

Comparative Table of Institutional Mediation Rules September 2014	ICC (International Centre for ADR) WIPO		AAA (The International Centre for Dispute Resolution) SMC	
Mediator Appointment	<p>(5.1) parties may jointly nominate (5.2) where no agreement ICC to consult with parties and either appoint directly or upon request of parties propose a list – if no agreement from list, ICC to appoint (in practice parties to cross-border disputes normally simply request appointment by ICC) (5.3) mediator to sign statement of acceptance, availability, impartiality and independence (5.4) ICC to consider mediator attributes including nationality, language, training, qualifications, experience and availability (5.5) ICC to appoint a mediator having attributes agreed upon by parties, if any - where ICC appoints but is unacceptable, another mediator is appointed (very rare)</p>	<p>(6) parties may agree on the mediator or a procedure for appointment but if none;</p> <ol style="list-style-type: none"> 1. WIPO proposes a list of candidates 2. parties delete unacceptable names and number the remaining in order of preference 3. WIPO appoints from the list taking into account the preferences and objections. 4. if no common ground WIPO appoints 	<p>(4) parties may agree on mediator or a procedure for appointment but if none;</p> <ol style="list-style-type: none"> 1. ICDR proposes a list of candidates 2. parties delete unacceptable names and number the remaining in order of preference 3. ICDR appoints from among those names mutually approved and in accordance with the order of mutual preference 4. if no mutual approval ICDR appoints from its Panel without the need for further lists 	<p>(4) SMC “will appoint a person to act as the mediator” by choosing a mediator “best placed to serve” – if valid objections, SMC to appoint someone else</p>
Process	<p>(7) case management conference required promptly – mediator and parties to discuss "manner in which the mediation shall be conducted" after which the mediator provides a written note advising how it will be conducted. Process to be discussed and is not predefined because of international reach. The mediator is to be "guided by the wishes of</p>	<p>(9) the mediation is to be conducted “in the manner agreed by the parties” and if no agreement the mediator is to determine the process and (11) is free to meet separately with parties on a confidential basis</p>	<p>(7) mediator is to conduct the mediation “based on the principle of party self-determination” and (7.2) is authorised to hold separate or ex parte meetings</p>	<p>(7.1) the mediation is to be conducted;</p> <ol style="list-style-type: none"> 1. in confidence 2. no transcript/audio visual or formal record 3. only the mediator, the parties/representatives or advisers permitted 4. (7.3) with consent mediator may obtain expert advice on technical

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	the parties and shall treat them with fairness and impartiality". Implicitly allows private meetings			matters 5. (7.4) joint/separate meetings
Mediator Recommendation/ Decision	ICC Mediation Rules silent but see ICC Mediation Guidance Notes: (40) Without imposing terms of settlement on the parties, the mediator may, if requested by all, recommend terms of settlement for their consideration (41) parties may jointly request mediator to provide a non-binding evaluation of the merits of the dispute in order to assist them in reaching settlement	(13) mediator has no authority to impose settlement but may propose procedures considered most likely to lead to the "most efficient, least costly and most productive settlement those quote. In particular; <ol style="list-style-type: none"> 1. expert determination 2. arbitration 3. submission of last offers/arbitration on the basis of last offers where the tribunal determines which offer shall prevail 	(7.4) Mediator has no authority to "impose a settlement" but has discretion to make "oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly"	(4.4) Mediator not to make any "ruling/finding" unless requested by all parties. (7.5) where no settlement and if requested by all parties the mediator can "produce a non-binding written recommendation of the terms of settlement"
Confidentiality	Article 9: comprehensive	Article 14 – 17: comprehensive	Article 10: comprehensive	Article 11: comprehensive
Parallel Proceedings	(10.2) unless agreed otherwise, parties may commence/continue any judicial, arbitral or similar proceedings notwithstanding mediation. Mediation Guidance Notes: (28) mediation may take place before or during arbitration/litigation.	Silent - therefore allowed subject to other agreement or applicable law	Silent – therefore allowed subject to other agreement or applicable law	(10) unless the parties agree otherwise, mediation does not prevent arbitration nor act as a stay

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	(29) may be appropriate to stay arbitration to allow time for conduct of mediation – “mediation window”			
Costs & Fees	(US\$) Administration: depending on amount in dispute there is a 6 step sliding scale from <ol style="list-style-type: none"> 1. \$5,000 (up to \$200,000 in dispute) up to 2. \$30,000 (over \$100 million in dispute) Six price steps are \$ maximums and are rarely charged in full being an ICC discretion depending on tasks involved. Mediator Fees: hourly rate fixed by ICC upon appointment and after consultation with mediator and parties - possibility of a single fixed fee (6/Fees Appendix)	(US\$) Administration: 0.10% of the value (amounts claimed) up to a maximum fee of \$10,000 Mediator Fees: indicative rates are: <ul style="list-style-type: none"> • \$300 – \$600 per hour • \$1500 – \$3500 per day (24)	(US\$) Administration: an allocated portion for ICDR services is included in the mediator’s fee Mediator Fees: the hourly rate published on the mediator’s ICDR profile, with a 4 hour minimum (17)	Singapore \$ Administration: (filing fee) \$267.50 Mediator Fees: depending upon amount of claim. Range from; <ul style="list-style-type: none"> • \$963 per party per day (claim up to \$100,000) to • \$4,601 per party per day (claim above \$5 million) (12/Annex D)

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