

**International Commercial Arbitration Court  
at the Ukrainian Chamber of Commerce and Industry**

**REPORT  
of the activities for 2014**

In 2014 an active work on popularization of the activities of the international arbitration institutions at the Ukrainian Chamber of Commerce and Industry (UCCI) was performed. That work was done in a variety of forms. The main among them was the organization, conduct and participation in national and international conferences, seminars, round tables, etc.

The key event among all other was holding by the ICAC at the UCCI of the II International Arbitration Readings in memory of Academician Igor Pobirchenko, which took place in the conference hall of the UCCI on 13 November 2014. The Arbitration Readings brought up for discussion one topic: «Arbitration Agreement: Basic Principles and Current Trends» which allowed twenty speakers from Ukraine, Belarus, the Netherlands, Poland, Serbia and Finland during 4 sessions deeply and thoroughly highlight the issue.

Over 100 participants took part in the Arbitration Readings, including representatives of academic and institutional science, business, in-house counsels, representatives of law firms, attorneys specializing in the field of foreign economic activity and international commercial arbitration, representatives of the regional Chambers of Commerce and Industry, arbitrators of the ICAC and MAC at the Ukrainian CCI, students of law departments of higher education institutions of Kyiv. The representatives of the judicial branch of Ukraine, namely: President and Vice President of the Supreme Economic Court of Ukraine, Vice President of the High Specialized Court of Ukraine for Civil and Criminal Cases, judges of local courts, courts of appeal and others, also actively participated in the work of the Arbitration Readings which gave a special interest and practical significance to the conference.

In April 2014 the materials of the I International Arbitration Readings in memory of Academician Igor Pobirchenko were published in a separate collected book.

On 4 September 2014 in the premises of the Kyiv Regional Center of the Ukrainian National Academy of Law Sciences the ICAC and MAC at the UCCI jointly with the Scientific-Research Institute of Private Law and Entrepreneurship of the Ukrainian National Academy of Law Sciences and the Ukrainian Civilist Association held a round table: «Limits of court intervention in international commercial arbitration». 72 participants took part in the work of the round table, among them were representatives of the judicial authorities, representatives of foreign and Ukrainian law firms, legal practitioners in the field of foreign trade and arbitration, arbitrators of the ICAC and MAC at the UCCI, representatives of the academic and institutional science, students and graduates of higher education institutions. The round table discussed the most important issues of cooperation between state courts and international commercial

arbitration. The participants of the round table, in particular the representatives of the judicial authorities, have unanimously supported the need to improve the procedural legislation, which establishes the procedure for challenging, recognition and enforcement of arbitral awards, particularly with regard to withdrawal of these cases from the jurisdiction of the courts of first instance and refer them for the consideration of the courts of appeal.

Materials of the round table were published in the legal journal “Law of Ukraine” No. 12/2014. In particular, the following articles were published:

- Mykola Selivon, President of the ICAC at the UCCI, “On some issues of interaction of courts and international commercial arbitration”;
- Liudmyla Vynokurova, Vice President of the ICAC at the UCCI, “On the development of legal doctrine of arbitration in Ukraine”;
- Tetiana Zakharchenko, Vice President of the ICAC at the UCCI, “National court as a protector of binding arbitration agreement considering the claim on essence of a dispute”;
- Anatolii Zaiets, arbitrator of the ICAC at the UCCI, “Problematic issues of recognition and enforcement of international arbitral awards on the territory of Ukraine”;
- Oleg Podtserkovny, arbitrator of the ICAC at the UCCI, “Issues of interference of courts in arbitration in the context of causes for bankruptcy and interpretation of “public order”.

On 25 September 2014 Mykola Selivon, President of the ICAC at the Ukrainian CCI, and his deputy Liudmyla Vynokurova took part and made their reports at the seminar “Current issues in preparation and execution of international contracts for the business community of Kherson region, lawyers and other experts in the field of arbitration and foreign trade” organized by the Kherson Chamber of Commerce.

The ICAC delegation composed of Mykola Selivon, President of the ICAC at the Ukrainian CCI, and his deputy Tetiana Zakharchenko, took part in the work of the scientific-practical conference “Arbitration in Moldova: Achievements and Perspectives”, which was held on 16 May 2014 in Chisinau. The conference was dedicated to the 20th anniversary of arbitration in the Republic of Moldova. It gathered the representatives of arbitration centers of Azerbaijan, Bulgaria, Great Britain, Poland, Russia, Romania and Ukraine. The conference focused not only on the development of arbitration in the Republic of Moldova, but also on the issues of modern arbitration in general: improvement of legislation on arbitration and novelties of national legislation on arbitration in separate states; interpretation of pathological arbitration clauses; interaction of arbitration and the judiciary; application of interim measures; arbitration training in higher education institutions. The members of Ukrainian delegation participated in the discussion of almost all reports presented at the conference and, in their turn, made reports on the application of interim measures in international commercial arbitration (Mykola Selivon) as well as the recognition and enforcement of

arbitral awards (Tetiana Zakharchenko), which aroused a lively discussion among the audience.

