

# The Role of Negotiation in the Settlement of Commercial Disputes in the International Chamber of Commerce

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## Abstract

The settlement of international commercial disputes is one of the most significant concerns for economic actors and trade organizations, and various methods exist for managing such disputes. Among these, negotiation is recognized as one of the most effective and cost-efficient tools that can reduce the time and expenses arising from disputes while maintaining the commercial relationships between the parties involved. This article aims to examine the role of negotiation within the framework of the International Chamber of Commerce (ICC) and to analyze its advantages, limitations, and challenges. The research method of this study is based on library analysis and a review of ICC documents and regulations, while also examining practical cases of dispute resolution through negotiation. The findings indicate that negotiation, in addition to its preventive role, is highly effective in reducing tensions and facilitating win-win agreements; however, limitations such as the absence of legal enforceability and challenges related to cultural and power imbalances also influence its outcomes. Finally, the article proposes several strategies to enhance the effectiveness of negotiation in international dispute resolution, including negotiation skills training, the use of modern technologies, and the integration of negotiation with complementary methods such as mediation. This study underscores the importance of negotiation in safeguarding the legal and economic security of international trade.

**Keywords:** Negotiation, Commercial Dispute Resolution, International Chamber of Commerce, Mediation, Arbitration

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## 1. Introduction

In the fast-paced and highly competitive world of international commerce, commercial disputes are recognized as one of the most significant challenges faced by economic actors and multinational enterprises. These disputes may arise from differing interpretations of contracts, delays in fulfilling obligations, financial difficulties, violations of intellectual property rights, or even cultural and legal discrepancies among countries. Given the vast scope of trade relations and the complexity of transactions, the existence of an effective mechanism for resolving such disputes is vital—not only from an economic

standpoint but also in terms of preserving legal security and mutual trust between parties (Habibian et al., 2022; Shahbazi & Khasronejad, 2021). Any delay or inefficiency in managing disputes can lead to substantial financial losses, missed business opportunities, and damage to long-term business relationships.

In this context, several methods exist for resolving commercial disputes, including arbitration, mediation, judicial proceedings, and negotiation. Among these, negotiation holds a special position as one of the oldest and most effective tools, as it enables parties to reach win-win agreements, reduce costs and processing time, and help maintain and strengthen business relationships (Bashir et al., 2015; Haji Pour, 2016). The International Chamber of Commerce (ICC), with more than a century of experience, plays a pivotal role in the development and support of global trade. One of its most important functions is to provide frameworks and guidelines for the resolution of international disputes. Through the formulation of recognized rules and procedures, including those concerning arbitration and negotiation, the ICC offers a structured, transparent, and internationally standardized environment in which parties can manage their disputes (Fazaili & Ahsannejad, 2020; Shirooi & Kazemi, 2018).

The ICC's role in facilitating negotiations, building trust between parties, and offering expert recommendations for achieving agreements has made it one of the key institutions in the field of commercial dispute resolution (Shiravi & Kazemi, 2019). Given the significance of negotiation and the role of international institutions, the present article aims to examine the role of negotiation in resolving commercial disputes within the framework of the International Chamber of Commerce. This article seeks to analyze the advantages and limitations of negotiation and address the central question of how negotiation can serve as an effective tool for managing international commercial disputes while facing various challenges. In addition, the study reviews practical cases and ICC documents to provide a clearer picture of the actual application of negotiation. The importance of this research lies in the fact that negotiation is not only a dispute resolution method but also a strategic tool for maintaining economic relationships and fostering confidence in international markets. Ultimately, this paper endeavors to present a comprehensive analysis of negotiation's role in reducing tensions, expediting dispute resolution, and enhancing legal security in international trade, while offering a framework for improving the efficiency of this method in the future.

## **2. Theoretical and Legal Framework of Commercial Dispute Resolution**

The resolution of international commercial disputes requires a precise understanding of the theoretical and legal frameworks governing commercial relations. These frameworks not only determine the legal methods and mechanisms for managing disputes but also provide a foundation for analyzing the advantages and limitations of each method (Habibian et al., 2022; Moahidi Nia et al., 2018). This section first examines the definition and characteristics of international commercial disputes, then introduces common methods of resolving such disputes, and finally analyzes the role of ICC regulations and procedures in supporting dispute resolution processes.

