

NAFTA 2022 Committee

2012 Annual Report of Website Sub-Committee

A. CURRENT CO-CHAIRS:

Canada:	Kevin Banks
Mexico:	Cecilia Azar
United States:	Cristina Castaneda

B. UPDATE:

The work plan of the Website Subcommittee involves a review of the current contents of the website, an analysis of potential issues and benefits involved if the website is restructured followed by actual restructuring if so decided, and a look into the possibility of a pre-screening process for any new materials that are added to the website.

To discuss these issues, the Website Subcommittee had a conference call on June 18, 2012. Multiple suggestions concerning content were made by Subcommittee members. The Website Subcommittee discussed the general content of the website and outlined certain goals to increase its utility and the overall web presence of the NAFTA 2022 Committee. One such suggestion was the implementation of search logic to increase the likelihood that the NAFTA 2022 webpage will be identified in the top results of a web-user searching for ADR in the NAFTA region.

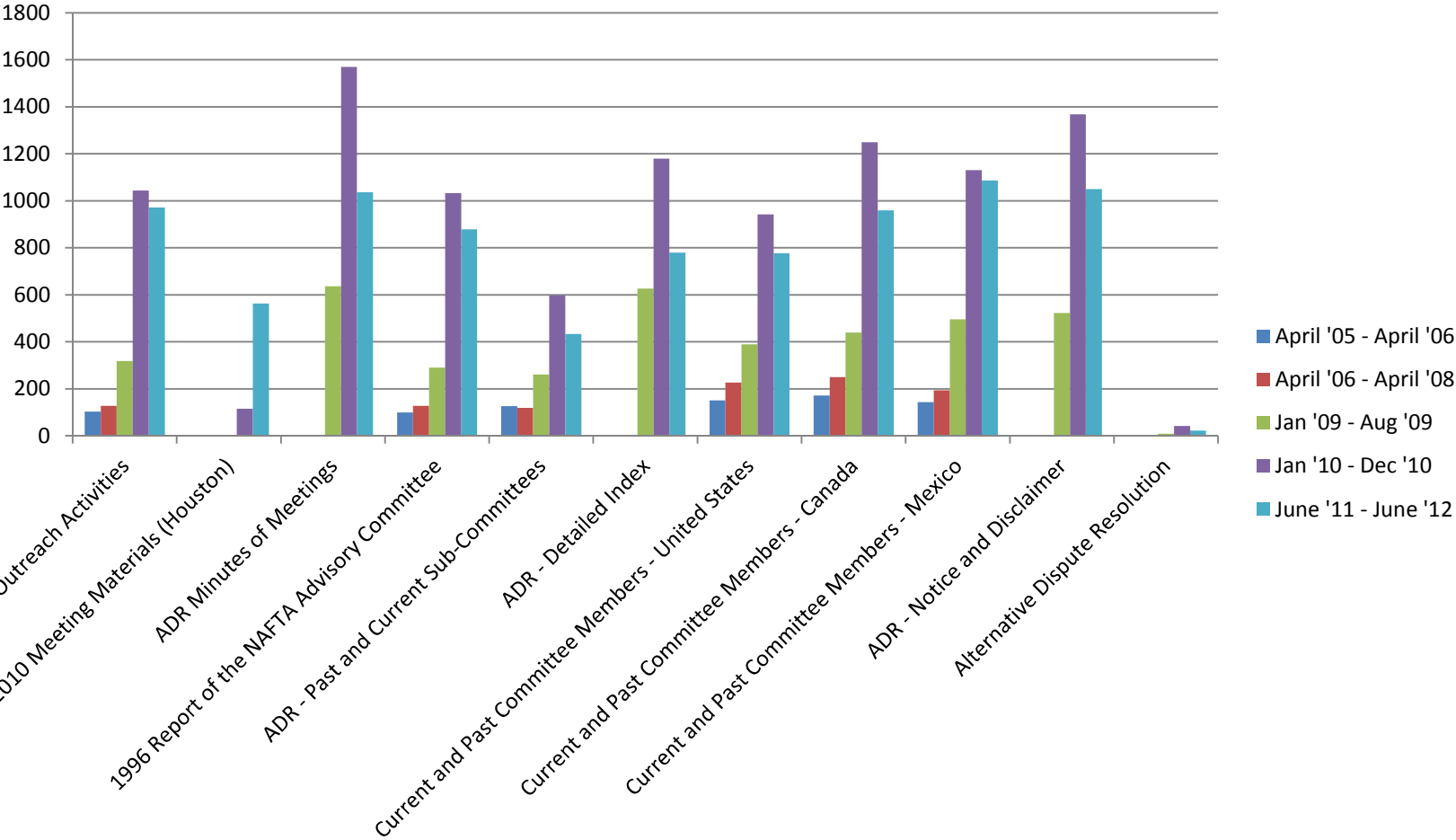
In addition, the members commented on how they believed the NAFTA 2022 Committee should move forward regarding the approval of new “substantive” content before its addition to the website. Within the definition of substantive content are: (i) Documents and Articles prepared by Committee Members whether they have been previously published or not; (ii) Videos of lectures, training programs and Webcasts recorded as part of the NAFTA 2022 Committee mandate on outreach; and (iii) Any other type of reference or informational material regardless of length (*e.g.*, news posts, short-blog type entries on a specific activity of the Committee or one of its members, etc.).

The Website Subcommittee suggests that this should be a simplified process that will allow for the addition of relevant and significant materials that will enhance the quality of the Website’s content. A possible approach would be to prepare a guideline to be distributed to all Committee members for them to follow in order to add documents and information to the Website. This guideline will include information per type of document/posting. For example, for a scholarly article: maximum and minimum word counts, formatting for footnotes, and general rules regarding editing and content. The Website Subcommittee also proposes that an editorial committee be formed which may or may not be a duty that could be assigned to the Website Subcommittee. The editorial committee would be comprised of one member from each NAFTA country and members would rotate after each annual meeting. The duties of this editorial committee would include reviewing submissions, making comments and, if deemed in compliance with the guidelines, posting the document submitted to the Website.