On 1-4 October 2014 Mykola Selivon, President of the ICAC and MAC at the Ukrainian CCI, and Tetiana Arsentieva, Executive Secretary of MAC at the UCCI took part in XIII International Legal Forum which was held in Prague, Czech Republic. Mykola Selivon, President of the ICAC and MAC at the Ukrainian CCI, made his report on “National arbitration institutions in the context of current trends on the example of Ukraine.”

On 23 October 2014 Mykola Selivon, President of the ICAC at the Ukrainian CCI, attended the ICC European Arbitration Group meeting - the meeting of Presidents of international arbitration institutions of Eastern and Central Europe during which he outlined his position on the major contemporary issues of the development of international commercial arbitration.

On 27-29 October 2014 Tetiana Zakharchenko, Vice President of the ICAC at the Ukrainian CCI, took part in the work of the scientific-practical conference “Law-International trade-Economics” held in Vysoke Tatry, Slovakia. During the conference Mrs. Tetiana Zakharchenko made her report on the development of alternative methods of dispute resolution in Ukraine.

Mykola Selivon, President of the ICAC at the Ukrainian CCI, prepared the section “Development of alternative methods of dispute resolution in Ukraine as effective means of protecting the rights and interests of citizens and legal entities” (1,8 p.p.) which was published in the Collection of selected works of Pavol Jozef Šafárik University in Kosice (Slovakia), “PRAVO, OBCHOD, EKONOMIKA IV” Kosice, 2014.

On 18-19 November 2014 the international conference on “Alternative Dispute Resolution (ADR): a Location Factor in Global Competition - Germany, Poland and Ukraine in Focus” took place in Munich (Germany). The conference gathered more than 80 participants from Germany, Poland and Ukraine. Mykola Selivon, President of the ICAC at the UCCI, and Tetiana Zakharchenko, Vice President of the ICAC at the UCCI, also took part in the work of the conference, made their reports as well as participated in panel discussions. Mykola Selivon, President of the ICAC at the UCCI, in his report spoke on the trends, set out in the interaction between state courts and arbitration, existing problem issues and ways of their solution.

In order to reduce the financial costs of business entities referring to the ICAC at the UCCI for resolution of foreign economic disputes paragraph 1 of Section III of the Schedule of Arbitration Fees and Costs was amended by the Decision of the Presidium of the Ukrainian Chamber of Commerce and Industry of 24 April 2014 (Appendix to the Rules of the International Commercial Arbitration Court at the Ukrainian Chamber

of Commerce and Industry), which reduced the amount of the arbitration fee if the claim price starts from U.S. Dollars 2,000,001 and above.

