



International Distribution Institute

PRACTICAL EXPERIENCE IN EXPEDITED ARBITRATION PROCEDURE

Turin, 13 June 2014

Avv. Marco Venturello

Main considerations when negotiating dispute resolution clauses

1. Cost
2. Time
3. Enforceability
4. Quality outcome
5. Confidentiality
6. Business solution
7. Setting precedent

Values to be balanced in expedited arbitration procedure

Efficiency (rapidity)

vs

Due process



Equilibrium point

Piedmont Court of Arbitration: recommended contract clauses

Arbitration and fast-track arbitration

Any dispute arising from this contract shall be subject to binding arbitration (rituale) under the Rules of the Piedmont Court of Arbitration. Arbitration shall adopt the ordinary procedure by law or the fast-track (*ex aequo et bono*) arbitration depending on the value in dispute, as provided for in these rules.

Piedmont Court of Arbitration recommended contract clauses

Note

The Rules of the Piedmont Court of Arbitration generally provide for that disputes are referred to a sole arbitrator. The parties may expressly state in the arbitration clause or agreement that the dispute be decided by a tribunal of three arbitrators.

The parties may modify the proposed clause, envisaging that ordinary arbitration is *ex aequo et bono* or that fast-track arbitration adopts the rules by law.

Piedmont Court of Arbitration recommended contract clauses

Note (follows)

The Rules provide for that fast-track arbitration procedure be adopted for disputes with a value up to but no more than Euro 150,000; the parties may choose both fast-track arbitration for disputes with a higher value, and ordinary arbitration for disputes with a lower value. [...]

WIPO model contract clauses for future disputes

Arbitration

"Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules.

WIPO model contract clauses for future disputes

Arbitration (following)

The arbitral tribunal shall consist of [a sole arbitrator][three arbitrators]. The place of arbitration shall be [specify place]. The language to be used in the arbitral proceedings shall be [specify language]. The dispute, controversy or claim shall be decided in accordance with the law of [specify jurisdiction]."

WIPO model contract clauses for future disputes

Expedited Arbitration

"Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules.

WIPO model contract clauses for future disputes

Expedited Arbitration (following)

The place of arbitration shall be [*specify place*]. The language to be used in the arbitral proceedings shall be [*specify language*]. The dispute, controversy or claim shall be decided in accordance with the law of [*specify jurisdiction*]."



WIPO Arbitration and Expedited Arbitration Compared

Procedural Stage	WIPO Arbitration	WIPO Expedited Arbitration
Request for Arbitration	May be accompanied by Statement of Claim	Must be accompanied by Statement of Claim
Answer to the Request	Within 30 days from receipt of Request for Arbitration	Within 20 days from receipt of Request for Arbitration; Must be accompanied by Statement of Defense
Arbitral Tribunal	One or three arbitrators	One arbitrator
Statement of Claim	Within 30 days following notification of establishment of Tribunal	Provided with Request for Arbitration

Source: <http://www.wipo.int/amc/en/arbitration/expedited-rules/compared.html>

WIPO Arbitration and Expedited Arbitration Compared

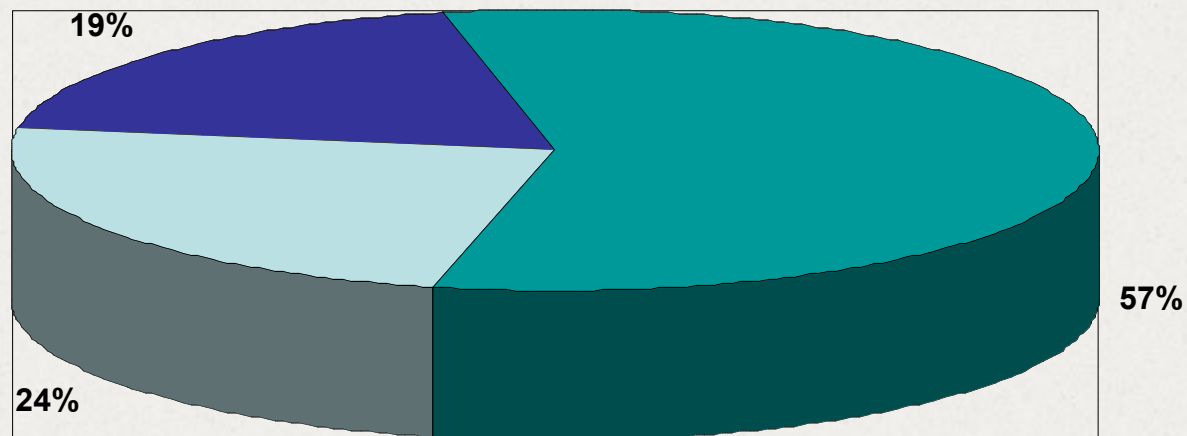
Procedural Stage	WIPO Arbitration	WIPO Expedited Arbitration
Statement of Defense (including Counterclaim)	Within 30 days after notification of establishment of Tribunal or of Statement of Claim (whichever is later)	Provided with Answer to the Request for Arbitration
Reply to Counterclaim (if any)	Within 30 days after receipt of Statement of Defense	Within 20 days after receipt of Statement of Defense
Hearings	Date, time and place to be set by Tribunal	Within 30 days after receipt of Answer to the Request for Arbitration