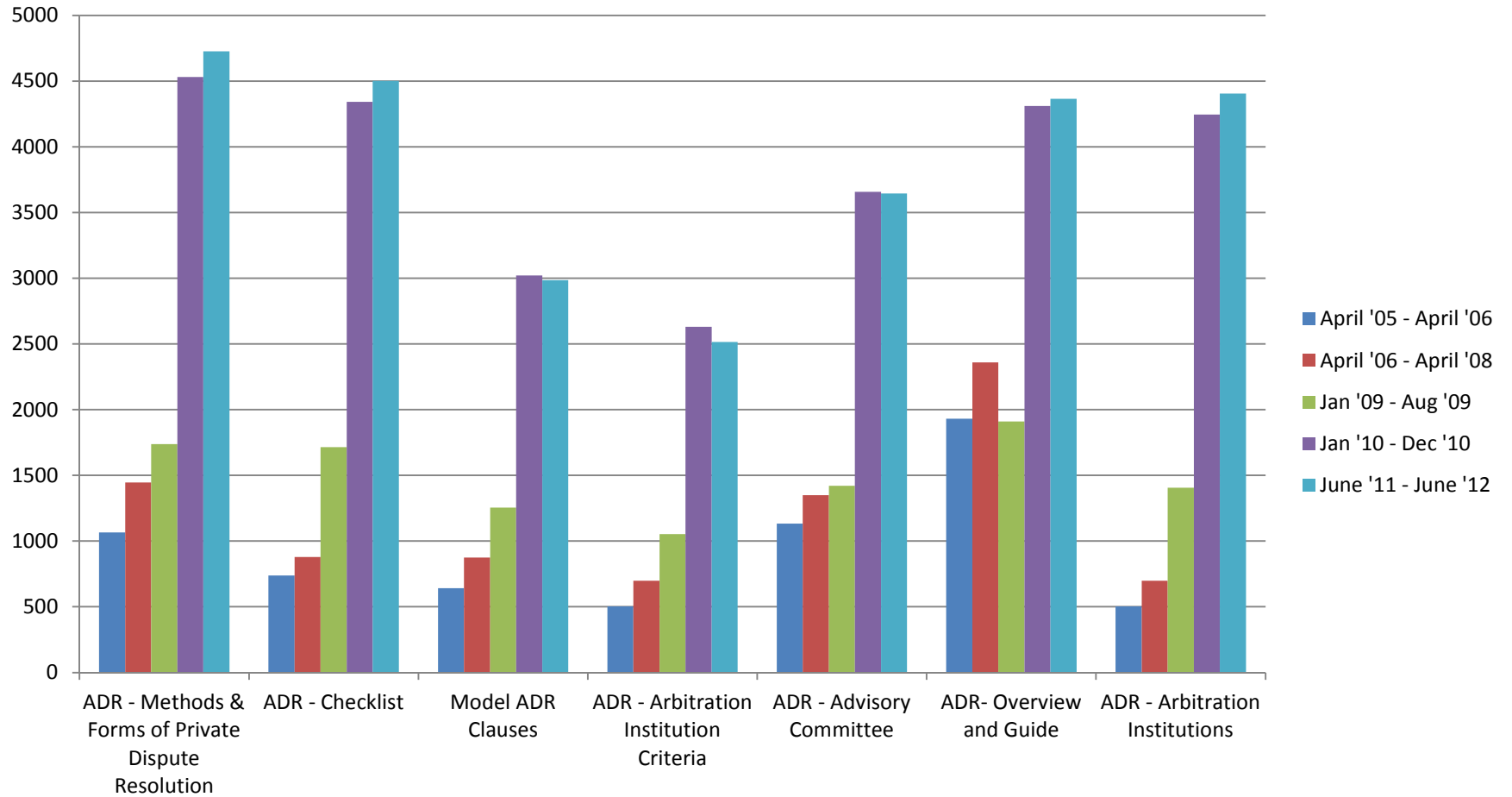
In taking a step to advance its work plan, the Website Subcommittee identified specific suggestions on the various pages/tabs on the website. These suggestions are provided in the following subsection.

Certain suggestions regarding content were identified based on the following statistics obtained concerning the web “traffic” from each page (see graphs below). Based on the information obtained from 2005 to 2012, the Website Subcommittee intends to remove or vastly improve the content of the pages identified as unused or those experiencing extremely low “traffic.”