### *2.1. The Concept of International Commercial Disputes*

International commercial disputes constitute one of the most significant challenges faced by companies and economic actors operating in global markets. These disputes may arise in several areas, the most prominent of which include contractual disputes, intellectual property rights issues, and matters related to payments and guarantees. Contractual disputes typically stem from divergent interpretations of contract clauses, failure to perform obligations, or delays in execution, potentially resulting in substantial financial and legal consequences for the parties involved (Touseli Nayini & Behzadi Pour, 2016).

Disputes concerning intellectual property rights also hold particular importance in international trade, as the unauthorized exploitation of inventions, trademarks, or artistic and scientific works can lead to significant economic losses and damage to commercial reputation (Hosseini et al., 2018). On the other hand, issues related to payments and guarantees are among the most common causes of disputes; these include delayed payments, noncompliance with guarantee conditions, or disagreements regarding financial settlements, all of which can erode commercial trust (Borari & Dadash Tabar Ahmadi, 2014).

The unique characteristics of international disputes make them particularly complex and difficult to resolve. First, such disputes often involve linguistic diversity; differences in language and translation of contracts can result in misunderstandings

or varying interpretations, necessitating precision and expertise in interpreting contractual texts (Bashir et al., 2015). Second, the governing laws for contracts and commercial relations vary among countries, and the choice of applicable law can directly influence the dispute resolution process. In some cases, inconsistencies between domestic laws and international standards may prolong and complicate the resolution process (Touseli Nayini & Behzadi Pour, 2016). Third, international disputes are influenced by cultural differences and business customs; differing attitudes, behaviors, and negotiation styles across countries can lead to negotiation failures or heightened tensions (Bordar, 2012). Finally, economic and commercial factors also contribute to the complexity of disputes—balancing financial interests and anticipating economic hardship clauses in contracts play a vital role in dispute emergence (Chaharsoughi & Taheri, 2016).

Given these complexities, a precise understanding of the various types of disputes and their unique characteristics is a prerequisite for designing effective strategies for international dispute resolution. The use of electronic negotiation systems, the development of managers' behavioral competencies, and the application of advanced mechanisms for analyzing the behavior of the parties involved can significantly reduce tensions and enhance the efficiency of the dispute resolution process (Borari & Dadash Tabar Ahmadi, 2014; Jadidol Eslami & Sobhiyeh, 2021).

## 2.2. *Methods of International Dispute Resolution*

In international commerce, disputes can quickly become complex due to differences in laws, cultures, and business practices; therefore, the availability of diverse and effective methods for resolving such disputes is essential. One of the most common methods is negotiation, which is based on the direct interaction between parties and the pursuit of a mutually beneficial (win-win) agreement. The main advantage of negotiation lies in its speed and cost-efficiency, as well as its contribution to maintaining commercial relationships and mutual trust. However, its effectiveness depends largely on the good faith of the parties, and in cases where no agreement is reached, other methods may be required (Bashir et al., 2015; Haji Pour, 2016).

Another method is mediation, in which an independent individual or institution with expertise in dispute resolution intervenes to help the parties reach an agreement. Mediation is more formal than negotiation and exerts less psychological pressure on the parties; however, like negotiation, it lacks legal enforceability, and its success depends on the cooperation of the parties involved (Moahidi Nia et al., 2018). Arbitration, a more formal method, involves referring the dispute to one or more independent arbitrators who issue a binding decision after reviewing the evidence and arguments. The advantage of arbitration lies in the enforceability of its awards and the shorter duration of proceedings compared with national courts, though higher costs and limited appeal options remain its main drawbacks (Fazaili & Ahsannejad, 2020; Shahbazi & Khosronejad, 2020).

Judicial proceedings, or recourse to national courts, are generally regarded as the last resort for resolving international disputes and are typically chosen when other methods fail. The advantage of litigation lies in its legal enforceability and implementation within national judicial systems; however, it is time-consuming, legally complex, and often influenced by political and cultural factors (Shahbazi & Khasronejad, 2021). Overall, each of these methods offers specific advantages and disadvantages depending on the nature of the dispute, the resources of the parties, and the intended objectives. Therefore, a thorough understanding of each method's characteristics and limitations and the selection of the most appropriate approach play a crucial role in the success of international trade relations (Borari & Dadash Tabar Ahmadi, 2014; Rajabzadeh et al., 2020).

