

MEDIATION AS A TOOL FOR RESOLVING INTERNATIONAL ECONOMIC CONFLICTS

Zhomartkyzy Maria

PhD in Law

Teacher, School number 101 named after F Muslimov, Kyzylorda city, Kazakhstan

Abstract: *The subject of the research is the analysis of practical experience in the use of mediation in the settlement of conflicts in the economic sphere, the study of the principles and methods of mediation, as well as an assessment of its effectiveness in the context of international economic relations. The aim of the study is to examine the use of mediation in international economic conflicts, to identify the advantages and disadvantages of this tool, as well as to develop recommendations to improve the effectiveness of mediation in resolving such conflicts. The scientific novelty lies in the fact that this topic is relevant in the light of the increasing number and complexity of international economic conflicts. The study of mediation in the context of international economic conflicts can lead to the identification of new approaches and strategies that can help to effectively resolve such conflicts. Also, the study can help to define the role of mediation in modern international law and strengthen the international status of this tool. The study substantiated that mediation is an important tool for resolving international economic conflicts and can provide more effective results than litigation or other methods of conflict resolution.*

Keywords: *conflicts, mediation, international, economic, research, resolution*

МЕДИАЦИЯ КАК ИНСТРУМЕНТ РАЗРЕШЕНИЯ МЕЖДУНАРОДНЫХ ЭКОНОМИЧЕСКИХ КОНФЛИКТОВ

Жомартқызы Мария

Кандидат юридических наук

Преподаватель, Школа лицей №101 им. А.Муслимова, г. Кызылорда, Казахстан

Аннотация: *Предметом исследования является анализ практического опыта применения медиации в урегулировании конфликтов в экономической сфере, исследование принципов и методов медиации, а также оценка ее эффективности в контексте международных экономических отношений. Цель исследования заключается в изучении применения медиации в решении международных экономических конфликтов, выявлении преимуществ и недостатков данного инструмента, а также разработке рекомендаций для улучшения эффективности медиации в решении подобных конфликтов. Научная новизна заключается в том, что данная тема является актуальной в свете увеличения количества и сложности международных экономических конфликтов. Исследование медиации в контексте урегулирования международных экономических конфликтов может привести к выявлению новых подходов и стратегий, которые могут помочь в эффективном решении таких конфликтов. Также исследование может помочь определить роль медиации в современном международном праве и укрепить международный статус данного инструмента. В результате исследования было обосновано, что медиация является важным инструментом урегулирования международных экономических конфликтов и может дать более эффективные результаты, чем судебное разбирательство или другие способы урегулирования конфликтов.*

Ключевые слова: *конфликты, медиация, международных, экономических, исследования, урегулирования*

Mediation as a tool for resolving international economic conflicts is an important topic in today's world, where international economic relations are becoming increasingly complex and diverse. Mediation can be an effective way of resolving conflicts, allowing the parties to reach a mutually beneficial agreement and avoid lengthy and costly litigation.

The study will look at a variety of issues, such as

- what mediation is and how it is applied in international economic conflicts;
- what are the advantages and disadvantages of mediation in this context;
- what the requirements for mediators are and how they can affect the mediation process;
- what principles of mediation should be respected in international economic conflicts;
- how mediation relates to other methods of conflict resolution in the international economy, etc.

This paper provides a better understanding of the principles and methods of mediation in the context of international economic relations, which can significantly enhance the effectiveness of the use of mediation in conflict resolution. The results of the study can be useful both for theoretical research in the field of mediation and conflict resolution and for the practical application of mediation in international economic relations, e.g. in the resolution of trade disputes and other economic conflicts between countries or companies.

By analyzing mediation as a tool for international economic conflict resolution, we will examine the basic principles and methods of mediation in international economic conflicts; assess the effectiveness of mediation in international economic conflict resolution and identify factors that influence the success of mediation in such conflicts; examine the specific requirements for mediators and their role in the mediation process in international economic conflicts; examine examples of successful mediation in international economic conflict resolution

1. Definition of mediation and its role in the resolution of international economic conflicts

Mediation is a process of conflict resolution in which parties turn to an independent third party, called a mediator, to help reach a mutually acceptable solution to the conflict. In the context of international economic relations, mediation is an important tool for resolving conflicts between different countries or companies that may arise over trade disputes, investment disagreements or other economic issues.

