

# International Commercial Mediation

## **Uniform [International] Commercial Mediation Act [consultation Document].**

2005

International Commercial Arbitration and Mediation in UNCITRAL Model Law Jurisdictions Peter Binder  
2019-05-14 International Commercial Arbitration and Mediation in UNCITRAL Model Law Jurisdictions Fourth Edition Dr Peter Binder This new edition of a classic text is so extensively revised and updated as to constitute a new book. It does, however, retain the tried and tested article-by-article structure of the previous three editions: it covers all the information needed when contemplating cross-border arbitration or mediation and enables a practitioner to ascertain what to expect in each jurisdiction. It remains the only book that provides a complete overview of all the adopting jurisdictions

(now 111) at one glance, with a description of the legislation in these jurisdictions counterbalanced by court rulings to demonstrate how matters are dealt with in everyday practice. The popular adoption chart matrix unique to this book has been further enhanced and updated. Featuring the first full commentary on the newly released 2018 UNCITRAL Model Law on International Commercial Mediation (including its revolutionary regime for the enforcement of settlement agreements reached by means of mediation) and an update of all case law on UNCITRAL texts (CLOUT) to date, the fourth edition provides explicit expert guidance on such matters as the following: overview of each jurisdiction that has enacted the Model Laws; provisions in a particular national Model Law enactment to be watched out for; how a particular issue

dealt with in a Model Law enacting jurisdiction has been handled by local courts; and which jurisdictions can be safely recommended in arbitration or mediation clauses in international commercial agreements. Both of the Model Laws are reproduced in full in an appendix. With an examination of each provision's legislative history as well as national and subnational adoptions of the Model Laws, this work provides a complete picture of global practice in international arbitration and mediation as it exists today, taking full account of emerging trends in the enactment process and in case law. Business people who agree to arbitrate in one of the 111 recognized Model Law jurisdictions can rely on a secure minimum of rights in the arbitral proceedings and run less risk of being surprised by unwelcome peculiarities of local law. International litigation lawyers, arbitrators, and in-house lawyers who are considering arbitrating or mediating in one of the 111

jurisdictions analysed, academics in international ADR, and national government officials dealing with cross-border trade will benefit enormously from this new edition.

### **The Arbitrator's Role as a Settlement Facilitator in International Commercial Arbitration**

Carmel Wahby  
2025-12-09 In light of concerns about the increasing 'judicialization' of international arbitration, alongside broader shifts in the transnational dispute-resolution landscape, a recalibration of traditional adjudicative methods is underway. This evolution favors approaches that combine adjudicative and non-adjudicative techniques to enhance flexibility, party autonomy, efficiency, the preservation of business relationships, and the promotion of early settlements with the assistance of an adjudicator. This groundbreaking book presents the first comprehensive analysis of one of the most innovative developments in this

context—the role of the arbitrator as settlement facilitator, a dual function that challenges conventional boundaries by enabling arbitrators, in appropriate circumstances, to foster amicable resolution alongside their adjudicative duties. The author maps and categorizes a wide spectrum of settlement-facilitation methods, both established and innovative, and compares diverse approaches that acknowledge and promote this practice. Key areas of discussion include: the range of arbitrator initiatives in setting the stage for settlement; relevant principles, divergences, and emerging transnational trends across legal systems; institutional rules, domestic legislation, and normative instruments that support or limit implementation; safeguards for impartiality, party autonomy, and due process; and mechanisms to ensure the finality and enforceability of settlements. To support safe and effective implementation, the book provides practical

solutions for parties seeking to empower arbitrators as settlement facilitators, offering concrete safeguards that can be integrated into arbitration agreements. It also advances broader recommendations to foster international recognition and harmonization, ensuring sustainable integration of this practice across legal systems. The settlement-facilitation methods and safeguards presented will enable practitioners to enhance efficiency, reduce costs, and streamline dispute resolution in both commercial and investment arbitration. In addition, the book's comparative analysis will equip arbitrators, arbitral institutions, and policymakers with a global perspective on regulatory frameworks, enabling them to make informed choices regarding settlement facilitation across different jurisdictions.