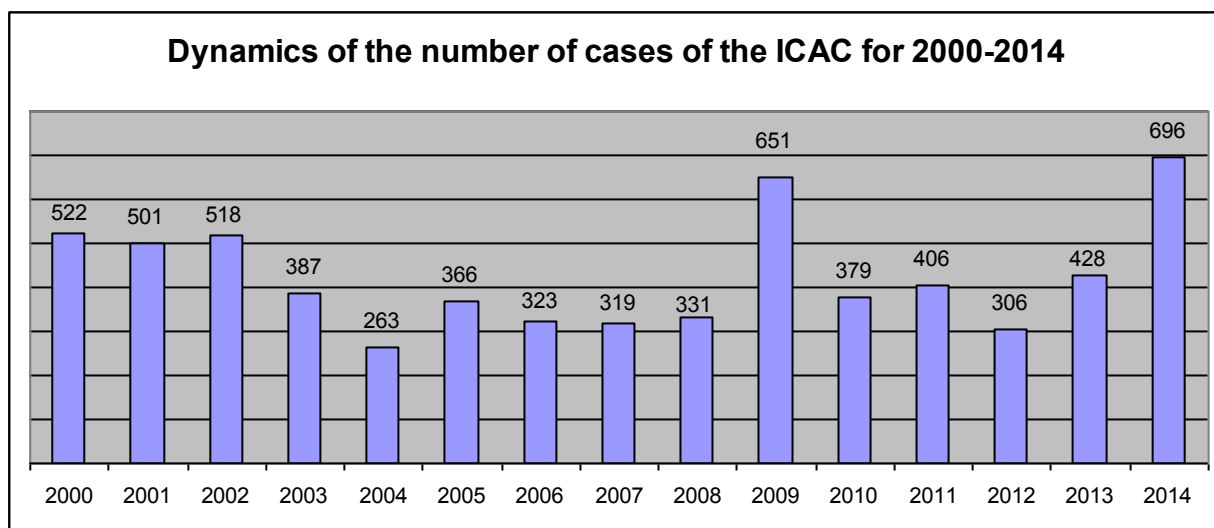
<b>Amount of the claim (U.S. Dollars)</b>	<b>Arbitration fee (U.S. Dollars)</b>
up to 10,000	1,800
from 10,001 to 50,000	1,800 + 6% on the amount above 10,000
from 50,001 to 100,000	4,200 + 4% on the amount above 50,000
from 100,001 to 200,000	6,200 + 3% on the amount above 100,000
from 200,001 to 500,000	9,200 + 2% on the amount above 200,000
from 500,001 to 1,000,000	15,200 + 1% on the amount above 500,000
from 1,000,001 to 2,000,000	20,200 + 0,5% on the amount above 1,000,000
<b>from 2,000,001 to 5,000,000</b>	<b>25,200 + 0,45% on the amount above 2,000,000</b>
<b>from 5,000,001 to 10,000,000</b>	<b>38,700 + 0,3% on the amount above 5,000,000</b>
<b>from 10,000,001 to 20,000,000</b>	<b>53,700 + 0,2% on the amount above 10,000,000</b>
<b>from 20,000,001 to 50,000,000</b>	<b>73,700 + 0,15% on the amount above 20,000,000</b>
<b>from 50,000,000</b>	<b>118,700 + 0,1% on the amount above 50,000,000</b>

In 2014 the ICAC continued its work on preparation of proposals on the amendments to the Law of Ukraine On International Commercial Arbitration and the Rules of the ICAC and MAC at the UCCI determined by the most recent experience of the arbitration institutions of the world and implementation into the above regulatory acts of innovations of the UNCITRAL Model Law on International Commercial Arbitration and its Arbitration Rules.

### § 1. Number of cases registered by the ICAC at the UCCI in 2014

During the period from 1 January till 31 December 2014 the ICAC at the UCCI registered 696 cases, which is 268 cases more than in 2013.

The dynamics of the number of cases registered in the ICAC at the UCCI from the year 2000 till 2014 is as follows:



## **§ 2. Consideration of cases in 2014**

During the year 2014 the ICAC at the UCCI considered and rendered awards in 356 cases (including 2 awards on agreed terms and 15 orders for the termination of the arbitral proceedings), of which 144 cases (40%) were considered by the Arbitral Tribunal composed of three arbitrators and 212 cases (60%) – by the Arbitral Tribunal composed of a sole arbitrator.

48 awards were done in the Ukrainian language, one award – both in Russian and English languages, one case - in the English language, and the remaining awards (306 cases) - in the Russian language.

From the general amount of cases that have been considered, 201 cases were registered in 2014, 154 cases - in 2013 and 1 case - in 2012.

From the general amount of cases that have been registered in 2014 (696 cases), the arbitral proceedings in 105 cases were terminated without consideration (mainly for non-payment of the arbitration fee by the Claimant or upon the Claimant's application) by the orders of the President of the ICAC at the UCCI.

95 cases are scheduled for the oral hearing in January-March 2014, 1 case has been suspended.

In 2014 the consideration of cases of the ICAC at the UCCI has been conducted with the participation of foreign arbitrators from Belarus, Moldova, Russian Federation, Slovakia and Sweden.

## **§ 3. Origin of the parties**

Parties to the cases, which were registered by the ICAC at the UCCI in 2014 (696 cases), were from 49 countries, including 40 from far-abroad countries, 8 CIS (Commonwealth of Independent States) countries and Ukraine.

