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REPORT to PRESIDENTS' ROUJDTABLE

MOU TASK FORCE

May 3, 2016

1. **MOU Background, Purpose and Guiding Principles**

The MOU Taskforce has completed a draft of the Background, Purpose, and Guiding Principles for our MOU.

We ask each participating organization to review this draft as soon as possible and respond to the MOU Taskforce with your comments.

Please send responses to Wendy Hassen wendy@wendyhassen.ca ***by June 14, 2016.***

The MOU Taskforce is planning to meet in late June to consider the responses. Our goal is to complete the final draft of this section of the MOU by the end of June.

2. **History**

As part of our work in developing the Background section for the draft MOU, we have gathered information about the history of ADRIC and the regions which is summarized in the attached "Brief History of ADRIC and the Regions"

This history may provide some helpful context as we proceed to frame our relationships.

Please provide the MOU Taskforce with additions and corrections to the history.

3. **Membership**

The next section of the MOU we are examining is membership.

The MOU taskforce requests direction from the Presidents' Roundtable about membership.

We are asking for this as an agenda item at the next meeting of the PRT on May 18, 2016,

a. Given the diversity and complexity of memberships, should the categories of membership be left to the affiliates to decide? OR

   Should we explore developing any common membership definitions? For example, would a common definition of "full member" be of value?

b. How should corporate membership be addressed in the MOU, if at all?

4. **Revised Timeline**

The MOU Taskforce requests that the revised timeline for its work be revised as in the attached.

Our plan is to draft the MOU in chunks (different topic areas) and allow time for consultation with all participating organizations on each chunk before the final MOU is assembled. The first " chunk" is the Background, Purpose and Principles.

The revised timeline is to complete the final MOU by the ADRIC AGM in fall, 2017.

5. **Next areas for MOU Taskforce work**

- RELATIONSHIP FRAMEWORK
  - Roles and responsibilities
  - Scope
  - Governance structures
  - Sharing of services
- FINANCIAL RELATIONSHIP
- TRAINING AND DESIGNATIONS
- ADAPTABILITY – NOT LIMITED TO WHAT WE KNOW NOW

Attachments:

1. Draft Background, Purpose, and Guiding Principles
2. Brief History of ADRIC and the Regions
3. ADRIC Membership categories
4. MOU Taskforce Terms of Reference with revised timeline.

MOU Task force members:

Stephen Antle
Diana Lariviere
Pierre Grenier
Wendy Hassen, Co-Chair
Kathryn Munn, Co-Chair

We would like to give all participating organizations a full opportunity to consider our taskforce work so far and give feedback before the summer holiday season.

- Please circulate the attachments to members of the PRT for consultation and responses about the draft of the Background, Purpose and Guiding Principles as noted in item 1 of our report.
    - We look forward to hearing back from all participating organizations by June 14, 2016.
    - Please email responses to Wendy Hassen.

- In addition we ask that the PRT receive this as our taskforce report for the May 18 meeting and consider the amended timeline as attached.

- Also the MOU TF requests that the item of membership be added to the agenda for the PRT on May 18 as noted in item 3 of our report.

If I've forgotten anything I'm asking my MOU TF colleagues to "reply all" with any additions.

Attachments:

1. MOU Taskforce report May 3, 2016
2. Draft Background, Purpose, and Guiding Principles
3. Brief History of ADRIC and the Regions
4. ADRIC Membership categories
5. MOU Taskforce Terms of Reference with revised timeline.

Kathryn Munn, LL. B., Cert. ConRes., C. Med., C.Arb.
IMI Certified Mediator

BRIEF HISTORY OF ADRIC & THE REGIONS

Arbitration Institute of Canada (AIC) - The Beginning of ADRIC

In 1974, the Arbitrator's Institute of Canada Inc. (**AIC**), formed in Toronto, was incorporated as a public service, non-profit organization to provide the public with the means to resolve disputes of all kinds through arbitration, mediation and other voluntary methods, and to act as a national center of information, education and research on arbitration and mediation. The Institute operated out of Toronto, but it included people from Ottawa, Montreal, Halifax and Vancouver.

[1]*Regional Groups Form and Support Creation of AMIC*

Regional Institutes started forming in the late 1970's, in large part through the efforts of AIC members within the regions.

- The **Institut d'Arbitrage du Québec** was founded **in 1977** and subsequently renamed to **Institut de Médiation et d'Arbitrage du Québec** (IMAQ);
- The **British Columbia** Association (name?) was incorporated under the Societies Act of British Columbia in March **1980**. Its name was changed in March 1988 to British Columbia Arbitration and Mediation Institute (BCAMI) and another name change is pending;
- The **Alberta Arbitration and Mediation Society** (AAMS) was incorporated as a non-profit organization in April **1982** under the Societies Act of Alberta. In 2012, a new organization, the ADR Institute of Alberta, was created to continue AAMS' work. AAMS remains as a separate charitable organization.

