INTERNATIONAL COURT OF ARBITRATION® | INTERNATIONAL CENTRE FOR ADR | LEADING DISPUTE RESOLUTION WORLDWIDE

ICC INTERNATIONAL CENTRE FOR ADR

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ICC Mexico
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ICC INTERNATIONAL CHAMBER OF COMMERCE

ICC DISPUTE RESOLUTION – TWO PLAYERS

ICC Dispute Resolution Services

ICC International Court of Arbitration

ICC International Centre for ADR

ICC MEDIATION

What is Mediation?

"Under the ICC Mediation Rules (the "Rules"), mediation is a flexible settlement technique, conducted privately and confidentially, in which a mediator acts as a neutral facilitator to help the parties try to arrive at a negotiated settlement of their dispute. The parties have control over both the decision to settle and the terms of any settlement agreement".

WHY CHOOSE MEDIATION ?

Mediation answers three objectives

Low cost

- Average cost: around US$ 20 000

Efficiency

- Average duration (from receipt of the request to the conclusion of a settlement agreement): less than 4 months

High Success Rate

- Majority of cases end in settlement when a first meeting is organized with the Mediator.
- More than 90% of ADR and Mediation Rules users indicate that they will include a mediation clause in their future contracts

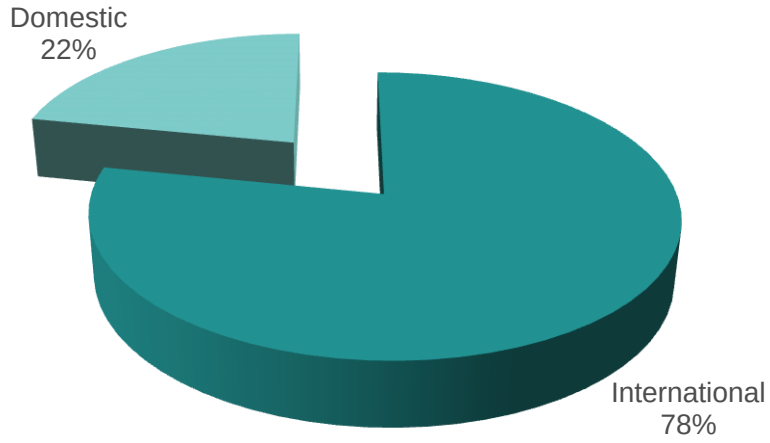
Mediation allows

- Conservation of good relations between the parties
- Implementation of creative solutions
- Durability (to avoid the problems of execution)
- Confidentiality

