



# **Enforcing International Transactions: Why Your Company Should Include Arbitration Clauses In Its International Contracts & What They Should Say**

*Stephen Anway*

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Authored by Stephen Anway, Partner at Squire Sanders

International arbitration is an unavoidable subject for companies engaged in cross-border business transactions. The simple fact is that international business is carried out through contracts, and those contracts increasingly specify international arbitration as the method by which disputes will be resolved. As businesses become increasingly global, the prominent role that international arbitration plays in resolving transnational commercial disputes will only continue to grow.

When speaking about this issue to various audiences, however, I am often struck by the resistance of some lawyers to international arbitration. Ironically, their criticisms are similar to those that were once raised against national-court litigation—it takes too long, it is too expensive, and it does not meet their business needs. Indeed, many of these objections to litigation are what led to the reemergence of arbitration in the twentieth century. And now, many argue, arbitration has become fraught with the same problems that it was intended to circumvent.

I will argue in this chapter that to whatever extent these criticisms have merit, they should not deter international businesses from including arbitration clauses in their cross-border agreements. Even more, I will make the case that not only is international arbitration better suited for resolving cross-border business disputes than national courts, but that international commerce depends on our system of international arbitration.

To understand why, it is useful to briefly review the historical backdrop against which our current system of international arbitration finds itself.

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