

INTERNATIONAL ARBITRATION CENTRE ANNUAL REPORT 2018

BY THE CHAIRMAN
AND REGISTRAR AND CHIEF EXECUTIVE

MARCH 2019





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Barbara Dohmann QC
Chairman, IAC

Welcoming Statement by the Chairman

I am happy to present the first Annual Report of the IAC. This report primarily covers the year 2018. It records how by the end of that year a fully functioning modern international arbitration centre has been established for the first time in Kazakhstan and Eurasia.

The IAC has its own panel of experienced international arbitrators and mediators, a Registrar and Chief Executive, and multilingual staff. It has exceptional modern premises which are furnished and equipped with digital technology to the highest international standards.

The achievements in building the IAC have been remarkable in this first year. This would not have been possible without the support of the AIFC Governor and the AIFC Authority to whom I am very grateful.



Barbara Dohmann QC

Chairman, IAC

1 March 2019



Christopher Campbell-Holt

Registrar and Chief Executive, IAC

Statement by the Registrar and Chief Executive

It is my pleasure to welcome you to this first Annual Report of the International Arbitration Centre at the AIFC (“the IAC”). The Report describes the achievements of the IAC in 2018. It was a most important year as it was the IAC’s first year of operation. Considerable progress was achieved in 2018 building upon the successful establishment of the IAC in 2017.

In 2018 work was undertaken to ensure the IAC has permanent world class premises with the latest digital technology and international standard meeting and conference facilities. Our premises will rival those of any international arbitration centre. Digital technology was developed to provide top class electronic filing and case management at the IAC.

Leading international arbitrators and mediators were appointed to the IAC Arbitrator and Mediator Panel.

Staff were recruited and include outstanding Kazakh nationals with international education, fluent English and advanced professional experience. Our staff received continuous training to ensure the IAC will provide an international standard of administration which will assist users with speedy and cost effective dispute resolution.

An enforcement system has been developed with key state authorities in Kazakhstan to ensure that IAC awards will be robustly enforced in Kazakhstan.

A comprehensive promotions campaign was developed and implemented throughout Kazakhstan, Central Asia, and the wider world including in the US, UK, the wider Europe, Middle East, and Asia. We engaged throughout with legal and business communities, corporations, lawyer associations and state authorities, and participated at leading regional and international dispute resolution conferences. Regular speeches and interviews were given to online media, print and television. Publications were produced and included an IAC guide and rule book. Our promotions were delivered in English, Russian, Kazakh and other languages. We specifically and successfully targeted our promotions to encourage the inclusion of the IAC in dispute resolution clauses in a large number of business contracts.

We met our targets in 2018 and now very much look forward to welcoming you to the IAC in 2019 which promises to be a very productive and successful year.



Christopher Campbell-Holt
Registrar and Chief Executive, IAC

1 March 2019



AIFC Law Conference
July 2018

Summary: 2018 Achievements

Case Management

Practice Direction, user fees, model dispute resolution clause and IAC forms

E-Justice

Enables paperless IAC – cost and time efficient, Crimson Logic which is Bureau Veritas ISO 9001 and TUV certified for quality management

Enforcement

Recommendations on amendments to Kazakhstan Enforcement Law, development of comprehensive enforcement programme

Appointments

30 appointments to IAC arbitrator and mediator panel

Operational Infrastructure & Human Capital

SLA, budget and finance, IAC relocation to new premises and office fit-out, 6 staff hires and development

Engagement & International Cooperation

HK Arbitration Week, Users' Committee, Russian Arbitration Association, CIETAC, CMAC, HKIAC, Law Society cooperation. 24 conferences, more than 17 locations, 95 speaking engagements

Legal Education

1st Moot Final, Legal Education (Mediation, Cambridge and UCL progs), KZ Supreme Court, KAZGUU, KIMEP, ENU. 172 attendees at Legal Education courses, 50 lectures / speeches, 3000 attendees