WIPO Arbitration and Expedited Arbitration Compared

Procedural Stage	WIPO Arbitration	WIPO Expedited Arbitration
Closure of Proceedings	Within 9 months of Statement of Defense or establishment of Tribunal (whichever is later)	Within 3 months of Statement of Defense or establishment of Tribunal (whichever is later)
Final Award	Within 3 months of closure of proceedings	Within 1 month of closure of proceedings
Costs	Fixed by the Center in consultation with parties and Tribunal	Fixed if amount in dispute is up to US\$ 10 million

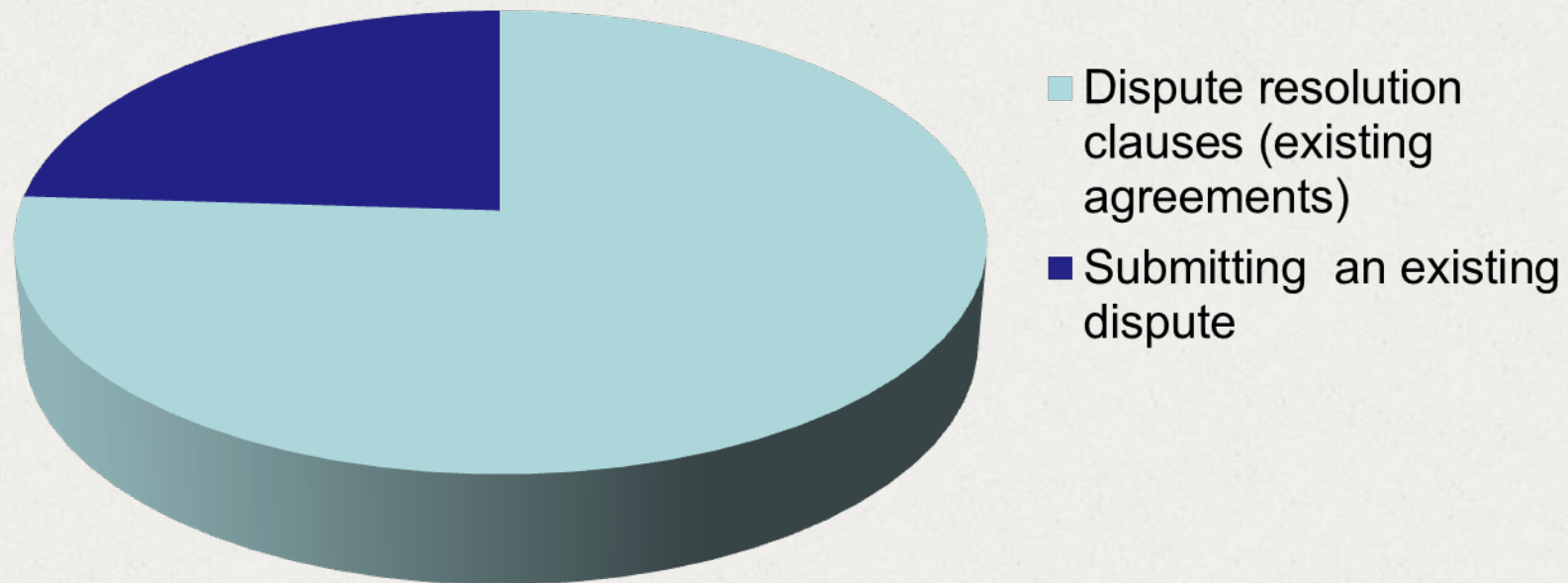
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Cases administered by the WIPO center



- Arbitration
- Expedited arbitration
- Mediation

Disputes administered by WIPO Center



Arbitration clause
and
licensing agreements:
the issue of
preliminary/precautionary measures



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