which provides as one of its goals 'to achieve gender equality and empower all women and girls' [\[9\]](#) and the Equal Representation in Arbitration (ERA) Pledge [\[10\]](#), CAM-CCBC set out rules to optimise opportunities for women in the field of arbitration. The centre undertook the following actions:

- event panels supported and sponsored by CAM-CCBC shall include representation of at least 30 per cent of women as lecturers, speakers or panellists, under the risk of withdrawal of support or sponsorship;
- academic events organised by CAM-CCBC shall include representation of at least 30 per cent of women as lecturers, speakers or panellists, and the General Secretariat shall ensure appropriate representation;
- the commissions created to conduct studies and make specific recommendations, pursuant to article 2.7 of the centre rules, shall include representation of at least 30 per cent of women;
- the appointment of arbitrators, pursuant to articles 2.6, 4.12 and 5.4 of the centre rules, made by the CAM-CCBC president, shall consider representation of at least 30 per cent of female candidates;
- the CAM-CCBC Advisory and Executive Committee shall conduct election processes for men and women separately, thus ensuring an increase – until 2020 – of women representation to at least 30 per cent of the members of the CAM-CCBC roster of arbitrators; and
- CAM-CCBC will support, whenever possible, initiatives related to the support, mentoring and encouragement of women to pursue their roles as arbitrators and in the arbitration career in general.

The improvement in numbers is already visible. Over 50 per cent of arbitrator appointments made by CAM-CCBC in 2018, for both special committees and arbitral tribunals, when requested, were women appointments. Also, the percentage of women included in the roster of arbitrators doubled in four years – from 14 per cent to approximately 28 per cent on February 2019 – being the centre with most women in its roster of arbitrators.

My election as president in 2019, and as the first woman to lead the centre in its 40 years of existence, [\[11\]](#) means even further attention to these matters and promises to have an even bigger impact on diversity and equality initiatives.

Proceeding Of The Emergency Arbitrator

Before the constitution of the tribunal, the parties may file an urgent requirement to the centre following its rules. In this case, the president of CAM-CCBC will appoint an emergency arbitrator [\[12\]](#) to deal with the matter within 15 days of the signature of their independency term. The cost of the procedure is previously established, ensuring security as well as timeliness of the measure.

Proceeding For The Performance Of CAM-CCBC In Arbitrations Governed By UNCITRAL Arbitration Rules

CAM-CCBC has specific rules [\[13\]](#) to act as the appointing authority for and to administer arbitral proceedings governed by the Arbitration Rules of the United Nations Commission on International Trade Law, [\[14\]](#) which include different activities of the centre and relevant adaptations of the proceeding to be administered. With this set of rules, the centre expanded its activities to encompass UNCITRAL proceedings, facilitating and encouraging international arbitration administration.

Disclosure Of Information On Arbitration

In its first resolution of 2019, [\[15\]](#) CAM-CCBC established that the following information will be published on its website, concerning arbitrators, as long as all parties of the proceeding are in agreement: full name and nationality, date of signature of the terms of reference, position in the arbitral tribunal, appointment by whom and status of the proceeding. [\[16\]](#) The resolution brings more transparency to the centre's and its arbitrators' activities.

From 2019 [\[17\]](#) on, it has been ensured to the parties that a 100 per cent discount in the centre's administrative fees regarding mediation proceedings will be given when parties initiate arbitration proceedings afterwards; and a 50 per cent discount in the administrative fees when the parties suspend an arbitration to mediate. The resolution aims to facilitate and stimulate the use of mediation and is applied for both domestic and international proceedings.

DEVELOPING ARBITRATION

CAM-CCBC is aware of the importance of its institutional role in promoting arbitration and accomplishes this with excellence; celebrating cooperation agreements with peer institutions, granting scholarships to law students, lawyers and practitioners, promoting internships for foreign students, granting sponsorships, supporting academic initiatives and promoting academic events.

The centre divides its efforts in the development of arbitration in Brazil by giving opportunities to students and practitioners here and abroad; and, on the other hand, in the world's knowledge of Brazil as an arbitration hub.

In Brazil

Nationally, CAM-CCBC is recognised as the pioneer institution in assisting the study and practice of arbitration. The centre regularly grants scholarships to Brazilian law students and practitioners in universities, such as the Washington College of Law and the University of Miami School of Law, or organisations such as the Max-Planck Institute for Comparative and International Private Law in Germany, the Société de Legislation Comparée in Paris and the International Dispute Professional Academy in Vienna.