The application of electronic systems and decision-support models in negotiation and mediation can minimize errors, expedite processes, and enhance the overall effectiveness of dispute resolution methods (Abdollahzadeh Barforoush & Ayatollahzadeh Shirazi, 2005; Chaharsoughi & Taheri, 2016).

## 2.3. *Legal Framework and Regulations of the International Chamber of Commerce*

The International Chamber of Commerce (ICC), as one of the most important institutions supporting global trade, plays a key role in designing the legal frameworks and regulations of dispute resolution. By formulating policies and bylaws grounded

in the practical experience of states and corporations, the ICC provides a platform through which commercial parties can resolve their disputes in a lawful and structured environment. ICC regulations include guidelines and rules on negotiation, mediation, and arbitration, and they seek to implement dispute resolution processes that are swift, transparent, and aligned with international standards (Borari & Dadash Tabar Ahmadi, 2014). One of the salient features of these regulations is their flexibility in responding to the diverse needs of the parties. The ICC's rules are designed to enable agreement-making based on common interests and the preservation of long-term commercial relationships. For example, policies on negotiation and mediation emphasize that the parties should enter the process in good faith and strive to reach solutions that are mutually beneficial. This approach reduces tensions and prevents disputes from escalating into complex judicial proceedings (Bordar, 2012). The influence of international regulations on the conduct of negotiations is also significant. International rules and guidelines—including those issued by the ICC—provide frameworks for organizing negotiation sessions, determining the authority of representatives, and drafting instruments that record agreements. These frameworks ensure that negotiation proceeds not only on the basis of individual interests, but also in accordance with international legal and commercial standards, thereby preventing misunderstandings and further disputes (Touseli Nayini & Behzadi Pour, 2016).

In addition, ICC regulations serve educational and advisory functions. Training managers and commercial experts to correctly understand negotiation principles and to comply with international guidelines can enhance negotiation effectiveness and reduce legal risks. Within the ICC's regulatory framework, the use of electronic negotiation systems and tools for analyzing party behavior also enables timelier and more informed decision-making (Jadidol Eslami & Sobhiyeh, 2021). Consequently, the ICC's regulations and policies not only smooth the path of dispute resolution but, by establishing standardized, transparent, and lawful frameworks, also strengthen the position of negotiation as a primary instrument for managing disputes at the international level and enhance the legal and economic security of global trade.

### **3. Negotiation in the Resolution of Commercial Disputes**

Negotiation, as one of the oldest and most effective methods of dispute resolution in international trade, plays a vital role in managing and de-escalating commercial tensions. It creates the possibility of reaching win-win agreements and can preserve and reinforce the parties' commercial relationships without requiring the lengthy and costly processes of arbitration or litigation. This section first reviews the fundamental concepts and principles of negotiation in the context of international commerce and then analyzes its role in resolving commercial disputes and its distinguishing features relative to other dispute resolution methods.

#### *3.1. The Concept of Negotiation and Its Principles*

Commercial negotiation is a process through which two or more parties interact with the aim of achieving agreement on financial, contractual, or legal matters. This process not only helps resolve existing disputes but also allows parties to prevent future problems. Commercial negotiation is shaped by the exchange of views, the submission of proposals, and the assessment of the parties' interests and needs; its primary objective is to reach an agreement that, to the extent possible, serves all parties' interests (Rajabzadeh et al., 2020). One of the key principles of negotiation is trust between the parties. Trust encourages parties to share necessary information honestly and to avoid destructive conduct or concealment; without trust, negotiations may reach an impasse and disputes may intensify (Shahbazi & Khasronejad, 2021). Cooperation is another essential principle, reflecting the parties' willingness to find joint solutions rather than impose a unilateral position. Effective cooperation enables the parties to optimize limited resources and identify solutions that benefit all involved (Shiravi & Kazemi, 2019). Win-win principles—or the pursuit of mutual gains—are also crucial in commercial negotiation. This principle is premised on the understanding that a successful agreement is one that accounts for both sides' interests and prevents either party from incurring significant losses. Adopting this approach preserves long-term commercial relationships and paves the way for future cooperation (Hosseini et al., 2018).

