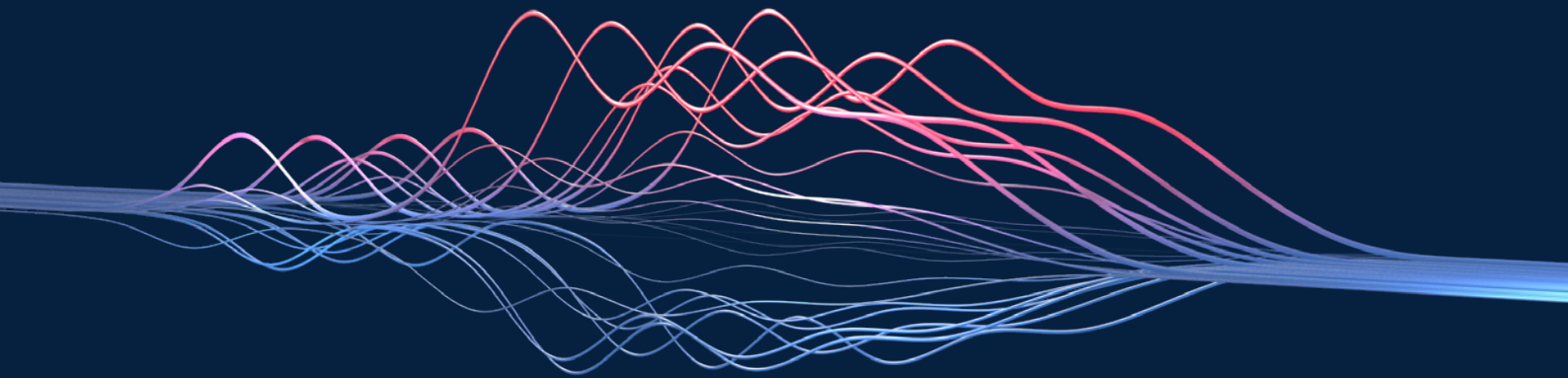


A REVIEW OF KEY DEVELOPMENTS IN RESPONSE TO COVID-19

# Online Arbitration Hearings

SEPTEMBER 2020



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# Introduction

Arbitration users are well-accustomed to remote hearings. Whether a procedural hearing held by telephone, or a witness cross-examined by video-link, the technology to conduct remote hearings in international arbitration has been available and has been used for many years. The conduct of a fully remote hearing in international arbitration is, however, something that has been relatively rare until now.

In the **first of our reports** in this series, we surveyed lawyers across our global platform and spoke to our clients to distil some common themes about their experience of online hearings (both court proceedings and arbitration) in the immediate aftermath of COVID-19 confinement. In this second report, we focus on arbitration and look at how arbitral institutions have adapted in response to COVID-19. We draw out some of the key legal as well as practical challenges faced, and we offer some observations on what the future may look like.

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# How are arbitral institutions responding?

As might be expected, with the sudden onset of COVID-19 and related confinement measures imposed by many states, the initial reaction by many of those conducting, or preparing for, international arbitration hearings globally was to postpone such hearings until a later date. However, that solution was not sustainable, nor indeed desirable in many instances. With no certainty regarding when confinement measures might be lifted, many arbitration hearings have proceeded remotely using online video platforms.

While many arbitration practitioners were familiar with holding procedural hearings by telephone or video-link, the idea of holding a fully remote merits hearing

was unheard of. The very notion of a fully remote hearing immediately threw up questions not only as to whether it was preferable to proceed on such a basis, but also whether it was procedurally possible under the applicable arbitral rules. As such, many arbitral institutions have taken it upon themselves to offer guidance to parties and their counsel.