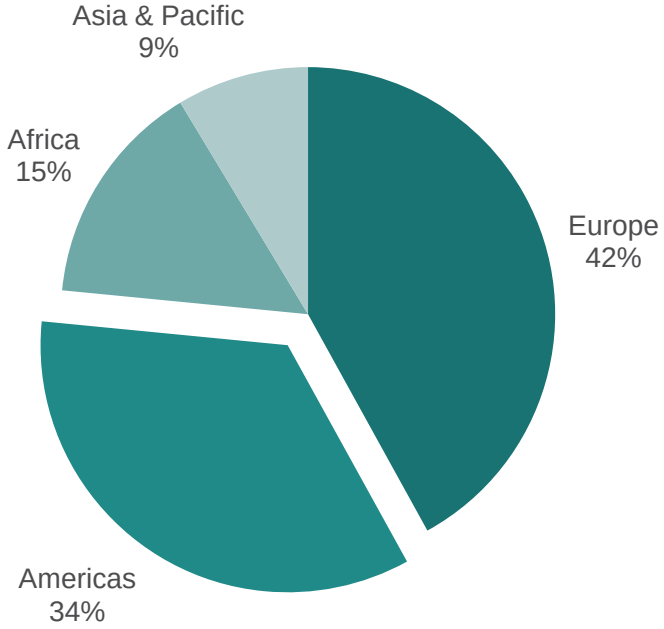
MEDIATION IN NUMBERS

International and cross-border missions

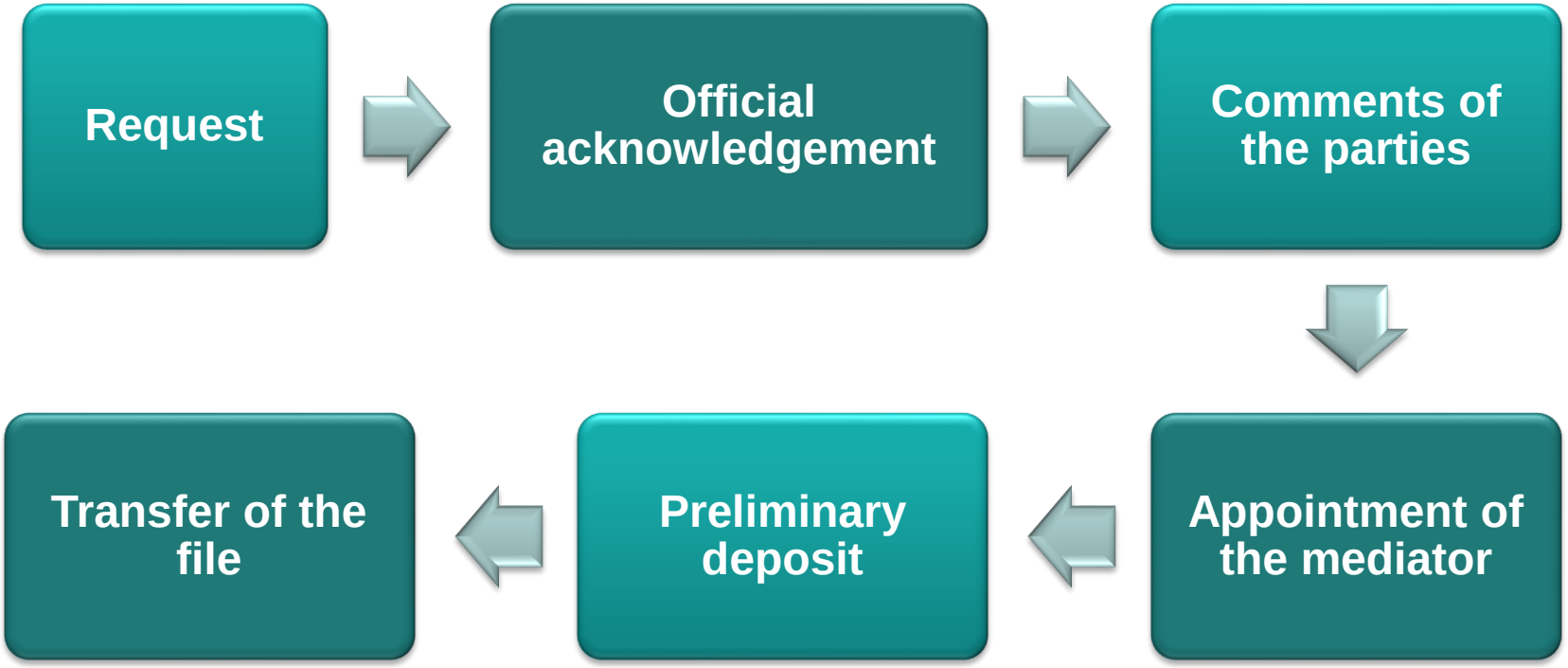
