

RICS DRS Faculty News

International Mediation – The Art of Business Diplomacy

By Eileen Carroll and Karl Mackie

(Tottel Publishing, 2008)

The second edition of this handbook on mediating international business disputes is intelligently written and insightful, aimed at practitioner mediators or litigators with some experience of mediation. As you would expect from its authors, co-founders of CEDR and highly respected international mediators in their own right, it is focussed on the complex dynamics of dispute resolution and the psychological aspects of conflict.

The real value in the handbook lies in its ability to condense the authors' years of experience in international commercial dispute resolution into a number of concepts and tools for breaking deadlock and forging settlement. The theory and practical examples, setting out the reasons why mediation is a compelling and successful means of settling disputes, are convincing at every level. Mediation creates a "pressure cooker" environment by bringing all key stakeholders around the table, exposing parties to their opponents' weaknesses and strengths first hand and allowing for reality testing which can forcefully bring home the benefits of settlement.

The book is structured in two parts. The first and more interesting section provides an analysis of the potential for international mediation in business conflict and elegantly makes the case for mediated negotiations as a wise alternative to litigation. This section addresses the difficult area of breaking deadlock and provides pointers to readers to extract maximum value from the mediation process.

The second part is less original, but nonetheless a useful resource, listing the European Code of Conduct for Mediators and UNCITRAL Model Law as well as setting out the CEDR Model ADR Contract Clauses, Model Procedure and 9th Edition Agreement. Of somewhat less value is the rather lengthy chapter on "Cases" which is a rather transparent showcase of CEDR's considerable experience in international mediation. It could perhaps have been more useful for the authors to set out a commentary on one practical example, taken through the history of a dispute and its mediated settlement, rather than set out a shopping list of CEDR's many successes in settling such disputes over the years. However, this section does at least highlight the versatility and high success rate (over 80%) of such mediated settlements.

In short, an excellent and insightful read for the commercial mediator wanting to hone his/her skills. Guidance from internationally renowned experts in their field.

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