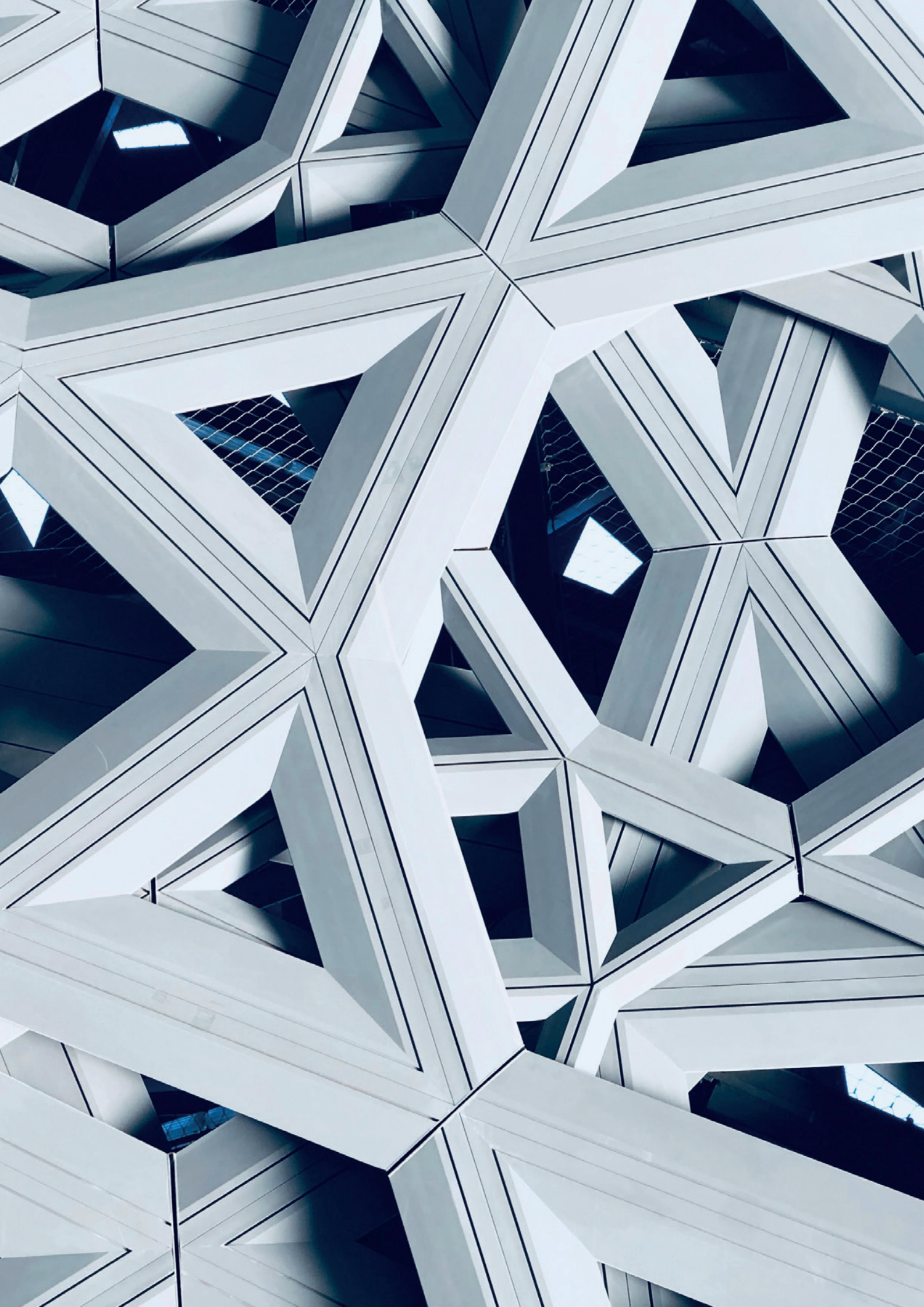
The arbitration rules of most of the major arbitration institutions either expressly provide for, or at least leave open, the possibility of dealing with matters “remotely” through the use of technology, including video hearings and telephone hearings. Some of the key provisions are summarised below.