Key Media Activities

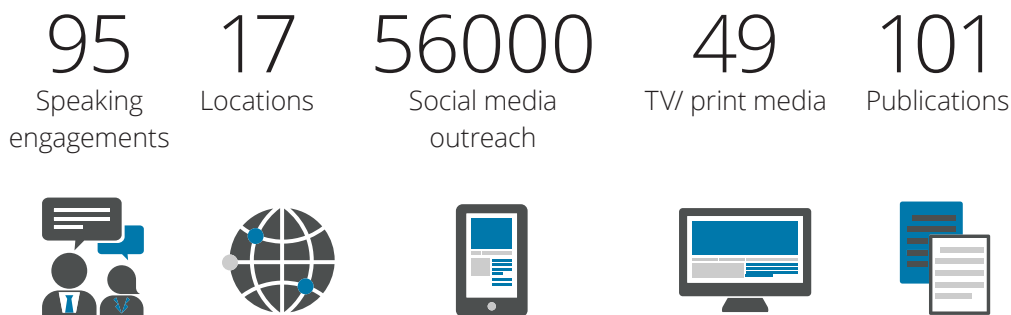
49 interviews and commentaries, 56000 social media outreach (FB, Twitter, Instagram), 101 positive/neutral publications in global, regional and local press



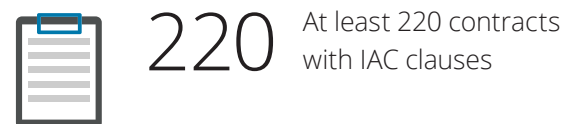
Roundtable with Kazakhstan Bar Association
June 2018

Summary: 2018 Achievements

Promotions & Engagement



Users Attraction



Education



Appointments





“Astana: The City of Peace” International Conference

June 2018

Introduction to the IAC

This Annual Report 2018 (“the Annual Report”) is intended to document the key activities of the International Arbitration Centre (“the IAC”) from 1 January 2018 until 31 December 2018. It addresses the IAC’s objectives and achievements.

This Report has been drafted within the context of Kazakhstan’s “100 Concrete Steps to Implement Five Institutional Reforms”. It aims to assist with reporting on the achievements of the overall objectives of the Astana International Financial Centre (“the AIFC”) to facilitate Kazakhstan’s integration to the international financial system and position itself as the leading internationally recognised financial centre in Eurasia.

Who we are

The IAC was registered as an AIFC Body on 22 December 2017 in accordance with the requirements of the AIFC Constitutional Statute 2015. It became operational from 1 January 2018. It is an independent legal entity and it is separate from the Republic of Kazakhstan’s arbitration and judicial system.

It has a Chairman, a panel of distinguished arbitrators and mediators, a Registrar who is also its Chief Executive, its own arbitration and mediation procedural rules, and international standard premises. It provides a full suite of arbitration, mediation and alternative dispute resolution services, including administered arbitrations, UNCITRAL arbitrations, and ad hoc arbitrations and mediations. It is an arbitrator and mediator appointment authority and provides fundholding services.

Kazakhstan is a signatory to the New York Convention and IAC arbitration awards can be enforced in Kazakhstan via execution orders of the AIFC Court.



AIFC Court & IAC Legal Education Week – Introduction to the English Common Law by Prof. Dame Hazel Genn DBE, UCL, at ENU in Nur-Sultan
June 2018

IAC and AIFC Platform

Platform

In documenting the achievements of the IAC for 2018 it is important to understand how it fits within the context of the AIFC platform to understand the alignment and overall success of the IAC and AIFC.

The AIFC aims to create a sustainable investment centre in Nur-Sultan for Kazakhstan and the Eurasia region. It focuses on five main investment areas: capital markets, asset finance, private wealth, Islamic finance and financial technology (“fintech”). It has adopted a system of law that is modelled on the English Common Law. This is to provide a platform for business supported by the IAC, which will uphold the rule of law. The IAC will encourage the development of a robust financial and economic environment within the AIFC.