Discussions between AIC and various leaders within the regions started in 1984 and the Institute was restructured in **1985-86** to attempt to make AIC truly national in scope. It was re-named the ***Arbitration and Mediation Institute of Canada*** (AMIC). The structure provided for:

- The National Board to consist of one (1) representative from each regional affiliate and each region would nominate its own representative;
- To become a member of AMIC, a person was required to be a member of the region;
- Regional affiliates would collect a fee for the national organization from each member along with the regional fees. This fee would be the base source of income for the national office;
- Creation of the **Arbitration and Mediation Institute of Ontario** to assume responsibilities (previously undertaken by AMIC) for ADR promotion in Ontario. In **2002**, the Arbitration and Mediation Institute of Ontario became the ADR Institute of Ontario™ (ADRIO™).

[1] Some information regarding BC is outstanding and\or is subject to verification

A Saskatchewan Chapter of AMIC (AMIS) was incorporated in October **1987**, later becoming the **ADR Institute of Saskatchewan** in February 2001.

The **Arbitration & Mediation Institute of Manitoba** was formed in **1989** and in about the same time frame the Arbitration and Mediation institute of Nova Scotia was formed (later becoming the **ADR Atlantic Institute**).

All regions signed a separate Memorandum of Understanding with AMIC in **1996** to "clarify their relationship and provide consistent integration" between AMIC and each region. Key components included:

- The requirement of the region to comply with AMIC Bylaws;
- To work with AMIC and all regions to promote ADR and provide education, training and support to its members;
- To be incorporated as a not for profit society with objectives not in conflict with AMIC;
- Require all members of AMIC residing in the region to be members of AMIC and the region;
- Subject to AMIC manage its affairs and members including submissions for designations;
- All members residing in the region to be members of AMIC and the region;
- Collecting and forwarding membership fees for AMIC.

These MOU's were transferred from AMIC to ADRIC upon its formation and they exist unchanged today, with the exception of IMAQ who negotiated a revised MOU in **2013**.

The Creation of ADRIC: The Union of AMIC and CFDR

The **Canadian Foundation for Dispute Resolution** (CFDR) was incorporated in August **1994** as a non-profit alliance of business corporations and law firms in Canada working together to promote the creative resolution of business disputes. The organization was started by representatives from a group of ten (10) large law firms in Calgary and from the Association of General Counsel of Alberta, an organization consisting of the general counsel or management lawyers from about seventy (70) corporations and public authorities. In 1999, the Foundation moved its offices to Toronto. The organization promoted the use of ADR in business and developed the concept for **ADR Connect** - to help parties to conduct comprehensive searches for ADR professionals which remains a part of ADRIC today.

The members of the Foundation (with membership of sixty-one (61) organizations) and the AMIC (with 1500 members) approved a consolidation of the two organizations made **effective August 1, 2000**. Key

> *It is important to appreciate that AMIC is a federation of its regional affiliate organizations and that much of its work is done collectively*
> Source: A Proposal for Merger of CFDR and AMIC

benefits of this change were:

> *There is an opportunity to have a toll-free phone # and one stop shopping e-mail address for parties to make contact, ask questions, and obtain information about neutrals. The national office will field requests for information on neutrals, training courses and other general information. It will also coordinate responses where it is appropriate for one or more regions to reply or provide the service*
> Source: A Proposal for Merger of CFDR and AMIC

- The Integration of ADR neutrals (AMIC\Regions) and parties who might use ADR (CFDR);
- Greater ability to meet the needs of members; Increase ADR information available, more offices through regional affiliate offices across Canada; more networking opportunities and ADR Connect better matching of neutrals and disputing parties;
- A stronger collective balance sheet; more collective revenues and opportunities for administrative and operating cost savings;
- More institutional infrastructure and volunteer resources;
- A higher profile and recognition in the ADR marketplace;. access to high end of market place and bringing in "new blood".

> *Corporate members will be members of the ADR Institute at the national level. Each corporate member also has the right to become a member of a regional affiliate, for no further membership fee, in those regions where the corporate member has an office" . . . AMIC will encourage the regional affiliates to restructure their bylaws to recognize corporate members, if they already do not do so, in order to create a "corporate member" category and provide an appropriate number of positions on the board of directors, where there are significant numbers and interest, to ensure representation and opportunities for input into the affairs of the regional affiliate .*
> Source: A Proposal for Merger of CFDR and AMIC

Separate Organizations continued:

CFDR continues as a wholly owned subsidiary of the ADRIC to ensure references to CFDR rules of arbitration within contracts will still be valid (CFDR rules specify that ADRIC Arbitration rules constitute CFDR rules. The **AIC Foundation** also still exists to administer the McGowan Trust Fund).

