



A New Legal order
in International
Trade Compliance
and Dispute
Resolution

Commentary

Introduction

Businesses around the world have been relying on their in-house as well as outhouse legal counsel for international trade law compliance issues, dispute resolution and risk mitigation to protect their interests and succeed in international markets.

In its all encompassing traditional approach, the legal practitioners and institutions have been providing counsel and services to businesses on an individual basis, like legal compliance advice, drafting of contracts, representation and advice on the dispute resolution process, administration of disputes and appointment of Neutrals / Arbitrators etc.

All of these services and counsel is provided disjoint, without any system of uniform code, almost in a vacuum, making it difficult for professionals and organizations to ensure certainty and be accountable for their services.

Unless businesses have a system of prevention and cost effective means to settle disputes, parties are giving up their rights and obligations in view of high costs and uncertainty of international arbitration in its present form.

Despite their best advice and counsel, commercial disputes and compliance mistakes are still a common occurrence. Regulatory miss-steps are increasing and causing losses, conflicts are mostly escalating to protracted disputes causing irreparable damage to businesses in terms of time and cost.

The present form of “International Arbitration” which is the most popular form of dispute resolution mechanism in international markets is plagued with unbearable cost and time inefficiencies.

Mid size or small businesses are giving away their rights as they find no recourse of a cost effective system to deal with commercial disputes. They are priced out of recourse to international arbitration; and bereft of effective alternatives.

- Why are we not able to absolutely prevent or at least reduce the occurrence of disputes and damages caused by such adverse situations?
- Why can't we find cost effective ways to resolve disputes?
- Who bears the loss when compliance negligence or poor contracts cause damage to businesses?
- Where is the Fault? Why are we not challenging the status quo?

The world is changing and businesses are frustrated of having no uniform codes or an ecosystem in which they can operate with certainty.

The age old systems and practices are not supporting the fast changing modern world.

Businesses of the modern world need more accountability, more responsibility and loss sharing with their providers. They need

more inclusive and reliable systems to bank upon and do business with certainty.

The fault is in the age old systems, practices and approach plagued with politicization and cartelization of systems and institutions. **Operating disjoint from each other**, without uniform codes and inclusive systems that are no more relevant in today's fast changing digital world.

There is a desperate need of systemic change to address the issues of modern world trade and transactions and to mitigate the risks posed by fast changing laws and conflicts arising due to contractual misunderstandings between parties.

We need reliable integrated, inclusive systems of uniform codes, principles and practices that help businesses prevent regulatory mistakes and disputes to succeed in international markets.

From contract negotiations and drafting agreements, businesses need innovative systems to support their business to prevent regulatory mistakes and disputes between parties. Businesses around the world need better alternative procedures and approaches to fill the shortcomings of the present form of "International Arbitration" to protect their interests in international markets.

GBCC+ICDT is an effective response to this critical transactional risk, globally.

Constituted to build and operate a global ecosystem that takes care of the interests of businesses and professionals in international markets through its modern day systems, rules and procedures for Prevention and Quick resolution of international commercial disputes.

GBCC+ICDT systems, rules and procedures are designed to prevent costly compliance failures and disputes at the first place and if at all a dispute arise, find quick and cost effective resolution through its modern time tested, inclusive and conjoined procedures which distinguish it widely from other arbitration and dispute resolution institutions around the world.

GBCC+ICDT is an emerging new world order for the global trade and cross border transactions. A Neutral body that belongs to the modern world - permeating geographic boundaries, cultures, language, industries, religions and races to efficiently minimize risk, support growth and yield a culture of competition and cooperation.

A front-line of defense against international trade violations, helping companies overcome their trade compliance and dispute management challenges.

Integrating international trade, international legal systems and the law practice professionals

The world of international trade commerce is constantly evolving, and the ability to forecast and adapt to change is a major differentiator for shippers and companies selling products abroad. New rules and regulations are continually imposed to regulate the flow of goods in ever-expanding markets around the world.

All companies that engage in international commerce must follow the rules of the road – but a recent report found that many ignore export laws, because they may not realize the rules apply to them. GBCC+ICDT is constituted to address the challenges of trade in today’s modern world, through its inclusive ecosystem to support businesses and their counsel with necessary tools, systems and resources.

GBCC+ICDT provide innovative, systemic solution, starting from the contract-making stage through the transaction lifecycle.