International



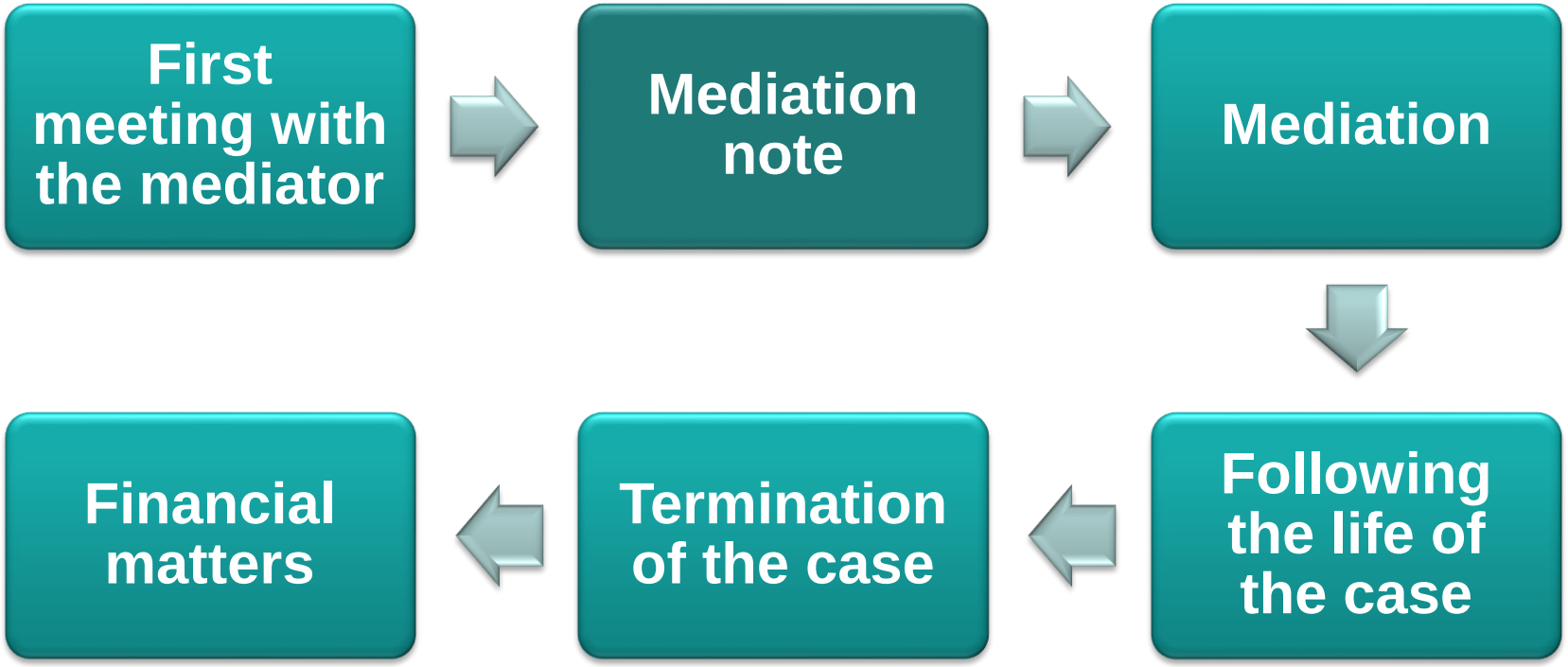
Origin of the parties in ICC Mediation in 2016