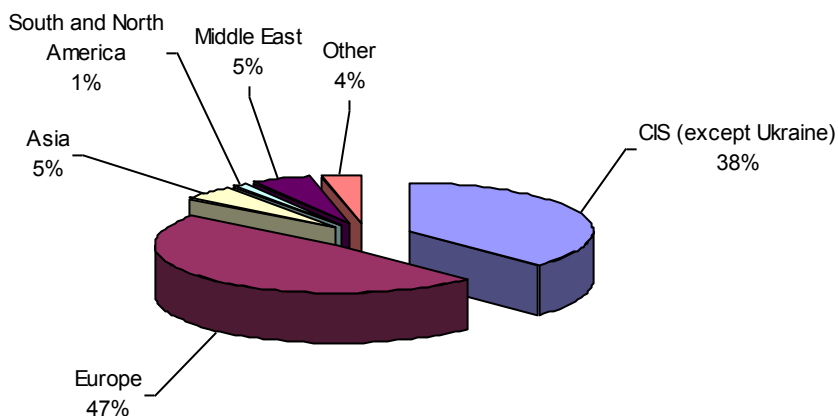
Parties to the cases were from the following far-abroad countries:

Algeria (1 case), Austria (6 cases), Belize (3 cases), Belgium (1 case), British Virgin Islands (19 cases), Bulgaria (2 cases), China (16 cases), Cyprus (61 cases), Czech Republic (9 cases), Denmark (3 cases), Egypt (2 cases), Estonia (3 cases), France (2 cases), Georgia (7 cases), Germany (9 cases), Greece (2 cases), Hungary (4 cases), India (8 cases), Israel (3 cases), Italy (3 cases), Korea (1 case), Latvia (1 case), Lichtenstein (3 cases), Lithuania (3 cases), Marshall Islands (2 cases), Mongolia (1 case), Netherlands (2 cases), Panama (2 cases), Poland (57 cases), Romania (3 cases), Saudi Arabia (1 case), Serbia (1 case), Slovakia (4 cases), Spain (2 cases), Switzerland (65 cases), Turkey (5 cases), United Arab Emirates (33 cases), United Kingdom (79 cases), USA (3 cases), West Indies (3 cases).

Parties to the cases were also from the following CIS countries:

Armenia (6 cases), Azerbaijan (11 cases), Belarus (76 cases), Kazakhstan (18 cases), Kyrgyzstan (1 case), Moldova (13 cases), Russian Federation (116 cases), Uzbekistan (15 cases).

### Involvement of foreign parties in the cases of the ICAC

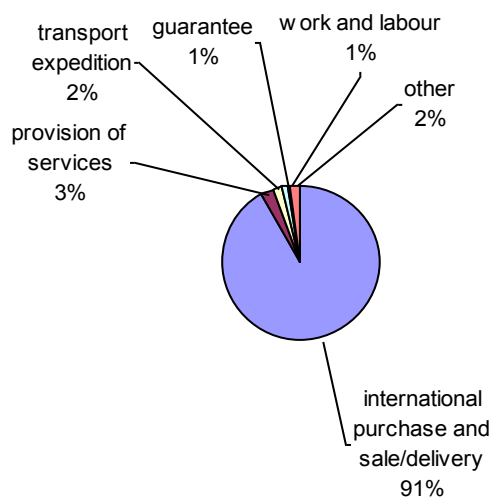


### § 4. Types of contracts

In the majority of cases, disputes submitted to the ICAC in 2014, as well as in previous years, arose in the course international purchase and sale (delivery) of goods, and concerned the breach of contractual obligations as to the opportune payment or delivery of goods. A lot of disputes relate to the quality of delivered goods, provision of services and transport expedition. To a lesser extent, submitted disputes deal with construction contracts, leasing and loan.

From the total amount of cases registered by the ICAC in 2014 (696 cases), the majority of cases - 639 cases (i.e. 91.8%) related to the contracts of international purchase and sale/delivery of goods, 18 cases related to the contracts of provision of services, 16 cases – to contracts of transport expedition, 5 cases – to contracts of guarantee, 5 cases – to work and labour contracts, 3 cases – to contracts of loan, 2 cases – contracts of commission agency, 2 cases – to contracts of pledge, 2 cases – to dealer contracts, 1 case – to cooperation agreement, 1 case – to contract of exhibition holding, etc.

### Types of contracts



## § 5. Duration of arbitral proceedings

In 2014 the ICAC at the UCCI considered and rendered awards in 356 cases, the duration of which (from the date of initiation of the arbitral proceedings till rendering of the award in the case) was as follows:

from 3 till 4 months - 160 cases;

