



Bogota Foreign Investment Guide - 2025

Capítulo 19.

- ▶ **Métodos de resolución de conflictos**
Durante la operación



Introduction

We begin this chapter by reminding you that another form of justice is possible! In Colombia, Conflict Resolution Mechanisms (CRM) are gaining traction in the effort to achieve swift and efficient justice. The Arbitration and Conciliation Center of the Bogotá Chamber of Commerce (CAC-CCB, Spanish Acronym) is recognized both nationally and internationally for its comprehensive services and robust human and logistical resources.

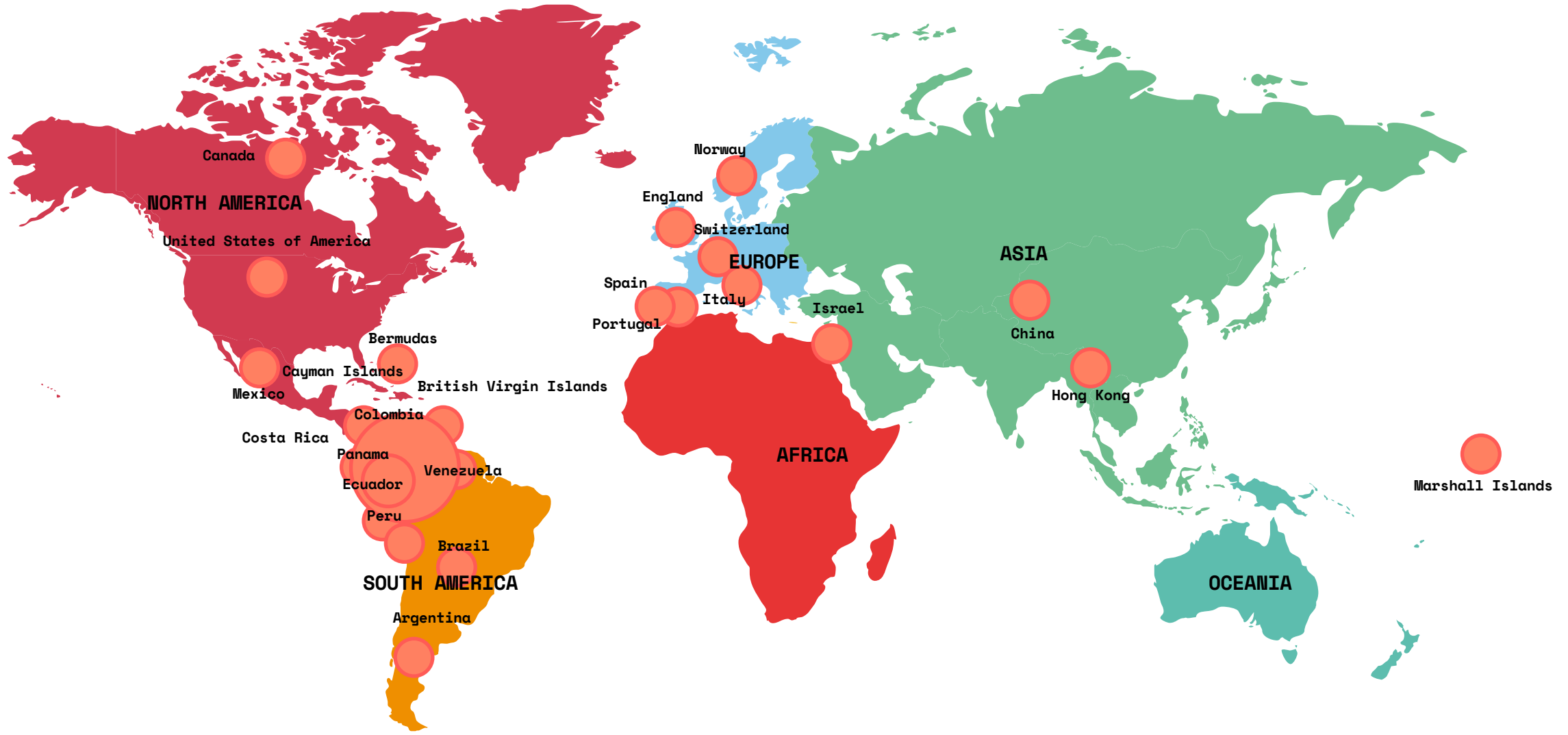
What can we say about CRMs?