As a part of GBCC+ICDT ecosystem, businesses gain access to:

- Model clauses to facilitate the drafting of dispute resolution / arbitration clauses and governing law clauses;
- Guidance on the choice of a safe seat for their arbitration;
- The registration of their contracts, in case they get misplaced, and also for a reduced fee schedule in the event of arbitration;
- Model documents to guide the parties in a user-friendly manner through the initial steps of an arbitration;
- Rules to enable fair and expeditious proceeding at proportionate cost;
- The largest pool of highly credentialed dispute resolvers and experts from over 70+ countries, experienced to conduct proceedings proactively and to focus promptly on the core issues in dispute; and
- A responsive and dynamic independent and impartial institution overseeing the process – GBCC+ICDT.

GBCC+ICDT Global Ecosystem

Toward a New International Dispute Resolution System

THE EVOLUTION OF GLOBALIZATION AND NEW SYSTEM OF INTERNATIONAL ARBITRATION

The rapid expansion of cross-border commercial transactions has resulted in a concomitant increase in cross-border disputes, and the urgent need for systems to prevent their occurrence and quick resolution.

Trading nations have created various forums (Arbitration Institutions) to adjudicate (Arbitrate) conflicts, but they are increasingly becoming the subject of controversy due to excessive costs and delays, besides uncertainties in transparent decision making and the enforcement of awards.

Despite its growth and acceptance, international arbitration in its present form and practice is not a panacea for cross-border dispute resolution. There are many challenges intrinsic to the process, including the need to make the process acceptable to all who seek to utilize it.

International arbitration inherently risks ignoring certain cultural or legal traditions and thus marginalizing - or worse, outright offending - at least some participants.

The often subtle, but sometimes gross, disparities among the national cultures and different legal traditions of the disputants must be handled with particular care to avoid the actuality, or even the perception, of unjust outcomes.

A new system of dispute prevention and effective resolution is shaping the new world order. Bringing respite to businesses from the clutches of excessively time consuming and costly ways to deal with disputes, not to mention, preventing the risk of dispute in very few transactions.

A SYSTEM that invites parties from all nations to the arbitral table and provides a uniform method for resolving global disputes,

Neutrality in decision-making, already among the fundamental concerns promoting the use of international arbitration, will be vital to the expansion of the international dispute resolution process.

As countries become increasingly invested in international arbitration as a means to safeguard their domestic businesses from potentially problematic cross-border

transactions, they must be assured of truly neutral decision-makers. The ability of neutrals to maintain the highest ethical standards and to provide just and equitable outcomes are essential.

As disputes substantively grow more complex, involve more stakeholders, and are fought for higher stakes, international arbitration must continue to offer a less

time-consuming, more efficient alternative to cross-border litigation.

As a result, practitioners, arbitrators, and the parties themselves will need to continue to advocate for a role in the evolution of the process to ensure its efficiency and effectiveness, in even the most complicated of circumstances.

Reforming the global dispute system for the new world

GBCC+ICDT is creating a global constitution that works to prevent conflicts from arising and to facilitate lasting comprehensive settlement of existing conflicts. It also promotes peace building, trust building and relationship building.

To that end, it works with all relevant actors, including partnering with international and regional organizations, law firms, lawyers, general counsel, contract specialists, business owners and other professional service firms.

GBCC+ICDT key systems rules and procedures for early conflict prevention, crisis management and resolution through its network of Lawyers, experts and other specialist organizations, makes it world's only unique forum for prevention and settlement of international commercial disputes.

GBCC+ICDT activities include:

- Formulating the Rules and Procedures in consultation with all the member

stakeholders of GBCC+ICDT, including the layers, general counsel and business leaders

- Constantly updating and upgrading the model contract drafts including all legal changes
- Building the systems that facilitate cooperation and competition to enhance the abilities of all stakeholders (members) in the GBCC+ICDT framework
- Operating various schemes and functions like “Document Defense Scheme”, updating of smart contract protocols etc
- Managing a back office for member services, making rosters and facilitating choice of and appointment of neutrals on cases
- Facilitating early and immediate intervention to diffuse the conflict between parties with expert negotiations
- Facilitating exchanges between all stakeholders (members of GBCC+ICDT)