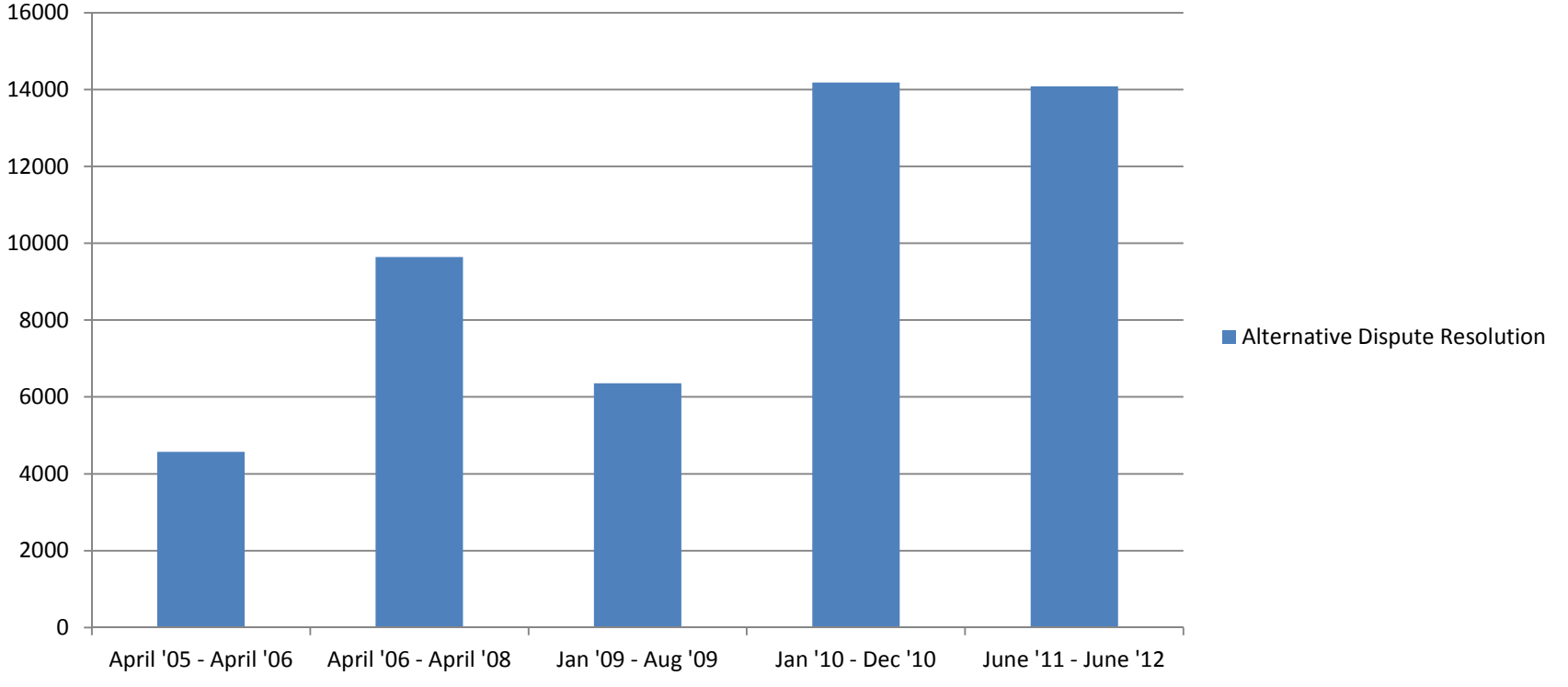
NAFTA 2022 Website Hits



NAFTA 2022 Website Hits



NAFTA 2022 Website Hits Alternative Dispute Resolution



C. Specific Page/Tab Suggestions

I. Main Page on ADR – NAFTA Secretariat

The screenshot shows the NAFTA Secretariat website's Alternative Dispute Resolution (ADR) page. The page header includes the NAFTA Secretariat logo and navigation links for Español, Français, Home, Contact Us, Search, and Help. The main content area is titled "Alternative Dispute Resolution" and "Business Sector - Private Dispute Resolution in the NAFTA Region". A left sidebar contains a menu with items like Welcome, Dispute Settlement, Legal Texts, About the NAFTA Secretariat, Alternative Dispute Resolution, Overview and Guide, Advisory Committee, Methods of Private Dispute Resolution, Model ADR Clauses, Arbitration Clause Checklist, Principal Arbitration Institutions, Selecting an Arbitration Institution, Discussion Forum, National Sections, Resources, and What's New?. The main content area lists several links, including Overview, Guide to Private Sector Dispute Resolution, Advisory Committee on Private Commercial Disputes, Methods of Private Dispute Resolution, ADR Mechanisms (with sub-links for Mediation and Arbitration), Model ADR Clauses, Arbitration Clause Checklist, Principal Arbitration Institutions, Selecting an Appropriate Arbitration Institution, and Notice / Disclaimer. Annotations include a box pointing to the "Advisory Committee on Private Commercial Disputes" link with the text "Change to: NAFTA 2022 Committee", and a larger box pointing to the "Discussion Forum" link with the text "Add the following boxes to the menu:" followed by three sub-boxes: "Committee Members", "Outreach", and "Contac the Committee".

The following are images of the Web pages in the order they appear in the Main ADR – NAFTA Secretariat page above.

II. Overview

Website Subcommittee members have determined that the language contained on the overview page does not speak specifically enough to the mandate of the NAFTA 2022 Committee as a whole and that it needs revision. The Subcommittee proposes that this change include: a discussion of why alternative dispute resolution is important, the

challenges the committee and businesses face when promoting alternative dispute resolution, a simplified outline of what the mandate dictates is the purpose of the committee. It is also proposed that all of these changes to language be presented in a way that speaks to an average user and that drafters should refrain from over-complicating the goals of the NAFTA 2022 Committee as much as possible.

The screenshot shows the NAFTA Secretariat website. The header includes the NAFTA Secretariat logo and navigation links for Español, Français, Home, Contact Us, Search, and Help. The breadcrumb trail is: Home > Alternative Dispute Resolution > Overview and Guide. The main content area is titled 'Overview and Guide' and contains the following text:

It is unfeasible to have ever-expanding international trade without a system for resolving disputes that inevitably will arise out of those transactions, and ADR is the method of choice in business today. The NAFTA identified the importance of facilitating private sector dispute resolution in international commercial contracts in the NAFTA area in support of business initiatives in part through the establishment of the 2022 Committee, which was asked to assess the availability and enforcement of private awards within the region. [\[View NAFTA 2022 Committee Mandate\]](#)

The inclusion of appropriate provisions in international commercial contracts that address the resolution of private commercial disputes is an important first step in support of that objective. There are many matters to take into consideration in the drafting of a dispute resolution clause in an international commercial agreement. [\[View Checklist\]](#)

GUIDE TO PRIVATE SECTOR DISPUTE RESOLUTION IN THE NAFTA REGION

To assist private investors and businesses with investments or operations within the NAFTA region in the consideration and, if appropriate, the inclusion of dispute resolution mechanisms in the commercial agreement that establishes the business relationship between private parties from two or more NAFTA countries, the NAFTA 2022 Committee has prepared and posted on this website materials to guide the decision making with respect to existing [methods of private dispute resolution](#).

This website also includes guidelines for the drafting process in the form of [model mediation and arbitration clauses](#).

At the bottom of the page, there is a 'Date Modified 2009-01-15' and links for 'Top of Page' and 'Important Notices'.

Change title to:
ADR in the NAFTA Region

- Modify content to include:
- Simple definition of what is ADR
 - Current and practical information on ADR in the region
 - Statistics
 - Why it is important
 - NAFTA 2022 Committee as a short introduction

III. Guide to Private Sector Dispute Resolution



NAFTA Secretariat
Secrétariat de l'ALÉNA
Secretariado del TLCAN

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[Home](#) > [Alternative Dispute Resolution](#) > Overview and Guide [Printer Friendly](#)

Welcome	Overview and Guide
Dispute Settlement	<p>It is unfeasible to have ever-expanding international trade without a system for resolving disputes that inevitably will arise out of those transactions, and ADR is the method of choice in business today. The NAFTA identified the importance of facilitating private sector dispute resolution in international commercial contracts in the NAFTA area in support of business initiatives in part through the establishment of the 2022 Committee, which was asked to assess the availability and enforcement of private awards within the region. [View NAFTA 2022 Committee Mandate]</p> <p>The inclusion of appropriate provisions in international commercial contracts that address the resolution of private commercial disputes is an important first step in support of that objective. There are many matters to take into consideration in the drafting of a dispute resolution clause in an international commercial agreement. [View Checklist]</p> <p>GUIDE TO PRIVATE SECTOR DISPUTE RESOLUTION IN THE NAFTA REGION</p> <p>To assist private investors and businesses with investments or operations within the NAFTA region in the consideration and, if appropriate, the inclusion of dispute resolution mechanisms in the commercial agreement that establishes the business relationship between private parties from two or more NAFTA countries, the NAFTA 2022 Committee has prepared and posted on this website materials to guide the decision making with respect to existing methods of private dispute resolution.</p> <p>This website also includes guidelines for the drafting process in the form of model mediation and arbitration clauses.</p> <p style="text-align: right;">Notice/Disclaimer</p>
Legal Texts	
About the NAFTA Secretariat	
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Advisory Committee	
Methods of Private Dispute Resolution	
Model ADR Clauses	
Arbitration Clause Checklist	
Principal Arbitration Institutions	
Selecting an Arbitration Institution	
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National Sections	
Resources	
What's New?	

Date Modified 2009-01-15 [Top of Page](#) [Important Notices](#)

Same Content/Page: Delete

IV. Advisory Committee on Private Commercial Disputes

NAFTA Secretariat
Secrèteriàt de l'ALÈNA
Secretaríaado del TLCAN

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Home > [Alternative Dispute Resolution](#) > Advisory Committee [Printer Friendly](#)

Welcome **Advisory Committee on Private Commercial Disputes**

Dispute Settlement

Legal Texts

About the NAFTA Secretariat

Alternative Dispute Resolution

Overview and Guide

Advisory Committee

Minutes of Committee Meetings

Methods of Private Dispute Resolution

Model ADR Clauses

Arbitration Clause Checklist

Principal Arbitration Institutions

Selecting an Arbitration Institution

Discussion Forum

National Sections

Resources

What's New?

TERMS OF REFERENCE - ?

1. Mandate of the Committee

1.1 [NAFTA Article 2022](#) requires the Advisory Committee on Private Commercial Disputes (Committee) to report and provide recommendations to the NAFTA Commission on general issues referred to it by the Commission respecting the availability, use and effectiveness of arbitration and other procedures for the resolution of private international commercial disputes in the free trade area.