These mechanisms have garnered increased recognition over the years, having established a solid legal framework and proven their ability to resolve conflicts to the satisfaction of the parties involved. Conflict resolution mechanisms are conceived as an alternative form of justice to ordinary justice, where impartial third parties who administer justice on a temporary basis aim to resolve disputes between individuals or public entities in a peaceful and agile manner, through instruments such as **mediation, conciliation, amiable composition, and domestic and international arbitration**. These tools have become more reliable and reputable over time, and through years of skilled application, a robust legal structure has formed around them, showcasing their efficacy in resolving disputes and controversies to the satisfaction of the parties involved.

For context, it is important to remember that, since their inception in the 19th century, CRMs have undergone extensive normative development and, unlike regular legal channels, they stand out for meeting some of the key expectations of justice: effectiveness, technical expertise, and comprehensive understanding of the intrinsic legal aspects of contractual relations. Unlike regular courts, conflict resolution mechanisms (CRMs) operate efficiently and do not suffer from high levels of backlog or low resolution rates.

The Arbitration and Conciliation Center of the Bogotá Chamber of Commerce (CAC-CCB) was founded in 1983 to meet the need of business owners and citizens to resolve conflicts. Since then, it has established itself as a nationally and internationally recognized institution for its experience, credibility, and prestige in conflict resolution. With over 40 years of experience, the CAC-CCB continues to position itself as a benchmark in alternative justice methods and maintains a strong reputation in the legal field.

Additionally, it has extensive experience and a strong track record in providing international arbitration services since 2014. This mechanism has seen wide acceptance and growth across various economic sectors in the region and globally, as shown in the following graph:



1.

About mediation

What is it?

This is a conflict resolution mechanism where the parties request the assistance of an impartial and neutral third party, known as a **mediator**, to help them reach an **amiable settlement** of a dispute arising from a legal relationship or another type of relationship connected to them.

What are its effects?

The outcome of the mediation can take whatever form the parties find most appropriate to their needs, and can be formalized into an agreement that entails the legal effects of res judicata and enforceability, as outlined in the section on conciliation.

What are its benefits?

Mediation offers a large number of benefits to citizens and business owners who choose this mechanism to resolve disputes stemming from different commercial, legal, and coexistence agreements. This process ensures confidentiality, allows the parties to select their mediator, does not require legal representation, enhances efficiency through its flexibility, and helps rebuild the relationship between the parties affected by the conflict. The CAC-CCB employs cutting-edge secure technology for the facilitation of hearings and handling certified e-mail. Most importantly, the CAC-CCB has expert mediators.

What are the different types of mediation?

- **Domestic mediation:** a service aimed at natural or legal persons, either public or private, who are domiciled in Colombia at the time the request for mediation is filed or at the time the dispute arises (whether or not it derives from a legal conflict) .
- **International mediation:** a service aimed at investors, entrepreneurs, and merchants, either natural or legal persons, in whose cases where the objective criteria of Article 1.3 of the Regulations on Domestic and International Mediation of the CAC-CCB apply, namely: a) The parties to the mediation, at the time of filing the request for mediation or at the time the dispute arises, have their domiciles in different States; or b) The place of performance of a substantial part of the obligations or the place with which the subject of the dispute has a closer relationship, is located outside the State in which the parties have their domiciles.



How does it work?



1. Conciliation

What types of conciliation exist in Colombian law?

- **Judicial conciliation:** held or carried out within a judicial process, with the Judge himself as overseer.
- **Out-of-court conciliation:** carried out outside the judicial context with the help of a neutral and qualified third party, called a conciliator.

Likewise, the scope and the decision eventually contained in the conciliation deed may be of two types:

- **In law:** carried out “through conciliation centers, individuals authorized to conciliate, or authorities performing conciliatory functions”¹.
- **In equity:** carried out before a conciliator specialized in equity who applies the “principles of community justice within the scope established by law”².

