

1. General comments

In the context of the reform of ICC's organisation and governance, the ICC Governance Committee has identified a need for setting out explicitly the principles applicable to ICC policy documents.

The Governance Committee approved the ICC Policy Document Governance at its meeting on 16 October 2019 in Shanghai, subject to minor drafting modifications. The revised text was approved by the Governance Committee in January 2020.

The Governance Committee also decided in Shanghai to bring the ICC Policy Document Governance to the attention of the Global Network Committee ("NETCOM") and the Policy Commissions Committee ("PCCOM") of the ICC Executive Board, in order to finalize the text to be submitted to the ICC Executive Board for approval at its meeting in March 2020 in Mexico.

The present document outlines the basis on which ICC will develop policy input for external consultations, advocacy and engagement in a transparent and inclusive framework that is in line with ICC's Constitution, purpose and mission, Declaration on the next century of global business and with the directions and priorities set by the ICC Executive Board.

The proposed governance framework covers all policy documents—including statements and documents co-authored or endorsed by ICC—issued by ICC and aims to support ICC's purpose and mission in the following ways:

- > Improve ICC's ability to actively contribute to emerging and ongoing policy debates
- > Allow ICC to respond in a timely manner to public consultations
- > Preserve and clarify the process for formally adopted ICC policy statements
- > Establish a clear process for producing other policy documents, including co-creating or endorsing partners' documents

2. Measures defined by the ICC Constitution

The ICC Constitution defines several processes, from elaboration to adoption, for the three categories of documents described below.

Pursuant to the ICC Constitution (Art. 7.1), the ICC Chair prepares general policy proposals for ICC, and for the drafting of regulations, so that the same may be reviewed by the Chairmanship and then by the Executive Board.

Pursuant to the ICC Constitution (Art. 9.2), the ICC Secretary General also defines or submits general policy solutions for the ICC and for the drafting of regulations which are submitted to the Chairmanship and then for validation by the Executive Board.

The ICC Constitution (Art. 6.3a) sets out that the ICC Executive Board approves all ICC policy documents. Policy documents encompass policy statements, recommendations and technical documents. All documents are normally prepared by ICC Commissions. In case of urgency, the ICC Chairmanship can develop and make public a policy statement (Art. 11.1). The ICC Executive Board can delegate the approval of policy documents to the Chairmanship (Art. 6.3b).

The ICC Constitution (Art. 8.3) provides that, in order to ensure the effective functioning of ICC, the Chairmanship is entrusted with the right to act on behalf of the Executive Board between the latter's meetings.

The ICC Constitution (Art. 9.3) also provides that the ICC Executive Board may delegate such powers, as it deems necessary, including the authority to issue policy documents to the ICC Secretary General to perform his or her duties.

3. Overview of policy documents

The list of policy documents hereafter aims to clarify the categories of documents set out in the ICC Constitution.

Recommendations: they express the views of ICC in a formal manner and urge stakeholders to adopt certain behaviours.

Technical documents: they comprise codes, rules, guidelines, model instruments such as contracts and clauses, reports and studies (including the results of surveys).

Policy statements: they comprise three types outlined in more detail below: *Policy Positions*, *Working Papers* and *Statements of the Chairmanship*.

Policy Positions

- > These include top-level positions on issues of interest to the global business community. These statements represent the definitive positioning of ICC to external audiences.
- > Positions will be developed by working groups mandated by ICC Policy Commissions and/or Special Projects, subject to review and consensus building amongst Commission and/or Special Project members and ICC National Committees and Groups. Consensus building does not require unanimity, and positions may be approved by simple majority view within a Commission or Special Project.
- > Positions are to be used to enable the development and articulation of consensus business positions on global public policy issues.
- > Final approval of positions must be given by the ICC Executive Board, on the recommendation of PCCOM, prior to external release and associated engagement.

Working Papers

- > These include documents which provide timely, substantive input into ongoing intergovernmental negotiations and processes, particularly on technical issues requiring business input and engagement. Examples include public consultations and requests for input from relevant organisations.
- > Working Papers may be developed within a Commission or Special Project, or through informal working groups established outside these bodies.
- > Informal working groups are to be open to all interested parties of the ICC network with specialist expertise in relevant areas. ICC International Headquarters will strive to ensure that such groups are fully inclusive in their composition—particularly in terms of sectoral, industry and geographic balance.
- > Working Papers will be prepared through network consultations to build consensus positions wherever possible and draw, where relevant, on existing ICC Policy positions as a baseline.
- > ICC International Headquarters may solicit relevant Knowledge Partners in helping to develop initial Working Paper drafts.
- > National Committees wishing to share draft papers with their broader membership for review are encouraged to do so.
- > PCCOM will be kept advised of the work of these groups and will be invited to share strategic input on an ongoing basis.
- > Working Papers may be shared with external counterparts after review by the relevant Commission and final approval by ICC International Headquarters. As the papers do not require approval by the ICC Executive Board, they are not to be promoted as representing the established views of ICC and its members.
- > Working Papers may evolve and be refined over time in response to external developments. They may also be used, where appropriate, as a basis for future ICC Policy Positions, by following the abovementioned approval process for the latter.

Statements of the Chairmanship

- > From time to time, there may arise a need for the ICC Chairmanship, at its own volition or at the request of the ICC Secretary General, to issue or adopt in an expedited manner a position either covered or not by an existing Policy Position.
- > As a matter of principle, the ICC Chairmanship endeavors to consult with ICC International Headquarters before issuing a Statement.
- > The ICC Chairmanship may delegate responsibility for the development and issuance of such a position to the ICC Secretary General in accordance with the ICC Constitution.
- > If the ICC Chairmanship delegates this responsibility to ICC International Headquarters, the latter should seek to obtain input from National Committees and Groups and the broader ICC network when preparing such a statement for final approval by the Chairmanship.