1.2 The Commission refers the following matters to the Committee for report and recommendations to the Commission as appropriate in accordance with Article 2022(4):

1.2.1 compilation, examination and assessment of existing means for the settlement of private international commercial disputes;

1.2.2 identification of sectors and types of businesses that would particularly benefit from the use of alternative dispute resolution (ADR);

1.2.3 promotion of the use of arbitration and other procedures for the resolution of private international commercial disputes in the NAFTA region, including ways to increase private sector awareness of the benefits of using ADR;

1.2.4 facilitation of the use of arbitration and other procedures in the NAFTA region, including the use of model ADR and other contractual clauses;

1.2.5 opportunities for expanded cooperation between institutions with an interest or involvement in ADR in the NAFTA region; and

1.2.6 issues relating to the enforcement of arbitration agreements and awards, and other litigation issues related to ADR.

Suggested title change:
NAFTA 2022 Committee

Add in simple language:
What is the 2022
Committee, with hyperlink
to the text of Art. 2022

Then add simple language as
to the mandate of the 2022
Committee, with a hyperlink
to the Mandate

1.3 The Commission may refer other matters to the Committee from time to time in accordance with Article 2022(4).

2. Membership of the Committee

2.1 The Committee will comprise up to 10 members from each Party, up to two of whom may be officials representing the Party and up to eight of whom may be selected from outside the Government.

2.2 Each Party will appoint its own members of the Committee, and may establish terms for their appointment.

2.3 The government representatives will serve as the chairs of the Committee.

Current and Past Committee Members

- [Canada](#)
- [Mexico](#)
- [United States](#)

3. Agenda for Committee Meetings

3.1 The chairs will, in developing the agenda for a meeting, consult with and take fully into consideration the views of the members on specific issues to be considered by the Committee.

3.2 The chairs will circulate the agenda to the full Committee in advance of each meeting.

4. Meetings of the Committee

4.1 Meetings of the Committee will normally be hosted successively by each Party and will be presided over by the chairs of that Party.

4.2 The chairs, by consensus, may invite individuals who are not members of the Committee to participate in a meeting as appropriate.

4.3 The chairs, by consensus, will approve all actions and prepare all reports of the Committee and determine which recommendations should be submitted to the Commission, taking fully into account the views and positions of all Committee members.

4.4 The Committee may establish subcommittees to address specific issues within the scope of these Terms of Reference. A subcommittee may include individuals who are not members of the Committee, if so agreed by the Parties, in which case, each Party may appoint its own members to such subcommittee.

4.5 The Committee will meet at least once each year.

[Minutes of Committee Meetings](#)

5. Coordination with Article 707 Committee

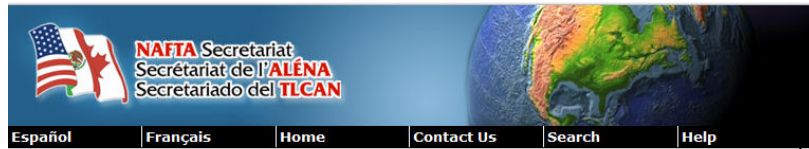
The chairs will monitor the work of, and consult periodically with, the NAFTA Advisory Committee on Private Commercial Disputes Regarding Agriculture to promote cooperation and collaboration between the two Committees.

[Article 707 - Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods.](#)

[Notice/Disclaimer](#)

Delete all of this text from this page, since there will be a hyperlink to the technical language and a Box option for Committee Members

V. Methods of Private Dispute Resolution



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Home > [Alternative Dispute Resolution](#) > Methods of Private Dispute Resolution [Printer Friendly](#)

Welcome	<h3>Methods/Forms of Private Dispute Resolution available</h3> <p>Parties entering into international business contracts should consider one of several alternative methods of resolving disputes which do not entail going to court [view description of ADR mechanisms]. As neither party may wish to litigate in the courts of another country, these dispute resolution methods, which are generally known as Alternative Dispute Resolution ("ADR"), offer a neutral and private mechanism for dispute resolution.</p> <p>At the outset of negotiations and consequent drafting of the contract, the parties should consider whether they wish to resort to the courts or one or more private dispute resolution methods in the event a dispute arises. A well-drafted ADR clause may not only result in a more effective resolution of disputes, but it may also deter breaches of the agreement by providing an effective mechanism for enforcing contractual rights.</p> <p>Included below are the following:</p> <ul style="list-style-type: none">• some of the ADR methods available to parties contracting within the NAFTA region;• model clauses that may be inserted into contracts;• other matters to take into consideration in drafting an ADR clause;• an identification of some of the principal not-for-profit arbitration institutions in the NAFTA region; and• criteria to assist with the choice of an ADR institution. <p>The principles described here can necessarily only be basic. The reader should consider consulting one of the arbitral institutions identified or others with expertise before finalizing any contract terms.</p> <h4>Private Sector Dispute Resolution or ADR Mechanisms</h4> <p>There are many forms of ADR. The two most commonly used are mediation and arbitration.</p> <h4>Mediation</h4> <p>Mediation usually provides a private and confidential forum in which an impartial third party -- the mediator -- facilitates communication between the parties in the hope of achieving a settlement of the dispute. The mediator acts as an intermediary with whom each party should feel comfortable discussing its view of the dispute. The mediator seeks to focus the parties on the critical issues in dispute and on the interests of each party to achieve a settlement. The mediator may propose settlement options for the parties to consider, but the recommendations of the mediator are not binding on the parties.</p> <p>The mediator may or may not be an attorney. It is recommended that he or she be someone whom both parties trust. Mediation is often conducted without involvement of legal counsel representing the parties.</p> <h4>Model Mediation Clause</h4> <h4>Arbitration</h4> <p>While mediation is designed to encourage the parties to find a mutually acceptable settlement, arbitration is an adversarial process that results in an award that is binding on the parties. Depending on the provisions of the arbitration clause, the decision may be rendered by one or three arbitrators (see below - Composition of Arbitral Tribunal).</p> <p>The parties generally present arguments, witnesses and documentary evidence to the arbitrators. Judicial rules of procedure and evidence do not usually apply. The rules followed in arbitration are generally very flexible. Attorneys are frequently involved in representing the parties, but it is not always necessary to retain counsel. Arbitrators are often attorneys, but they may also be business people or other professionals with knowledge or skills relevant to the dispute.</p> <p>Most arbitration awards are observed voluntarily by the losing party. However, if the losing party does not voluntarily comply with the award rendered by the arbitrators, it may be enforced by local courts with jurisdiction over the losing party. Canada, Mexico and the United States are parties to various international treaties that require their courts to enforce arbitration awards with very few exceptions (such as fraud or corruption). Thus, unlike a court judgment, there are very few grounds to appeal an adverse arbitration award.</p> <p>For a discussion on enforcement of arbitral awards in the NAFTA region, see "Enforcing Agreements to Arbitrate and Arbitral Awards in the NAFTA countries" [THE LINK TO THIS DOCUMENT WILL BE ADDED LATER ON].</p> <p>Model Arbitration Clause</p> <p>-</p> <p>Notice/Disclaimer</p>
Dispute Settlement	
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The list is incorrect and the disclaimer seems unnecessary

Overall language change suggested.


It would be of interest to the reader to capture some particularities of these mechanisms in **each** of the countries; for example, the use of the term "conciliación" or "conciliation" in Mexico.