Arbitral institution	Provision
ICC	<p>Article 22 of the ICC Arbitration Rules 2017 (“ICC Rules”) provides that both the parties and the tribunal are required to be proactive in making efforts to conduct arbitrations efficiently and to agree to appropriate procedural measures to further that cause wherever possible.</p> <p>Article 24 of the ICC Rules provides that an ICC tribunal can use telephone or video conferencing for both Case Management Conferences and other hearings “<i>where attendance in person is not essential</i>”.</p> <p>In respect of the main hearing, Article 25(2) of the ICC Rules provides that the tribunal “<i>shall hear the parties together in person if any of them so requests</i>”. The ICC has issued a guidance note (see Appendix) clarifying that this “<i>can be construed as referring to the parties having an opportunity for a live, adversarial exchange and not to preclude a hearing taking place ‘in person’ by virtual means if the circumstances so warrant</i>”.</p>
LCIA	<p>Article 19.2 of the LCIA Arbitration Rules 2020 specifically allows for any hearing to be held virtually: “<i>...As to form, a hearing may take place in person, or virtually by conference call, video conference or using other communications technology with participants in one or more geographical places (or in a combined form)...</i>”.</p>
SIAC	<p>Rule 19.3 of the SIAC Arbitration Rules 2016 allows for a SIAC tribunal to hold at least the initial preliminary hearing “<i>in person or by any other means</i>”. Rule 24 of the SIAC Arbitration Rules 2016 (concerning “<i>Hearings</i>”) does not directly address the issue of video hearings, but does not exclude them.</p>
SCC	<p>Article 32 of the SCC Arbitration Rules 2017 (concerning “<i>Hearings</i>”) does not directly address video hearings, but does not exclude them.</p>
ICSID	<p>Rule 32 of the ICSID Arbitration Rules (concerning “<i>The Oral Procedure</i>”) does not directly address video hearings, but does not exclude them.</p>

In light of the lack of express provisions for online hearings in many arbitral rules, a number of arbitral institutions have recently released guidance notes to assist users. A summary of the key guidance that has been issued is set out in the Appendix to this report. As can be seen from the earlier table, the LCIA recently released an update to its LCIA Arbitration Rules and LCIA Mediation Rules in August 2020. The most significant changes revolve around a focus on the primacy of electronic communication, facilitating electronic signature of awards by arbitrators and refining and expanding the provisions on the use of online hearings. In particular, Article 19.2 provides the arbitral tribunal, in consultation with the parties, with the fullest authority to establish conduct of an online hearing. No doubt many other institutions will seek to introduce similar express provisions for online hearings in the next update to their rules.

Arbitral institutions find themselves having to navigate complex and, at times, competing imperatives. On the one hand, institutions must preserve the integrity of arbitral proceedings by providing clear rules and guidance in line with the expectations of users at the time they signed up to use their rules by entering into an arbitration agreement. On the other hand, many users are looking to the institutions to drive innovation and change by adapting their rules to ensure that international arbitration is procedurally efficient.

It is worth noting that recent months have also seen a significant increase in non-institutional guidance in this area. Two notable examples include the **Seoul Protocol on Video Conferencing in International Arbitration** and the **Africa Arbitration Academy Protocol on Virtual Hearings**. Further guidance notes and protocols are set out in the Appendix.



# Online hearings: a trigger for greater change?

Innovation in law has been a hot topic for a number of years, and business-driven recognition such as The Financial Times **Innovative Lawyers Awards** is to be welcomed. However, lawyers by their very nature can be slow to adopt change. This is particularly apparent in the adoption of technology, as noted by a recent ICC Commission:

*“...despite the advent of readily available means of video conferencing (e.g. Skype; FaceTime), some tribunals and parties remain reluctant even for minor witnesses to testify by video. Accordingly, we hope that this report will encourage arbitrators and counsel to analyse, as a matter of routine and not exception, whether and how IT might be used”.*

ICC Commission Report  
Information Technology In  
International Arbitration (2017)

International arbitration has become a process that often focuses heavily on the hearing as the opportunity for a party to present its case and to seek to discredit the factual and expert evidence adduced by the opposing party. This process reflects a procedure more akin to common law adversarial proceedings, and it can be rather alien to civil law qualified lawyers. In recent years, some commentators have argued that arbitration has become too heavily aligned with common law procedures. Alternatives have been proposed (most notably, the **Prague Rules**) which seek to enhance procedural efficiency and reduce cost by adopting a more-streamlined, civil law approach to evidence.

At the heart of the debate about online hearings is whether they are, put simply, as good as the in-person hearings to which we have all become accustomed. Of course, this qualitative comparison proceeds from a whole host of assumptions which, for example, place value in long written submissions and factual testimony, in the party's right to appoint its own expert (rather than having a tribunal-appointed expert) and in justice capable of being done only by holding a lengthy hearing with meticulous cross-examination of fact and expert witnesses.

If that is the comparison, then online hearings have an uphill battle if they are to win any ground in the long term. But simple comparisons which highlight the shortcomings of an online hearing may be missing the point.



