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BRIDGING BORDERS: GROWING RELEVANCE OF ADR IN CROSS-BORDER DISPUTES

(Sonakshi Sharma)

INTRODUCTION

In a world where corporate transactions are negotiated through Zoom meetings and alliances span across time zones, conflicts are no longer confined to specific locations. Cross-border conflicts, which range from contract violations to intellectual property issues, are becoming more widespread in today's globalised economy. Resolving these conflicts through traditional court mechanisms can be slow, expensive, and complicated due to jurisdictional issues. This is where Alternative Dispute Resolution (ADR) comes in as an increasingly preferred first option. ADR offers a neutral, cost-effective, and often confidential path to justice, and its role in international disputes has grown significantly. The main types of ADR include negotiation, mediation, conciliation, arbitration, and Lok Adalat. From Parisian arbitration halls to Singaporean mediation centers, ADR has become a powerful tool that respects legal diversity while overcoming procedural deadlock. This blog explores how ADR is transforming the global dispute resolution landscape, succeeding across borders, and the recent trends of ADR in shaping its future.

WHY IS ADR SUITABLE FOR SUCH DISPUTES

In a cross-border dispute, there will be various jurisdictions and foreign regulations to deal with, which can make your case complicated to understand. Choosing arbitration to resolve such a disagreement can save your time and money, allowing you to focus on other elements of your organisation. Cross-border disputes between two businesses can take numerous forms, including shareholder disagreements, trading concerns, and outstanding invoices.¹ This can

¹ *Cross-border ADR*, Available at: <https://www.lexisnexis.co.uk/legal/dispute-resolution/cross-border-disputes/cross-border-adr>. (2025)

save you from potentially losing a valuable business relationship, preserve a trading partnership in the future. Once a mutual decision has been reached, there is a higher possibility of compliance because both sides collaborated to discover a solution.

One of the primary benefits of ADR is that the proceedings are handled in private rather than in a public court, which includes the media and competitors. In a particularly high-profile or sensitive issue, this might be detrimental to your company's reputation.

Neutrality is one of the other efficient benefits of the use of ADR mechanisms in cross-border disputes. When parties are of different nations, neither is likely to want to be subject to the other's national courts, which might be perceived as biased. ADR, particularly arbitration, permits both parties to choose a neutral forum and governing rules upon which they agree, which makes the process itself seem fairer. In addition, ADR proceedings can be tailored to meet the particular needs of international cases, whether it's selecting arbitrators who are experts in international trade or deciding on the venue and language of proceedings.

Enforceability is another important reason ADR is best suited for dealing with such cases. With the help of international treaties such as the New York Convention, awards made in arbitration can be enforced in more than 160 states, which is much more convenient than judgments obtained in courts that easily become mired in the red tape of jurisdiction. With the current globalised business landscape, such efficiency and flexibility render ADR not merely an option, but frequently the preferred means of resolving cross-border disputes.

KEY MECHANISMS OF ADR USED

In the domain of settling cross-border conflicts, arbitration generally takes the front seat as far as ADR mechanisms go. International arbitration enables parties to resolve disputes in private, away from court, and the framework is frequently guided by established bodies such as the International Chamber of Commerce (ICC), or regional centres such as SIAC in Singapore.² These forums provide organized rules and panels of professional arbitrators, thereby giving companies assurance that their conflicts will be resolved impartially and with efficiency.

Mediation, while less so, is picking up considerable momentum as well, particularly now with the Singapore Convention on Mediation (2019). This agreement provides for the direct enforceability of settlements arrived at through international mediation in member states in

² “*Role of ADR in International Law and cross-border disputes*”, Available at: https://legalaffairs.gov.in/sites/default/files/ADR_0.pdf. (2024).

much the same way that the New York Convention applies to arbitration. Mediation is especially useful in cases where it is as important to maintain business relationships as it is to have the legal problem resolved itself.

There are also hybrid models, such as med-arb, where an impartial person first tries mediation, and where that doesn't work, takes on the role of arbitrator.³ Such flexible arrangements are particularly helpful in commercial contracts or joint ventures where time and confidentiality are crucial. Generally, the range of ADR machinery available enables parties from different jurisdictions to find a mechanism that suits their legal and practical requirements.

CHALLENGES

In spite of its numerous benefits, ADR in a cross-border context is not without challenges. Perhaps the greatest challenge lies with legal cultures and expectations. What is perceived as acceptable or convincing in a dispute resolution process can differ considerably from one country to another. For example, one party that comes from a common law tradition can anticipate extensive document discovery, whereas a party from a civil law jurisdiction may perceive this as intrusive or superfluous.

Enforceability, too, can be problematic, particularly if one party is located in a non-signatory state to significant treaties such as the New York Convention or the Singapore Convention. Even in signatory states, enforcement can be refused on grounds of public policy⁴, which is an area of discretion and is often abused.

Another complication comes from language differences, time zones, and variations in procedural expectations, which can bog down proceedings or lead to misunderstandings. Although ADR is generally less expensive than litigation, international arbitration can get very costly, particularly when leading-edge arbitrators, travel, and institutional fees are involved. So, although ADR has tremendous potential for cross-border disputes, it must be well-planned and legally anticipatory to steer clear of unforeseen barriers.

RECENT DEVELOPMENTS

³ Stanislaw Lipiec (2022), "ADR in Cross-border matters- A socio-legal overview from the perspective of Polish Lawyers". Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4207743.

⁴ Prof Dr P Lakshmi, "ADR in cross-border transactions: International Perspectives and Challenges". Available at [https://books.google.co.in/books?](https://books.google.co.in/books?hl=en&lr=&id=q_4IEQAAQBAJ&oi=fnd&pg=PA164&dq=adr+and+cross+border+disputes&ots=OaP5xlWHDt&sig=Jk5A3_RAUGM_38IC0mLhDg52o28&redir_esc=y#v=onepage&q=adr%20and%20cross%20border%20disputes&f=false)

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Recent trends in cross-border ADR indicate growing international cooperation and technological usage. China has formed the International Organisation for Mediation (IOMed), which has over 30 member states and aims to develop a formal intergovernmental mediation platform.⁵ The Singapore Convention on Mediation continues to expand, bolstering the enforceability of international agreements. AI, blockchain, and online platforms are transforming ADR by improving speed, accessibility, and transparency.⁶ Even institutions such as IAMC Hyderabad are expanding, bringing ADR further into the mainstream of international and domestic commercial dispute resolution.

CONCLUSION

As international transactions grow in size and complexity, the legal profession must look beyond traditional litigation to meet the delicate needs of cross-border disputes. With its flexibility, neutrality, and enforceability, ADR has become a critical tool in this changing world. Whether it's a shareholder dispute between multinationals or a data privacy issue crossing jurisdictions, ADR offers a quick resolution method that courts cannot easily match, especially in terms of time, cost, and preserving relationships. Supported by legal conventions and more accessible new technologies, ADR is no longer just an alternative but a more effective resolution option. However, to realize its full potential, stakeholders must remain aware of its pitfalls, invest in institutional infrastructure, and commit to harmonizing international standards. In doing so, ADR can serve as a vital bridge for sustainable global cooperation.

⁵ Fernando Gascon Inchausti (2014), “*Specific problems of cross-border consumer ADR: what solutions?*”, Available at <https://www.degruyterbrill.com/document/doi/10.1515/gpr-2014-0405/html>.

⁶ “*Legal Insights on cross-border disputes*”, Available at: <https://iccwbo.org/news-publications/guests-blog-speeches/guest-blog-legal-insights-on-cross-border-disputes/> (2025).