*Mediation as a Mandatory Pre-condition to Arbitration* Ana Ubilava 2022-11-21 Mandatory investor-state mediation (ISM) as a pre-condition to

arbitration is the way forward for rebalancing the investor-state dispute settlement (ISDS) regime and tackling its widely criticised shortcomings. Presenting a comprehensive doctrinal analysis of ISDS clauses of dozens of treaties, this book reveals that simply offering ISM in a voluntary format will not increase its utilisation. In this volume, Ana Ubilava further debunks four common arguments and misconceptions against mandatory ISM through an innovative empirical analysis of over 600 investor-state arbitration cases. She also offers recommendations for incorporating mandatory ISM in ISDS as a precondition to arbitration aimed at international policymakers. *International Commercial Mediation* Cyril Chern 2020-11-25 International Commercial Mediation is a practical guidebook that explains how to handle and complete a mediation, as well as how to personally market the skills developed as a mediator. The book provides

examples, supplies forms, and explains procedures of actual working mediations which can be used to adapt to individual needs. It also deals with advanced practitioner issues and the emerging law on international mediation. [UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation with Guide to Enactment and Use 2022](#) [International Mediation : a Better Alternative for the Resolution of Commercial Disputes](#) Julie Barker 1996 **Mediation and Commercial Contract Law** Maryam Salehijam 2020-12-10 There is an urgent need to better understand the legal issues pertaining to alternative dispute resolution (ADR), particularly in relation to mediation clauses. Despite the promotion of mediation by dispute resolution providers, policy makers, and judges, use of mediation remains low. In particular, problems arise when parties lack certainty

regarding the legal effect of a mediation clause, and the potential uncertainty regarding the binding nature of agreements to pursue mediation is problematic and threatens the growth of ADR. This book closely examines the importance and complexity of mediation clauses in commercial contracts to remedy this persistent uncertainty. Using comparative law methods and detailed empirical research, it explores the creation of a comprehensive framework for the mediation clause. Providing valuable insight into the process of ADR and mediation, this book will be of interest to academics, law makers, law students, in-house council, lawyers, as well as parties interesting in drafting enforceable mediation clauses. *Mediation in International Commercial and Investment Disputes* Catharine Titi 2019

Until now, the resolution of international commercial and investment disputes has been dominated almost exclusively by international arbitration.

But international mediation and conciliation are now coming to the fore. This book brings together a line-up of highly-qualified experts to address this topical, complex subject from a variety of angles.

*Applying the Lessons of International Commercial Arbitration to International Commercial Mediation* S.I. Strong 2018

Traditional analyses of international commercial mediation focus primarily on either the step-by-step process associated with resolution of particular disputes or the relative merits of mediation over alternatives such as transnational litigation or international commercial arbitration. However, there is a significant shortage of comprehensive scholarly examinations of the international mediation regime as a whole, such as those that are recommended by experts in dispute system design (DSD). DSD is a unique area of study, since it does not seek to promote or analyze a particular methodology or process but

instead focuses on larger structural issues so as to improve dispute resolution at a systemic level. Only by adopting this type of larger analytical framework can parties, policymakers and scholars truly appreciate the forces influencing decisions relating to the resolution of cross-border business disputes. Although a full DSD analysis would be beyond the scope of the current discussion, this chapter considers a number of critical design issues relating to international commercial mediation, building off a recent large-scale empirical study conducted by the author in this area of law. Among other things, the chapter applies a default theoretic analysis to the field of international dispute resolution to consider how various visible and invisible 'nudges' affect individual and institutional decisions regarding international commercial mediation. In so doing, the discussion not only provides an innovative structural perspective on the interplay between litigation,

arbitration and mediation in the international commercial context but also suggests how the existing system might be redesigned to create a more effective means of resolving cross-border business conflicts. *International Commercial Mediation* Ronán Feehily 2022-09-08 In this comprehensive comparative study, Ronán Feehily analyses the legal and regulatory issues surrounding international commercial mediation and discusses their implications in a range of settings. While existing literature tends to cover mediation in general, Feehily places the commercial mediation process in its legal and regulatory context, offering an original contribution to the field. The book identifies the controversies that arise from the mediation process across numerous jurisdictions and discusses them in detail. Comparing the mediation process in Europe, North America and Australia, as well as other common, civil and 'mixed' jurisdictions, Feehily

demonstrates where systemic differences are transcended and where they are significant. Organised systematically and written in an accessible style, Feehily offers an international, holistic guide to the commercial mediation process. *Multi-Tier Approaches to the Resolution of International Disputes* Anselmo Reyes 2021-12-16 Provides a comprehensive global survey on multi-tier dispute resolution, examining its trends, its strengths and weaknesses, and the way forward.