What issues can and cannot be submitted for arbitration?

As per the rule under analysis, any issue not explicitly forbidden by law can be considered for conciliation. Thus, in general, any matter, conflict, or issue that is subject to negotiation or waiver, or any other rights over which the holder has freedom of disposition, are subject to conciliation.

It should be noted that when it comes to labor and/or social security-related conflicts, conciliation is only admissible if the subject matter or object of the request for conciliation does not involve the certain, inalienable and indisputable rights of the worker, under penalty of nullity of the agreement. In administrative litigation matters, only the cases indicated in Law 2220 of 2022 may be conciliated, as long as they do not affect the general interest and the defense of the public patrimony³.

¹ Subsection 2 of Article 5 of Law 2220 of 2022.

² Section 3 of Article 5 of Law 2220 of 2022.

³ In this regard, take into account Article 7 of Law 2220 of 2022.

⁴ Keep in mind that, as mentioned in the Introduction, we are examining a specific form of conciliation (out-of-court Conciliation in Law).

► Out-of-court conciliation in law

This figure, although having the same objectives and benefits as conciliation, is different from conciliation conducted within legal proceedings (judicial conciliation) and from conciliation in equity. This section offers a general overview of the figure, including its application and scope in Colombia, where it is currently governed by Law 2220 of 2022. This law repealed and consolidated various regulations related to the subject.

What is it?

Conciliation is a consensual conflict resolution mechanism through which two or more people independently resolve their differences, with the aid of a neutral and qualified third party called a **conciliator**⁴, who, in addition to proposing settlement formulas, attests to the decision of agreement, which is mandatory and definitive for the conciliating parties, having the same effect as a court ruling in Colombia.

What is it for?

It is an effective tool for conflicting parties to resolve their disputes by reaching an agreement that fulfills with their expectations.

How does it work and what are some of its principles?

As this is a consensual mechanism, it is up to the conflicting parties, leveraging their autonomy as individuals or legal entities, to directly solve the conflict that involves them.

For this purpose, they are assisted by a third party, called a conciliator, who, in accordance with the law, must be neutral and impartial. Thanks to their training in this discipline, conciliators possess the technical proficiency to encourage and ease dialogue and the pursuit of conflict resolution. The Arbitration and Conciliation Center of the Bogotá Chamber of Commerce has conciliators with expertise in negotiation techniques and skills for conflict resolution.

Parties interested in the mechanism have unrestricted freedom to designate the Center for Arbitration and Conciliation for the conciliation proceedings, and even to select the conciliator.⁵

Finally, in compliance with current legislation, this consensual mechanism can be conducted in person, online, or a combination of both, depending on the parties' preferences, thereby allowing participants in the conflict to be located in different areas of the country or abroad.

⁵ It should be taken into consideration that out-of-court Conciliation in Law, according to paragraph 2 of Article 5 of Law 2220 of 2022, is a type of conciliation that takes place "(...) through conciliation centers, before individuals authorized to conciliate who fulfill a public function or before authorities in compliance with conciliatory functions". Therefore, every Conciliation Center must be legally authorized by the Ministry of Justice and Law, which will provide the operational and administrative support required for the proper performance of the functions of the conciliators.

What are the requirements?

In accordance with Article 52 of Law 2220 of 2022, any request for out-of-court conciliation and conciliation in law must be filed with all the formal requirements determined therein, namely:

1. Indication of the conciliator or the conciliation center to whom it is addressed.
2. The names of the parties and their representatives, if applicable.
3. Description of the facts.
4. Claims made by the plaintiff.
5. Estimated value of the claim.
6. A list of accompanying evidence in cases of conciliation in law.
7. Indication of the e-mail address of the parties through which communications shall be sent or of the most expeditious and efficient means for such purpose.
8. Signature of the plaintiff(s) or their proxy, as the case may be (if sent by e-mail, the signature requirement is understood to be fulfilled).