The IAC provides five main dispute resolution services:

1. Arbitration – exclusive administration of arbitrations governed by the IAC Arbitration and Mediation Rules, subject to the agreement of the parties to a case, and such rules include procedures for expedited arbitrations, the appointment of emergency arbitrators, and resolution of investment treaty disputes; administered arbitrations governed by UNCITRAL Arbitration Rules and ad hoc arbitration rules subject to the agreement of the parties to a case;
2. Mediation – mediations governed by the IAC Arbitration and Mediation Rules and ad hoc mediation rules subject to the agreement of the parties to a case, as well as other forms of alternative dispute resolution subject to the agreement of the parties to a case;
3. Appointments – an appointment authority, assisting with the appointment of arbitrators and mediators to arbitrations and mediations conducted at the IAC or elsewhere;
4. Fundholding – fundholding, holding and disbursing advances in relation to costs associated with use of the IAC’s services and facilities; and
5. Enforcement – via AIFC Court execution orders for enforcement within Kazakhstan.

The IAC Platform is accessible to all lawyers and professionals to represent parties in cases at the IAC.

IAC Vision and Mission

The IAC’s Vision is to be the number one choice for resolution of civil and commercial disputes by arbitration and alternative dispute resolution in Eurasia.

Its Mission is to seek to establish and develop a fully independent arbitration and alternative dispute resolution system for the expeditious resolution of civil and commercial disputes. It will adopt practices of fairness and accessibility which demonstrate its adherence to the rule of law and that it is responsive to the needs of global business markets.



**Inaugural Lecture by Barbara Dohmann QC, Chairman of the IAC,
at M.C. Narikbayev KAZGUU University**
April 2018

IAC and AIFC Platform

IAC Objectives

These are:

1. To provide leading services of settling national and international commercial disputes through arbitration, mediation and other methods of alternative dispute resolution, in accordance with the IAC Arbitration and Mediation Rules or the rules agreed upon between the parties of a dispute.
2. Empowering regional commerce by increasing confidence in the administration and accessibility of justice throughout the AIFC, Kazakhstan, the Eurasia region, and globally.
3. To be an innovative and technologically advanced international arbitration centre which continually improves its working processes and standards.
4. Developing working relationships with other international arbitration centres in Kazakhstan, the Eurasia region, and other jurisdictions, particularly those with close trading links to Kazakhstan.
5. Delivering high quality alternative dispute resolution education and training to meet the needs of lawyers and businesses in Kazakhstan and the Eurasia region.

Achievements

The IAC achieved its objectives in 2017 and 2018 in the following areas:

1. Creation of the IAC;
2. ADR Administration and Legal Support;
3. Operations - Finance, Human Capacity, Information Technology, Facilities;
4. Promotion of the IAC; and
5. Education and Training.

Creation of the IAC

Tasks completed in 2017 and 2018 include:

- a) The amendment to the Constitution of Kazakhstan to enable the AIFC and the IAC to legitimately operate within the confines of the Constitution.
- b) The AIFC Arbitration Regulations 2017 were drafted and later approved by the AIFC Management Council, the senior authority in the AIFC with the President of Kazakhstan as its Chairman, pursuant to the AIFC Constitutional Statute 2015, and provided for the establishment of the IAC and its powers, jurisdiction and constitution.
- c) On 22 December 2017 the IAC was formally registered within the AIFC as an AIFC Body and an independent legal entity.
- d) On 1 January 2018 Barbara Dohmann QC was appointed as the Chairman of the IAC and Christopher Campbell-Holt was appointed as the Registrar and Chief Executive of the IAC.
- e) The IAC's Procedural Rules pursuant to the AIFC Constitutional Statute 2015 were drafted and subsequently approved by the Chairman of the IAC in accordance with the AIFC Arbitration Regulations 2017 with effect from 1 January 2018.
- f) The Chairman appointed the IAC's Arbitrator and Mediator Panel on 1 January 2018 and additional members were appointed to the Panel throughout 2018.
- g) The IAC became operational from 1 January 2018.



IAC and AIFC Platform

ADR Administration and Legal Support

Tasks completed in 2018 include:



1. *Legal support team:*

A Case Manager was appointed and trained to ensure the IAC had ADR case management support to assist the Chairman of the IAC and its panel of arbitrators and mediators with preparation of case papers, legal research, and production of publications.



2. *Case management:*

In accord with the experience of arbitration centres at other international financial centres including Qatar, Dubai, Singapore and Hong Kong, the IAC did not hear any cases during its first year of operation.