As a non-profit organisation, CAM-CCBC also provides financial aid 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, as well as the Willem C Vis International Commercial Arbitration Moot.

In 2018–2019, the following initiatives deserve to be highlighted.

CAM-CCBC Congress

The largest arbitration congress in Brazil is organised by CAM-CCBC. In its 2018 formation, the largest so far, approximately 500 attendees came together for discussions led by George Bermann, Jan Paulsson, Marike Paulsson, Yasmine Lahlou and other renowned foreign and Brazilian professionals.

The congress is traditionally held in São Paulo, with a two-day programme of high-level debates on the challenges faced in arbitration. The discussion revolves around 'arbitration practice today and tomorrow', analysing the present hot topics and presenting the future trends of the market.

It is an opportunity for practitioners from the private and public sectors to successfully discuss arbitration facing the challenges from the proceedings administered by CAM-CCBC, in line with the institution's transparency and efficiency policy.

The new congress will take place on 21–22 October 2019.

São Paulo Arbitration Week

The São Paulo Arbitration Week (SPAW) is a collaborative event conceived as an organised calendar for law firms, universities, associations and institutions to promote events in a productive environment in benefit of the development of ADRs.

The event is an opportunity for the ever-growing arbitration community in São Paulo to discuss pressing issues and to exchange experiences with foreign practitioners.

Therefore, and considering the wide range of events happening in the same period connected to the subject, SPAW's role is to facilitate and gather all the information concerning these events. The first SPAW, in 2018, gathered over 15 events related to ADRs and was a success.

This year, SPAW will take place from 21–27 October 2019 and new rules were published, including new features such as academic reports made of the events by young practitioners, possibility of donations for a Brazilian charity institute focused on women in a vulnerable state, Women of Brazil – since the SPAW in itself does not charge anything – and an online form facilitating the enrolment of events.

The Willem C Vis International Commercial Arbitration Moot And CAM-CCBC São Paulo Pre Moot

Among the international arbitration competitions, the biggest and most important is the Willem C Vis International Commercial Arbitration Moot. The goal of the moot is to promote the development of international commercial law and arbitration for the resolution of international commercial disputes through its application to an unsolvable problem of a client and to nurture law leaders of tomorrow in ADRs.

CAM-CCBC has always been the main supporter of the competition in Brazil, with eight Brazilian teams being sponsored by CAM-CCBC in 2019. The results of the centre's continuous efforts are clear: Brazil was the second country with most teams present in the competition this year.

CAM-CCBC also organised pre-moots and hosted moot-related events. The pre-moots are essential for the law students to test and improve their arguments, speeches and oral advocacy skills in front of expert arbitrators from all around the world in order to get prepared for the main competition.

In that sense, CAM-CCBC has been organising its own pre-moot in Brazil since the 17th edition of the Willem C Vis Moot. In 2019, the pre-moot hit the unprecedented mark of 32 teams, including representatives from Latin America, North America and Europe. The best-ranked teams were awarded with financial support for their participation in the international competition.

Worldwide

CAM-CCBC is also present in many events, initiatives and institutional activities worldwide. The centre's representatives, in 2018, attended the International Council for Commercial Arbitration Sydney, promoted a roadshow in London on the occasion of the III Oxford Symposium on Comparative International Commercial Arbitration and, of course, is always in Vienna for the Willem C Vis Moot, among other activities.

In 2019, CAM-CCBC will receive an LLM candidate at Sciences-Po Paris for a three-month experience at the centre. The project will be further developed into an international internship programme, improving the exchange of information and experience with foreign students and practitioners.

In addition, CAM-CCBC has entered into several cooperation agreements with distinct arbitral institutions worldwide, such as the Permanent Court of Arbitration in the Hague; the Hamburg Arbitration Circle; the Chamber of Arbitration in Milan in Italy; the CAM-Santiago in Chile, among others. [\[18\]](#)

Recently, the centre settled a partnership with New York International Arbitration Center. The purpose of agreements as this is to reinforce the relations between the leading institutions in different countries by promoting the exchange of experiences and practices in the field of alternative dispute resolution in different jurisdictions.

CPR International Mediation Competition

The international mediation competition was held in CAM-CCBC for the first time in 2019. Over 400 attendees passed through the premises in the three-day event, including the 18 teams from countries as Kenya, Trinidad and Tobago, United States, India and Brazil. Evaluators also came from different countries and CAM-CCBC's volunteers assisted the organisation with delivery of confidential material and general organisation.

