

Book Review

International Commercial Mediation Training Role-Plays¹

Edited

by Greg Bond and Colin J Wall

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The book, published to celebrate the 10th anniversary of the International Chamber of Commerce International Commercial Mediation Competition, provides a role-play collection for commercial mediation training. The first impression of the book makes me share the editors' enthusiasm for the ICC International Commercial Mediation Competition since they intended to provide the reader a useful source for commercial mediation trainings. The co-editors Greg Bond and Colin J Wall, well-known experts of commercial mediation, have strong links to the ICC International Commercial Mediation Competition. As they mention in their foreword, the book can be used for commercial mediation and mediation representation training at universities and by training organizations around the world. The intended audience includes students as well as trainers and mediators. The major aspect of the book—also discussed below—is how useful the 21 selected role-plays, the analyses and the commentaries to each role-play are for students and trainers in their preparation for a mediation (competition).

The 21 role-plays each relate to one of the five big commercial mediation themes instead of being divided into different chapters. The five parts deal with 'Contracts and disputed terms' cases as well as 'sales contracts and disputes over quality' cases. There are cases on issues related to 'intellectual property disputes', 'international construction disputes' and 'personal and emotional disputes'. The beginning section includes an overview of the role-plays. Each role-play is invitingly presented in less than four sentences providing the reader a short insight into complex cases. The role-plays are selected from the role-plays used in the ICC International

¹ Bond/Colin J Wall (eds), *International Commercial Mediation Training Role-Plays* (ICC Publication Paris 2015).

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Commercial Mediation Competitions of the recent years (the competition ran for the first time in 2006) and they are written by experienced mediators (Rosemary Jackson, Alan Limbury and Mohamed Ali Chicktay, just to name a few). Each role-play has three parts—General Information, Confidential Information for the Requesting Party and Confidential Information for the Responding Party—which is useful for training purposes: the structure of the role-plays can be a role model when figuring out the mediation training structure. In order to give feedback to their students, trainers can refer to the relevant information for the mediator and the parties. As these cases are aimed to students and trainers, it is noteworthy that each role-play provides a case analysis and a commentary for training. The authors' and editors' biographies and the list of further readings are useful for seeking further information in mediation as well as in arbitration. The book's concluding chapter 'ICC at a glance' on the ICC involvement in the ICC International Commercial Mediation Competition explains the reader relevant background information to the ICC.

Reading the book as a trainer the editors' analyses and commentaries show the complexity of each role-play as they focus on legal and business aspects and on the possible training and learning experience. The commentary to the role-play 'Joint Venture Adventure' emphasizes the fact that the mediator has to work to the benefit of both parties to stay impartial. The commentary to 'Dispute for Goals' deals with the impact of a person's disability to speak the common language used in the mediation. The voluntary attending of parties—one main tenet of mediation—and parties' active participation is covered by the role-play 'Tribute to Bablo's Lizard'. Although the role-plays were designed for the competition format, they can be used in flexible manner in different mediation training and practice settings. Every commentary focuses on a different training aspect: the commentary to the role-play 'Hot & Spicy BBQ' that explains the number of options, which a mediator has. Bond makes arguments for the use of caucus and shuttle mediation. The role-play commentary on 'Distribution of Hair Care in the UK' provides an opportunity for the reader to reflect some aspects of business and marketing on a commercial mediation compared to the role-play 'Joint Venture Adventure' focusing on the importance of the mediators' impartiality. From a trainer's point of view I appreciate that in their commentaries the editors' have not forgotten to define the difficulty level of the role-plays. As Bond put it right at the beginning of his case commentary 'Big Games v TroVrai' *'the mediation is a tough one'*.

Figuring out the parties' interests and facts is an important part of the mediation process. In this sense the cases provide legal and business issues with different levels of emotional involvement of the parties. The role-play 'Big Games v TroVrai' deals with the friendship of two CEOs who have enjoyed friendly relations in the past. Bond mentions in his commentary to the training that it might not make the mediation easier but it is an opportunity for trainers and students to separate the people from the problem. The commentary to this role-play offers what could be described as a guide for a (future) mediator to handle the emotional involvement of the parties in an appropriate way.

Based on the earlier discussion it can be said that the book will be received by students and trainers as a useful source for commercial mediation training. The book also provides practicing mediators help in preparation for their real cases, because experienced mediators have written the role-plays and commentaries. Mediators, students and trainers et al. using the cases are forced to deal with the issues of international agreements as well as financial market and cross-border issues (see 'Big Games v TroVrai' and 'Hot & Spicy BBQ') and also to reflect the complexity of real international commercial mediation cases.

When students can focus on the big picture—of playing a party's or lawyers' role at the ICC International Commercial Mediation Competition—it helps them to prepare their arguments thoroughly for the mediation competition. Reading the book as a student the style of the role-plays put me in the shoes of a mediation party to help me understand what's going on in the party's life. In the well-structured role-play 'Big Games v TroVrai' the author Thierry Garby addresses the reader personally right at the beginning of his confidential information for the requesting party: '*You feel so...*'. By providing more information to the party he continues the role-play description in this style. Due to this the cases can also be used by students without joining a training—in the case analysis the commentaries note the issues to be aware of in a mediation and let them recognize the benefits from a mediation process (mediation preserves relationships and is forward-looking).

Thanks to the easy reading style of the role-plays the book suits for all readers who want to get an insight in the world of commercial mediation. For example the role-play 'Dispute for Goals'—of a star footballer, who brings a claim for unpaid salary against his present club—

provides typical aspects of mediation such as the impartiality of the mediator, separating the problem from the person, dealing with emotions of the parties or finding options.

For me, the central philosophy of mediation is to empower parties to take responsibility for their own disputes, rather than invoking a court. Nadja Alexander³ said ‘*recognising that how we communicate shapes how we think and what we see (and what we choose not to see), conflict choreographers shape the parameters of the negotiation dance, creating opportunities for space, and then more space again*’. In this sense, the book makes a contribution to enhancing the knowledge of role-plays-based training in the Appropriate Dispute Resolution area.

³ Nadja Alexander’s presentation at the Urban Future Global Conference in November 2014 in Graz, see *Alexander, Inside-out decision making – a model for engaging people in public issue conflicts*, in Ferz/Salicites/Storr (eds), *Mediation und BuergerInnenbeteiligung, Konsensorientierte Verfahren im urbanen Bereich* (Vienna 2015).