Either delete or provide

The following three topics listed on the Overview page all open up to the same Web page immediately above. We suggest deleting those hyperlinks. These are:

- ADR Mechanisms
- Mediation
- Arbitration

VI. Model ADR Clauses




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Welcome	Model ADR Clauses
Dispute Settlement	A. Mediation
Legal Texts	A model mediation clause for international contracts is set forth below.
About the NAFTA Secretariat	<i>If a dispute, controversy or claim arises out of or relates to this contract, or the breach, termination or validity thereof, and if either party decides that the dispute cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute in an amicable manner by mediation pursuant to [identify rules]. If this mediation does not result in a settlement, then the dispute shall be resolved by arbitration pursuant to [clause (b) below]. [Alternatively, the parties may provide for litigation in a court specified by the parties.]</i>
Alternative Dispute Resolution	B. Arbitration
Overview and Guide	A model arbitration clause for international contracts is set forth below. This model clause, while offering a number of specific options, is not exhaustive and does not include all possible provisions that may need to be considered or may be desirable in particular contracts.
Advisory Committee	In short, this model clause should serve as the beginning, and not the end, of the process of drafting an arbitration clause.
Methods of Private Dispute Resolution	<i>(a) Any dispute, controversy or claim arising out of, relating to, or in connection with, this contract, or the breach, termination or validity thereof, shall be finally settled by arbitration. The arbitration shall be conducted in accordance with [identify rules] in effect at the time of the arbitration, except as they may be modified herein or by mutual agreement of the parties. The seat of the arbitration shall be [city, country], and it shall be conducted in the [specify] language. The arbitration shall be conducted by [one or three] arbitrators, who shall be selected in accordance with [the rules selected above].</i>
Model ADR Clauses	<i>(b) The arbitral award shall be in writing and shall be final and binding on the parties. The award may include an award of costs, including reasonable attorneys' fees and disbursements. Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the parties or their assets.</i>
Arbitration Clause Checklist	Notice/Disclaimer
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VII. Arbitration Clause Checklist



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Welcome	Checklist for drafting an Arbitration Clause
Dispute Settlement	The following points should be considered when drafting the arbitration clause.
Legal Texts	
About the NAFTA Secretariat	1. Arbitration Rules
Alternative Dispute Resolution	You should decide whether you wish to proceed under ad-hoc arbitration or institutional arbitration .
Overview and Guide	As a general proposition, the arbitration clause used should be coordinated with and reflect the arbitral rules of the institution or ad-hoc procedure chosen.
Advisory Committee	Institutional arbitration are dispute settlement proceedings supervised by an organization or institution (such as the American Arbitration Association / International Centre for Dispute Resolution , the British Columbia International Commercial Arbitration Centre , CANACO [Mexico City Chamber of Commerce], the Centro de Arbitraje de México (CAM) , the Commercial Arbitration and Mediation Center for the Americas or the International Chamber of Commerce), in accordance with the rules of arbitration established or approved by that institution.
Methods of Private Dispute Resolution	By choosing institutional arbitration, the parties or institution rely on the expertise of the institution and its resources for selecting arbitrators and for administering or managing the arbitration.
Model ADR Clauses	Ad-hoc arbitration means there is no formal administration of the arbitration or dispute settlement process by any established arbitral organization. Instead, the parties create their own procedures for the arbitration. This can be accomplished, for example, either by: (i) drafting a set of ad-hoc arbitration rules, such as the UNCITRAL Arbitration Rules , the ADR Institute of Canada, Inc. National Arbitration Rules , or the Center for Public Resources Rules for Non-Administered Arbitration of International Disputes ; or (iii) allowing the arbitration tribunal to produce its own procedures after the dispute has arisen. Ad-hoc arbitration can sometimes be less expensive, but it places more of a burden on the parties to organize and administer the arbitration.
Arbitration Clause Checklist	2. Place of Arbitration
Principal Arbitration Institutions	The parties should select a site for the arbitration that is convenient to them and to those who may eventually become witnesses in any proceeding. Arbitration can conveniently be held in any of the NAFTA countries as the laws of the three NAFTA countries all support international arbitration. If you select a place of arbitration outside the NAFTA countries, you should consider various aspects of national law that may affect the conduct of the arbitration, including the following:
Selecting an Arbitration Institution	
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Too many hyperlinks to pages that are already in the boxes on the left side Menu; remove those that are unnecessary.

- the likelihood and extent of involvement of the national courts in the conduct of the arbitration;
- whether the country is party to either the [New York Convention](#) or the [Panama Convention](#) on enforcing arbitral awards (these international conventions make enforcement of the final award substantially easier);
- the extent of any mandatory procedural rules that must be adhered to in the conduct of the arbitration; and
- restrictions on the ability of non-nationals to serve as arbitrators or as counsel.

If you adopt institutional arbitration, it is usually not necessary that the institution chosen be located in the place of arbitration. For example, most of the institutions listed below can administer arbitrations outside their home countries ([view list of institutions](#)).

3. Applicable Law/Choice of Legal Regime

While not necessary, it is desirable to identify in the contract (or the agreement to arbitrate) the substantive or applicable law (or governing law) that will govern the resolution of the dispute. Failure to clarify this issue may increase the time and cost of an arbitration. If the decision as to which governing or substantive law is to apply is left to the arbitral tribunal, it may bring an unpleasant surprise to one of the parties.

Where an institution selects the chair or sole arbitrator, it is, as a practical matter, far easier to appoint the best possible person when it is known in what country's law the arbitrator should be most expert.

When deciding upon the applicable law, you should consider:

- a legal system that has developed a body of law relating to the specific issues likely to arise;
- whether only the laws that regulate the subject-matter (substance) of the dispute should apply, or if the applicable law of a country also includes international law rules within that country that may, in turn, refer the dispute to the law of another country (known as conflicts of law provisions); and
- whether the chosen "governing law" considers the subject matter of the contract to be arbitrable (for example, copyright, patent and antitrust matters may not qualify as arbitrable matters in some countries).

Even if the parties wish to have the arbitrators apply general principles of law or usages of trade, it is important to reference a particular substantive or governing law.

4. Composition of the Arbitral Tribunal

If the parties can agree on this issue, it is generally wise to indicate the number of arbitrators to be appointed. For complex arbitrations or those with a significant amount in dispute, three arbitrators are preferable. If the arbitration is likely to involve only a few straightforward issues and the amount in controversy is likely to be relatively small, one arbitrator may be chosen.

Having one arbitrator may be cheaper and more expedient. If the amount in dispute warrants it, three arbitrators increase the likelihood of a fair, well-reasoned result. While a three-arbitrator panel also provides the parties with more control over the nature or composition of the tribunal, (as each party will generally each select one arbitrator), it increases the cost and logistical difficulties of the arbitration. Where appropriate, the parties may also specify required qualifications for the arbitrators (education, occupation and/or expertise in a particular subject matter, etc.)

5. Language

If the parties come from countries with a common language, it may not be necessary to include a provision regarding the language in which the arbitration will be conducted, based on the presumption that the language in which the contract is written will apply. If the language is not specified, the arbitral tribunal will decide the question of language. It is possible (but not recommended) to conduct an arbitration in two languages.