CAM-CCBC Hanseatic Pre Moot And Hamburg

Arbitration Day

CAM-CCBC organised its Hanseatic Pre Moot in Hamburg, Germany, in cooperation with the Hamburg Arbitration Circle and Rechtsstandort Hamburg eV. The event received 30 teams from several countries. Practitioners also had the opportunity to share their experience during the opening of the pre-moot, at the Bucerius Law School, for the Hamburg International Arbitration Day, which included several events in this edition.

Eighth LLM International Commercial Arbitration

Moot Competition

American University Washington College of Law organises the competition in the United States for LLM students of the university. It aims to simulate an arbitration case and includes an opening event with lectures on the subject. CAM-CCBC has supported the initiative.

In its 2019 competition, CAM-CCBC's rules were used for the competition and therefore analysed and discussed by LLM students with backgrounds from all over the world. Also, Mr Carlos Forbes, former president of the centre, participated as arbitrator in the final round of the competition, choosing the winner of the event.

Portuguese-Brazilian Arbitration Journeys

CAM-CCBC and the Center of Commercial Arbitration of the Portuguese Chamber of Commerce and Industry jointly organise the 'journeys', which take place in Brazil one year and in Portugal in the next. In 2018, it occurred in CAM-CCBC during the SPAW with hot topics including arbitration being discussed and the comparison between the countries being a focus.

FINAL REMARKS

CAM-CCBC is constantly challenging itself to raise its standards in case management, leading the Brazilian and Latin American market; and standing out in the international market for an evermore efficient service and promotion of arbitration as a viable dispute resolution mechanism and São Paulo and Brazil as a viable seat.

The UNCITRAL Arbitration Rules, in force since 2012 and complemented by the ARs, are aligned with the most internationally recognised arbitration rules and are one of the most important 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 the arbitral proceedings.

CAM-CCBC's work goes far beyond the delivery of cutting-edge services in the administration of arbitral proceedings. The centre is constantly contributing to the development of the market in its daily activities. This hard and constant work, along with the serious commitment to its role in the administrative, institutional and international fields, guarantees CAM-CCBC leadership among the arbitral institutions not only in Brazil and Latin America, but in the world, as recognised in 2018.

Aware of its unequalled position towards the Brazilian arbitral community, CAM-CCBC is prepared to tackle future challenges with the best and most reliable structure, norms and internal processes for increasing the professionalism and internationalisation of its services, and will continue to support and publicise arbitration and ADR in Brazil and abroad.

Notes According to the Queen Mary University and White
[1] & Case International Arbitration Survey 2018, available at

<http://www.arbitration.qmul.ac.uk/media/arbitration/docs/2018-International-Arbitration-Survey-report.pdf>.

[2] Law Nr 9.307, 23 September 1996.

[3] Decree Nr 4.311, 23 July 2002.

[4] Law Nr 13.129 of 26 May 2015.

[5] <https://www.riodejaneiro.com/v/economy/>.

[6] All data updated until 10 May 2019.

[7] Based on the exchange rate of US\$1 = 3.95 reais of 10 May 2019.

[8] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/administrative-resolutions/ra-29-2018-comunicacao-eletronica-durante-a-fase-administrativa-dos-procedimentos-arbitrais/>.

[9] <https://nacoesunidas.org/pos2015/ods5/>.

[10] www.arbitrationpledge.com/.

- [11] <https://globalarbitrationreview.com/article/1192863/brazilian-centre-gets-first-female-president>
- [12] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/resolucao-de-disputas/resolucoes-administrativas/ra-32-2018-ref-procedimento-do-arbitro-de-emergencia/>
- [13] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/administrative-resolutions/ra-33-2018-ref-procedimento-para-atuacao-do-cam-ccbc-em-arbitragens-regidas-pela-uncitral-arbitration-rules/>
- [14] <https://www.uncitral.org/pdf/english/texts/arbitration/arb-rules-2013/UNCITRAL-Arbitration-Rules-2013-e.pdf>
- [15] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/resolucao-de-disputas/resolucoes-administrativas/ra-35-2019-divulgacao-dos-tribunais-arbitrais/>
- [16] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/arbitration/arbitral-tribunals/>
- [17] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/resolucao-de-disputas/resolucoes-administrativas/ra-36-2019/>
- [18] <https://ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/about-the-cam/partnerships-and-agreements/>



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