In the world of international mediation, global providers such as ICC, WIPO and AAA/ICDR dominate the landscape together with various more regionally based institutions such as HKIAC, SMC and CEDR. Of course, parties who choose to resolve cross-border disputes by way of mediation are free to develop their own bespoke rules of engagement as they might in their domestic mediations via a comprehensive mediation agreement (ad hoc mediation). However, and although there are cost implications, parties to international mediations usually perceive real benefits in adopting a tried and true process administered by a respected and often global ADR provider (administrated mediation).

Many parties arrive at the door of their chosen ADR provider because their contract, about which they are now in dispute, contains a dispute resolution clause containing an agreed dispute process and names a particular institution to administer it. These clauses are well known, for instance the standard ICC multitiered clause requiring the parties to refer the dispute to the ICC mediation rules and if it does not settle, to ICC arbitration. Such clauses are found in thousands of contracts all around the world.

It is because of the complexity that often accompanies cross-border commercial disputes — usually of higher value and involving more participants in more places and time zones than their domestic counterparts as well as almost always involving cultural and language differences — that institutional administrative support is seen as a vital ingredient to international mediations.

This usually comes in the form of comprehensive case management which, in the case of the best institutions, does not stop when the case is transferred to the appointed neutral.

Institutions also tend to play a significant role in the selection of the mediator, especially when the parties disagree over the appropriate person or, more usually, when they simply do not know how to find a suitably qualified neutral.

And there is no doubt that these global institutions are in competition with 2014 seeing a number of ADR providers enhancing their mediation rules to make them more relevant to business and more attractive to users. All ICC, WIPO, ICDR and SMC have made significant updates to their mediation rules. This year, the highest profile being ICC’s ‘world tour’ taking its new rules on the road where they were unveiled to much applause in the great capitals of the world from Paris to Singapore to New York and Dubai and developing mediation markets including Brazil, Panama, Turkey, Sri Lanka and the Philippines and translated into multiple languages for use in hundreds of countries. So how do these rules shape up in the important areas of mediator appointment, process, mediator recommendations and decisions, confidentiality, parallel arbitration/litigation, costs and fees? This Comparative Table looks at the recently updated mediation rules of:

1. International Chamber of Commerce administered by the International Centre for ADR (ICC)
2. World Intellectual Property Organisation (WIPO)
3. American Arbitration Association’s International Centre for Dispute Resolution (ICDR)
4. Singapore Mediation Centre (SMC)