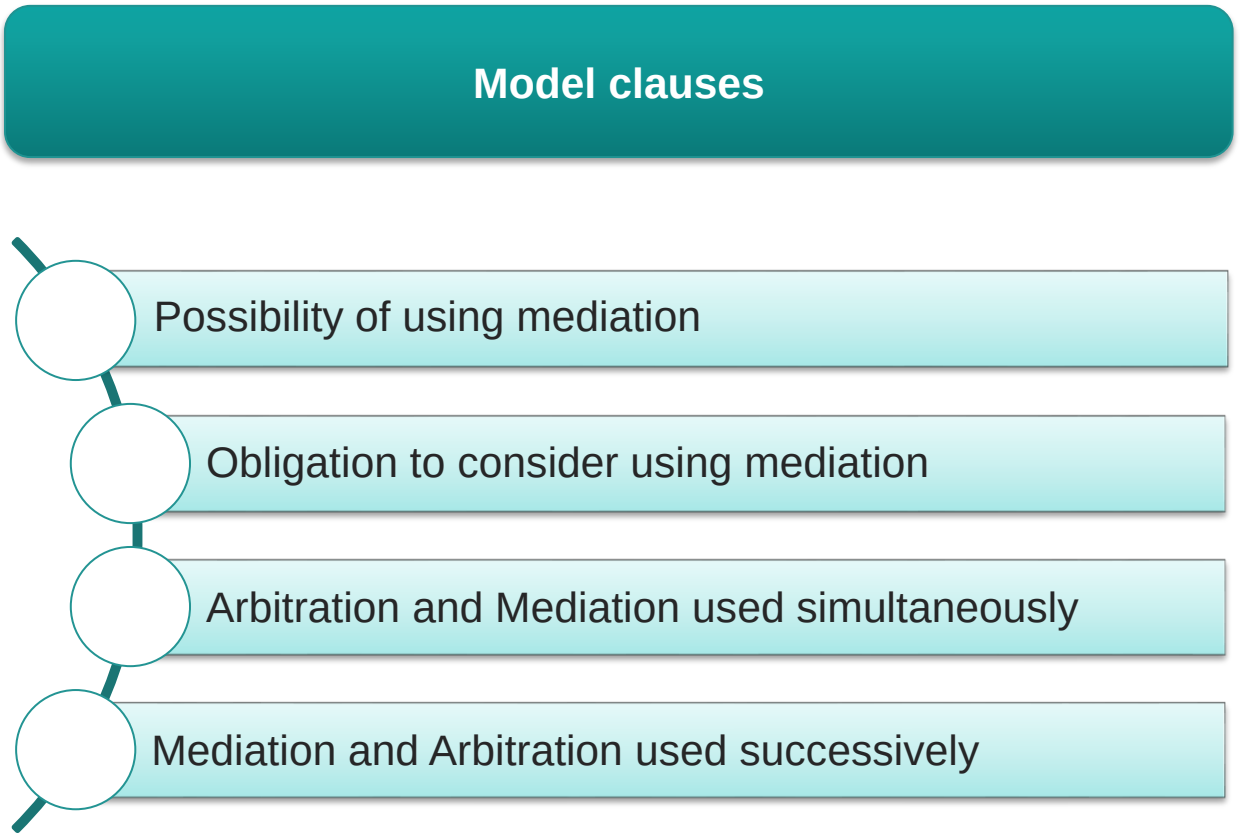
PROCEDURE


Request
Official acknowledgement
Comments of the parties
Appointment of the mediator
Preliminary deposit
Transfer of the file

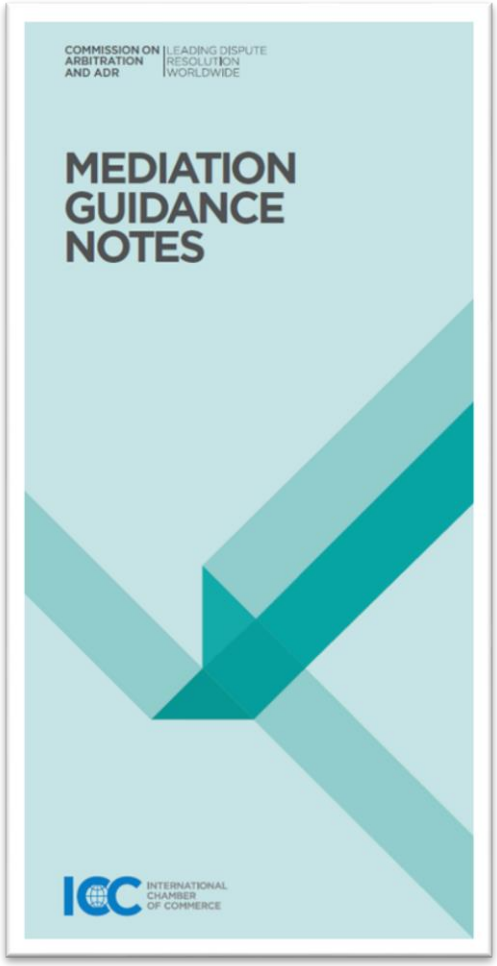
PROCEDURE


First meeting with the mediator
Mediation note
Mediation
Following the life of the case
Termination of the case
Financial matters