- Assisting with dialogue facilitation, mediation and confidence building activities between parties;
- Monitoring and administering the dispute resolution process
- Assisting with confidence building;
- Supporting crisis response plans.
- Immediate diffusion of misunderstandings through Negotiations
- Mediation and dialogue facilitation
- Pre arbitration negotiations under the Arbitration process
- Mediated arbitration called med-arbitration (for meditative justice)

GBCC ICDT is involved in the following conflict-related formats:

Decentralized Arbitration

GBCC+ICDT arbitration system deliver fast, affordable and transparent justice in a growing number of use cases. The Smart arbitration systems and processes further specialize in specific industry sectors or a section or specialization like finance, e-sports, sharing economy, energy disputes etc.

Shortly the GBCC+ICDT smart systems will emerge like “Fair-Insurance” for insurance applications, “Enerjustice” in energy disputes, and “TravelSafe” in travel disputes.

A new ecosystem is giving birth to a new approach to the international commercial arbitration system.

The system that maintains the world’s largest, most credible pool of Neutral Arbitrators and provides them the

“ecosystem” and “incentives” for adjudicating disputes in a fast, affordable and transparent way.

The ecosystem maintains largest pool of venues where Arbitration can be conducted on the place of party’s choice and comfort anywhere in the world. Even as the place of arbitration can be of the party’s choice, the seat of arbitration is separate and always remains a matter of choice between parties or the best suited seat as recommended by GBCC+ICDT.

Contracts between parties are created on the uniform codes and principles and “Smart Contract Protocols” that give users the option to use all innovative and preventive provisions related to compliance and dispute management systems to the best of the party’s needs and goals. More customers bring more entrepreneurs, more jurors, more experts and an increasing number of use cases. And this is how decentralized justice takes over the world.

How GBCC+ICDT system is driving the change?

GBCC+ICDT is driving the change with its new systems, principles and practices - interwoven in order to align the interests of professionals (lawyers, arbitrators and counsel) with the business needs of users. (Businesses of all size and scale)

- Value-based approach
- Sound and ethical contracting practices
- Managing Communication
- Risk and Conflict Management Systems
- Promoting the proactive practice of lawyers, trade counsel and Dispute Resolvers
- Mobilization of most appropriate skills, talent and right professionals
- Registration of Contracts under the GBCC+ICDT “Document Defense Scheme”
- Codes of practice as a GBCC+ICDT member
- The Modern World Arbitrators and Dispute Resolvers
- Global Ethics - Codes and Standards
- Incentives for the Legal Counsel
- Dispute Resolution Systems

Value-based approach

The GBCC+ICDT ecosystem is driven by the value-based approach. The practices involve a new culture, new mentalities, new vision, new methods and new expertise to add value and objectivity.

Good faith, mutual trust and highly ethical conduct is at the heart of each transaction as companies get their contracts registered under the “Document Defense Scheme” of GBCC+ICDT.

Sound and ethical contracting practices - Smart contracts for modern trade

Unbalanced or unclear risk allocation in the contract drafts can lead to expansion of contractual liabilities towards any one contracting party, inducing a significantly higher probability to breach obligations with the potential of subsequent disputes.

An insensible, imbalanced and solitary risk shedding, instead of a risk-sharing approach, leads to higher transactional costs with utmost likelihood of conflict between parties. The approach may often ignore the most beneficial distribution of risks, which is to allocate each risk to the party that is best able to manage, mitigate or diversify it.

Unfair and inappropriate risk allocation and its intrinsic incapacity to properly assess the cost of the risk always lead to indifferences. In the absence of a contractually mandated process to manage indifferences, conflicts may degenerate into protracted high cost and damaging adversarial processes.

An inappropriate contract type, as well as errors or omissions in the contract documents, can also lead to conflict. Each contract type and its associated performance model determine how the transaction will be executed. Similarly, the lack of alignment of the party’s needs and interests and the absence of a robust contractual incentive framework can lead to imminent conflict of interest during the execution.

The GBCC+ICDT uniform code of contracting practices and “Smart Contract Drafts” ensure that the contracts are designed to take care of the interests of the trading partners, along with sound regulatory compliance review to prevent conflicts and compliance mistakes.

The GBCC+ICDT unified code ensures that the contracting and transaction management practices incentivize coordination, transparency and anticipation.