End users of arbitration, our clients, have become at times frustrated with the arbitral process, which can be as drawn out and as expensive as court proceedings. Arbitration is heralded as offering parties an efficient way of resolving disputes by being flexible and adaptable to their needs. However, how many arbitral proceedings simply end up adopting the cookie-cut Procedural Order No. 1 with its tried and tested procedural timetable?

Perhaps the current expediency for online hearings might drive arbitration practitioners and institutions to embrace more change, which will promote procedural efficiency. While it may be less than optimal to cross-examine a witness for several hours by video, perhaps we need to re-think the importance and value of lengthy witness testimony. Perhaps tribunals might take a more active role in the examination of witnesses, focussing on the areas of evidence that the arbitrators would like to be clarified. One thing is certain, the advocacy skills lawyers have been trained in to date will need to be unlearned (at least in part) and replaced with a style more suited to the online forum. Similarly, long opening and closing submissions may need to be radically re-thought, and digital presentations and graphics may become increasingly valuable tools for communicating effectively via a screen.

The “feel” of the physical hearing room, if not lost entirely, is certainly diminished in the online context. As one commentator noted, it is a little like watching Wimbledon: if you are at home watching the final on television, you see only what the cameraman chooses to show you; but if you sat in Centre Court itself you can absorb a whole range of additional visual and audio cues that cannot be captured on a screen.

However, it is important that we listen to our clients as to what might also be gained with online hearings. In our first **report** in this series, we noted that a number of clients commented that their experience of the hearing was much enhanced. Rather than participating from the back row of the hearing room, clients could engage with the hearing on equal terms with both the tribunal and the counsel team – everyone has the same experience of the “hearing room”. If the use of online hearings also promotes shorter and more focussed hearings, then this can only help drive time and cost efficiencies sought by clients.

# The future of online hearings

Online hearings are here to stay. Anecdotal evidence from a number of institutions including the ICC, the LCIA and ICSID suggests that a large number of tribunals have already adopted protocols to replace scheduled in-person arbitration hearings with online hearings.

Equally, the flexibility of arbitration allows parties to agree a hybrid approach. Going forward, international arbitration hearings may rely on a combination of in-person and online hearings to create a hybrid model that is efficient, and guarantees procedural fairness and the integrity of the hearing process itself.

Ultimately, the future of online hearings will depend on the experience of our clients and the ability of tribunals to ensure that parties are given adequate opportunity to present their case. Online hearings offer a green alternative with a low carbon footprint. If they can also deliver on the promise of time and cost efficiencies, then the future of online hearings as the new norm will be secured.



## Appendix: Key guidance and protocols from international arbitration institutions\*

<b>Arbitral Body</b>
1. ICC International Court of Arbitration (ICC)
<b>Publication(s)</b>
ICC Guidance Note on Possible Measures Aimed at Mitigating the Effects of the COVID-19 Pandemic dated 9 April 2020
<b>Commentary</b>
<p>Part Three of the document provides detailed guidance on the organisation of online hearings. In particular, when discussing the means of conducting conferences or hearings, the ICC states:</p> <p><i>"If the parties agree, or the tribunal determines, to proceed with a virtual hearing, then the parties and the tribunal should take into account, openly discuss and plan for special features of proceeding in that manner...The Secretariat stands ready to assist the parties in this regard."</i></p> <p>Significantly, the ICC suggests that a tribunal may determine to proceed with an online hearing without party agreement, or in the face of party objection, but that the tribunal should consider carefully the relevant circumstances, assess whether the award will be enforceable at law, as provided by Article 42 of the Rules, and provide reasons for that determination.</p> <p>In relation to procedural issues, the ICC has helpfully identified a number of considerations for the tribunal in relation to time zones; venue; transcription; interpreters; verification of attendance; use of demonstratives, including through shared screen views; and use of an electronic hearing bundle.</p> <p>The ICC provides a useful Cyber-Protocol Checklist at Annex I to the Guidance Note that addresses the Pre-hearing Plan, Scope and Logistics; Technical Issues, Specifications, Requirements and Support Staff; Confidentiality, Privacy and Security; Online Etiquette and Due Process Considerations; and Presentation of Evidence and Examination of Witnesses and Experts.</p> <p>Annex II to the Guidance Note also includes a number of suggested clauses for inclusion in cyber protocols of procedural orders dealing with the organisation of virtual hearings.</p>