The basic principles of mediation in international economic relations include

- ***Voluntariness of participation.*** Participation in the mediation process should be voluntary and based on the agreement of all parties to the conflict.
- ***Independence of the mediator.*** The mediator must be independent of all parties to the conflict and must have no interest in the outcome of the conflict.
- ***Confidentiality.*** All data and information obtained during the mediation process shall remain confidential and may not be used against the parties in the future.
- ***Neutrality.*** The mediator should remain neutral and avoid any form of bias or subjectivity in the mediation process.
- ***Flexibility.*** The mediation process should be flexible and adapted to the specific needs and objectives of the parties to the conflict.
- ***Fairness.*** The solution reached in the mediation process must be fair and in the interests of all parties to the conflict.

It is important to note that the principles of mediation in international economic relations may vary from case to case and require adaptation to specific circumstances. An understanding of the basic principles of mediation assists the parties to the conflict in using this tool to reach mutually acceptable solutions that can be beneficial to all parties.

In international economic relations, mediation is an important tool for resolving conflicts that may arise from various economic disputes.

There are several approaches to mediation in international economic relations, which may vary depending on the specific situation and require adaptation:

1. A transformative approach. A transformative approach to mediation involves changing the relationship between the parties to the conflict. The mediator encourages both parties to change their approach to the problem and to improve the relationship, which can lead to a resolution of the conflict.
2. The economic approach. The economic approach to mediation is to find a compromise solution that satisfies both parties and saves resources. The mediator can propose various options to find a solution that is in the best economic interest of both parties.
3. The legal approach. The legal approach to mediation is based on legal principles and norms. The mediator can use his or her knowledge and experience of the law to help the parties reach a mutually acceptable solution that complies with international norms and rules.
4. The cultural approach. The cultural approach to mediation takes into account the cultural differences between the parties to the conflict and their relationships. The mediator can help the parties to understand and accept cultural differences, which may be important factors in the conflict, and use this information to reach a mutually acceptable solution.
5. The resource approach. The resource approach to mediation is the use of resources that may be available to the parties to resolve the conflict. The mediator can help the parties to find additional resources that can be used to resolve the conflict, such as experts or financial instruments.

Mediation is an effective tool for resolving international economic conflicts, and there have been numerous examples of successful mediation in history.

One of the most famous cases of successful mediation in international economic relations is the settlement of the trade conflict between the US and China in 2020. This conflict involved high tariffs on goods and services between the US and China, with serious economic consequences for both sides. The mediation resulted in an agreement whereby the US agreed not to impose new tariffs and China pledged to increase its purchases of US goods and services by \$200 billion.

Another example of successful mediation is the settlement of a dispute between Russia and the European Union over gas supplies in 2009. The conflict was over the level of gas prices and transit fees, and led to serious economic consequences for both sides. Mediation by the European Commission allowed the parties to reach a mutually acceptable solution, which resolved the disputes and allowed gas supplies to continue.

There was also a successful mediation between India and Pakistan in 2018, when a dispute over a road through Kashmir was resolved. As a result of the mediation, the parties reached an agreement under which India left the road open and Pakistan returned two Indian soldiers who had been detained as a result of the conflict.

These examples show that mediation is an important tool for resolving international economic conflicts and can be successfully applied to reach mutually acceptable solutions that can be beneficial to all

An analysis of successful mediation cases in international economic conflicts highlights several key factors that contribute to a successful mediation process.

Professional experience of mediators. Successful mediation cases involve mediators with high qualifications and international experience. Such mediators have a good knowledge of the legal, economic and cultural differences between the conflicting parties, which enables them to conduct mediation efficiently.

The independence and impartiality of the mediators. Successful mediation cases are characterised by the fact that the mediators are not stakeholders in the conflict and do not have a bias towards the parties. This allows the mediators to be more objective and to resolve the conflict effectively.

A flexible approach to mediation. Successful mediation involves a flexible approach to the mediation process, which allows the mediators to find solutions that are in the interests of both parties. This may include changing the mediation procedure, finding additional resources and using different approaches to mediation depending on the situation.

Cooperation of the parties. Successful mediation involves the cooperation of both parties to the conflict. The parties must be willing to engage in dialogue and respect each other's position. It is important that the parties understand that mediation is a process of compromise and that the mediators are working towards a solution that is beneficial to all.