During the negotiation phase potential issues and risks are jointly envisaged and contemplated in advance, and various dispute prevention and resolution clauses are incorporated in the agreement under consideration.

Parties mutually work on strategies to increase the value of a contract, which not only be drafted as a legal document – focusing on risk allocation – but also as an effective business tool focusing on vital value-creation goals.

GBCC+ICDT contract administration procedures with integrated dispute management tools and resources enable effective conflict resolution and conflict transformation.

Registration of Contracts under the GBCC+ICDT “Document Defense Scheme”

Businesses can now Reduce transactional risks and support business growth.

GBCC+ICDT strongly recommend that its users register their contracts with GBCC+ICDT following their signature, by simply e-mailing a copy to GBCC+ICDT.

Certain companies now routinely copy GBCC+ICDT when communicating the signed copy of their contract to their counterparties; GBCC+ICDT responds shortly after by communicating a ‘Contract Registration Number’ (CRN).

In addition to helping GBCC+ICDT anticipate needs, and the positive network effect generated by registration, parties derive four more specific benefits from this process:

- (i) it helps companies achieve a level of discipline in finalizing their contracts and thus reduce their legal risks, where they might otherwise conduct relationships on an uncertain premise;
- (ii) this added layer of formalism to their contracting processes reinforce their credibility towards their counterparties or with new relationships;

(iii) contract registration has also addressed an organizational and legal security challenge faced by many companies, which not infrequently misplace important documents, including contracts; and

(iv) in case of dispute, parties benefit from a lower cost schedule, as set out in the GBCC+ICDT Rules.

Maintaining an updated roster of The Modern World Arbitrators and Dispute Resolvers

Just as we use more precise rules to signal quality and reliability, so are our new modern world arbitrators. They adopt a more technocratic approach to arbitral decision making. This technocratic approach appeals to modern parties, who are drafting increasingly complex and detailed contracts that they want enforced with legal precision. As a result, the opaque compromise-oriented outcomes of the past are largely displaced with more meticulously reasoned awards that are expressly based on the law selected by the parties.

Managing Communication

One of the key contributors to disputes during execution is poor communication – or even communication failure.

The parties to international contracts do not always share the same contractual and technical culture or the same language and work with their own contractual documents

and their own local or national best- practice guides.

In this respect balanced conditions of contract represent a valuable tool of communication, where a common language, common definitions and common procedures are to be used between the parties to the contract.

As a successful transaction is the result of a satisfactory but complex communication process between the parties, the GBCC+ICDT framework creates the best possible conditions of communication. In particular, the selection of the appropriate form of contract in order to ensure the right implementation of the contract and to focus on the priorities instead of losing time with contractual problems coming from non-understandable documents or with the interpretation of ambiguous conditions of contract.

Moreover, during the implementation of the contract, the GBCC+ICDT framework facilitates true and efficient communication between the parties, based on clearly recognized and systematic principles for the smooth development of the contract and increases the probability to prevent and to avoid possible disputes.

Risk and Conflict Management Systems

We must accept the reality that conflicts are inevitable. What is not inevitable is protracted fighting in response to conflicts.

GBCC+ICDT systems adopt a coordinated, consistent and effective approach to preventing and managing disputes.

When necessary skills and expertise are not administering a transaction, inadequate contract administration and ineffective risk and conflict management practices can soon lead to substantial difficulties in understanding and anticipating the contractual consequences. This often leads to reactive approach to management of conflicts.

Under the GBCC+ICDT constitution and bylaws, the conflict management processes transform tension into constructive dialogue, and role of necessary skills driven systems in administering the transaction is critical to the success of international business.

Promoting the proactive practice of lawyers, trade counsel and Dispute Resolvers

Our systems, rules and procedures promote greater engagement by lawyers, ADR experts, and arbitrators in the process – “From the negotiation of contract provisions to the resolution of disputes”.

In addition to savings in time and cost during the resolution process, such greater engagement improve the experts understanding of the dispute and knowledge of the case at the earlier stages of the proceeding, enhancing possibilities of preventing deadlocks or earliest resolution.

Mobilization of most appropriate skills, talent and right professionals

New talent profiles are engaged to respond to the rising needs of international transactions - To avoid conflict during the project.