<b>Arbitral Body</b>
2. Hong Kong International Arbitration Centre (HKIAC)
<b>Publication(s)</b>
HKIAC Guidelines for Virtual Hearings dated 14 May 2020
<b>Commentary</b>
<p>HKIAC had previously partnered with leading legal technology specialists to offer users a comprehensive range of integrated virtual hearing services. These services are detailed and referenced in <b>HKIAC Measures and Service Continuity during COVID-19</b> dated 27 March 2020.</p> <p>The Guidelines provide a useful checklist for participants regarding the commencement and administration of online hearings through the HKIAC's virtual hearing service.</p>

\* Information correct as at 1 August 2020.

<b>Arbitral Body</b>
3. Vienna International Arbitral Centre (VIAC)
<b>Publication(s)</b>
<b>The Vienna Protocol: A Practical Checklist for Remote Hearings</b> dated June 2020
<b>Commentary</b>
<p>The Protocol provides a practical checklist that addresses preliminary considerations; selection of an online platform; pre-hearing measures and conduct of the remote hearing itself. It begins with reference to the Vienna rules, which are <i>“currently silent on the possibility of conducting hearings remotely rather in person”</i>, with article 30(1) only requiring an <i>“oral hearing”</i> if a party so requests. Significantly, the protocol states that <i>“a remote hearing that allows parties to orally present their case satisfies this provision in principle”</i></p> <p>Absent any party agreement to the contrary, VIAC tribunals, therefore, have <i>“considerable discretion”</i> to conduct proceedings as they choose, including to hold a remote hearing through technological means. They must do so in line with article 28, which requires them to conduct the arbitration in an effective and cost-efficient manner, respecting the fundamental principles of the parties’ right to be heard and treated equally.</p> <p>The protocol identifies a number of factors to consider in order to determine whether to proceed with a remote hearing, such as travel restrictions and health concerns, the length and nature of the hearing, and the impact of the delay if the parties were made to wait. It also mentions the number of participants and their locations, number of different time zones and access to technology.</p> <p>A key recommendation is a pre-hearing organizational conference to discuss hearing etiquette, room arrangement, presentation of documents and data security, with the online hearing procedure to be set out in writing.</p>

<b>Arbitral Body</b>
4. Arbitration Institute of the Stockholm Chamber of Commerce (SCC)
<b>Publication(s)</b>
<b>COVID-19: Information and Guidance in SCC Arbitrations</b> dated 27 March 2020
<b>Commentary</b>
<p>This guidance provides useful details about the SCC’s digital platform. The SCC encourages all arbitral tribunals and parties to transfer arbitrations to a fully digital environment, including using audio and visual meeting facilities in the proceedings going forward.</p> <p>Importantly, unless illness or other aspects of the arbitration otherwise prevents the case from continuing as planned, arbitral tribunals are expected to manage the proceedings in accordance with timetables previously established, or otherwise in accordance with Article 23 of the SCC Rules.</p> <p>On 23 April 2020, SCC and Thomson Reuters <b>announced</b> that the SCC was making a version of the SCC Platform available for free to all ad hoc arbitrations globally – the Ad Hoc Platform. The Ad Hoc Platform is a secure digital platform for communications and file sharing between the parties and the tribunal.</p>

<b>Arbitral Body</b>
5. Singapore International Arbitration Centre (SIAC)
<b>Publication(s)</b>
COVID-19 Information for SIAC Users dated 16 March 2020
SIAC COVID-19 Frequently Asked Questions (FAQs) dated 27 April 2020
<b>Commentary</b>
<p>On 16 March 2020, SIAC suggested that parties consider using the Maxwell Chambers Virtual ADR Services for their cases in place of in-person meetings or hearings. Maxwell Chambers has been offering virtual ADR solutions since 2019.</p> <p>The FAQs document provides some useful guidance to practitioners and specifically addresses whether there is a prohibition against holding proceedings electronically under the SIAC Rules. SIAC confirms that the SIAC Rules 2016 do not prohibit virtual hearings or the conduct of hearings by any means other than in-person.</p> <p>SIAC does not have a protocol for virtual hearings and suggests that a virtual hearing may be conducted in a manner considered appropriate by the tribunal, in consultation with the parties.</p> <p>SIAC encourage the parties to discuss the conduct of the virtual hearing with the tribunal, including, but not limited to, the procedure for witness testimony and measures to ensure the security and confidentiality of the hearing.</p>