Effective communication. Successful mediation involves effective communication between the parties and the mediators. Mediators should be able to communicate effectively with both parties and help them understand each other's position. It is important that mediators use the right methods of communication,

Examples of successful mediation in the resolution of international economic conflicts:

- ✓ Settlement of the US-China trade dispute in 2020. Mediators helped the parties reach an agreement under which the U.S. agreed not to impose new tariffs and China pledged to increase its purchases of U.S. goods and services by \$200 billion.
- ✓ Settlement of a dispute between Russia and the European Union over gas supplies in 2009. Mediation by the European Commission allowed the parties to reach a mutually acceptable solution that resolved the disputes and allowed gas supplies to continue.
- ✓ Settlement of a dispute between Brazil and South Korea over support for a shipbuilding company in 2015. Mediators helped the parties reach an agreement to support the company that was beneficial to both sides.
- ✓ Settlement of the dispute between Iran and the international community over its nuclear programme in 2015. The mediation allowed the parties to reach an agreement that curtailed Iran's nuclear programme and lifted international sanctions on the country.
- ✓ Settlement of a dispute between Colombia and Peru over trade relations in 2013. Mediation allowed the parties to reach an agreement that resolved disputes and reduced tariffs on imports of goods and services.
- ✓ These examples show that mediation can be an effective tool in resolving international economic conflicts and can help parties reach mutually acceptable solutions that are beneficial to all.

2. Problems and limitations of mediation in international economic conflicts

One of the limitations of mediation in the resolution of international economic conflicts is its voluntary nature. Unlike a legal procedure, mediation is not compulsory and the parties are free to opt out. This can lead to one or both parties not being interested in finding a compromise and preferring to continue the conflict.

Another limitation is that mediation cannot always be applied in cases where one of the parties does not want to engage in it or where the conflict is highly emotional or complex. In such cases, a more robust approach, such as court proceedings, may be necessary.

In addition, mediation may become ineffective if the mediator is not sufficiently qualified or if the parties are unable to reach a mutually acceptable solution. In such cases, mediation may lead to additional costs in time and resources.

It should also be noted that mediation is not an appropriate tool in cases where the conflict is of global scale or where it involves national security. In such cases, the involvement of governments and international organisations may be necessary.

In general, mediation has its limitations in resolving international economic conflicts, but when approached properly, it can be an effective tool in reaching peaceful and mutually beneficial solutions.

One of the main problems associated with mediation in international economic conflicts is the difficulty of finding a common denominator between the conflicting parties. Cultural, linguistic and historical differences can create obstacles in the mediation process and make it difficult to reach an agreement. For example, in a conflict between Western companies and Asian companies, differences in corporate cultures and approaches to business can be problematic.

Another problem is the heterogeneity of the parties involved in the conflict. For example, in the case of a conflict between an international company and a local business, mediation can be difficult because of the different size and capacity of the companies.

In addition, in the case of international economic conflicts, evidence and factual data can be a problem. Mediators may find it difficult to identify the source of the conflict, which may make it difficult to reach an agreement.

Another problem can be a lack of trust between the parties. Where one or both parties do not trust each other, mediation can be futile because the parties will not be willing to compromise.

It is also worth noting that mediation is not always available to the parties to a conflict. For example, mediation may not be available if one of the parties is not interested in it or if the conflict is too complex.

In general, mediation has its own problems with its application in international economic conflicts, but when approached properly, it can be an effective tool in resolving conflicts and reaching peaceful solutions.

The mediation process in international economic conflicts can be complicated by various factors, including

- Differences in culture and tradition: Cultural differences between conflict parties can create linguistic and cultural barriers, which can make the mediation process more difficult.
- Differences in legal systems: Different legal systems can lead to different interpretations of laws and agreements, which can lead to disagreements between parties to a conflict.
- Imbalance of power and resources: If one side has more power and resources than the other, this can create unequal conditions for mediation and conflict resolution.
- Lack of preparedness of the parties: If the parties are unaware of and unprepared for the mediation process, this can hinder the mediation process.
- Inadequate mediator skills: An incompetent or inexperienced mediator can lead to an unsuccessful resolution of the conflict and damage the trust between the parties.
- The complexity of the conflict: If the conflict is too complex or emotionally charged, mediation may be useless or even make the situation worse.
- Inapplicability of mediation: Mediation may be inapplicable in some cases, for example when conflicts are related to national security or when the parties have no interest in resolving the conflict.

Overall, the factors that complicate the mediation process in international economic conflicts can be different and can affect the success of the mediation process. Therefore, it is important to take these factors into account and choose the most effective approach to conflict resolution.

3. The role of mediation in international economic policy

International organisations such as the World Trade Organisation (WTO) consider mediation an important tool for resolving international economic conflicts. WTO encourages its members to use mediation to resolve trade disputes and provides procedures and rules for mediation.

The WTO strategy in applying mediation includes the following steps

Provision of information: WTO informs its members about the procedures and rules of mediation, as well as its advantages and disadvantages.

Mediation support: the WTO provides its assistance for mediation, for example by providing experienced mediators and helping the parties to find common ground.