In the ecosystem, businesses can hire / recruit the right expertise (GBCC+ICDT members) at every stage of the transaction life cycle, well prepared for successful contract negotiation and contract management during project execution.

Conduct of professionals - Global Ethics, Codes and Standards of Practice as a GBCC+ICDT member

While the parties' counsel play a fundamental role in international transactions and ensuing issues, due to their diversity of backgrounds and legal cultures they are not always guided by the same values and ethical principles.

The lack of a binding **uniform code** and a global authority to enforce it make the regulation of counsel conduct challenging in practice, raising questions about the effects of their role in overall transaction, including the incorporation of compliance related risks and dispute prevention provisions and legitimacy of dispute resolution processes including arbitration.

The standards focus on objective issues such as, for instance, filing of futile challenges to arbitrators and arbitrator conflicts caused by the appointment of new counsel during the proceedings.

Investment in pre-dispute processes

GBCC+ICDT is Pioneering the change in the commercial disputes practice around the world. The legal counsel is motivating clients to invest on pre-dispute processes, instead of getting involved, only when dispute strikes.

Robust pre-dispute assessment processes can deliver benefits far beyond simply reducing the number of disputes. In particular, they enable a party to step back and look broadly at the options open to it, and assess their relative costs and chances of success in not just legal but business terms.

This type of considered analysis is clearly preferable to simply passing any matter straight for a long drawn and costly adversarial dispute resolution process.

But despite the widespread agreement among parties that pre-dispute or pre-escalation processes should be prioritized, it remained difficult to convince firms to invest in them until now, as GBCC+ICDT systems help businesses and lawyers both in their endeavour to create value by **mostly**

preventing disputes and not by merely responding to disputes, when they

Within the GBCC+ICDT ecosystem, lawyers are encouraged and motivated to practice preventive jurisprudence.

The lawyers see value in this paradigm shift of their dispute practice. More client satisfaction with bigger accountability and certainty is also bringing in new revenue models and changed fee structures where lawyers are becoming partners in business by squarely preventing them from damaging situations and saving them fortunes. **WHY SHOULD DISPUTE EVEN OCCUR? THEY SAY.**

Sustainable development of global trade - by consistently reducing compliance failures and commercial disputes

Because compliance and regulatory problems and potential disputes can occur in many different ways and at different times during the performance of a contract, a cohesive global wide international system can only protect the interests of businesses in international markets.

The cohesive system, processes, techniques and controls ensure avoidance of regulatory mistakes and the prompt, realistic resolution of disputes before they fester and grow into serious problems.

The adoption of this new world ecosystem approach by the legal professionals, businesses and other stakeholders serve as a

"safety net" against possible compliance failures and undue escalation of disputes between trading partners.

Whether businesses buy and sell goods and services, or acquire other companies that trade internationally, the ecosystem helps them meet every aspect of international trade compliance and contract performance challenges.

All stakeholders in the ecosystem - lawyers, businesses, experts etc leverage the full range of systems, tools and resources for negotiations, contract drafting provisions and successful performance of international contracts.

Defining, enhancing and leveraging the value of International Commercial Contracts

Today, if an organization or a legal professional is seeking an institution to specify in a contract, they prefer GBCC+ICDT for its inclusive ecosystem approach to managing risk of compliance failure and conflicts.

The GBCC+ICDT unique systems, rules, procedures and techniques are designed to take care of the interests of all its stakeholders including businesses and legal professionals.

Contracts that are drafted using “GBCC+ICDT Smart Contract Design” and registered under GBCC+ICDT “Document Defense Scheme” protect the business interests and helps them salvage the relationships which parties have worked so hard to cultivate.

By inserting GBCC +ICDT provision into their contract and getting it registered under the “Document Defense Scheme”, parties recognize that the international trade laws are constantly changing and there should be a source of need-to-know all the necessary updates to cover the risk of costly compliance failures.

Parties also recognize that it is neither possible nor necessary to anticipate every question, difficulty or cause of strife that might arise in the performance of their contract, and that a means of addressing such matters is to provide, in final recourse, for a GBCC+ICDT dispute resolution process.

The GBCC+ICDT ecosystem serves the interests of different stakeholders (Members) like:

Trading partners:

Businesses doing transactions and potentially having disputes to solve. They will want to participate in GBCC+ICDT in order to reduce their counterparty risk: the risk of the other party not complying with their end of the contract.

