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Commercial MEDIATION

An Alternative Dispute Resolution Process

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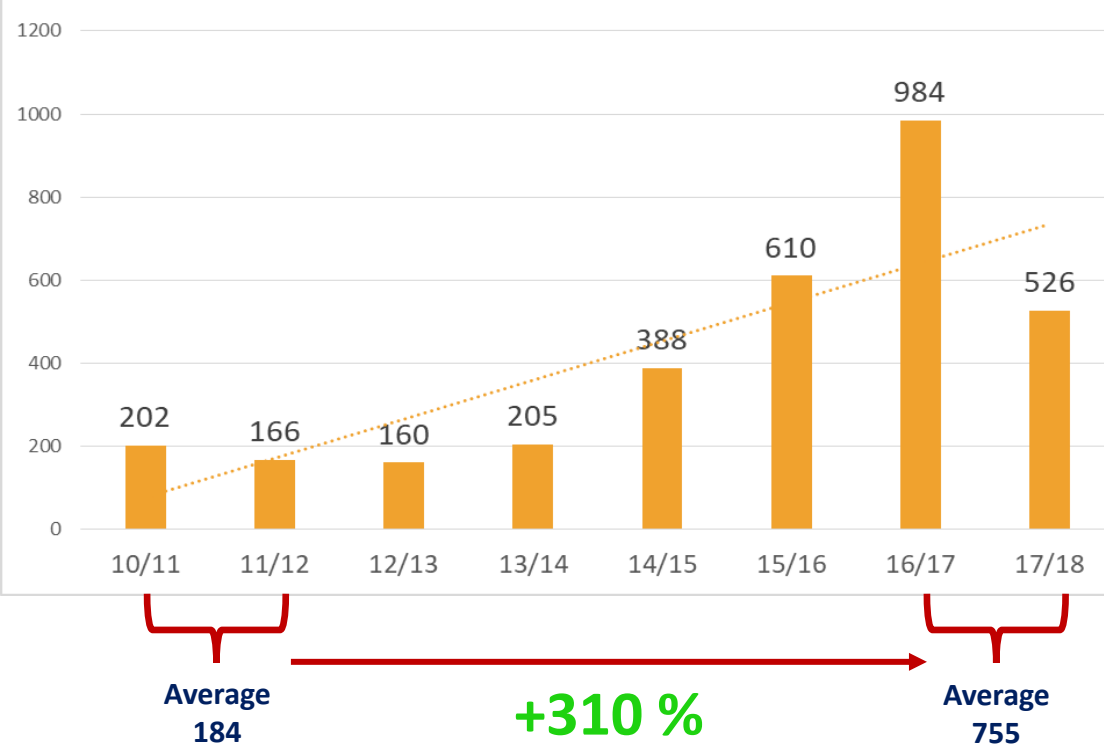
Example with 2 World Top companies



- Ongoing Commercial Disputes
- Billions of dollars in Damages Claimed
- How Disputes are resolved?
 - Court
 - Alternative Dispute Resolution (ADR)
 - Arbitration
 - **Mediation**

Agri-commodity

Gafta Cases



World Wheat Trade (USDA): **+ 26%**

- Yearly Average 10/12 = 141 MMT
- Yearly Average 16/18 = 179 MMT

Ukraine + Russia WHEAT Exports: **+ 91%**

- Yearly Average 2009 + 2011 = 27.5 MMT
- Yearly Average 2017+2018 = 52.5 MMT

How many Cases went into Mediation?

What is Mediation?

- A Structured & Interactive process facilitated by a Mediator.
- The Mediator:
 - Enables the Parties to communicate and build a solution together.
 - Is Neutral & Independent
- Confidential
- Voluntary Process
- Settlement Agreement



Advantages of Mediations

- **Fast Process & Low Cost**

- 1 meeting up to several meetings: matter of days
- Gafta Arbitration 2017/2018 = 7 months (if Appeal: +11, total 18 months)
- Court: several years

- **Parties create their solution**

- **Preserve relationship**

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COMMODITIES



Success rate : Approx. 70%

When is it not appropriate?



- The need to establish a legal precedent
- Serious imbalance between the parties
- Incompetence/Bad Faith the counterpart

When to start Mediation?

Hagar the Horrible by Chris Browne



The earlier the better!

Mediation Rule Gafta # 128

How to Mediate?

One party propose to the other

- ✓ Directly
- ✓ Via the Mediator

Mediation Contact

- Terraxis Commodities
- Gafta
- In Dubai
 - ✓ <http://www.dubaichamber.com>
 - ✓ www.mediationcentre.biz
- East Africa: MTI
 - ✓ www.mtieastafrica.org
- West Africa: OHADA
 - ✓ www.ohada.org
- In Switzerland
 - www.swissarbitration.org

To Read: «Mediation essentials»

➤ <http://documents.worldbank.org/>

“Disputes are part of life (...). They give us an opportunity to

- solve problems, and to*
- improve relationships, but...*
- they carry a risk of being destructive if not managed well.”*



World Bank Group Report

THANK YOU!

WHEAT PROCUREMENT STRATEGY

TRADING EDUCATION

DISPUTE RESOLUTION

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