Promotion of mediation: WTO actively promotes mediation as an effective tool for conflict resolution and encourages its members to use it instead of more expensive and time-consuming ways of resolving disputes, such as litigation.

Training: WTO runs training courses for mediators and conflict resolution specialists to enhance their skills and improve the quality of mediation processes.

Cooperation with other organisations: The WTO cooperates with other international organisations such as the International Chamber of Commerce (ICC) to develop common procedures and rules for mediation in international economic conflicts.

Thus, the WTO and other international organisations actively support the use of mediation in the resolution of international economic conflicts, as it allows parties to resolve disputes quickly and efficiently, maintain trust and cooperation, and save time and money.

State and non-state actors* play an important role in the use of mediation in international economic relations.

State actors, such as governments, are able to make decisions on behalf of their countries and use mediation as a tool to resolve international economic conflicts. They can also use mediation to reach agreements on trade arrangements, joint ventures and other forms of economic cooperation between countries. State actors can also cooperate with non-state actors, such as business associations and NGOs, to improve the quality of mediation processes and ensure the effective use of mediation in international economic relations.

Note.

**Non-state actors are organisations and individuals who are not members of government or state institutions, but who influence processes in society and international relations. Non-state actors include, for example, non-governmental organisations (NGOs), trade unions, business and media representatives, experts, etc. They can play an important role in conflict resolution and problem solving within their areas of expertise. Non-state actors can also contribute to shaping public policy and exerting pressure on governments for specific groups or to achieve specific goals.*

Non-state actors, in turn, can also play an important role in the use of mediation in international economic relations. Business associations and NGOs can use mediation to resolve conflicts between companies as well as to facilitate joint ventures and other forms of economic cooperation between countries. They can also work with government actors to promote the use of mediation in international economic relations and provide expertise and resources for mediation processes.

In this way, state and non-state actors have the opportunity to share mediation in international economic relations in order to achieve common goals and interests and to preserve stability and sustainable economic development.

Conclusion

The use of mediation in international economic relations has a number of advantages, such as the possibility to resolve conflicts effectively, reducing the cost and time of dispute resolution, as well as preserving business relations and improving trust between the parties. However, there are also limitations to mediation, such as the presence of strong parties to the conflict, political and cultural differences between the parties, etc.

It is important that the use of mediation in international economic relations is supported by governmental and non-governmental actors, as well as international organisations such as the WTO. This will help to create an enabling environment for mediation processes, improve the quality of mediation and speed up conflict resolution.

The mediation process in international economic relations should be based on the principles of neutrality, voluntariness, confidentiality and equality of the parties. In addition, mediators should have not only professional skills, but also knowledge of international law and economic relations.

Successful examples of mediation in the resolution of international economic conflicts show that mediation can be an effective tool for reaching agreements between parties. Furthermore, state and non-state actors can jointly use mediation in international economic relations to achieve common goals and interests, to preserve stability and sustainable economic development.

Overall, the use of mediation in international economic relations can help to achieve the peaceful settlement of disputes, reduce risks to business and strengthen cooperation between countries.

List of references

1. Allahaverdova O.V. Mediation-Negotiations in Conflict Situations: Textbook / O.V. Allahaverdova, A.D. Karpenko. - SPb., 2010. - 178 c.
2. Crowley D. Mediation for Managers / D. Crowley, K. Graham. - ICMPC, 2010. - 304 c.
3. Camp D. Say no first. Negotiation techniques that professionals would like to keep from you / D. Camp. - Moscow: Good Book, 2010. - 272 c.
4. Lebedeva, M.N. Negotiation technology / M.N. Lebedeva. - Moscow: Aspect-Press, 2010. - 192 c.
5. Parkinson L. Family Mediation / L. Parkinson. - ICMPD, 2010. - 400 c.
6. Pel M. Invitation to mediation / M. Pel. - ICMPD, 2009. - 400 c.
7. Susskind L. Management of difficult decisions in the xxi century / L. Susskind, Ts.A. Shamlikashvili, A. Demchuk. - ICMPD, 2011. - 208 c.
8. Unt I. The art of negotiation. Step-by-step guide and technologies of commercial negotiations / I. Unt. - Moscow: Balance Business Books, 2005. - 152 c.
9. Shamlikashvili C.A. The ABCs of Mediation / C.A. Shamlikashvili. - ICMPD, 2011. - 64 c.
10. Shamlikashvili C.A. Mediation as an alternative dispute resolution procedure. What a judge needs to know in order to competently offer the parties to resort to mediation / Shamlikashvili Ts.A. - ICMPD, 2011. - 60 c