



Organization of American States
Secretariat for Legal Affairs
Department of International Law

ACTIVITIES

- Design and implement a regional training program that emphasizes the importance of national judicial recognition of arbitral decisions, by emphasizing its impact on trade, investment, and development.
- Produce and disseminate studies, publications and best practices on trade and international arbitration, sub-regional integration agreements, and related jurisprudence.
- Participate in and promote regional and national expert meetings, conferences, and workshops on international commercial arbitration.
- Establish a network of information, knowledge, and cooperative exchanges on this topic.
- Create databases of information on this subject.

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INTERNATIONAL COMMERCIAL ARBITRATION

Training Judicial Officers in
Cross-Border Decision Enforcement

A Cooperative Partnership



THE PROJECT

OBJECTIVE

To strengthen judges' and public officials' knowledge and proper application of internationally recognized norms on commercial arbitration throughout the region, particularly with regard to cross-border international commercial arbitral decision enforcement.

STRATEGY

To build recognition of international commercial arbitration and its resulting decisions in judicial systems throughout the Americas, particularly to promote the international validity of arbitral decisions. The project will do this by training judges and other public officials on these topics. This should lead to greater public confidence in countries' markets, as it increases legal certainty as to the enforceability of arbitral decisions. This project will act to:

- Manage an effective training program that responds to the particular challenges that Member States face in this arena.
- Create a participatory process that incorporates into the program each country's contributions, suggestions, experiences, and knowledge from national experts, academics, judges, arbiters, associations, and arbitration facilities, as well as the private sector and civil society.
- Host sub regional workshops that promote Inter-American and international law on international commercial arbitration, including the legal norms defined by the various sub regional integration treaties on the topic.
- Incentivize the training of trainers, encouraging workshop participants to replicate the training program locally.
- Create networks and databases to facilitate the exchange of knowledge and the use of modern information technology for information sharing.

INTERNATIONAL COMMERCIAL ARBITRATION

International Commercial Arbitration is the resolution technique most commonly used to resolve private commercial disputes, due to its flexibility, rapidity, and broad scope.

IN THE ORGANIZATION OF AMERICAN STATES (OAS)

International commercial arbitration, and the cross-border recognition of arbitral decisions, has long been a subject of consideration between the Member States. In 1975 and 1979 they adopted two conventions in this area, the Inter-American Convention on International Commercial Arbitration (Panama Convention), and the Inter-American Convention on the Extraterritorial Validity of Foreign Judgments and Arbitral Awards (Montevideo Convention).

THE DEPARTMENT OF INTERNATIONAL LAW (DIL)

Among its functions, the DIL promotes and performs activities aimed at unifying and harmonizing Member States' legislation in areas impacted by public and private international law. Through this project, the DIL is encouraging regional economic integration through the strengthening of international commercial arbitration's legal framework.

IN INTERNATIONAL TRADE

International Commercial Arbitration is highly relevant to business and trade, because investors prefer to put capital into countries with high political stability, legal certainty, and strong markets. Without these three conditions, investors lack assurance that contractual arbitration clauses will lead to nationally enforceable resolutions of any disputes that may arise in the course of business supported by internationally accepted legal norms and principles.

IN MEMBER COUNTRIES

Various countries in the Americas have advanced substantially in creating a business climate attractive to investors and international trade. This success must be attributed, at least in part, to legislative reforms in the area of arbitration, particularly in the enforceability of foreign decisions.

Nevertheless, some countries continue to face roadblocks to establishing themselves as appealing markets for international investment. These challenges can be overcome through the adoption of legislation that ensures the respect of international law on cross-border arbitral decision enforcement and strengthen their judicial systems, so as to firmly guarantee the application of international commercial arbitration norms within their territories.

CHALLENGES FOR ARBITRATION

When one party to a dispute does not voluntarily comply with an arbitral decision, the success of international arbitration as a dispute resolution mechanism depends on local courts' correct application of legal principles to enforce it. This means that a country's legal system must:

Recognize the arbitration agreement, respond adequately to requests for preliminary injunctions and other precautionary measures to protect enforceability, in an avenue that ensure that successful claimant will actually recover the damages awarded it. Overall, the ability to enforce an arbitral judgment, and to do so through an expeditious process, are key aspects in any investor's risk assessments as he decides where he will invest capital, and in what amount.

Supporting economic development, trade, and investment, through strengthening the cross-border enforceability of arbitral decisions.