



ICC's view on latest developments in cross-border mediation and dispute resolution

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- Founded in 1919
- Aim: to foster world trade
- Today: Main voice of international business
- Independent, non-for-profit organization
- Headquarters: Paris
- National Committees in over 90 countries
- Thousands of members worldwide

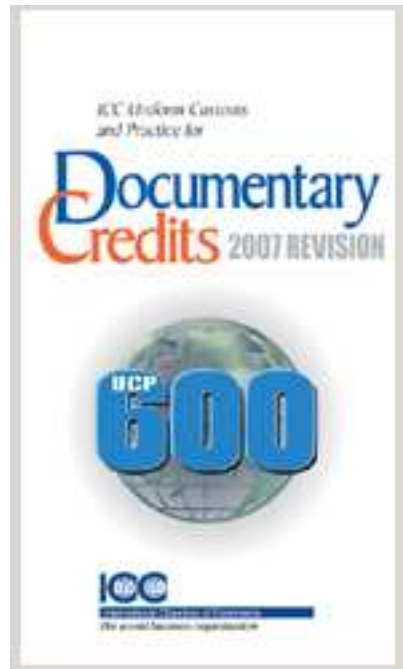


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ICC's Main Activities

Rules-setting



Dispute Resolution



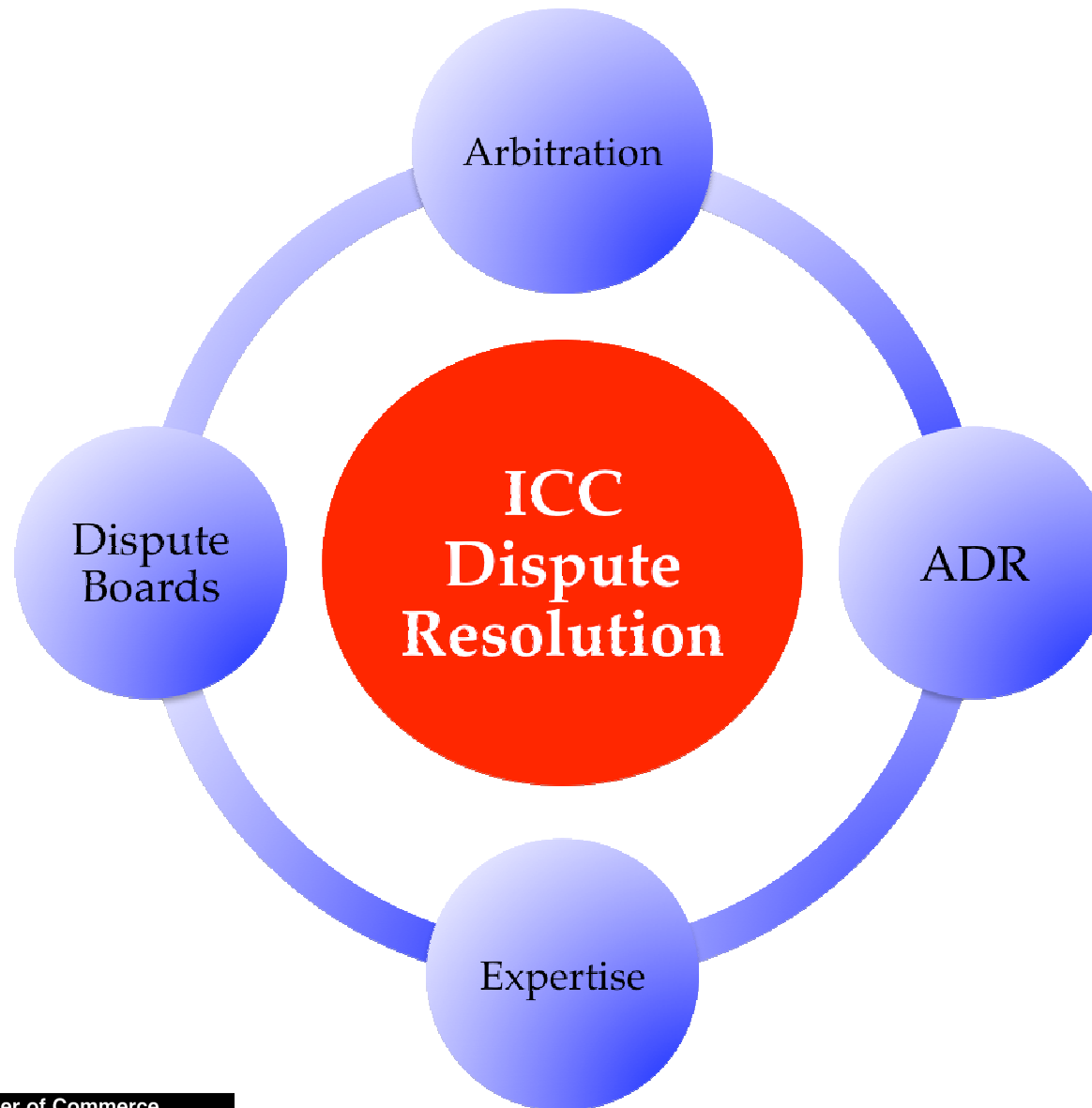
Policy



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ICC Dispute Resolution



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Guiding questions

1. Why is it a relevant topic?
2. What is ICC's experience with the ICC ADR Rules?
3. What is the way forward? What are the next steps?



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Why is the topic relevant?

Steady **increase of international litigation and arbitration cases**

but

increase of users' dissatisfaction with regard to

- “one size fits all” approach
- length and costs of the procedures
- “Americanization” of arbitration
- outcome of the procedures – they don't make “business sense”



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What are users looking for?

- **Users want a dispute resolution system which is:**
 - time efficient
 - cost efficient
 - risk reducing
 - ensures business-wise outcome
 - tailored to the specific dispute – one size does not fit all
- **Users need support:**
 - From **counsel** with sophisticated and broad procedural background
 - From **institutions** which can help with the case management and ensure the quality of the proceedings



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A time of change in international dispute resolution

- **Users' increasingly interested in alternatives**
 - f.ex.: Mediation Roundtable of German Companies
- **Early settlement as a topic** => CEDR Report
- **EU Directive** on cross-border mediation => a new focus of the discussion
- More universities, bar schools and business schools **teach** mediation, amicable dispute resolution and conflict management



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ICC's experience with the ICC ADR Rules

ICC ADR Rules (in force since 2001)

- ADR = *Amicable* Dispute Resolution

=> All dispute resolution procedures which end in a contractual binding agreement between the parties and not with an enforceable decision of a third party