Safeguarding long-term interests is likewise essential. In many commercial negotiations, focusing exclusively on short-term gains can lead to decisions that prove detrimental over time. Attending to long-term interests contributes to more durable

agreements and helps prevent recurrent disputes (Zanouzi, 2006). Taken together, these principles show that commercial negotiation is more than a technical-legal process; it demands behavioral skills, insight into counterpart psychology, and a precise understanding of the commercial environment. Success in negotiation requires not only legal and financial knowledge but also the ability to build trust, foster cooperation, and maintain a focus on mutual and long-term interests (Rajabzadeh et al., 2020). Consequently, commercial negotiation is a key instrument for managing disputes and enhancing the security and sustainability of international commercial relationships.

### 3.2. *Types of Negotiation*

In international trade, negotiation can be conducted in various ways, and choosing an appropriate method is crucial to success. A fundamental distinction is that between direct and indirect negotiation. In direct negotiation, parties interact in person or through real-time communication to discuss issues and disputes themselves. This type of negotiation is typically faster and allows for rapid responses to proposals, but it requires greater trust and strong communication skills (Rajabzadeh et al., 2020). By contrast, indirect negotiation uses intermediaries, representatives, or electronic systems to convey messages and proposals. This approach is useful when direct access is difficult or when the parties prefer to maintain distance; it can reduce tensions, but it carries a greater risk of misunderstanding and delays in information exchange (Zanouzi, 2006). Another important distinction concerns positional versus interest-based negotiation. Positional negotiation focuses on the parties' stated demands and fixed stances and is often used when the parties seek to reach a specific agreement quickly; however, it may heighten the risk of renewed tensions and reduce the durability of the agreement (Hosseini et al., 2018). Interest-based negotiation, by contrast, seeks to identify the parties' needs and objectives and to craft solutions that satisfy both sides' interests. This approach not only increases the likelihood of achieving a win-win agreement but also helps preserve long-term relationships and reduce the recurrence of disputes (Shahbazi & Khasronejad, 2021). Accordingly, selecting the appropriate negotiation type depends on the dispute's circumstances, the extent of trust and cooperation between the parties, and their strategic objectives. Understanding these differences and features—and the ability to adapt the negotiation style to real-world conditions—can significantly improve the effectiveness of international commercial dispute resolution.

### 3.3. *Effective Skills and Techniques in Negotiation*

Success in international commercial negotiation largely depends on the negotiator's skills. A foundational skill set comprises communication skills, including active listening, clear articulation of positions, and appropriate use of body language. These skills enable parties to accurately understand each other's messages and needs and to avoid potential misunderstandings (Rajabzadeh et al., 2020). Cultural literacy regarding the counterpart is also pivotal. Cultural differences can manifest in attitudes toward time, decision-making styles, modes of expression, and commercial priorities. Understanding these differences and adapting one's conduct to the counterpart's cultural style fosters trust and cooperation and helps preempt potential conflicts (Zanouzi, 2006). Conflict management is another essential competency. The ability to identify sources of conflict, analyze root causes, and propose creative solutions is among the most important factors in achieving stable agreements. A successful negotiator can de-escalate tensions and, instead of dwelling on disagreements, emphasize shared objectives (Shahbazi & Khasronejad, 2021). The ICC has also proposed techniques and best practices for improving negotiation outcomes. These include thorough preparation before negotiations, setting clear objectives, supporting positions with accurate information and data, and maintaining flexibility in offers. The ICC likewise recommends that negotiators employ interest-based dispute resolution methods to produce durable, win-win agreements and preserve long-term commercial relationships (Shiravi & Kazemi, 2019). In sum, combining robust communication skills, cultural understanding, conflict management abilities, and ICC-recommended techniques enables parties to achieve successful commercial negotiations and durable agreements. Observing these principles and techniques not only reduces the risk of disputes but also strengthens trust and cooperation between parties and lays the groundwork for the development of long-term commercial relationships.

#### 4. The Place of Negotiation within the ICC Dispute-Resolution Architecture

Negotiation is recognized as the first and most important stage in the dispute-resolution architecture of the International Chamber of Commerce (ICC). This method not only enables swift and cost-effective agreement, but also preserves commercial relationships and prevents the complexities associated with arbitration and litigation. In this section, the role of negotiation is examined within the ICC's legal framework and procedures, followed by an analysis of its position relative to other dispute-resolution methods—such as mediation and arbitration—in order to clarify the strategic importance of this tool in managing commercial disputes.

