

Codes of Conduct for International Tribunals and Arbitration

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International Tribunals: Codes of Conduct for Counsel (including Prosecutors)[‡]

1. [International Criminal Court \(ICC\), Code of Professional Conduct for \[Defence\] Counsel](http://www.icc-cpi.int/NR/rdonlyres/BD397ECF-8CA8-44EF-92C6-AB4BEBD55BE2/140121/ICCASP432Res1_English.pdf) (Dec. 2005), http://www.icc-cpi.int/NR/rdonlyres/BD397ECF-8CA8-44EF-92C6-AB4BEBD55BE2/140121/ICCASP432Res1_English.pdf
2. The Code Of Professional Conduct For Prosecutors Of The International Criminal Court, Draft Prepared By The Secretariats Of The International Association Of Prosecutors And The Coalition For The International Criminal Court: For Consultation And Peer Review, <http://www.amicc.org/docs/prosecutor.pdf> (2002 Draft)
3. International Criminal Tribunal For The Former Yugoslavia (ICTY), [The Code of Professional Conduct for Defence Counsel Appearing Before the International Tribunal](http://www.icty.org/x/file/Legal%20Library/Defence/defence_code_of_conduct_june2006.pdf), http://www.icty.org/x/file/Legal%20Library/Defence/defence_code_of_conduct_june2006.pdf [See also Judith A. McMorrow, *Creating Norms of Attorney Conduct in International Tribunals: A Case Study of the ICTY*, 30 B.C. INT'L & COMP. L. REV. 139 (2007)]
4. International Criminal Tribunal For The Former Yugoslavia (ICTY) Prosecutor's Regulation No 2 (1999), Standards of Professional Conduct, http://69.94.11.53/ENGLISH/basicdocs/prosecutor/reg_05.pdf (posted on the ICTR webpage, the ICTY Prosecutor's Regulation begins on pdf page 6)
5. Code of Professional Conduct for Counsel with the Right of Audience before the Special Court for Sierra Leone, Adopted on 14 May 2005 Amended on 13 May 2006, <http://www.scsl.org/DOCUMENTS/CodesofConduct/tabid/205/Default.aspx> (applies to prosecutors and defense counsel)
6. International Criminal Tribunal For Rwanda (ICTR), [Code of Professional Conduct for Defence Counsel](http://69.94.11.53/ENGLISH/basicdocs/080314/04-Code%20of%20Conduct%20for%20Defence%20Counsel.pdf), <http://69.94.11.53/ENGLISH/basicdocs/080314/04-Code%20of%20Conduct%20for%20Defence%20Counsel.pdf>
7. International Criminal Tribunal For Rwanda (ICTR), [Prosecutor's Regulations](http://69.94.11.53/ENGLISH/basicdocs/prosecutor/reg_05.pdf), http://69.94.11.53/ENGLISH/basicdocs/prosecutor/reg_05.pdf

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[‡] For useful information on International Tribunals, see Project on International Courts and Tribunals, <http://www.pict-pcti.org/index.html>.

Suggested Ethics Codes for Counsel in International Tribunals

8. United Nations Guidelines on the Role of Prosecutors, (adopted at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990),
http://www.unhchr.ch/html/menu3/b/h_comp45.htm
9. International Prosecutors Association, Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors,
http://www.iap.nl.com/ressources/Standards_English.pdf , endorsed by the U.N. Economic and Social Council, E/CN.15/2008/L.10/Rev.2 (April 17, 2008), available at
[http://www.iap.nl.com/ressources/UN_Resolution_IAP_Standards_draft_as_approved\[1\].pdf](http://www.iap.nl.com/ressources/UN_Resolution_IAP_Standards_draft_as_approved[1].pdf)
10. American Bar Association Rule of Law Initiative, *Prosecutorial Reform Index*,
http://www.abanet.org/rol/publications/prosecutorial_reform_index_factors.shtml and
http://www.abanet.org/rol/publications/prosecutorial_reform_index.shtml