⁶ [CHECKTAGS] Pursuant to subsection 2 of Article 53 of Law 2220 of 2022, the summons shall be made (...) within ten (10) days of receiving the request or any necessary corrections, the conciliator will schedule a date and time for the conciliation hearing, to be held within thirty (30) days of the request's acceptance.

Regarding these requirements, it should be noted that the parties may complete them autonomously or with the assistance of a lawyer.

Once the above requirements have been fulfilled and the request has been properly filed as a necessary step to start this process, and once it is confirmed that the case is suitable for conciliation, the conciliator will notify the parties through the quickest and most efficient method, and the conciliation will be held within 30 days following the admission of the request.⁶ In this scenario, parties may opt to bring an attorney to the hearing if they wish, but it is completely optional. Otherwise, their presence as parties is required.

What are the effects of conciliation?

Upon the completion of the conciliation process, if a conciliation deed is drafted in writing, it will become legally effective once signed by the parties and the conciliator. Should the conciliation be recorded using any other virtual or electronic means, it will be deemed to have legal effects upon the explicit approval of the parties.

Additionally, the conciliation will become enforceable, meaning, if there are one or more obligations for the parties that are clear, express and actionable, it will be mandatory for the party on whom such obligation is imposed, under penalty that the interested party may initiate a judicial process for enforcing the agreement in case of non-compliance.

The Arbitration and Conciliation Center of the Bogotá Chamber of Commerce has an effectiveness rate of over 80 %, meaning that the majority of matters submitted for conciliation at the CAC-CCB end with a satisfactory results for the parties.

3.

Amiable composition

What is it?

Amiable composition is a contractual conflict resolution mechanism governed by the Arbitration Statute (Law 1563 of 2012), known for being voluntary, out-of-court, and flexible. It is set in motion when two or more parties (individuals or organizations, including public entities) submit a conflict for resolution by an impartial third party, known as an amiable compositeur. The amiable compositeur acts as agent of the parties and does not exercise jurisdictional functions.

What issues can be resolved through amiable composition?

Contract-related disputes in civil, commercial, administrative, or any other sectors, provided they are subject to freedom of disposition.

It is very useful for:

- Establishing the extent or manner of fulfilling the obligations (to interpret the contract).
- Determining the existence of a breach of contract.
- Deciding about liability conflicts between the parties.



What are the advantages of this mechanism?

- **Agility:** the duration of the process varies between 3 to 6 months, depending on the arrangements of the parties.
- **Flexibility:** The parties may agree on procedural rules appropriate to their timelines and the dispute itself.
- **Confidentiality:** The issues, proceedings, collected information, and decisions made by the amiable composition panel are confidential, unless the parties decide otherwise.
- **Technical support:** amiable compositeurs are not necessarily legal professionals. As requested by the parties, they may be engineers, financiers, architects, accountants, or belong to any other profession. Multidisciplinary panels may also be established.
- **Affordable rates:** access to skilled amiable compositeurs who thoroughly evaluate the parties' arguments and promptly issue a binding decision. Significant advantages can be achieved at a reduced cost.
- **A different approach to the conflict:** this mechanism helps to preserve the commercial or personal relations between the parties.
- **Continuity of the contract:** the procedure allows the contract execution to proceed without interruption and promotes its continuity.

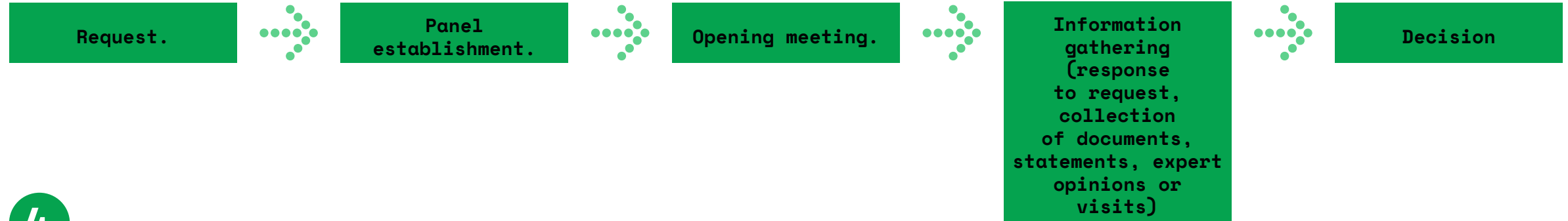
What should the amiable composition agreement include (content)?