##### 4.1. *Formal Stages of Negotiation under ICC Supervision*

The formal stages of negotiation supervised by the ICC are designed to provide a structured and predictable framework for resolving commercial disputes. The first stage is notice, during which the parties are informed of the existence of the dispute and the possibility of resolving it through ICC mechanisms. This notification plays an important role in preparing the parties to enter the negotiation process and helps reduce initial tensions and ambiguities (Abdollahzadeh Barforoush & Ayatollahzadeh Shirazi, 2005). After notice, the request stage begins. Here, the party seeking resolution files an official request with the ICC, setting out the details of the dispute, supporting evidence, and the relief sought. A precise and complete request is crucial for the speed and effectiveness of negotiations and makes it possible to identify points of disagreement as well as areas of potential agreement (Fazaili & Ahsannejad, 2020).

The next stage involves preliminary meetings, held to familiarize the parties with one another, explain procedures, and set the negotiation agenda. These meetings typically include legal representatives, project managers, or relevant experts and play a significant role in building trust, transparency, and readiness for the main negotiation (Moqarr et al., 2019). ICC committees and specialists maintain supervisory and supportive roles throughout all stages. By providing technical and legal advice, facilitating sessions, and evaluating proposals, they ensure that negotiations are conducted within the applicable legal framework and consistent with international rules. This support increases the likelihood of reaching a durable agreement and reduces the risk of renewed disputes (Kiayani & Javadi Arjomand, 2018). In sum, compliance with the formal stages of notice, request, and preliminary meetings—together with the active role of committees and experts—not only enhances the effectiveness of negotiation but also ensures that the ICC dispute-resolution process remains organized, transparent, and predictable. This structure assures the parties that they can exchange views in a safe, controlled environment and achieve stable, win-win agreements.

##### 4.2. *How Negotiation Differs from Other Methods*

As a principal tool for resolving commercial disputes, negotiation differs in important ways from other common methods such as mediation and arbitration. In mediation, a neutral third party enters as an intermediary to help the parties reach agreement, whereas in negotiation the parties communicate directly and bear responsibility for achieving consensus themselves. Arbitration, by contrast, culminates in a decision by an arbitral tribunal that is binding and enforceable at law; in negotiation, any agreement is voluntary and rests on the parties' good faith (Abdollahzadeh Barforoush & Ayatollahzadeh Shirazi, 2005). One of negotiation's most significant advantages is its speed relative to mediation and arbitration. The parties can examine the dispute and reach agreement without convening complex sessions or engaging in protracted judicial stages. Negotiation also entails lower financial and temporal costs than arbitration or litigation, enabling businesses to devote resources to developing their commercial activities rather than to dispute resolution (Fazaili & Ahsannejad, 2020). Moreover, negotiation facilitates the preservation and strengthening of commercial relationships, because the process is grounded in cooperation and mutual interests rather than the imposition of an award or third-party intervention (Moqarr et al., 2019).

That said, negotiation has limitations. Because negotiated agreements generally carry less legal compulsion, a lack of cooperation or good faith on the part of one party can increase the likelihood that the process will fail. In addition, the success of negotiation depends on the parties' skills, their ability to manage conflict, and their understanding of the other side's interests and needs—dependencies that mediation and arbitration can, to some extent, mitigate (Kiayani & Javadi Arjomand, 2018).

Overall, negotiation occupies a special place in international commercial dispute resolution as a flexible, rapid, and cost-effective method. Its limitations and reliance on the parties' good faith, however, suggest that where obstacles arise, mediation or arbitration should be used as complementary methods to ensure effective and durable dispute resolution.

#### 4.3. *Practical Procedures*

Real-world examples show that negotiation under ICC supervision can resolve complex commercial disputes effectively and sustainably. In one successful example, two companies active in the export–import of industrial goods experienced strain in their relationship due to delays in delivery and divergent interpretations of contract terms. With the ICC's involvement and the commencement of formal negotiations, the parties first presented their evidence and explanations, articulating their perspectives and interests. In this process, the ICC's expert committee acted as facilitator, steering the sessions and proposing solutions to achieve a win–win outcome. The result was a revised agreement that included changes to delivery timelines and payment terms, thereby preserving the parties' commercial relationship. Another case concerned a dispute between an oil company and a supplier of technical equipment, arising from a sudden increase in raw material prices and its impact on the contract. Through ICC-supervised negotiations, the parties used preliminary meetings and careful analysis of interests and risks to devise solutions involving price adjustments and revised schedules. The experts' technical and legal analyses and specialist recommendations enabled a prompt agreement without recourse to arbitration, reducing financial losses associated with delay and dispute (Fazaili & Ahsannejad, 2020).

