



International Disputes Trends and Opportunities

Association of General Counsels

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Trends and Opportunities

- Options for Conflict Resolution Internationally
- Current Trends
- Practical Tips



Options for Conflict Resolution Internationally

- Litigation (41%)
 - “Home court” issues, length and public nature of proceedings, enforcement
- Arbitration (44%)
 - Generally satisfied (86%) with international arbitration
 - Delays , costs major disadvantages
 - Benefits include less discovery, enforcement, flexibility and choice of arbitrators
- Mediation (15%)
 - Limited to pockets of expertise and use mostly in common law countries



Arbitration Trends

- Increased focus on cost drivers
 - Institutions offering expedited procedures
 - CPR, ICDR, CIETAC and Swiss Chamber
 - Selecting single arbitrators
 - Efforts to discourage and control discovery
 - CPR's Information Exchange Protocol, Chartered Institute of Arbitrators, and ICDR Guidelines
 - ICC's Working Group and Time & Cost Report
 - Summit of College of Commercial Arbitrators
- Increased customization



CPR

International Institute for
Conflict Prevention & Resolution

Mediation Trends

- Growing number of international mediators outside US/UK
 - Few with complex commercial and cross-border expertise
 - “IMI” developing worldwide standards
- Med/Arb options underutilized (25%)
 - CEDR Commission on Settlement in International Arbitration
- Hard sell to non-US litigation counsel and concerns with “stepped” clauses requiring mediation

Practical Tips

- Focus on systems approach and early case assessment
- Include prevention and de-escalation process in long-term relationships
 - DRBs, Standing Neutrals, ombudsmen, management negotiation incentives
- Contract clauses should not be left to last-minute negotiation
- Demand transparency from arbitrators
- Use mediation internationally
- Take the lead in controlling time and cost in arbitrations

Thank You

- CPR: A Membership Association
 - Non-profit association of ~ 400 companies and law firm advocates
 - Conferences, CLE, Training, Workshops
 - Industry-specific committees and task forces
 - CPR Pledge
- ADR Think Tank
 - Research, Tools & Protocols
 - Publications and *Alternatives*
 - **Survey of Fortune 1000 by CPR, Cornell and Pepperdine**
- Non-Administered Arbitration Rules
 - Rules and Procedures
 - Over 700 Distinguished Neutrals
 - Selection Assistance