=> Mainly mediation

- Rules are the "procedural frame" but strong emphasis on **flexibility**

- Administered procedure: **ICC ADR Secretariat**

- Case management

- Information

- Procedural decision (for example **appointment** of the Neutral/mediator)

- Supervision

- Quality control



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Some statistics

- **Over 100** ADR cases administered since 2001
- In 2009, more than **100% increase** of cases filed pursuant to the ADR Rules (versus about 20% increase of arbitration cases filed in the same year)
- Mainly **mediation** cases, but also neutral evaluation, conciliation, non-binding adjudication etc and different combinations
- **Economic sectors:** all, including energy, IP, construction, general trade, financing and insurance, pharmaceuticals etc.
- Parties from **63 countries, with most parties coming from** US, Germany, France, UK
- **Region-wise:** 52% North and West Europe, 15% Asia, 12% US, 8% Latin America
- **80% cross-border, 20% domestic cases**
- **10% state parties**
- **Amounts in dispute** from some US\$ 10 000 – US\$ 410 Mio.
- **Average** amount in dispute in 2009: US\$ 17 Mio



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Does it make sense?

- **Average duration in 2009:**

Below 4 months from the transfer of the file to the Neutral, including only 1-2 meetings of 1-2 days

- **Average costs in 2009:**

Below US\$ 20 000

- **Settlement rate:**

About 80% of cases which were transferred to Neutral

“Not to try mediation is irresponsible”

(In-house counsel of big multi-national)



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The way ahead - the next steps

1. Dispute resolution procedures must be **specifically tailored to each case**
2. Increased use of **combined procedures**
3. **New role of the institutions:** Pro-active case management
4. **Increase of know-how and experience & stronger capacity building among the main actors:**
 - In-house counsel
 - External counsel
 - Management
 - the next generation
5. **Learn from each other**
6. **Ensure quality globally**



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ICC events, some examples

11 November 2010, Conference, Hong Kong

Practical Aspects of International Commercial Mediation

4 – 9 February 2011

6th ICC International Commercial Mediation Competition

10 February 2011, Conference, Paris

2nd ICC Mediation Conference

2011

Advocacy in Mediation



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