Neutrals / Jurors: These users can use their skills for evaluating evidence and adjudicating disputes. They will want to participate in GBCC+ICDT because they will earn fees for their work as a Neutral mediator, conciliator and arbitrator.

Associations and Platforms - Online and Offline

These are platforms connecting users supplying some good or service with other users demanding that good or service in e-commerce, freelancing, sharing economy, crowd funding, etc. They will want to use GBCC+ICDT because it provides fast,

affordable and transparent arbitration. It solves their arbitration problem better than the alternatives.

Where both parties of the contract choose their own system, procedure, Neutrals, venue etc that comply with the “GBCC+ICDT Smart Contract Standards”.

Entrepreneurs: They will build and engage in international business’ that gets support of GBCC+ICDT systems and protocols. They will want to use GBCC+ICDT because it provides all preventive and risk management systems , tools and resources along with a network of contract specialists, jurors, ADR experts and other Neutrals able to find a solution.

Other actors; The ecosystem includes other actors such as educators (who will contribute to educating stakeholders), venues, consultants etc who will help platforms implement GBCC+ICDT dispute resolution systems from the stage of contract drafts that may involve “Smart Contract Standards”.

GBCC+ICDT

A New Approach to Conflict Prevention and Resolution - take control of your dispute resolution process.

Successfully Manage Conflicts and Prevent Dispute Adjudication in International Trade

GBCC+ICDT governance promotes an equal opportunity to participate in the rule making and rule shaping of the system is essential to ensure the system's fairness and conduciveness towards sustainable development. With this belief, our rule making process keeps updating on a rotational basis with inputs and feedback from all the MEMBERS of GBCC+ICDT. All members take part in or have opportunity to suggest amendments and /or inclusions or exclusions from the rules and procedures, which is made public to all members for their feedback and then final consent of the global council.

The benefits of the system run deeper than the very visible and tangible adjudication process of most of the arbitration and dispute resolution institutions around the world. In a quieter and more subtle manner, it is also enabling businesses to develop innovative approaches for dealing with everyday problems arising in international trade.

Smooth and Safe Execution of International trade and transactions with GBCC+ICDT framework

GBCC ICDDT is developing one of the most active international dispute prevention, management and settlement mechanisms in the world.

Resolving trade disputes is one of the core activities of the GBCC ICDDT. A dispute arises when a member firm believes another member firm is violating an agreement or a commitment that it has made in the contracts registered under document defense scheme of GBCC ICDDT.

The authority of these businesses is established by defining and registering contract agreements under “Document Defense Scheme” as a member of GBCC ICDDT Parties agree to accept systems, procedures and rulings, along with enforcement authority and appeals processes in extreme complex situations.

How does GBCC ICDDT adjudicate cases?

The GBCC ICDDT’s dispute settlement mechanism is run by panel of neutrals automatically taken on the rosters on the basis of the points and ratings earned by them in the system on the basis of including the preventive provisions and dispute resolution clauses in the contracts of parties having GBCC ICDDT clause.

Besides the neutrals, the system is operated by the case management staff, administrators and panel lawyers. Parties can also appoint lawyers from any country for specific counsel from the panel of lawyers coming from almost 100 countries.

Mitigating Risks associated with global trade and international transactions

Becoming a member of GBCC+ICDT is part of an effective and comprehensive strategy to manage the statutory, regulatory and dispute management risks associated with global trade and international transactions. Membership of GBCC+ICDT acts as an additional layer of security against compliance failures and disputes.

In order to effectively manage our members' risks without disrupting the business development process, it is vitally important to incorporate the process of identifying and mitigating risk in the contract negotiation stage from the beginning itself.

Because we are there at the beginning, (with the contract registration process under the "Document Defense Scheme" we have a greater opportunity to identify and understand members' risks before they become problems, which in turn allows us to efficiently develop and implement effective mitigation strategies – all without disrupting the overall business development and execution process.

As a member of GBCC+ICDT, companies contemplating an international transaction otherwise engaging in global trade will have the time and the ability to identify, understand and mitigate their risks from the beginning, thereby minimizing the time and effort necessary to address these risks later in the process – or worse, during or after the transaction or program as concluded.