<b>Arbitral Body</b>
6. The American Arbitration Association (AAA) and the International Centre for Dispute Resolution (ICDR)
<b>Publication(s)</b>
AAA-ICDR Virtual Hearing Guide for Arbitrators and Parties dated 9 May 2020
AAA-ICDR Virtual Hearing Guide for Arbitrators and Parties Utilizing ZOOM dated 9 May 2020
AAA-ICDR Model Order and Procedures for a Virtual Hearing via Video conference dated 9 May 2020
<b>Commentary</b>
<p>The first guidance document titled AAA Virtual Hearing Guide for Arbitrators and Parties provides useful guidance on optimizing the virtual hearing experience; virtual hearing security considerations; preparing for the virtual hearing and the commencement of a virtual hearing.</p> <p>The second guidance document titled AAA Virtual Hearing Guide for Arbitrators and Parties Utilizing ZOOM provides specific guidance on the utilisation of ZOOM for a virtual hearings, including optimizing the virtual hearing experience; zoom technical support; virtual hearing security considerations; preparing for the virtual hearing; the commencement of a virtual hearing and considerations for recording a zoom hearing.</p> <p>Appendix A includes a useful checklist of suggested zoom default settings for virtual hearings.</p> <p>The Model Annotated Procedural Order helpfully addresses the selection of video conferencing platform; preparatory activities; requirements during the proceeding; documents and witness examinations; and enforceability.</p>

<b>Arbitral Body</b>
7. Australian Centre for Commercial Arbitration (ACICA)
<b>Publication(s)</b>
<b>Draft Procedural Order for use of Online Dispute Resolution Technologies</b> dated 16 August 2016
<b>ACICA Online Arbitration Guidance Note</b> dated 19 May 2020
<b>Commentary</b>
<p>The draft procedural order can be used (with any necessary amendments or adaptation) if the parties wish to use ODR technologies in an arbitration governed by the standard or expedited Arbitration Rules of the Australian Centre for International Commercial Arbitration<sup>1</sup> and heard in Australia.<sup>2</sup></p> <p>The draft order covers some of the matters raised by the National Alternative Dispute Resolution Advisory Council draft guidelines on Dispute Resolution and Information Technology Principles for Good Practice (Draft) March 2002 and the issues raised by s6 of the <i>Telecommunications (Interception and Access) Act 1979 (Cth)</i>. It is assumed that the seat or place of the arbitration and hence the procedural law governing the arbitration has already been agreed by the parties and specified. If not, then this should be agreed before online technologies are used to avoid uncertainty as to the procedural law governing the hearing.</p> <p>The purpose of the Guidance Note as stated is to raise a range of matters that need to be addressed in advance of an arbitration being conducted on an online platform, with numerous parties each participating from different physical locations.</p> <p>The Guidance Note takes the form of a comprehensive checklist of relevant considerations for parties to take into account in preparing for an online arbitration.</p> <p>ACICA provides useful guidance on choosing the most suitable platform; determining whether a third party online arbitration provider is necessary and poses a number of questions for the practitioners to consider.</p> <p>The parties are encouraged to consider if all the relevant parties are familiar with the chosen platform, and can access the platform, and, if not, how this can best be achieved. The utilisation of translators and transcription services, together with the practical considerations for internal communications within a legal team and participation of witnesses in the online arbitration are also addressed in the Guidance Note. The note concludes with a useful section detailing the further matters to be agreed prior to an online arbitration.</p>

1 However, that ACICA's Expedited Arbitration Rules only provide for a hearing in exceptional circumstances or upon separate agreement.

2 Although ACICA Rules are worded to allow for the seat of the arbitration to be outside Australia, and for the hearings to be conducted outside Australia, additional care may be required in conducting arbitration overseas that incorporate ODR technologies.