Suggested Ethics Codes for Private International Arbitration

11. IBA Guidelines on Conflicts of Interest in International Arbitration (May 2004),
http://www.voldgiftsforeningen.dk/Files/Filer/Final_Text_of_Guidelines.pdf (for neutrals)
12. IBA Rules on the Taking of Evidence in International Commercial Arbitration (1999)(Article 4(3) addresses the ability of lawyers to interview witnesses),
<http://www.int-bar.org/images/downloads/IBA%20rules%20on%20the%20taking%20of%20Evidence.pdf>

Examples of International Disciplinary Cooperation

13. National Organization of Bar Counsel, http://www.nobc.org/member_offices.aspx
(organization includes U.S., Canadian and Australia disciplinary counsel)
14. ABA Model Rules for Lawyer Disciplinary Enforcement, Rule 22,
<http://www.abanet.org/cpr/disenf/rule22.html> [U.S. reciprocal discipline rule that has been the basis for some international cooperation discussions]
15. Resolution of the U.S. Conference of Chief Justices (CCJ) Regarding Discipline Cooperation (Jan. 2009), <http://ccj.ncsc.dni.us/2-ProposedCCBEResolution1-6-09.pdf>
16. Resolution of the Council of the Bars and Law Societies of Europe (CCBE) Regarding Discipline Cooperation (Feb. 2009),
http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/Resolution_in_Suppor1_12416_02552.pdf

Selected U.S. Choice of Law [“Double Deontology”] Provisions

17. ABA Model Rule of Professional Conduct 8.5,
http://www.abanet.org/cpr/mrpc/rule_8_5.html (comment 7 applies to transnational practice)
18. U.S. State Implementation of Comment 7 in ABA Model Rule 8.5,
http://www.abanet.org/cpr/jclr/8_5_cmt_7.pdf
19. U. S. State Implementation of ABA Model Rule 8.5 (generally),
http://www.abanet.org/cpr/mjp/quick-guide_8.5.pdf and
<http://www.abanet.org/cpr/mjp/home.html>
20. Links to state ethics rules, <http://www.nobc.org/default.asp> (See “research” menu item)
21. New York’s Old DR 1-105 Approach (use the rules of the admitting jurisdiction in which the lawyer principally practices [unless the] particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied], http://www.law.cornell.edu/ethics/ny/code/NY_CODE.HTM

Selected Non- U.S. Choice of Law [“Double Deontology”] Provisions

22. EC [1998 Lawyers Establishment] Directive 98/5, Art. 6(1) and 7,
http://www.ccbe.eu/index.php?id=94&id_comite=8&L=0
23. EC [1977 Lawyers’ Services] Directive 77/249, Art. 4, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31977L0249:EN:HTML>
24. EU “Country of Origin” Principle (found in the E-Commerce [Directive 2001/31/EC](#) and considered in an early draft of the Services Directive),
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0031:EN:HTML>
25. See also Ethics Rules of CCBE Member & Observer States
<http://ccbe.ntc.be/index.php?id=107&L=0>
26. See also CCBE Code of Conduct, Art. 1.5 and CCBE Deontology Committee,
http://www.ccbe.eu/index.php?id=94&id_comite=7&L=0
27. England and Wales, Solicitors’ Code of Conduct (2007), Rule 15 – Overseas Practice,
<http://www.sra.org.uk/solicitors/code-of-conduct/202.article>
28. Czech Code of Conduct, Rule 3, http://www.cak.cz/files/2238/Code_of_Conduct.doc
29. Hong Kong Guide to Professional Conduct, Rule 1.06,
http://www.hklawsoc.org.hk/pub_e/professionalguide/volume1/default.asp?cap=1.1.6