These examples demonstrate that negotiation not only serves as a swift and economical tool for resolving commercial disputes but can also strengthen existing commercial relationships and prevent lengthy legal confrontations. Moreover, the presence of ICC committees and experts plays a critical role in successful negotiations, ensuring that the process proceeds within international regulatory frameworks and in accordance with principles of equity and fairness (Moahidi Nia et al., 2018). Taken together, these case studies underscore that negotiation, as the first step in resolving commercial disputes, is an effective instrument for reducing costs, preserving relationships, and achieving durable agreements, and it plays a distinctive role within the ICC framework.

### 5. **Challenges and Limitations of International Commercial Negotiation**

Despite its many advantages, international commercial negotiation faces challenges and limitations that can affect its success. These include cultural and linguistic differences, legal and contractual complexities, power asymmetries between the parties, and dependence on the participants' good faith. Recognizing these challenges is essential for designing effective solutions and improving the negotiation process; the ICC's supportive frameworks and expert guidance can substantially mitigate the adverse consequences of such limitations.

#### 5.1. *Cultural, Linguistic, and Legal Challenges*

International commercial negotiations encounter multiple challenges that can complicate the process and hinder agreement. A principal challenge is cultural difference between the parties. Each country's distinct values, norms, and behavioral styles can affect how each side understands and interprets the other's conduct. For example, the manner of making requests, scheduling sessions, and decision-making styles vary across cultures, and a lack of awareness of these differences can lead to misunderstanding or mistrust (Shahbazi & Khosronejad, 2020).

A second challenge concerns linguistic differences and communication skills. Use of different languages and inadequate command of the counterpart's language can produce misreadings of contract terms or party positions. In negotiations conducted electronically, this problem can be exacerbated because nonverbal cues and tone are limited, increasing the potential for misunderstanding (Dadash Tabar Ahmadi et al., 2009). A third challenge is legal complexity and variation across legal systems. International contracts are typically influenced by the domestic laws of multiple states as well as international rules. These differences can impede agreement on governing law, performance conditions, and dispute-resolution clauses. Particularly where a contract includes stringent or unforeseen conditions, the parties may struggle to interpret their rights and

obligations (Habibian et al., 2022). In addition, limitations in the parties' good faith affect negotiation success. In many situations, parties may withhold complete information or decline to cooperate fully in order to advance their own interests, thereby prolonging and increasing the cost of negotiations (Haji Pour, 2016). These challenges indicate that successful international negotiations require thorough preparation, a precise understanding of the counterpart, and the use of appropriate legal and cultural frameworks to reduce risks associated with misunderstanding, legal divergence, and power imbalance (Shirooi & Kazemi, 2018).

### 5.2. *The Problem of Non-Enforceability in Implementing Negotiated Outcomes*

In international commercial negotiations, one of the most significant limitations and challenges is the lack of legal enforceability of negotiated outcomes. Unlike arbitration or judicial proceedings, whose results are binding, the results of negotiation are not directly and legally enforceable; their implementation depends on the parties' good faith. This feature can allow parties—after reaching agreement—to deviate from their commitments or delay performance without fear of legal consequences (Haji Pour, 2016). Dependence on the parties' good faith necessitates a high degree of trust and transparency throughout the negotiation process. In many instances, misunderstandings about obligations, delays in sharing information, or insufficient cooperation lead to negotiation failure. Moreover, the absence of legal enforceability can negatively affect the ICC's ability to ensure implementation of negotiated results, even though the institution seeks to mitigate this risk by providing guidance frameworks and a facilitative role (Shahbazi & Khosronejad, 2020). Differences among national legal systems further exacerbate the problem. Where the parties come from jurisdictions with divergent laws, the legal enforceability of negotiated agreements may be limited, and implementation guarantees typically require supplemental contracts or recourse to mechanisms such as arbitration and mediation (Habibian et al., 2022). This limitation is especially apparent in pre-contract negotiations and in large economic and investment projects—such as oil and energy contracts—where parties often disagree over detailed provisions, and the lack of legal enforceability can delay project execution (Shirooi & Shabani Jahromi, 2012). In addition, electronic negotiations—because they lack physical presence and limit observation of nonverbal cues—may adversely affect good faith and commitment, increasing the risk of agreement breaches (Dadash Tabar Ahmadi et al., 2009). Overall, this challenge indicates that, for international commercial negotiations to succeed, complementary tools—such as written contracts, legal mediation, and support from international institutions—are necessary to reduce the risk of non-performance and to ensure that the negotiation process functions effectively.

