

COST AND TIME EFFECTIVENESS OF DISPUTE RESOLUTION

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ABSTRACT

In this article, the author sees three recent developments in international commercial arbitration that tend to prolong arbitration proceedings and drive up costs for the parties. First, parties and arbitrators may not fully appreciate that the parties come from different cultural backgrounds. Arbitrators and parties may be speaking the same language in a literal sense, but they still may be speaking past one another, which can lead to misunderstandings. When those misunderstandings become apparent, time will be needed to resolve them. Second, pleadings in international arbitration are looking more like common law pleadings in the sense that they are becoming vaguer. Consequently, it takes longer to get to the focus on the key issues. Third, many lawyers who hold themselves out as specialists in international arbitration may not be experienced in the commercial area at hand and this may evidently prolong the proceedings. The author also proposes some methods to help control those problems. First, mediation can be an effective tool for controlling costs by coming to a friendly settlement early in the proceedings. Second, the length and cost of an arbitration can be affected or influenced by the choice of

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an arbitral institution. At the end of the article, several problems are addressed, and by selecting an efficient arbitral institute, good and experienced arbitrators and excellent counsel.

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