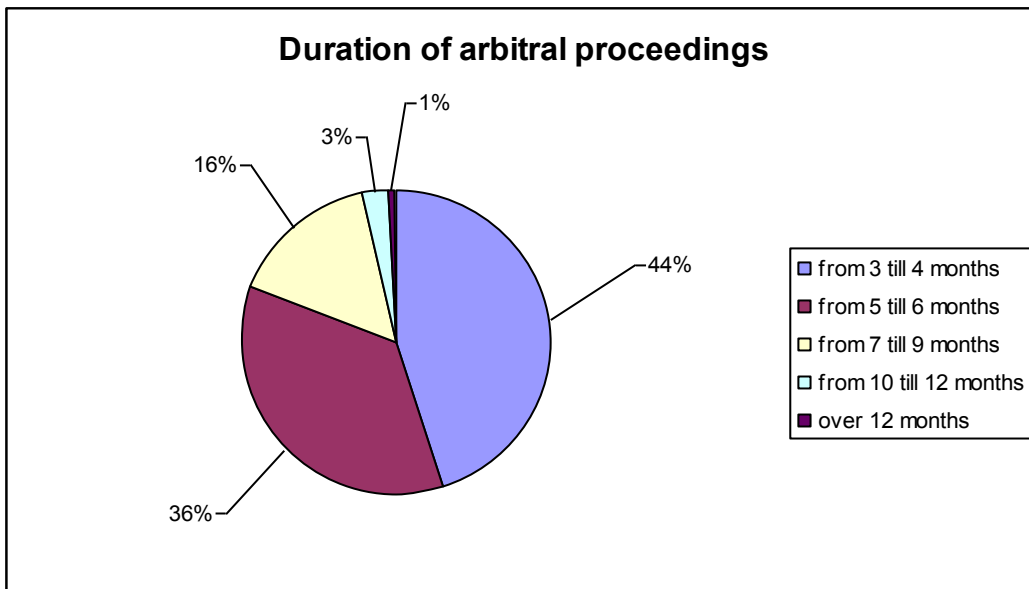
from 5 till 6 months - 128 cases;

from 7 till 9 months - 56 cases;

from 10 till 12 months - 9 cases;

over 12 months - 3 cases.

In 2014 in order to expedite the arbitral proceedings the ICAC at the UCCI sent documents in the case (claim documents, notices, rulings on postponement, arbitral awards) to the respondents in the majority of cases by means of courier mail.



**Maritime Arbitration Commission  
at the Ukrainian Chamber of Commerce and Industry**

**REPORT  
of the activities for 2014**

In 2014 there were 18 cases in the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry, including 9 cases registered during the reporting period and 9 cases left from the year 2013. Among them 10 cases have been considered, 5 cases are at the stage of the preliminary preparation for consideration and 3 cases are scheduled for the oral hearing in January - February 2015.

Foreign respondents in the cases registered in 2014 were parties including: Russian Federation - 4 cases, Liberia - 2 cases, Cyprus and Malta - 1 case each.

There was 1 case both parties to which were the Ukrainian residents.

Out of the 9 cases registered by the MAC at the UCCI in 2014, the price of claim in 5 cases was from US Dollar 10,001 to US Dollar 50,000; in 3 cases from US Dollar 100,001 to US Dollar 200,000; in 1 case - from US Dollar 200,001 to US Dollar 500,000.

Claims registered by the MAC in 2014 arise out of relationships concerning the following matters:

- affreightment - 3 cases
- agency - 1 cases
- repair of vessel - 5 cases

In order to reduce the financial costs of business entities referring to the MAC at the UCCI for resolution of foreign economic disputes paragraph 1 of Section III of the Schedule of Arbitration Fees and Costs was amended by the Decision of the Presidium of the Ukrainian Chamber of Commerce and Industry of 24 April 2014 (Appendix to the Rules of the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry), which reduced the amount of the arbitration fee if the claim price starts from U.S. Dollars 2,000,001 and above.

<b>Amount of the claim (U.S. Dollars)</b>	<b>Arbitration fee (U.S. Dollars)</b>
up to 10,000	1,200
from 10,001 to 50,000	1,200 + 6% on the amount above 10,000
from 50,001 to 100,000	3,600 + 4% on the amount above 50,000
from 100,001 to 200,000	5,600 + 3% on the amount above 100,000
from 200,001 to 500,000	8,600 + 2% on the amount above 200,000
from 500,001 to 1,000,000	14,600 + 1% on the amount above 500,000
from 1,000,001 to 2,000,000	19,600 + 0,5% on the amount above 1,000,000
<b>from 2,000,001 to 5,000,000</b>	<b>24,600 + 0,45% on the amount above 2,000,000</b>
<b>from 5,000,001 to 10,000,000</b>	<b>38,100 + 0,3% on the amount above 5,000,000</b>
<b>from 10,000,001 to 20,000,000</b>	<b>53,100 + 0,2% on the amount above 10,000,000</b>
<b>from 20,000,001 to 50,000,000</b>	<b>73,100 + 0,15% on the amount above 20,000,000</b>
<b>from 50,000,000</b>	<b>118,100 + 0,1% on the amount above 50,000,000</b>

**Mykola Selivon**  
**President of the ICAC and MAC at the UCCI**

30 January 2015