### 5.3. *Power Imbalances Between the Parties*

In international commercial negotiations, a central challenge is the imbalance of power between the parties, which can significantly influence the final outcome. In many cases, one party possesses greater financial resources, information, or political influence, and this superior power can pressure the weaker party to accept terms it might not accept under fair conditions (Haji Pour, 2016). Such a situation disrupts the natural equilibrium of negotiation, enabling the stronger party to advance its objectives through pressure and threats, while the weaker party may be unable fully to safeguard its rights and interests. This power asymmetry highlights the importance of intermediary institutions such as the ICC and its specialized committees, which strive—through guidance frameworks, mediation, and legal support—to balance the negotiation environment as much as possible (Shahbazi & Khosronejad, 2020). Nonetheless, even the presence of such institutions cannot completely eliminate the effects of asymmetric power, and the weaker party remains at risk of accepting less favorable terms.

Another consequence of power imbalance is its negative impact on good faith and trust. When one party feels unable to face the other effectively, it may doubt the durability of the agreement and anticipate delays or outright non-performance (Habibian et al., 2022). This issue is particularly salient in large economic and investment projects—such as oil and energy contracts—where power asymmetries can pressure smaller firms and limit their capacity to protect their interests (Shirooi & Shabani Jahromi, 2012). Moreover, electronic negotiations—by constraining observation of nonverbal cues and reducing direct interaction—can intensify the effects of power imbalance; the weaker party may be less able to convey its position effectively,

diminishing its capacity to defend its interests (Dadash Tabar Ahmadi et al., 2009). In sum, power imbalance is a fundamental constraint in international commercial negotiation that directly affects the success and fairness of agreements and calls for supportive measures and balancing strategies so that negotiations lead to durable and equitable outcomes.

#### 5.4. *Political and Economic Considerations in International Negotiations*

In international commercial negotiations, political and economic considerations play a decisive role in shaping both the process and the outcome. Domestic and foreign policies, sanctions, regional agreements, and geopolitical rivalries can exert informal pressure on negotiating parties and influence the path to agreement (Haji Pour, 2016). For example, a state's political decisions may restrict the exchange of goods, services, or capital with the counterparty, thereby reducing the parties' ability to reach a rational agreement. Negotiators must therefore consider political dimensions alongside legal and contractual issues and optimize their strategies in light of political conditions.

From an economic perspective, market conditions, exchange rates, raw-material price fluctuations, and broader economic volatility can directly affect negotiations. In many cases, economic pressure and the need to preserve market share compel parties to accept terms that would be less likely under normal circumstances (Habibian et al., 2022). Differences in the parties' economic strength can also produce asymmetric bargaining positions and pressure the weaker side into less favorable agreements. These political and economic considerations not only complicate the negotiation process but also underscore the role of international institutions and the ICC in providing supportive frameworks and mediation (Shahbazi & Khosronejad, 2020). Even with such support, negotiations remain exposed to external conditions, and success depends on negotiators' ability to manage these pressures. Especially in large investment projects and international contracts, political and economic considerations can alter or temporarily halt negotiations, making careful planning to anticipate and manage these risks essential (Shirooi & Shabani Jahromi, 2012). Ultimately, awareness of these considerations and flexibility in negotiation strategy are key to achieving durable and effective international agreements, demonstrating that successful negotiations depend not only on legal or technical capacity but also on a deep understanding of political and economic conditions.

### 6. **Strategies and Recommendations for Enhancing the Role of Negotiation**

To strengthen the role of negotiation in the resolution of international commercial disputes, a set of strategies and recommendations can help increase the efficiency and impact of this method. The first step is education and the development of negotiation skills. Experience shows that success in negotiation depends not only on legal and contractual knowledge but also on the individual abilities of negotiators. Skills such as effective communication, active listening, conflict management, and analysis of complex cultural and economic situations can guide the negotiation process toward sustainable and win-win agreements. Organizations and companies can enhance the competence of their staff and prepare them for real-world challenges by organizing workshops, specialized courses, and negotiation simulations.

