

NAFTA 2022 COMMITTEE

2017 ANNUAL REPORT OF THE MEDIATION WORKING GROUP

During the XXVI Meeting of the NAFTA 2022 Committee in Washington, D.C. in August 2016, the Mediation Working Group agreed to identify relevant work occurring at the International Mediation Institute as well as other relevant entities to determine where additional research was needed and ensure no duplication of efforts.

The Mediation Working Group's Mandate was approved in 2015. The Mandate provides for the following:

- I. As part of the Advisory Committee on Private Commercial Disputes, the Mediation Working Group would report and provide recommendations to the Advisory Committee on general issues referred to it by the Advisory Committee respecting the availability, use and effectiveness of mediation, as a means of solving international commercial disputes, in the free trade area.
- II. The Advisory Committee refers the following matters to the Mediation Working Group for report and recommendations to the Advisory Committee as appropriate in accordance with Article 2022(4):
 - a) compilation, examination, and assessment of the use of mediation as means for the settlement of private international commercial disputes;
 - b) identification of sectors and types of businesses that would particularly benefit from the use of mediation;
 - c) promotion of the use of mediation 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;
 - d) facilitation of the use of mediation in the NAFTA region, including the use of model ADR and other contractual clauses; and
 - e) opportunities for expanded cooperation between institutions with an interest or involvement in ADR in the NAFTA region.
- III. The Advisory Committee may refer other matters to the Mediation Working Group from time to time in accordance with Article 2022(4).

1. Table of International Mediation Organizations

The Mediation Working Group did preliminary research on the work of the International Mediation Institute as well as of eight other relevant entities:

1. International Council for Commercial Arbitration
2. International Center for Dispute Resolution
3. ICC International Center for ADR
4. Mediation Committee – International Bar Association
5. Centre for Effective Dispute Resolution
6. *Centro Internacional de Mediación*

7. Center for International Investment and Commercial Arbitration
8. International Institute for Conflict Prevention & Resolution, Inc.

The research focused on identifying areas of interest and relevant information for the Mediation Working Group based on the Working Group's Mandate. For instance, one of the areas of focus of the research was determining whether these organizations had available data and statistics on the use of mediation. Eight out of the nine entities researched had no data available on the use of mediation. Only the International Centre for Dispute Resolution had statistics on the use of mediation readily available. Another area of focus of the research dealt with availability of model mediation clauses in Spanish, English, and French in the organizations' websites. A total of seven international organizations had model mediation clauses available on their websites. The information collected was compiled into an easy-to-read table. This table can be found in Mediation Working Group Annex I.

2. Information Review and Next Steps

The Mediation Working Group reviewed the information gathered and would like to discuss possible next steps.

Mediation Working Group Annex I