**Current Issues in International Commercial Mediation** Veronika Vanisova 2019 This paper deals with the present debate in the context of the current mediation scene within the scope of international commerce. Recently we have witnessed a number of initiatives aimed at improving and increasing the use of mediation. Various prominent organizations, traditionally providing the background for international arbitration adopted mediation rules reflecting the growing

demand for mediation services. In EU, the Directive on certain aspects of mediation in civil and commercial matters was adopted and various subsequent steps to increase the use of cross-border mediation were taken. International commercial disputes often tend to be high-value cases with a considerable level of complexity and therefore more time and cost consuming compared with domestic commercial disputes. Despite the fact that arbitration remains indisputably the most preferred mean of international commercial dispute resolution, it also faces a strong criticism. It's said that international commercial arbitration became too costly, slow and too formalized. Parties to the complex commercial disputes therefore look for new dispute resolution mechanisms that would be easier, faster and less expensive. It would seem that nothing prevents mediation from taking the place of the most popular method of resolving international

commercial disputes and therefore becoming a successor of arbitration. However, serious doubts exist whether mediation can serve as an adequate substitute for arbitration, in particular within the scope of international commerce. One of the most common complaints is that mediation lacks the international legislative framework, such as international arbitration may benefit from. This view is based on the claim, that parties to the cross-border commercial conflicts would find mediation more appealing if the settlements resulting from mediation were subject to legal regime providing for direct enforceability. This paper further discusses this issue with particular focus on the nature of agreement resulting from mediation in the light of the proposal of the new international legal instrument prepared by UNCITRAL Working Group II, i.e. the Singapore Convention. It is argued that by granting the settlement agreements, that

fall within the scope of this new legal instrument, a specific legal status, behavioral pattern of the parties involved in the international commercial disputes may change dramatically.

Civil and Commercial Mediation in Europe (set - Vols. 1&2) Carlos Esplugues Mota 2014-03-27 Originally available as two separate volumes, Intersentia's Civil and Commercial Mediation in Europe is now available as a two volume set. \*\*\* About Volume I on National Mediation Rules and Procedures: Mediation is becoming an increasingly important tool for resolving civil and commercial disputes. Although it has been long since recognized in many legal systems, in recent years it has received an important boost and is currently one of the most topical issues in the field of dispute resolution. The European Directive 2008/52/EC of the European Parliament and of the Council of 21.5.2008 on certain aspects of mediation in civil and commercial

matters, prescribes a set of minimum common rules on mediation for all EU Member States, with the exception of Denmark. This book examines the current legal framework in every EU Member State regarding mediation in civil and commercial matters, as well as the way in which the Directive has been, or is expected to be, implemented in the near future. It is written by renowned specialists on mediation in Europe and provides an exhaustive account for both scholars and practitioners in Europe and beyond the continent. Every chapter on national law analyzes: both out-of-court and court-annexed mediation in the existing legal framework \* the areas of law covered by mediation \* the value and formal requirements of the agreement to submit any dispute to mediation \* personal features and requirements for mediators \* procedural requirements in the mediation procedure \* the relationship between the mediator and public authorities \* the

outcome of the mediation procedure \* in the scenario in which a mediation settlement is reached, its requirements and effects. \*\*\* About Volume II on Cross-Border Mediation: Mediation plays a leading role within the movement of Alternative Dispute Resolution after centuries in which for several reasons the State and State courts were regarded as the only available instrument to ensure access to justice to citizens. In the European Union the institution of mediation has received much support in the form of Directive 2008/52/EC which sets forth a minimum common legal framework for mediation in the Member States. The 2008 Directive has finally been implemented in the Member States and this book provides the much needed in-depth analysis of the status of the mediation regimes in the European Union. The analysis covers the legal regimes of the Member States set up for cross-border and national mediation. This volume includes national reports on cross-border mediation