For the agreement to be made, the following must be taken into account:

- The will to resort to amiable composition must be explicit.
- The amiable composition agreement outlines the required qualifications for the amiable compositeurs. If it interacts with other mechanisms, such as arbitration, it is important to clearly establish the scope.
- When it comes to transportation infrastructure under Law 1682 of 2013, the agreement must outline the procedure to be followed, the profile of the amiable compositeurs, and their fees.
- Law 1563 of 2012 sets forth a rule that supplements the parties' intentions in cases where the appointment method of the amiable compositeurs or the applicable procedure was not predetermined. It will be understood that the appointment has been delegated to an arbitration center near the domicile of the convened party, chosen in advance by the convening party. The same will happen with the rules of procedure.
- When opting for an arbitration center to manage the procedure, it is advisable to choose one with experience in overseeing such procedures and that maintains a roster of amiable compositeurs, such as the Center for Arbitration and Conciliation of the Bogotá Chamber of Commerce.
- In some contracts, amiable compositeurs are appointed at the beginning of the execution of the contract or may be chosen when a dispute arises.
- As a general rule, the amiable composition panel consists of one member. Although the parties may agree on a different number, it is suggested that the number always be odd and not exceed three members.



How does it work?



4.

Domestic arbitration

What is it?

Arbitration is a conflict resolution mechanism whereby the parties transfer decision-making authority to individuals known as arbitrators, who resolve the dispute with a final and binding decision. This is how it was outlined in the Colombian legislation under Law 1563 of 2012, the Domestic and International Arbitration Statute.

What is it for?

Arbitration definitively settles disputes through an arbitration award, in an efficient procedure overseen by arbitrators.

What matters may be submitted to arbitration?

In Colombia, disputes relating to matters subject to freedom of disposition or those authorized by law may be submitted to arbitration.

What is an arbitration agreement?

An arbitration agreement is a legal transaction whereby the signatories consent to resolve any disputes that may arise through arbitration, in a specified or specifiable manner⁷.

⁷ Law 1563 of 2012, article 3.

Characteristics of the arbitration agreement.

- **Affirmation of intent endorsing the principle of empowerment:** the agreement reflects the voluntary nature of both parties, thereby granting arbitrators the authority to settle and hear the dispute raised in the arbitration claim.
- **Legal transaction:** as mentioned above, Article 3 of Law 1563 of 2012 states that the agreement is considered a legal transaction. In light of this characteristic, the arbitration agreement must fulfill all validity criteria (capacity of the parties, free consent, formalities where applicable).
- **Submission of disputes:** according to Article 3 of Law 1563, the existence of an arbitration agreement means that all current or future disputes will be resolved by arbitrators.
- **Determines the competence of the arbitrators:** the arbitration agreement outlines the parameters for the arbitrators' actions; hence no arbitrator is competent to rule on matters not included in the agreement.

what should an arbitration agreement include (content)?