The IAC established a temporary e-filing system enabling lawyers and parties to file a request for arbitration or mediation electronically via the IAC website. A project was commenced to establish a permanent comprehensive digital e-Justice system to further develop the e-filing and case management system to provide the most high-tech, efficient and cost-effective filing for the management of requests for arbitration and mediation. This will be completed in 2019.

The IAC published a "Practice Direction" setting out fees (which will not be charged to IAC users until 1 January 2021), request for arbitration and mediation forms for filing, and a model clause.



3. *E-library and legal research facility:*

Licences to access legal e-resources, including English Common Law case judgments and articles for legal research purposes were received.



4. *Translation services:*

An efficient translation facility was set up for the IAC, including for its publications, hearings and awards, and other proceedings.



5. *Enforcement:*

Four Memorandums of Understanding ("MOUs") were signed in 2017 by the current Chief Justice of the AIFC Court, in his capacity at that time as Advisor to the AIFC Authority on the establishment of the AIFC Court. The MOUs were signed with the Kazakhstan Supreme Court Chief Justice, Ministry of Justice, General Prosecutor Office, and National Chamber of Law Enforcement Agents, to encourage mutual cooperation on enforcement of AIFC Court judgments and orders in addition to other matters. IAC arbitration awards can be enforced in Kazakhstan via AIFC Court execution orders.

Recommendations were made in 2017 to amend the Kazakhstan Enforcement Law to enable AIFC Court judgments and orders, subject to AIFC Court execution orders, including execution orders for IAC arbitration awards, to be enforced directly by national enforcement agents without the need for execution in the Kazakhstan courts. It was expected that the Kazakhstan Enforcement Law would be amended to this effect and the amendments were expected to be enacted in 2019.

The IAC cooperated with leading arbitration centres and law associations in 2018 with a view to signing MOUs with these organisations in 2019. The IAC Chairman and Registrar and Chief Executive participated at the Hong Kong Arbitration Week in October 2018 and preparatory work in Hong Kong and Beijing with the expectation that the Chairman will sign MOUs with Asia based arbitration centres in 2019.

IAC and AIFC Platform

Operations

Tasks completed in 2018 include:



1. *Finance:*

An agreement has been entered into for the provision of financial services by the AIFC Authority to the IAC. The agreement provides for the IAC to have its own budget secured by the AIFC Authority from the Kazakhstan Government upon receipt of annual estimates of expected expenditure for the following calendar year from the Chairman and Registrar and Chief Executive. The IAC has its own bank accounts for expenditure and for receipt of fees and charges received from IAC users and recipients of education provided by the IAC.

The AIFC Authority administered the IAC's bank accounts, processed all IAC payments, and provided all government reporting, in compliance with its internal policies and procedures and Kazakhstan legislation. The IAC commissioned PWC to undertake its own independent audit of the IAC Accounts.



2. *Human capacity:*

The IAC shared use of three AIFC Court administrative staff who were appointed with effect from February 2018 to assist with the implementation of the IAC's objectives and administration. A Business Manager was recruited and was later promoted to Head of Business to assist with the management of all IAC business and administrative systems and project manage key business development projects. A Coordinator was recruited and was later promoted to Corporate Services Manager to assist with administrative support and coordination of the IAC Registry. An External Relations Manager was recruited and was later promoted to Head of Communications to manage the public relations and communications of the IAC.

In 2018 the IAC staff received on the job training. They were supervised by the Registrar and Chief Executive and their performance was appraised. Additional hiring needs were considered on an ongoing basis, including the need to recruit a Case Manager. A Case Manager was hired in October 2018 to assist with case management and law-related work.

IAC and AIFC Platform



3. Information technology:

The IAC received IT hardware and software support from the AIFC Authority subject to an agreement between the IAC and AIFC Authority.

In 2018 the IAC was equipped with appropriate hardware to include telephones, computers, and an adequate printing facility. Microsoft Office 365 and matter management software was provided.

The IAC has a temporary website. A more sophisticated long term website will be developed in 2019 by the AIFC Authority in cooperation with the IAC.