PROCEDURE


Model clauses
Possibility of using mediation
Obligation to consider using mediation
Arbitration and Mediation used simultaneously
Mediation and Arbitration used successively

ICC MEDIATION RULES



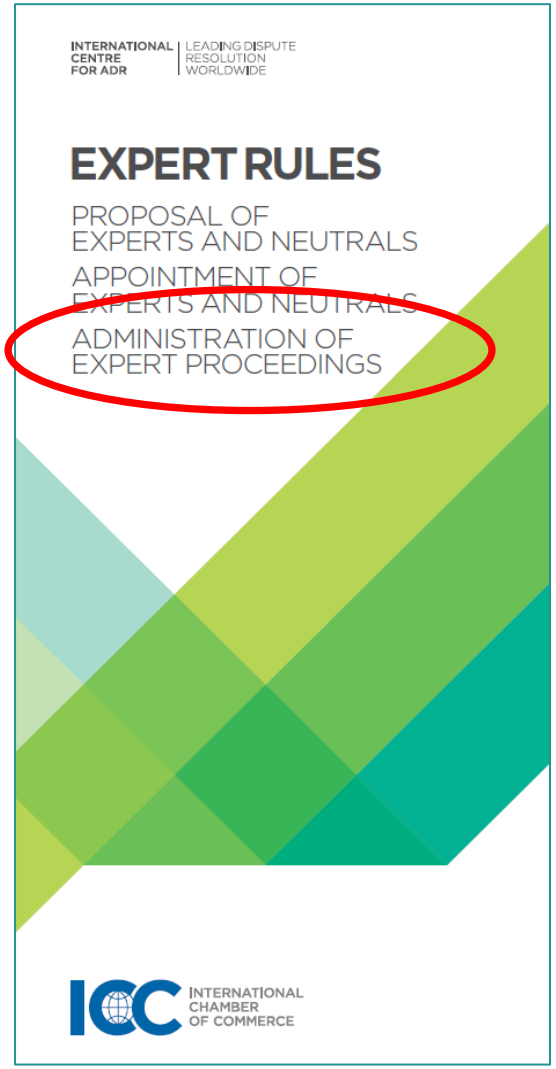
PART 2

ICC EXPERTISE

EXPERT RULES

- **In force since 1 February 2015**
- **3 sets of Rules for 3 different services:**
  - Proposal
  - Appointment
  - Administration
- **Request can be submitted by "any Person", including**
  - A physical person
  - A legal person
  - Any court
  - Any tribunal
- **The Centre can propose/appoint as Expert:**
  - A physical person
  - A legal entity

EXPERTISE AND ARBITRATION CLAUSES



ICC Administration of Expert Proceedings

A) optional administered expert proceedings
B) non-binding expert proceedings
C) contractually binding expert proceedings
D) obligation to submit to non-binding expert proceedings, followed by arbitration if required

SELECTION OF EXPERTS

- **No closed list >> for each case the Centre commences an individual search**

- **The Centre will use**
  - National Committees
  - Standing Committee
  - Contacts of the Centre itself

- **Qualifications of the expert**
  - Specific background
  - Language skills
  - Field of activity
  - Nationality
  - Independence
  - Experience

EXPERT DETERMINATION AND ARBITRATION

- **Search for Experts**
- **Replacement of Experts**
- **Oversight of Due Process**
- **Scrutiny of reports**

- Parties (private company and State) entered into a contract for the construction of a Dam and Hydro-Electric Power Plant (“Plant”) on a Build Operate and Transfer (BOT) model;
- After 16 years of operation, the depreciation of the Plant had to be assessed before the Plant was handed-over to the State;
- Complete inspection of the Plant property, plant, equipment and records was processed by a team of experts who rendered 2 interim reports and one final report setting forth the estimate of the cost required to place the Plant’s facilities in good operating condition taking into account its age.