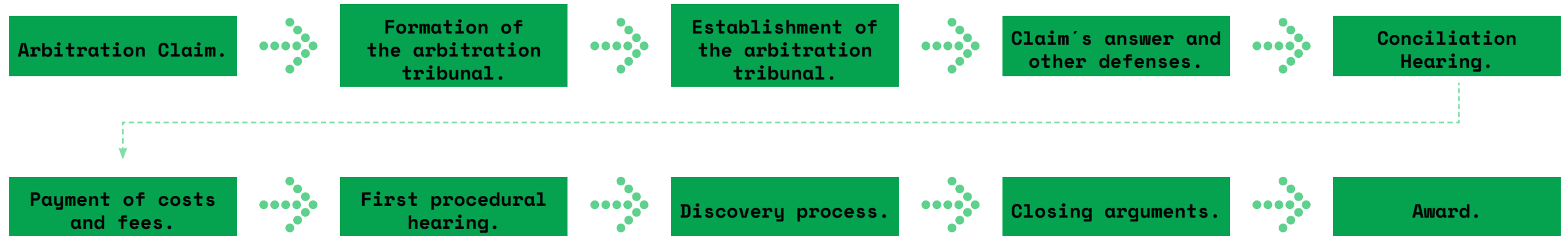
- **Mandatory Content:** the parties must clearly and unmistakably agree to resort to arbitration.
- **Type of arbitration:** in the event of silence, it will be of an institutional nature, i.e., it will always be administered by an Arbitration Center (article 2 of Law 1563 of 2012).
- **Nature of the award:** in the event of the silence of the parties, the award or decision shall be in law (Article 3 Law 1563 of 2012).
- **Composition of the arbitrator panel:** in the absence of specific provisions in the agreement, Article 7 of Law 1563 mandates that 3 arbitrators be appointed, unless the dispute amount is considered minor, in which case 1 arbitrator shall be selected (up to 400 current legal minimum monthly wages).
- **Duration of the proceeding:** article 10 states that if the arbitration agreement does not specify otherwise, the proceeding shall last for 6 months, starting from the completion of the first procedural hearing. Said term may be extended once or several times, provided the total extension does not exceed six (6) months.
- **Arbitration center before which the proceeding will be heard:** if the parties do not agree on the arbitration center, Article 12 of Law 1563 stipulates that the arbitration center located near the domicile of the convened party will hear the proceeding.
- **Nomination of arbitrators:** always in the hands of the parties. In the event they do not opt for a third party to assign the arbitrators, the Civil Judge of the respective Circuit will take on the appointment of the arbitrators.



What are the effects of the arbitration decision?

An arbitration decision is issued in the form of an award, comparable to a court ruling, thereby granting it enforceability and making it res judicata.

How does it work?



5.

International arbitration

What is it?

It is a conflict resolution mechanism chosen by the parties' mutual agreement, where, through an arbitration agreement, they delegate the resolution of their disputes to an arbitral tribunal (composed of one or three arbitrators). This tribunal issues a binding decision, meaning it is legally enforceable. The decision is called an award, and no appeals can be made against it in traditional courts.

What is it for?

International arbitration allows parties, through confidentiality and flexibility, to resolve their international disputes before an impartial third party, which may be one or three arbitrators.

What is an arbitration agreement?

It is an agreement by which the parties waive their right to go to state courts to settle the dispute and commit to submit commercial disputes that have arisen or may arise between them to arbitration.

What should the arbitration agreement include?

The agreement should clearly and precisely indicate

- The parties' consent to submit the dispute to an arbitral tribunal.
- The name of the institution that will administer the proceedings.
- The applicable rules.
- The appointing authority.
- The place of arbitration.
- The language to be used in the arbitration.
- The governing law.