The main IT development project for the IAC in 2018 was an e-Justice Solution project and appropriate data security which were managed by the IAC and AIFC Authority. Competitor arbitration centres at similar international financial centres have or are developing this technology and the delivery of this project was critical to the IAC's e-case management facility. It was also a major marketing asset to promote the IAC as a modern, efficient and cost-effective arbitration centre to meet business needs. Work was undertaken in 2018 to develop the ejustice system with completion and launch expected to happen in 2019.



4. Facilities:

The IAC had its own temporary premises in Nur-Sultan. Architectural plans for permanent premises at the EXPO-2017 site were drafted, revised, and finalised. In 2018 the AIFC Authority worked in cooperation with the IAC to appropriately fit-out the permanent premises. The IAC moved into its permanent premises in January 2019.



IAC and AIFC Platform

Promotion of the IAC

The IAC received positive publicity within Kazakhstan regarding the appointment of its Chairman and arbitrators and mediators. It is imperative to the IAC's future success and implementation of its objectives for it to be comprehensively marketed within Kazakhstan and internationally to include the Eurasia region and at other international financial centres. An extensive, targeted and structured communications and media strategy was developed by the IAC and was implemented throughout 2018.

Tasks completed in 2018 include:



1. *Media campaign:*

Personal interviews from the Chairman, selected IAC arbitrator and mediator panel members, and Registrar and Chief Executive were published in the Kazakhstan media, including TV and online print. The Chairman and Registrar and Chief Executive participated in regular exclusive interviews for Kazakhstan TV media. Regular press releases were published in Kazakh and international media to promote IAC achievements including visits to Nur-Sultan by the Chairman and her activities, the July 2018 AIFC events with IAC participation, and on IAC projects including the AIFC Court and IAC Moot Final 2018. Social media was utilised to maximise publicity.

The IAC's media and promotional activities were concentrated on "Get the IAC and AIFC Court dispute resolution clauses into your contracts". The campaign focussed on marketing to law firms to include the IAC and Court in their clients' contracts. The IAC conducted research from the Kazakhstan legal and business communities and the results provided that at a minimum the IAC and Court had been included in 220 contracts including AIFC and non-AIFC parties and Kazakh and foreign parties.



2. *Events, meetings and lectures:*

The Royal Courts of Justice in London ("the RCJ") hosted an evening reception of the Court and IAC in March 2018 with attendance by the Kazakhstan Ambassador to the UK, HE Erlan Idrissov, the IAC Chairman, AIFC Court Chief Justice and judges, and representatives from the Kazakh and UK legal communities. The gown that was worn by the AIFC Court Chief Justice during his affirmation ceremony in Nur-Sultan on 6 December 2017 was displayed in a cabinet at the RCJ to formally promote the Court to an international audience. The RCJ is the main centre or "home" of the English Common Law courts and the display publicly announced the Court's international recognition.

The IAC Chairman visited Nur-Sultan in April, June and July 2018. The visits followed a structured programme of activities including meetings with the Kazakhstan Supreme Court Chief Justice, Kazakh and Eurasian business people, Kazakh law students, giving lectures at Kazakh law schools and to Kazakh judges at the Kazakhstan Supreme Court, and participating at other events that occurred during the visits including high profile events and meetings supported by foreign embassies based in Nur-Sultan.

In July 2018 the AIFC hosted in Nur-Sultan a programme of AIFC events to announce the formal commencement of operations. The IAC Chairman and three arbitrator panel members participated on a panel discussion about the IAC at a Law Forum event as a part of an AIFC day.

In September 2018 the IAC Registrar and Chief Executive and a visiting IAC Arbitrator Panel member presented on the IAC to senior Kazakhstani business people at an event in Almaty, Kazakhstan, that was organised by the International Bar Association.

IAC and AIFC Platform

In October 2018 the IAC and AIFC Court hosted the first AIFC Court and IAC Moot Competition Final at KAZGUU University in Nur-Sultan. The event was judged by two AIFC Court judges and a Visiting Judge, Lord Mance (former Deputy President of the UK Supreme Court). Students from two of the most competitive law schools at Kazakh universities (KAZGUU and KIMEP) competed in open court applying their knowledge and skills to advocate a Common Law dispute problem. Guidance was provided to the law students during the May 2018 Nur-Sultan visit of an AIFC Court judge and by the Registrar and Chief Executive. The Final was heavily marketed and achieved widespread prime time TV news coverage in Kazakhstan.