If the parties are from countries with different languages, it is important to specify the language of the arbitration. Simultaneous interpretation at hearings and translation of all documents into two or more languages are enormously expensive and time-consuming. If it is not possible to agree on a language in the arbitration clause, then it is desirable to agree that costs for interpretations and translation are either shared or borne by the party requiring the interpretation or translation.

6. Additional Matters to be Considered for Inclusion in the Arbitration Clause

An arbitration clause need not be lengthy or complicated to be effective. A lengthy clause specifying too many procedures may limit the flexibility of the parties and the arbitrators in conducting the arbitration in the most efficient way possible. As arbitration is always based on an agreement to arbitrate, the parties should think about the nature of the disputes that might arise and consider whether some of the following matters should be included in the arbitration clause. Discussing the matters together, at the time of contract drafting and when relationships are cordial may result in saving time trying to resolve these matters after a dispute has already arisen.

Here are some additional matters to possibly consider for inclusion in an arbitration clause:

a) Discovery and Production of Documents

Usually, the arbitration rules chosen by the parties will provide that the arbitral tribunal may establish the procedures for the discovery and production of documents. Depending on the circumstances of the case, it may be advantageous to provide for specific discovery rules.

tribunal may establish the procedures for the discovery and production of documents. Depending on the circumstances of the case, it may be advantageous to provide for specific discovery rules.

b) Interim Relief

Some arbitration rules deal specifically with the question of interim relief, that is to say, whether the parties may apply to a court for a preliminary injunction, an order of attachment or other order to preserve the status quo until the arbitrators can decide the case. The rules of most arbitration institutions provide that resort to a court in such circumstances is not incompatible with, or a waiver of, the right to arbitrate under those rules. Most arbitration rules provide that the arbitrators, once selected, may order interim relief. However, if the parties believe that it may be necessary to resort to interim relief to maintain the status quo, then they should check the rules chosen and, if necessary, add a specific clause providing for the availability of such interim relief.

c) Consolidation

If there are more than two parties to the contract, or if the parties are entering into several related contracts, they may wish to consider including a provision that any arbitrations among them or with respect to the related contracts will be consolidated into a single proceeding.

The drafting of a consolidation clause is very difficult, and expert advice should be sought for assistance in drafting it.

d) Relief to be Granted

Ordinarily, the arbitral tribunal may grant any remedy or relief within the scope of the agreement of the parties which is permissible under the substantive law applicable to the dispute. If the parties wish the arbitrators to decide the case, not according to a specific law but according to the common usages of trade or industry, or if there is a particular kind of relief that the parties wish the arbitrators to be able to award, then the parties should include specific language in their arbitration clause to allow for such remedy or relief.

e) Time Limitations


Most national laws regulate specific time limits (usually several years) within which claims must be initiated. The parties may also wish to consider whether a specific time limit should be placed on the conduct of the arbitration. If any time limit is chosen, it must be realistic. Again, it is recommended that interested parties check with the appropriate arbitration institution to determine what a reasonable timetable would be.

f) Costs and Expenses

The rules of various arbitration institutions and ad-hoc rules vary with respect to who will pay for the costs of the arbitration, including attorneys' fees. Usually, however, the rules provide that the question of who will bear these costs is within the discretion of the arbitral tribunal. The parties may wish to consider whether they want to include a provision specifying how costs and expenses, including attorneys' fees, shall be apportioned in any arbitration.

[Notice/Disclaimer](#)

VIII. Principal Arbitration Institutions



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Principal Arbitration Institutions

A. Canada

1. British Columbia International Commercial Arbitration Centre
104 - 1260 Hornby Street
Vancouver, British Columbia
Canada V6Z 1W2
Tel.: (604) 684-2821
Within Canada: 1-877-684-2821
Fax: (604) 736-9233
E-mail: options@bcicac.com
Website: <http://www.bcicac.com/>
2. The Canadian Commercial Arbitration Centre (formerly the Quebec National and International Commercial Arbitration Centre)
295, Boulevard Charest Est
Bureau 900
Quebec, Quebec
Canada, G1K 3G8
Tel.: (418) 649-1374
Fax: (418) 649-0845
E-mail: ccac@ccac-adr.org
Website: <http://www.cacniq.org/>
3. The ADR Institute of Canada, Inc.
Suite 500, 234 Eglinton Avenue East
Toronto, Ontario
Canada, M4P 1K5
Tel.: 1-877-475-4353
Tel.: 1-416-487-4733
Fax: 1-416-487-4429
E-mail: admin@adrcanada.ca
Website: <http://www.adrcanada.ca>

B. Mexico

1. Mediation and Arbitration Center of the Mexico City National Chamber of Commerce (CANACO)
Av. Paseo de la Reforma No. 42
Col. Centro
Delegacion Cuauhtemoc
06048 México, D.F.
Tel.: (5255) 5592 2665
Tel.: (5255) 5592 2677
Fax: (5255) 5703 2862
2. Mexican Chapter of the International Chamber of Commerce (CAMECIC)
Edificio World Trade Center
Oficina No. 20 Piso 14
Avenida de las Naciones No. 1
Colonia Nápoles
03810 México, D.F.
Tel.: (5255) 5488 2678/ 2679/ 2681
Fax: (5255) 5488 2680
E-mail: camecic@iccmex.org.mx
Website: <http://www.iccmex.org.mx>
3. Centro de Arbitraje de México (CAM)
Av. Carlos Lazo No. 100, Edificio Aulas 1
Nivel 5, Col. Santa Fe, C.P. 01389
México, D.F.
Tel.: (5255) 9177-8198
Fax: (5255) 9177-8199
E-mail: camex@camex.com.mx
Website: <http://www.camex.com.mx>

This page is too long. Consider leaving the 3 countries and then hyperlink to the Multinational ones. How often is this list revised and who is in charge of its updates and contact with the institutions?

C. United States

1. American Arbitration Association
335 Madison Ave
10th Floor
New York, NY 10017
Tel.: (212) 716-5800
Fax: (212) 246-7274
Website: <http://www.adr.org>
2. CPR Institute for Dispute Resolution
366 Madison Avenue
14th Floor
New York, NY 10017-3122
Tel.: (212) 949-6490
Fax: (212) 949-8859
E-mail: info@cpradr.org
Website: <http://www.cpradr.org/>

D. Multinational

1. Commercial Arbitration and Mediation Center for the Americas (CAMCA)

United States

International Centre for Dispute Resolution
1633 Broadway Street
10th Floor
New York, NY 10019-6708
Tel.: (212) 484-4181
Fax: (212) 246-7274

Canada

British Columbia International Commercial Arbitration Centre
Suite 1140
1090 West Georgia Street
Vancouver, British Columbia
Canada V6E 3V7
Tel.: (604) 684-2821
Fax: (604) 684-2825

Centre d'Arbitrage Commercial National et International du Québec
(formerly the Quebec National and International Commercial Arbitration
Centre)

295, boulevard Charest est
Bureau 900
Québec (Québec)
Canada G1K 3G8
Tel.: (418) 649-1374
Fax: (418) 649-0845

Mexico

Cámara Nacional de Comercio de la Ciudad de México
Paseo de la Reforma No. 2
Col. Centro
Delegación Cuauhtémoc
06048 Mexico, D.F.
Tel.: (5255) 5703 2862
Tel.: (5255) 5353 3077
Fax: (5255) 5592 3571