including in-depth information on all the relevant aspects of cross-border mediation: the notion of cross-border mediation, the law applicable to the mediation clause, the mediation proceedings and the content of the settlement reached by the parties. Special attention is of course given to the recognition and enforcement in the European Union of settlements reached in other Member States and outside Europe. In addition the role of mediators and requirements to become a mediator are examined. This book provides a unique picture of the legal situation in the European Union for cross-border mediation. It is an invaluable instrument for those who want to know more about this complex topic or want to become a mediator in Europe themselves.

**Beyond International Commercial Arbitration? The Promise of International Commercial Mediation** S.I. Strong 2014  
Although international commercial arbitration has

long been the preferred means of resolving cross-border business disputes, the international corporate community has become increasingly concerned about increasing costs, delays and procedural formalities. As a result, parties are looking for other means of resolving cross-border business disputes. One of the more popular alternatives is mediation. Advocates of mediation extol its many benefits, including its ability to resolve disputes more quickly and with fewer costs and formalities than other alternatives. However, very little research exists on how mediation operates in the international commercial context. This Essay therefore considers whether and to what extent international commercial mediation can be said to be superior to international commercial arbitration. That question is answered in a three-step analysis. First, this Essay outlines the unique characteristics of international commercial disputes to

determine whether such matters are amenable to mediation. The discussion then considers what might motivate parties to use international commercial mediation if savings of time, cost and procedural formality are taken out of the equation. Finally, the Essay describes how public international law might be used to improve certain deficiencies in international commercial mediation. In so doing, the discussion aims to help parties conduct a realistic evaluation of the prospects of international commercial mediation and find a way to ensure the procedure's long-term success.

### **Combining Mediation and Arbitration in International Commercial Dispute Resolution**

Dilyara

Nigmatullina 2018-06-28

Securing fast, inexpensive, and enforceable redress is vital for the development of international commerce. In a changing international commercial dispute resolution landscape, the combined use of mediation and arbitration has

emerged as a dispute resolution approach which offers these benefits. However, to date there has been little agreement on several aspects of the combined use of processes, which the literature often explains by reference to the practitioner's legal culture, and there is debate as to how appropriate it is for the same neutral to conduct both mediation and arbitration.

Identifying the main ways of addressing concerns associated with the same neutral conducting both mediation and arbitration (same neutral (arb)-med-arb), this book examines how effectively these methods achieve the goal of fast, inexpensive, and enforceable dispute resolution, evaluating to what extent the perception and use of the same neutral (arb)-med-arb depends on the practitioner's legal culture, arguing that this is not a 'one-size-fits-all' process. Presenting an empirical study of the combined use of mediation and arbitration in international commercial dispute resolution, this book synthesises existing

ways of addressing concerns associated with the same neutral (arb)-med-arb to provide recommendations on how to enhance the use of combinations in the future.

### International Commercial Mediation Training Role -plays

Greg Bond 2015

The Singapore Convention on Mediation Guillermo Palao 2022-12-13 This Commentary offers an article-by-article examination of the United Nations Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention), as well as insights into the negotiation process through which the Convention was developed. It provides deep theoretical and practical analysis of the Convention and its consequences for the promotion of mediation as a mechanism to solve commercial conflicts with a cross-border character.

Ultima Thule Lucy Reed 2019

In this paper, I will first consider the reasons for the low rates of successful

international commercial mediations, and then begin to explore what it might take to encourage the international legal and business communities to embrace mediation for international commercial disputes. Lastly, I will introduce and examine the new United Nations Convention on International Settlement Agreements Resulting from Mediation (The Singapore Convention on Mediation), in particular its role in promoting the use of international commercial mediation globally. This paper was presented as the keynote address at the inaugural Schiefelbein Global Dispute Resolution Conference on 18 January 2019, at the Sandra Day O'Connor School of Law of Arizona State University.

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