The IAC Chairman and Registrar and Chief Executive gave law firm client awareness presentations and roundtable events on the IAC to leading international law firms in seventeen global locations including in Kazakhstan, USA, UK, Europe, Eurasia, Russia, and Asia. They gave guest lectures to law students, law faculty, and legal professionals, on the IAC and its procedures, at law schools in Kazakhstan. The Registrar and Chief Executive was appointed "Honorary Professor" at KAZGUU Law School in Nur-Sultan. He also attended and participated at AIFC-wide "roadshow" events organised by the AIFC Authority and AIFC Governor's Office to market the AIFC.



3. Marketing materials:

The IAC developed its marketing materials including an information guide and a rule book.



4. High profile conference participation:

In addition to the IAC participating at Eurasia regional events, the Chairman and the Registrar and Chief Executive, and occasionally the Chief Justice of the AIFC Court in cooperation with the IAC, attended and participated at international conferences. Conferences were attended on a selective basis to ensure maximum coverage with leaders and potential users of the IAC in the international legal and business communities.

The following international conferences were attended in 2018:

1. The Prime Finance 7th Annual Conference on Dispute Resolution, at The Peace Palace in The Hague, 22-23 January 2018;
2. The Standing International Forum of Commercial Courts 2018, in New York, 27-28 September 2018;
3. COMBAR North American Meeting, in Vienna, 31 May – 1 June 2018;
4. European Circuit Meeting, at the Arbitration Institute of the Stockholm Chamber of Commerce, 20 September 2018; and
5. Hong Kong Arbitration Week 2018, Hong Kong International Arbitration Centre, 28 October – 2 November 2018.



5. Users' Committee:

A Users' Committee for the IAC was established and its first meeting was held in Nur-Sultan. The Committee was chaired by the Registrar and Chief Executive and comprised members from leading international and local Kazakhstan law firms. It provided the IAC with feedback on its services and on developments in the Kazakhstan, Eurasian and international legal and business markets. It was intended to keep the IAC updated to enable it to consistently provide the highest standards of modern and efficient services.

IAC and AIFC Platform

Education and Training

The IAC has in its remit an obligation to assist with training, development, and awareness about ADR. It partnered with the AIFC Court and AIFC Bureau for Continuing Professional Development to deliver a comprehensive education programme for legal and business professionals in Nur-Sultan in 2018. The education programme was intended to improve awareness about the IAC and positively contribute to the educational development of Kazakh law and business students and professionals.

The 2018 IAC and AIFC Court education programme was delivered in June 2018 and included the following:

1. “An Introduction to the English Common Law”: a two days course of four intensive lectures provided by Professor Dame Hazel Genn DBE (former Dean, Law Faculty, University College London). This was hosted by the Eurasian National University Law School in Nur-Sultan and was attended by eighty Kazakh and Eurasia region lawyers. Completion certificates were awarded to the attendees.
2. “English Commercial Law at the AIFC Court and IAC”: a two days course of four intensive lectures provided by Dr. Marc Moore (Director, Masters in Corporate Law, Cambridge University). This was hosted by KAZGUU Law School in Nur-Sultan and was attended by eighty Kazakh and Eurasia region lawyers. Completion certificates were awarded to the attendees.
3. “CEDR Accredited Mediation Skills Training Qualification”: a six days intensive mediator skills training course and assessment provided by the Centre for Effective Dispute Resolution, London. This was hosted by KAZGUU Law School in Nur-Sultan and was attended by twelve Kazakh lawyers selected by the IAC, AIFC Court, and Bureau for Continuing Professional Development, following a competitive interview and selection process. Eleven out of twelve candidates successfully passed the CEDR assessment and received CEDR mediator accreditation certificates.





**Honourary Professorship Award Ceremony at KAZGUU University
for the Registrar and Chief Executive**

December 2018





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