The use of technology and digital tools can also play a crucial role in improving the quality of international negotiations. Digital tools allow access to comprehensive information about the counterpart, time and resource management, and even simulation of various negotiation scenarios. Electronic negotiation systems can simplify lengthy and complex procedures and enable accurate documentation and monitoring of each negotiation stage. These technologies not only reduce human error but also enhance the ability to analyze the other party's behavior and predict responses, thereby helping negotiators make better decisions.

The formulation of clear guidelines by the International Chamber of Commerce to improve the effectiveness of negotiations is also of high importance. Such guidelines may include well-defined frameworks for initiating, conducting, and concluding negotiations; competency standards for negotiators; and procedures for evaluating negotiation outcomes. The existence of a standardized structure ensures that negotiations proceed according to consistent rules and principles and prevents potential deviations or conflicts.

Combining negotiation with mediation is another effective strategy for enhancing impact. In situations involving complex disputes or significant conflicts of interest, the presence of a neutral mediator can foster trust, reduce tension, and facilitate

dialogue. This combination allows the parties to examine issues in depth and identify constructive solutions without feeling direct pressure, thereby increasing the likelihood of reaching a durable agreement.

Overall, strengthening the role of negotiation in commercial dispute resolution requires a comprehensive approach that integrates training, technology, organizational guidelines, and the use of complementary methods such as mediation. Such an approach can make negotiation processes more efficient, preserve long-term business relationships, reduce costs and time, and build greater trust between parties. Therefore, investment in this field—both by organizations and international institutions such as the ICC—is a necessary and strategic measure that can contribute to global trade development and enhance economic stability.

## **7. Conclusion**

An examination of the role of negotiation in resolving international commercial disputes reveals that negotiation is not merely a communication tool but a key strategy for reducing conflicts and fostering sustainable agreements. Negotiation enables parties to resolve disputes amicably and based on mutual interests without resorting to lengthy and costly judicial or arbitral processes. By providing a space for dialogue, clarification of positions, and better understanding of each party's needs and interests, negotiation facilitates dispute resolution and increases the likelihood of stable agreements. The importance of negotiation in international trade—particularly given the complexity of contracts, diversity of legal and business cultures, and economic interdependence among nations—is undeniable, as it plays a crucial role in reducing legal and financial risks.

Compared with other dispute-resolution methods, negotiation has distinct advantages that make it an attractive option for international traders and companies. First, its speed and flexibility enable parties to reach practical solutions in the shortest possible time, avoiding the added costs and delays of arbitration or litigation. Second, negotiation preserves and even strengthens long-term commercial relationships, as its emphasis on cooperation and mutual benefit reduces tension and builds trust. Third, its focus on win-win principles and long-term interests allows parties not only to resolve current disputes but also to reinforce the foundation for future collaboration.

Despite these advantages, the role of negotiation cannot fully develop without appropriate policymaking and professional training. Investment in negotiator education, development of intercultural competencies, conflict management skills, and understanding of legal and economic frameworks are essential conditions for success in international negotiations. Likewise, the establishment of clear guidelines and frameworks by international institutions such as the ICC can ensure transparency, consistency, and effectiveness in the negotiation process. The use of modern technologies for information management, scenario simulation, and behavioral analysis of counterparts can also elevate the professional level and precision of negotiations, helping achieve fair and durable agreements.

The future outlook for negotiation in international trade shows that its role will become increasingly vital as economic interactions expand and cultural and legal complexities deepen. Enhancing educational mechanisms, employing advanced technologies, and combining negotiation with complementary methods such as mediation can improve its effectiveness and establish it as the primary tool for resolving commercial disputes. Future research can also explore the impact of cultural, economic, and political variables on negotiation processes and outcomes and design analytical models to predict success in international negotiations.

In summary, negotiation is not only a means of dispute resolution but also a catalyst for trade development and sustainable cooperation at the international level. With its numerous advantages—speed, cost reduction, preservation of business relationships, and focus on mutual interests—negotiation holds a distinguished position among dispute-resolution methods. To fully leverage its potential, specialized training, organizational guidelines, and digital tools must be developed simultaneously. The future of international commerce requires skilled negotiators and innovative mechanisms to resolve disputes with minimal cost and maximum efficiency, thereby strengthening trust and cooperation between parties. This underscores the importance of investing in applied research and designing analytical models to enhance the role of negotiation and pave the way for the advancement of global trade.

## **Ethical Considerations**

All procedures performed in this study were under the ethical standards.

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## Conflict of Interest

The authors report no conflict of interest.

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