

The International Task Force on Mixed Mode Dispute Resolution

New York Arbitration Week 2021
Thursday, November 18, 2021 / 12:00 noon – 1:00 pm New York

**JAMS Panel 2: Rethinking Non-Adjudicative Dispute Resolution Processes in International Arbitration –
Where are We and Where Do We Go from Here?**

CLE Overview & Reading List

THE IMI/CCA/STRAUS MIXED MODE TASK FORCE

The International Task Force on Mixed Mode Dispute Resolution (the Mixed Mode Task Force) is a combined effort by the International Mediation Institute (IMI), College of Commercial Arbitrators (CCA), and the Straus Institute for Dispute Resolution, Pepperdine School of Law. All work product of the Task Force is public, and its documents and reports can all be found on the [Mixed Mode Task Force](#) page.

An introduction to the work product of the seven working groups of the Task Force was published by the New York State Bar Association Dispute Resolution Section in the spring of 2021. The publication is available at: <https://nysba.org/new-york-dispute-resolution-lawyer-vol-14-no-1/>.

The term “mixed mode” refers to combinations of different dispute resolution processes (e.g., adjudicative processes, such as litigation and arbitration with non-adjudicative processes, such as conciliation or mediation). Well known examples are MED-ARB (mediation followed by arbitration), ARB-MED (arbitration followed by mediation), Dispute Resolution Boards and MEDOLOA (mediation followed by last-offer arbitration). They have existed for many decades, if not centuries. However, process combinations have varied greatly depending on local cultural influences, from country to country, within countries, and within different types of practices. The Task Force was therefore set up in April 2016 to generate discussion, dialogue and deliberation among dispute resolution practitioners and thinkers from different cultures and legal systems regarding how mixed modes might better be used in both public and private, domestic and international spheres to improve access to justice and stimulate faster, cheaper and better ways of reaching resolution.

The Task Force’s mission is to:

1. promote understanding of and share expertise on mixed mode scenarios across diverse groups and cultures;
2. expand the use of dispute resolution processes tailored to conflict, including measures that manage, resolve and reduce potential escalation of conflicts; and
3. facilitate research, investigations and discussions regarding the management and resolution of disputes and foster educational initiatives regarding best practices.

The Task Force is organized into seven working groups, each comprising 15-34 experts from around the world having broad experience in different dispute resolution practices, many of whom already have experience in mixed mode practices¹. Each working group has at least two co-chairs. They are organized in conceptual chronological order as follows:

- **Working Group 1:** Upstream conflict management processes (e.g., dispute resolution clauses including tiered/stepped processes) (Co-Chairs: K. Paisley (BE), J. Player (GB) & T. Stipanowich (U.S.))
- **Working Group 2:** Neutrals facilitating tailored process design (evaluative and non-evaluative) (Co-Chairs: L. Kaster (U.S.) & J. Lack (CH))
- **Working Group 3:** Mediators using non-binding evaluations and proposals (Co-Chairs: K. Fan (HK) & V. Fraser (CA))
- **Working Group 4:** Arbitrator Techniques and their (Direct or Potential) Effect on Settlement (E. Sussman (U.S.) & K.P. Berger (DE))
- **Working Group 5:** Neutrals switching hats (M. Mironi (IL) & T. Stipanowich (U.S.))
- **Working Group 6:** Finality and enforceability of facilitated and arbitrated “Mixed Mode” outcomes (K. Paisley (BE) & J. Player (GB))
- **Working Group 7:** Future directions: Interaction between mediators and arbitrators (D. Masucci (U.S.) & D. Nigmatullina (RU)).

The Task Force would love to hear your feedback and comments on the reports. Please email mixedmode@imimmediation.org.

¹ For a list of all working group members please see the [Mixed Mode Task Force](#) page.