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The US Affiliate of the ICC Creates a New Subcommittee for American Expatriates in Germany Involved in International Dispute Resolution

Most, if not all, practitioners in the field of international arbitration are familiar with the International Chamber of Commerce (ICC) based in Paris.¹ Founded in 1919, the ICC adopted its first rules of arbitration in 1922 and is one of the oldest and most prominent arbitral institutions in the world. Although the ICC is not solely or even principally devoted to arbitration, it does play an important role in this field.² The arbitration functions of the ICC are conducted through its International Court of Arbitration in Paris and the Court's Secretariat in Paris and Hong Kong. National Committees from over 90 countries worldwide are members of the ICC and, in addition to participating in the ICC's various policy functions, they often assist the ICC Court in locating suitable arbitrators, mediators and experts for ICC cases.

Less familiar to many is the ICC's affiliate in the US: the United States Council for International Business (USCIB). Founded in 1945 and based in New York City, the USCIB promotes international trade and the harmonization of commercial practices. The USCIB also serves as the US National Committee to the ICC, and in this role it nominates members of the ICC's Court of Arbitration, proposes members and working group members of the ICC Commission on Arbitration, and recommends US citizens to serve as arbitrators in ICC arbitrations.

Of particular interest to Americans in Germany involved in international dispute resolution or international business law is the newly established "USCIB Expatriate Subcommittee for Germany". The Expatriate Subcommittee had its inaugural meeting on 17 May 2011 at the Frankfurt offices of Shearman & Sterling and will continue to have meetings at various locations in Germany. The inaugural meeting was chaired by Professor Richard Kreindler and the "guest of honor" was Ms. Josefa Sicard-Mirabal, the Director of Arbitration and ADR North America for the ICC International Court of Arbitration and Director of Dispute Resolution Services for the USCIB Arbitration Committee.

Ms. Sicard-Mirabal provided an overview of her responsibilities and activities at the USCIB and explained its recommendation process when considering US citizens to act as party arbitrator, sole arbitrator or chairperson in ICC proceedings. In many cases the ICC International Court of Arbitration is called upon to designate an arbitrator. In doing so the Court will first decide, depending on the circumstances of the case, which national committee should propose a nomination.³ When the USCIB is asked for a proposal, Ms. Sicard-Mirabal and her team research their database to find an appropriate candidate and then inquire with that candidate if he or she could accept to serve as an arbitrator for the particular case. Ms. Sicard-Mirabal noted that in 25 to 30 cases per year the USCIB proposes arbitrators to the International Court of Arbitration.

This Expatriate Subcommittee is the latest of several that already exist under the auspices of the USCIB for Americans abroad. One of the reasons for creating the Subcommittee for Germany is to gain the perspective of US nationals practicing in Germany, whether as counsel, in-house counsel, or in other capacities, and to ensure in turn that the needs of foreign-based practitioners are represented from a cohesive position. The Subcommittee has formed a steering committee consisting of several American lawyers practicing in Germany and is looking to reach out to other US citizens in Germany (as well as in Austria and Switzerland) interested in international arbitration and international business law.⁴ A further meeting of the Subcommittee was held in Frankfurt in October 2011, and an event was held in Munich in February 2012 to discuss the new ICC Rules of Arbitration and other topics with a panel of in-house counsel and arbitration practitioners. A further event is planned to take place in Vienna during the upcoming Willem C. vis International Commercial Arbitration Moot.

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¹ Interestingly, the most frequent parties to use ICC arbitration are US parties. The next most frequent parties worldwide are French and German parties. See 21(1) ICC Int'l Ct. Arb. Bull. 6-8 (2010).

² See Bühler/Webster, *Handbook of ICC Arbitration*, para. 1-5 (2d. ed. 2008).

³ See Art. 9(3) of the ICC Rules of Arbitration (1998) and Art. 13(3) of the ICC Rules of Arbitration (2012).

⁴ The author is a member of the steering committee together with Amy Cohen Kläsener (Shearman & Sterling), Dr. Timothy Kautz (Kautz Legal) and Elizabeth Voight (CMS Hasche Sigle). If you are interested in learning more about the activities of the Expatriate Subcommittee for Germany please feel free to get in touch with one of us.