<b>Arbitral Body</b>
8. Korean Commercial Arbitration Board (KCAB)
<b>Publication(s)</b>
<b>Seoul Protocol on Video Conference in International Arbitration</b> dated 18 March 2020
<b>Commentary</b>
<p>The Seoul Protocol was not a direct result of COVID-19 but its timely release in March 2020 was welcomed by the arbitration community.</p> <p>The Seoul Protocol is intended to serve as a guide to best practice for planning, testing and conducting video conferences in international arbitration. The Seoul protocol contains nine Articles/Sections that address the following topics in detail:</p> <ol style="list-style-type: none"> <li>1. Witness Examination Generally <ul style="list-style-type: none"> <li>• identifies technical requirements for venues, the location of the witness screen and requirements for what is shown on the screen.</li> <li>• the Witness shall give his/her evidence during the course of the hearing under the direction of the Tribunal.</li> <li>• In relation to taking an oath, the parties shall ensure that an agreed translation of the oath to be administered is placed before the Witness in the remote hearing room.</li> <li>• Importantly, the Tribunal may terminate the video conference at any time if the Tribunal deems the video conference so unsatisfactory that it is unfair to either Party to continue.</li> </ul> </li> <li>2. Video Conferencing Venue <ul style="list-style-type: none"> <li>• specifies the minimum standards required to be met by the video conference venue.</li> </ul> </li> <li>3. Observers <ul style="list-style-type: none"> <li>• states that the only persons present in the Remote Venue shall be the Witness giving evidence (with his/her counsel, if applicable), interpreters, paralegals to assist with the documents, and representatives from each Party's legal team on a watching brief.</li> </ul> </li> <li>4. Documents <ul style="list-style-type: none"> <li>• confirms that the Parties may agree on utilizing a shared virtual document repository (i.e. document server) to be made available via computers at all Venues, provided that the Parties use best efforts to ensure the security of the documents.</li> </ul> </li> <li>5. Technical Requirements <ul style="list-style-type: none"> <li>• the video conference shall be of sufficient quality so as to allow for clear video and audio transmission of the Witness, the Tribunal and the Parties, and there shall be compatibility between the hardware and software used at the Venues.</li> <li>• specifies the required minimum transmission speeds, resolution, ISDN and IP equipment, microphone and camera requirements.</li> <li>• under appropriate circumstances, Parties may agree to use web-based video conferencing solutions instead of ISDN or IP communication lines.</li> <li>• when using a web-based video conferencing solution, the Venue should provide for a sufficiently large screen that can project the video transmission displayed through the video conferencing solution and ensure that the Ethernet or wireless internet connection is secure and stable throughout the proceedings. Annex I contains additional detail on technical specifications.</li> </ul> </li> </ol>

<b>Commentary <i>continued</i></b>
<p>6. Test Conferencing and Audio Conferencing Backup</p> <ul style="list-style-type: none"> <li>• as a general principle, testing of all video conferencing equipment shall be conducted at least twice: once in advance of the commencement of the hearing, and once immediately prior to the video conference itself.</li> <li>• the Parties shall ensure that there are adequate backups in place in the event that the video conference fails.</li> </ul> <p>7. Interpretation</p> <ul style="list-style-type: none"> <li>• the Parties shall ensure that interpretation services are made available to the Witness and as a general principle, consecutive interpretation shall be preferred to simultaneous interpretation.</li> </ul> <p>8. Recordings</p> <ul style="list-style-type: none"> <li>• no recordings of the video conference shall be taken without leave of the Tribunal.</li> </ul> <p>9. Preparatory Arrangements</p> <ul style="list-style-type: none"> <li>• to the extent possible, the Parties should make the request to the Tribunal to use video conferencing at the hearing at least 72 hours before the commencement of hearing.</li> <li>• the Party who requests the use of video conferencing should liaise with the appropriate individuals to ensure the video conferencing can be conducted smoothly. This includes the booking of video conferencing facilities and notifying all participants of the video conferencing arrangements.</li> <li>• the Requesting Party shall bear the extra costs of the video conferencing facilities, if any.</li> </ul>