Centro de Arbitraje de México (CAM)
Av. Carlos Lazo No. 100, Edificio Aulas 1
Nivel 5, Col. Santa Fe, C.P. 01389
México, D.F.
Tel.: (5255) 9177-8198
Fax: (5255) 9177-8199
E-mail: camex@camex.com.mx
Website: <http://www.camex.com.mx>

2. Inter-American Commercial Arbitration Commission
c/o Organization of American States
Administration Building, Room 211
19th & Constitution Avenue, N.W.
Washington, D.C. 20006
Tel.: (202) 458-3249
Fax: (202) 458-3293
Website: <http://www.oas.org>
3. International Chamber of Commerce
International Court of Arbitration
38 Cours Albert 1er
75008 Paris, France
Tel.: (331) 4953-2828
Fax: (331) 4953-2933
E-mail: arb@iccwbo.org
Website: http://www.iccwbo.org/index_court.asp

North America

US Council for International Business
1212 Avenue of the Americas
21st Floor
New York, NY 10036-1689
Tel.: (212) 703-5065/354 4480
Fax: (212) 575-0327

4. International Centre for Dispute Resolution
1633 Broadway Street
10th Floor
New York, NY 10019
Tel.: (888) 855-9575
Fax: (212) 246-7274
E-mail: andersens@adr.org
Website: www.icdr.org

5. U.S.-Mexico Conflict Resolution Centre
Academic Research Centre
MSC 3CRC, Building B, Room 110
NMSU, Las Cruces
NM, USA 88003-8001
Tel.: (505) 646-8195, 646-1091
Fax: (505) 646-1092
E-mail: imd@crc.nmsu.edu
Website: <http://crc.nmsu.edu>

6. UNCITRAL
Secretariat of the United Nations Commission on International Trade Law
(UNCITRAL)
Vienna International Centre
P.O. Box 500
A-1400 Vienna, AUSTRIA
Tel.: (43-1) 26060-4061
Fax: (43-1) 26060-5813
E-mail: uncitral@uncitral.org
Website: <http://www.uncitral.org>

In addition, trade associations for particular industries frequently have their own dispute resolution mechanisms for disputes in that industry. One may wish to consult an appropriate trade association to see if they have such a mechanism that may be useful for the contract. [this section will continue to be updated, and additional names will be added on an ongoing basis]

Special Focus - Food Producers

Dispute Resolution Corporation

Canadian Office

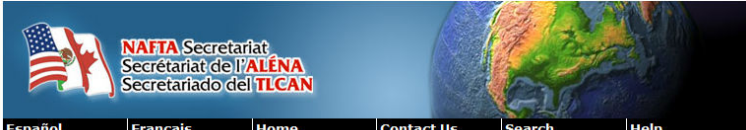
Building 75, Central Experimental Farm
930 Carling Avenue
Ottawa, Ontario K1A 0C6
Canada
Tel.: (613) 234-0982
Fax: (613) 234-8036
E-mail: info@fvdrc.com
Website: <http://www.fvdrc.com>

Mexico Office

Montecito #38, P.8 Of. 2, WTC
Colonia Nápoles, C.P. 03810
Mexico, D.F.
Tel.: (5554) 88 0748/0749/2001
Fax: (5554) 88 2002
E-mail: drc@wtcmexico.com.mx
Website: <http://www.fvdrc.com>

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IX. Selecting an Appropriate Arbitration Institution



NAFTA Secretariat
Secrétariat de l'ALÉNA
Secretariado del TLCAN

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Welcome	Arbitration Institution Selection Criteria
Dispute Settlement	Selecting an appropriate set of rules or arbitration institution is an important step in the arbitration process. The institutions listed above, plus others in the NAFTA countries and elsewhere, offer varying levels of experience and qualifications for particular disputes.
Legal Texts	Listed below are some criteria that parties may wish to consider in selecting an appropriate institution. The institutions listed above and others will be happy to provide information on these matters to any parties considering selecting their rules.
About the NAFTA Secretariat	A. History and Experience
Alternative Dispute Resolution	<ol style="list-style-type: none">1. When did the institution first begin to administer international arbitrations?2. How many international disputes has the organization been involved in?3. From what countries have the parties to those disputes come?4. Has the institution handled disputes of a similar nature to the subject of the contract?
Overview and Guide	B. Method of Selecting Arbitrators
Advisory Committee	<ol style="list-style-type: none">1. Do the parties have any involvement in selecting the arbitrators, or is it left entirely to the discretion of the institution?2. Does the institution automatically select arbitrators from a neutral nationality, or do they do so only on request of one or both of the parties?3. Who is on the roster of potential arbitrators? Do they come from a variety of countries and backgrounds?4. Can the parties select arbitrators not on the institution's roster?5. Does the institution have arbitrators with expertise in the type of matter that is expected to be disputed?
Methods of Private Dispute Resolution	C. Conduct of the Arbitral Proceeding
Model ADR Clauses	<ol style="list-style-type: none">1. Do the rules of the institution permit flexibility in the arbitration process?2. Do the rules provide for specific time limits for some or all aspects of the
Arbitration Clause Checklist	
Principal Arbitration Institutions	
Selecting an Arbitration Institution	
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parties?

3. Who is on the roster of potential arbitrators? Do they come from a variety of countries and backgrounds?
4. Can the parties select arbitrators not on the institution's roster?
5. Does the institution have arbitrators with expertise in the type of matter that is expected to be disputed?

C. Conduct of the Arbitral Proceeding

1. Do the rules of the institution permit flexibility in the arbitration process?
2. Do the rules provide for specific time limits for some or all aspects of the arbitration process? If so, are these time limits observed or ignored?
3. Does the institution limit any procedural rules selected by the parties?
4. Are the institution's rules of procedure clear and neutral to both parties?

D. Cost

1. What are the administrative fees charged by the arbitration institution? Are they fixed or do they vary based on the size of the dispute?
2. How are the arbitrators paid? Are their fees based on the amount of time spent or on the size of the dispute?
3. Are there a large number of locally available qualified arbitrators, to reduce travel and accommodation expenses?

E. Services Offered by the Institution

1. How large is the staff of the institution?
2. Is the staff experienced in international disputes?
3. Does the staff possess language capabilities for the parties in the dispute?
4. Is the institution a for-profit institution or is it a non-profit institution?
5. Is the institution involved in alliances with other institutions within the NAFTA region or elsewhere, which may facilitate the administration of the arbitration?

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X. Notice / Disclaimer



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The NAFTA governments do not take responsibility for the text on the NAFTA ADR website.