Selected Commentator Ideas on Choice of Law [Double Deontology] Solutions

30. Laurel S. Terry, [*The Intersection of Legal Ethics and Globalization: Choice of Law Issues – Introducing the “Double Deontology” Issue*](#), Association of Professional Responsibility Lawyers, Amsterdam, May 6, 2008 (surveys recent efforts to address this issue)
31. Catherine Rogers, [*Regulating International Arbitrators: A Functional Approach to Developing Standards of Conduct*](#), 41 Stanford J. Int'l Law 53 (2005)
32. Catherine A. Rogers, [*The Global Advocate*](#) (Draft article available on SSRN)
33. Hans-Jürgen Hellwig, *At the Intersection of Legal Ethics and Globalization: International Conflicts of Law in Lawyer Regulation*, 27 Penn St. Int'l L. Rev. 375 (2009)
34. Larry E. Ribstein, Law Firms as Firms, <http://www.law.georgetown.edu/LegalProfession/documents/RibsteinWebsitePaper.pdf>
35. Mary C. Daly, *Resolving Ethical Conflicts in Multi-Jurisdictional Practice -- Is Model Rule 8.5 The Answer, An Answer or No Answer At All?*, 36 S. Tx. L. Rev. 715 (1995)(allow clients to select the governing ethics rules)
36. Symposium on Multi-Jurisdictional Practice, 36 S. Tx. L. Rev. 657 (1995)

Tribunals That Have Not Yet Adopted Explicit Codes of Conduct

The following tribunals appear to have not yet adopted a code of conduct for counsel, although some issues may be addressed in the Tribunal's procedural or other rules. *(If you have additions or corrections, please send them to LTerry@psu.edu.)*

- International Court of Justice, Basic Documents, <http://www.icj-cij.org/documents/index.php?p1=4> ;
- International Tribunal For The Law Of The Sea (Itlos), Basic Documents, http://www.pict-pcti.org/courts/ITLOS_basic_doc.html ;
- WTO Representation by Counsel, http://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c11s2p2_e.htm
- Inter-American Court Of Human Rights, Basic Documents (IACHR), http://www.pict-pcti.org/courts/IACHR_basic_doc.html ;
- Court of Justice of The Andean Community (TJAC), Basic Documents, http://www.pict-pcti.org/courts/TJAC_basic_doc.html;
- Central American Court Of Justice (CACJ), Basic Documents, http://www.pict-pcti.org/courts/CACJ_basic_doc.html;
- Caribbean Court of Justice., Basic Documents, http://www.pict-pcti.org/courts/CCJ_basic_doc.html;
- Common Court Of Justice And Arbitration Of The Organization For The Harmonization Of Corporate Law In Africa (OHADA), http://www.pict-pcti.org/courts/OHADA_basic_doc.html;
- International Centre for Settlement of Investment Disputes (ICSID), Basic Documents, http://www.pict-pcti.org/courts/ICSID_basic_doc.html;

- North American Free Trade Area, Basic Documents, http://www.pict-pcti.org/courts/NAFTA_basic_doc.html and North American Free Trade Area (NAFTA), [Code of Conduct for Dispute Settlement Procedures under Chapters 19 and 20, http://www.nafta-sec-alena.org/en/view.aspx?conID=658&mtpiID=ALL](http://www.nafta-sec-alena.org/en/view.aspx?conID=658&mtpiID=ALL) ;
- European Court of Human Rights, Basic Documents, http://www.pict-pcti.org/courts/ECHR_basic_doc.html;
- European Court of Justice and Court of First Instance, Basic Documents, http://www.pict-pcti.org/courts/ECJ_basic_doc.html

Private International Arbitration

I am not aware of any codes of conduct for counsel that have been adopted by the entities listed below or included in the rules listed below. For suggested approaches, see the works by [Catherine Rogers](#). *(If you have additions or corrections, please send them to LTerry@psu.edu.)*

- [American Arbitration Association / International Centre for Dispute Resolution](#)
- [British Columbia International Commercial Arbitration Centre](#)
- [CANACO](#) [Mexico City Chamber of Commerce]
- [Commercial Arbitration and Mediation Center for the Americas](#)
- [International Chamber of Commerce](#)
- [UNCITRAL Arbitration Rules](#)
- [ADR Institute of Canada, Inc. National Arbitration Rules](#)
- [Center for Public Resources Rules for Non-Administered Arbitration of International Disputes](#)