<b>Arbitral Body</b>
9. China International Economic and Trade Arbitration Commission (CIETAC)
<b>Publication(s)</b>
<p><b>China International Economic and Trade Arbitration Commission Online Arbitration Rules 2009</b></p> <p><b>Guidelines on Proceeding with Arbitration Actively and Properly during the COVID-19 Pandemic</b> dated 28 April 2020</p>
<b>Commentary</b>
<p>Online arbitration has been in practice but not widely used in mainland China. However, it is expected that online arbitration will quickly become a popular alternative for both end-users and arbitration institutions having regard for current international travel bans, intercity traffic restrictions across the country, and the risk of contagion in physical gatherings.</p> <p>The purpose of the Guidelines as stated is to actively and properly proceed with the arbitration cases, protect the legitimate interest of the parties, and uphold social fairness and justice. These Guidelines came into force on 1 May 2020, and shall cease to have effect when the pandemic is over.</p> <p>Section 2.6 of the Guidelines specifically addresses the use of a virtual hearing. Virtual hearings are considered a method of oral hearing which is in accordance with the Arbitration Rules and tribunals are encouraged to first consider the possibility of holding virtual hearings.</p>



**Commentary *continued***

Before ordering the parties to proceed by virtual hearing, tribunals are directed to consider the complexity of the case, the volume of evidence, any witness to be present, the justification of a party's objection to holding a virtual hearing, and the convenience and equality of the participants to access to the virtual hearing facilities.

The parties and their representatives as well as other participants of a virtual hearing are required to comply with the CIETAC Provisions on Virtual Hearings (Trial), which form an Annex to the Guidelines. These provisions address the confidentiality of virtual hearings; the failure of parties to participate in an agreed virtual hearing; requirements of the location of each of the parties, arbitration agents and other arbitration participants and dress code.

The provisions also prohibit unauthorized audio/video recording; dissemination of messages, pictures, audio, and video during the hearing; attendance by unauthorised persons; the making of or receipt of calls during the hearing; and other acts that may obstruct the proceeding of the virtual hearing.

Witnesses, experts and appraisers shall take part in the virtual hearing at a place designated or approved by the arbitral tribunal. In principle, they are not allowed to participate in the hearing in the same room with the parties, their agents and other arbitration participants.

The arbitrator(s), the parties, arbitration agents, other arbitration participants, the case manager and stenographer shall sign the transcript by using the electronic signature function of the operating system of the virtual hearing.

The arbitral tribunal may adopt one of the following means of virtual hearings based on the specific circumstances of the case:

- Where the arbitrator(s), the parties and their representatives, and other participants are located in different parts of mainland China, a virtual hearing maybe conducted via **CIETAC smart oral hearing platform**;
- Where the arbitrator(s), the parties and their representatives, and other participants are located in different jurisdictions, or the language of the oral hearing is not Chinese, a virtual hearing may be conducted via other video conferencing platforms agreed by the parties and approved by the CIETAC headquarters or its sub-commissions/centers;
- after the office facilities of the CIETAC headquarters and its sub-commissions/centers reopen to the public, the arbitrator(s), the parties and their representatives, and other participants at different localities of the CIETAC headquarters or any of its sub-commissions/centers may participate in a virtual hearing by using the nearest CIETAC facilities;
- where the arbitrator(s), the parties and their representatives, and other participants are located in different jurisdictions, a virtual hearing may also be conducted through the joint platforms between CIETAC and other foreign arbitration institutions (CIETAC has cooperation agreements with major arbitration institutions in the world with arrangements for mutual assistance in oral hearings. If needed, please contact CIETAC case managers).

<b>Arbitral Body</b>
10. The Chartered Institute of Arbitrators (CI Arb)
<b>Publication(s)</b>
<b>Guidance Note on Remote Dispute Resolution Proceedings</b> dated 8 April 2020
<b>Commentary</b>
<p>This Guidance Note is a working document and has been produced to provide parties to existing and future disputes, as well as neutrals, a guide for conducting proceedings in any circumstance where parties to the dispute are unable to meet physically.</p> <p>The Guidance Note is intended for use in conjunction with and adjusted to any governmental and arbitral institutions’ advice with reference to any dealings during the COVID-19 pandemic or other circumstance that prevents physical meetings and any laws applicable, including public policy provisions of the possible place(s) of enforcement.</p> <p>Part 1 of the Guidance Note addresses technology and logistical matters, including preliminary considerations for those intending to conduct a virtual arbitration. In particular, virtual hearing rooms are noted as the preferred way to conduct hearings remotely and CI Arb provides some general guidance on the participation in virtual hearings, the use of data rooms and the use of breakout rooms.</p> <p>Appendix 1 to the Guidance Note provides a useful preliminary checklist prior to conducting remote dispute resolution proceedings, which identifies some key considerations for participant prior to the commencement of a virtual hearing.</p>