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XI. Discussion Forum

The screenshot shows the website header with the NAFTA Secretariat logo and navigation links: Español, Français, Home, Contact Us, Search, and Help. Below the header is a breadcrumb trail: Home > Alternative Dispute Resolution > Discussion Forum. A left sidebar contains a menu with items like Welcome, Dispute Settlement, Legal Texts, About the NAFTA Secretariat, Alternative Dispute Resolution, Overview and Guide, Advisory Committee, Methods of Private Dispute Resolution, Model ADR Clauses, Arbitration Clause Checklist, Principal Arbitration Institutions, Selecting an Arbitration Institution, Discussion Forum, National Sections, Resources, and What's New?. The main content area is titled 'ADR Secure Area' and contains a login form with fields for 'User Name' and 'Password', a 'Remember Me' checkbox, and buttons for 'Log-in' and 'FORGOT PASSWORD?'. A footer at the bottom includes 'Date Modified 2012-9-21', a 'Top of Page' link, and 'Important Notices'.

What is the purpose of the Forum? Who has access to it? Who is the administrator of the forum (passwords, responses)?

XII. Hyperlinks Embedded within pages and Not Accessible Otherwise & New Pages

i. Committee Members

The list of “Current and Past Committee Members” is found through hyperlinks embedded under the Advisory Committee General Web page:

Current and Past Committee Members

- [Canada](#)
- [Mexico](#)
- [United States](#)

We suggest that a separate Box in the left side menu is created to house the list of Current and Past Committee Members per country. It is also suggested that more information is provided for current Committee members, such as their affiliation, contact information, picture and possibly consider adding a brief biography for each member. Finally, it is suggested that each Government Co-Chair communicates directly with the Website Subcommittee in order to provide updates on the list of Committee Members. This would ensure that information on members is kept up to date at all times.

ii. Hyperlink to Minutes of Committee Meetings



The screenshot shows the website for the NAFTA Secretariat (Secretariat de l'ALÉNA / Secretariado del TLCAN). The page is titled "Minutes of Committee Meetings" and features a list of 20 meetings from 1994 to 2010. The left sidebar contains a navigation menu with categories like "Welcome", "Dispute Settlement", "Legal Texts", "Alternative Dispute Resolution", "Overview and Guide", "Advisory Committee", "Methods of Private Dispute Resolution", "Model ADR Clauses", "Arbitration Clause Checklist", "Principal Arbitration Institutions", "Selecting an Arbitration Institution", "Discussion Forum", "National Sections", "Resources", and "What's New?".

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Minutes of Committee Meetings

- [First meeting](#) – November 14, 1994 – Mexico City, Mexico
- [Second meeting](#) – June 19 - 20, 1995 – Vancouver, British Columbia, Canada
- [Third meeting](#) – February 12 - 13, 1996 – Phoenix, Arizona, U.S.A.
- [Fourth meeting](#) – November 14 - 15, 1996 – Guadalajara, Jalisco, Mexico
- [Fifth meeting](#) – September 18 - 19, 1997 – Montreal, Quebec, Canada
- [Sixth meeting](#) – March 16 - 17, 1998 – Miami, Florida, U.S.A.
- [Seventh meeting](#) – November 9 - 10, 1998 – Toronto, Ontario, Canada
- [Eighth meeting](#) – November 18 - 19, 2000 – San Francisco, California, U.S.A.
- [Ninth Meeting](#) – June 22 - 23, 2000 – Calgary, Alberta, Canada
- [Tenth meeting](#) – March 7 - 8, 2001 – Mexico City, Mexico
- [Eleventh meeting](#) – January 28 - 29, 2002 – Denver, Colorado, U.S.A.
- [Twelfth meeting](#) – October 31 - November 1, 2002 – Quebec City, Quebec, Canada
- [Thirteenth meeting](#) – September 25 - 26, 2003 – Oaxaca, Oaxaca, Mexico
- [Fourteenth meeting](#) – September 26 - 28, 2004 – Santa Fe, New Mexico, U.S.A.
- [Fifteenth meeting](#) – October 24 - 25, 2005 – Ottawa, Ontario, Canada
- [Sixteenth meeting](#) – June 22 - 23, 2006 – Morelia, Michoacán, Mexico
- [Seventeenth meeting](#) – March 8 - 9, 2007 – San Juan, Puerto Rico, U.S.A.
- [Eighteenth meeting](#) – April 17 - 18, 2008 – Vancouver, British Columbia, Canada
- [Ninteenth meeting](#) - September 11-14, 2009 - Querétaro, Mexico
- [Twentieth meeting](#) - June 14-15, 2010 - Houston, Texas, U.S.A.

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Content in this page is either incomplete or inaccurate. The list of Committee Minutes seems complete; however, when accessing each of the hyperlinks some of them open to power point presentations and other type of materials that are not the minutes of the

Committee Meetings. It is suggested that the purpose of this content be identified and subsequently completed with the relevant information.

iii. Contact Information for the NAFTA 2022 Committee

It is recommended that contact information be provided on the NAFTA 2022 Committee Website. This is especially important since there is currently no contact information for Committee members. However, it is recommended that general contact information be provided on the Web page even if the Committee Members' information is expanded to include some of their contact information. This can be done through the use of a general email (e.g., nafta2022@sample.com) and a Committee member could be designated to check the email on a regular basis. This duty could rotate annually among the various members.

iv. Other Documents and Information

It is necessary to conduct a detailed revision of the "Detailed Index" that appears as a hyperlink on the main Web page. There are a number of other documents and information that is not available other than through accessing such detailed index. These include, for example: The 15-Year Retrospective and Member Reports, among others. An image of the Detailed Index follows below.

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Business Sector - Private Dispute Resolution in the NAFTA Region

- [Overview](#)
- [Guide to Private Sector Dispute Resolution](#)
- [Advisory Committee on Private Commercial Disputes](#)
 - [Terms of Reference](#)
 - [Mandate](#)
 - [Membership](#)
 - [Current Committee Members](#)
 - [Agenda for Committee Meetings](#)
 - [Meetings of the Committee](#)
 - [Coordination with Article 707 Committee](#)
 - [Past and Current Sub-Committees](#)
 - [Recent Outreach Activities](#)
 - [Committee Reports](#)
 - [15-Year Retrospective](#)
 - [1996 Report](#)
 - [Member Reports](#)
 - [Guidance Notes on Arbitrator Conduct for Private Commercial Disputes in the NAFTA Region](#)
 - [2010 Reports on Current Developments](#)
 - [Canada](#)
 - [Mexico](#)
 - [United States](#)
 - [2009 Reports on Current Developments](#)
 - [Canada](#)
 - [Mexico](#)
 - [United States](#)
 - [Annual Meetings](#)
 - [Minutes of Committee Meetings](#)
 - [Meeting Materials](#)
 - [2010 Meeting Materials \(Houston\)](#)
- [Methods of Private Dispute Resolution](#)
 - [ADR Mechanisms](#)
 - [Mediation](#)
 - [Arbitration](#)
- [Model ADR Clauses](#)
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 - [Place of Arbitration](#)
 - [Applicable Law/Choice of Legal Regime](#)
 - [Composition of the Arbitral Tribunal](#)
 - [Language](#)
 - [Additional Matters](#)
 - [Discovery and Production of Documents](#)

- [Interim Relief](#)
- [Consolidation](#)
- [Relief to be Granted](#)
- [Time Limitations](#)
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 - [History and Experience](#)
 - [Method of Selecting Arbitrators](#)
 - [Conduct of the Arbitral Proceeding](#)
 - [Cost](#)
 - [Services Offered by the Institution](#)
- [Public Inquiries](#)
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