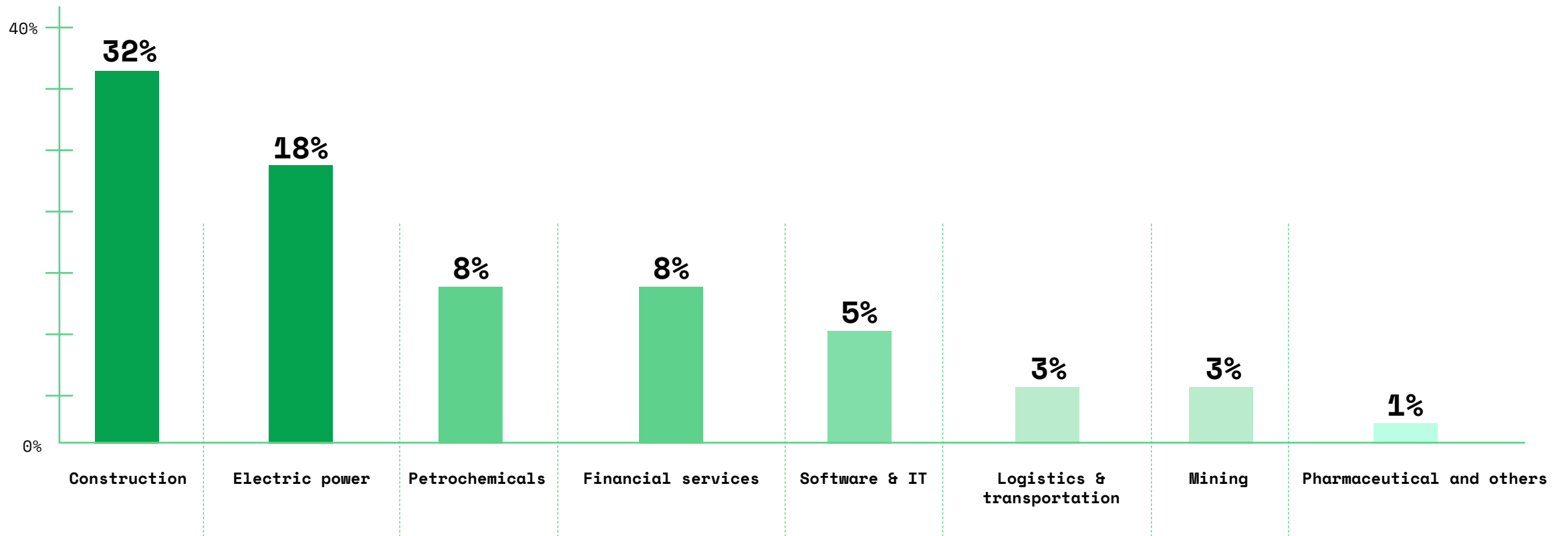
The following texts are suggestions for the wording of these clauses, governed by the International Rules of the CAC-CCB:

“Any and all disputes and controversies arising from this agreement shall be resolved by an arbitration tribunal to be held at the CCB’s Center of Arbitration and Conciliation, in accordance with the following rules:

- a) The tribunal will abide by the International Commercial Arbitration Regulations governing the CCB’s Center of Arbitration and Conciliation.
- b) The tribunal will be comprised by (list either one or three) arbitrator(s) appointed by the parties. If this appointment cannot be held, the arbitrators shall be appointed by the Center of Arbitration and Conciliation, upon request received from either party.
- c) The tribunal shall decide in accordance with the rule of law.
- d) The language of arbitration shall be (choose language).
- e) The site of arbitration shall be (choose site).

Which sectors are most likely to resort to international arbitration?

When characterizing the economic sectors to which the Center's international arbitration users belong, we can see that some sectors are more likely to resort to international arbitration:



Source: El CAC en cifras: índice estadístico

What Is the Procedure for an International Arbitration Before the Center for Arbitration and Conciliation of the Chamber of Commerce of Bogotá According to Its Own Rules and the UNCITRAL Rules?

What are its benefits?

The CAC-CCB has a set of Rules for international commercial arbitration that offer a streamlined procedure while complying with international standards. It has focused on minimizing the barriers faced by interested parties looking to constitute an arbitration process, meeting clients' needs through notable advantages such as fully virtual procedures, optimized time and resources, procedural flexibility, confidentiality, legal security, specialized arbitrators from various nationalities, modern facilities, and digital files with top-tier cybersecurity standards, among others.

Step 1.

Filing of the request for the commencement of international arbitration [Art. 3.5, CAC-CCB Rules] Notification of commencement [Art. 3, UNCITRAL Rules].



Step 2.

Response to the constitution request [Art. 3.6, CAC-CCB Rules]. Notification of constitution.



Step 3.

Appointment of international arbitrators (by the parties or by the CAC) [Art. 3.7-3.15, CAC-CCB Rules].



Step 4.

Written phase: claim, defense, counterclaim and other additional pleadings [Art.3.22, 3.23., CAC-CCB Rules].

Step 5.

Evidence phase: presentation of documents, expert reports, and testimonial evidence [Art. 3.24-3.28, CAC-CCB Rules].



Step 6.

Final Award [Art. 3.29- 3.33, CAC-CCB Rules].



Step 7.

Post-final award phase: correction and interpretation of the award and additional award [Art. 3.35, CAC-CCB Rules].



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