PART 3

ICC DISPUTE BOARDS

DISPUTE BOARDS

Purpose

- Dispute Boards (DBs) are standing dispute resolution panels that are often established at the outset of a contract and remain in place throughout its duration
- Used for medium and long-term contracts
- DBs assist the parties in avoiding disagreements by raising potential concerns so the parties may address them on their own.
- DBs provide recommendations or issue decisions regarding any disputes arising under the contract

DISPUTE BOARD RULES

- **In force since 1 October 2015**
- **DB Rules can be used by the parties when establishing Dispute Boards (*i.e.* no involvement of the Centre)**
- **The Centre can assist with:**
  - Appointment of DB Members
  - Challenges of DB Members
  - Fixing fees of DB Members
  - Review of the decisions (form of scrutiny)

ICC DISPUTE BOARD RULES

Dispute Review Board (DRB)

- Issues 'Recommendations'
- Parties comply voluntarily with recommendation
- Unless a party objects within 30 days, recommendation becomes final and binding

Dispute Adjudication Board (DAB)

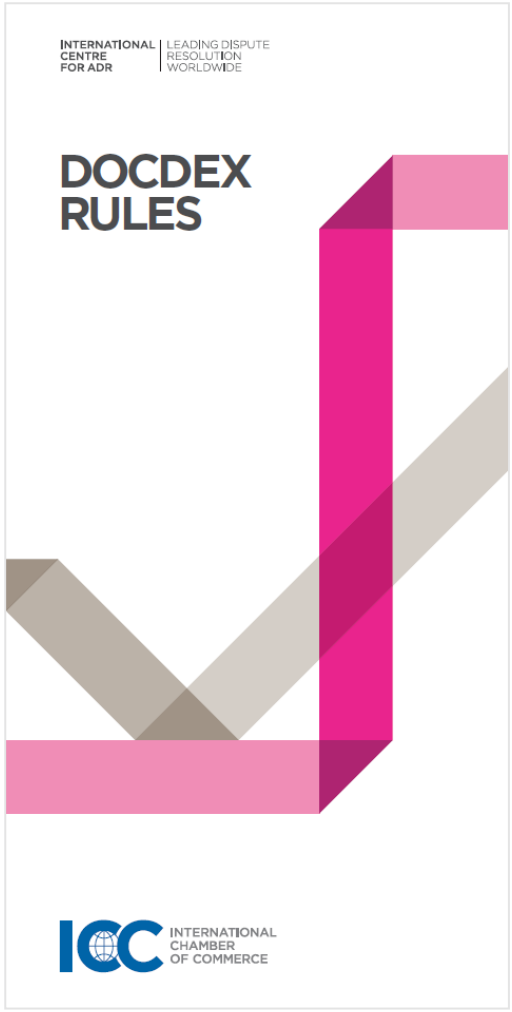
- Issues 'Decisions'
- Parties must comply with Decision immediately upon receipt
- Unless party expresses dissatisfaction within 30 days, Decision becomes final

Combined Dispute Board (CDB)

- *Normally* issues Recommendations with respect to any dispute referred to it
- *May* issue Decisions in its discretion or by agreement of the parties
- Offers an intermediate approach between the DRB and the DAB

ICC DOCDEX

NEW DOCDEX RULES



- **In force since 1 May 2015**
- **A dispute resolution mechanism specifically designed to address trade finance concerns**
- **ADVANTAGES:**
  - ✓ rapid
  - ✓ cost-effective
  - ✓ document-based

ICC MEXICO

Number of appointed Mexican Mediators and Experts

Year	Mediators	Experts (including DOCDEX)	Total
2012	1	1	2
2013	-	-	-
2014	-	-	-
2015	-	3	3
2016	-	-	-

EVENTS

MEDIATION COMPETITION

CONTACT US

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ICC Mediation