Typical Challenges faced by businesses in Cross-Border Transactions that can be effectively managed being GBCC+ICDT member, include:

- Managing Conflict of laws
- Jurisdiction issues
- Language barriers
- Time-zone issues
- Third party rights
- "Legal Representative" issues
- Enforcement of awards or judgment
- domestic legislations
- Cultural norms & ethics issues
- Insurance issues
- Currency controls
- Data protection
- Intellectual property rights protection

Incorporate GBCC+ICDT or FICM+MCN clauses into contracts

How this works

Lawyers draft the contracts of their clients incorporating all preventive provisions and "Smart Contract Protocols", including GBCC+ICDT clauses for effective dispute prevention, management and resolution and get them registered under the "Document Defense Scheme" for mitigating risks of compliance failure and disputes in international transactions.

- This enables them to become part of active rosters of GBCC+ICDT. As an incentive, the lawyers who incorporate GBCC+ICDT modern contract clauses and register them under the "Document Defense Scheme", their name automatically gets listed in various rosters by the system to be appointed as a neutral or expert counsel on the cases filed for dispute resolution with GBCC+ICDT. (Appointments as neutrals and counsel depends on the final choice of parties in disputes)
- Lawyers get access to updated custom model contract drafts for every specific

transaction. This helps them bring certainty in the contracts by incorporating all updated regulatory changes without too much hassle of consulting other reference documents.

- As more and more lawyers join the system and incorporate modern clauses in contracts, businesses and lawyers both benefit from the system. Businesses prevent costly mistakes and disputes, while lawyers act as custodians of their client's contracts and also as modern world neutrals and counselors to deliver quick and cost effective dispute resolution to parties in conflict.
- As a rated member, Lawyer get referral opportunities from other lawyers on the network in other countries.
- Lawyers can showcase their international reach through the GBCC+ICDT global network on their public profile. Lawyers strengthen their individual as well as law firm profile, being a part of GBCC+ICDT modern ecosystem. Ensuring clients that their international practice is full of skills and expertise needed for operating with certainty in international markets.

Challenges around negotiating the governing law clauses in international contracts

Careful choice of governing law and dispute resolution clauses and that both are expressly set out in the contract is critical to the success of international transactions.

The law selected by the parties to govern the contract is used to interpret the contract and determine the rights and obligations of the parties flowing from it.

Parties must seek specific legal advice from lawyers qualified in the jurisdiction in question and ensure that this is negotiated between parties early in the process.

The GBCC+ICDT membership overcomes all these challenges of businesses through its systems that take care of contract draft and negotiation process.

GBCC+ICDT ecosystem is the only forum in the world that not only provides flexibility of choosing a venue, seat of arbitration and governing laws of different jurisdictions for specific points in a single contract, but also provides a list of hundreds of venues in several 50+ countries, choice of neutrals from 100+ countries, safe seat of arbitration and governing laws based on research data..

Member businesses feel secure as this negotiation of governing laws and forum is almost decided by virtue of their membership and ensure that their disputes will be mostly prevented and if at all any such dispute occurs, GBCC IC DT systems and procedures will take care of them most effectively.

Parties' choice of governing law – express v. implied

the parties' express choice of law will be respected by most national courts and arbitral tribunals. For example, if a sales agreement between a Japanese seller and a French buyer provides that the agreement is governed by English law, English law will generally be applied to the greatest extent possible when considering a dispute arising from that sales agreement.

However, if the parties have not expressly chosen a governing law, the law which will govern the contract will be determined by applying the applicable "conflict of laws" rules. Conflict of laws rules are complex and resolving international conflict of laws disputes is almost always very expensive for the parties concerned. This reinforces the importance for the parties of expressly choosing a governing law in their contract. For example, in arbitration, the general conflict of laws position is that the arbitral tribunal shall determine the governing law, subject to any mandatory principles of the law applicable in the seat of the arbitration.

In the national courts of European Union states, the applicable conflict of laws rules provide that, first, there is an attempt to infer the parties' intention from the terms of the contract and the general circumstances of the case, and, if an intention cannot be inferred, the law applied will usually be that to which the contract has its closest and most real connection. This can lead to unexpected results.

It is common to negotiate the governing law and forum at the same time. Many companies are extremely reluctant to compromise on their preferred choice for governing law, but more willing to negotiate on forum.

However the selection of the forum is equally important in terms of maximizing the likelihood of a successful resolution of disputes.