Current ADRIC Board Composition:

To represent both Regional and Corporate members, the ADRIC Board of Directors provides for:

- one (1) Member in Good Standing from each Regional Affiliate (Currently seven (7));
- the same number of Corporate Representatives;
- up to four (4) Directors appointed by the Directors then in office from among Members in Good Standing.

7.1.4.

TERMS OF REFERENCE

ADRIC \AFFILIATES PRESIDENTS ROUNDTABLE MOU TASK FORCE

MANDATE:

The **Presidents' Roundtable (PR)** is committed to undertake a review of the ADRIC- Affiliate MOU's which have largely been in place for about 20 years. In part, this resulted from greater Collaboration between and among the Regions and ADRIC – as evidenced by creation of the Presidents' Roundtable in 2014.

This MOU initiative is viewed as an important opportunity for ADRIC and Regional Affiliates to strengthen and transform their working relationship to successfully achieve their mutual goals and better serve their members moving into the future.

The MOU Task Force will engage in activities it finds necessary to develop a proposed MOU for ADRIC and Affiliates, for recommendation to the Presidents' Roundtable. The following are broad guidelines for the Task Force in conducting its work:

- The Governance Model to be explored is for ADRIC and Affiliates to be considered "A Federation of peers" with ADRIC taking key responsibility to oversee and enforce the relationship provisions and matters of a "pan-Canadian" or "multi-affiliate" nature.
- The target is one MOU signed by all regions and ADRIC to provide a consistent framework for all regions to work together while honouring any necessary elements to address unique differences through Appendices or other similar approaches.
- "Guiding Principles" will be included in the MOU which will underpin the working relationship of ADRIC and the regions moving forward
- The proposed MOU must be in compliance with any legal requirements (Example: ADRIC\Regional Bylaws and new Canada Not for Profit Act with the Affiliate)
- Consultation and input of stakeholders is important and will occur at various points in the MOU development process to ensure the needs and interests of our diverse membership are considered. The Task Force will take an interest based approach in working through differences that may arise in achieving an MOU that can be supported by ADRIC and Regional Affiliates.

TASKS & TIMELINES:

The Task Force will report their progress to the Presidents' Roundtable an ongoing basis.

The following are key deliverables and timeline targets to guide Task Force work. It is recognized that Task force members are volunteers and this is an iterative process. The Task Force may propose changes to the following to the Presidents' Roundtable as the work for the task force proceeds.

Timeline	Key Deliverable
September 2015 PR meeting	A background document, questions and proposed workshop process to obtain input on the possible content of an MOU that will meet stakeholder needs
October 2015 ADRIC AGM	Host workshop\meeting on possible MOU content
November – January	Development of a proposed MOU, further consultation as required
February 2016	Proposed MOU submitted to PR for initial support and for ADRIC\Affiliates to review with their boards
March – June 2016	Consultation and input collected from Affiliates and MOU refinements are made
September\October 2016	A final draft MOU is approved by all signatories and signed at the October 2016 AGM

DURATION OF COMMITTEE: Target completion – October 2016

TASK FORCE MEMBERSHIP:

The Task Force will be selected by the Presidents Round table and will include 5-6 members, 2 representatives from the ADRIC Board and 3-4 representatives from ADRIC Affiliates

Task Force members, when viewed together, will fulfill the following:

- Represent the diversity of our constituents, such as membership type (both regional and corporate) ; affiliate size; and geography;
- Provide the knowledge, experience and skills to support MOU development (For example, organizational history)

TASK FORCE CHAIR:
A Chair will be selected by the Task Force Members. The role of the Chair will be to facilitate the work of the Task Force. (Example, setting up meetings, distributing meeting agenda's and meeting notes), and reporting to the President's Roundtable on behalf of the Task Force

REQUIREMENTS FOR STAFF TIME:
ADRIC staff will support meeting scheduling and logistics (1-2 hours\month)

BUDGET REQUIREMENTS: Cost of conference calls

TASK FORCE REPORTING: The Task Force will report to the Presidents Roundtable.

Revised Timeline (April 2016)

Timeline	Key Deliverable
September 2015 PR meeting	A background document, questions and proposed workshop process to obtain input on the possible content of an MOU that will meet stakeholder needs
October 2015 ADRIC AGM	Host workshop\meeting on possible MOU content
November 2015 – December 2016	Development of a proposed MOU, further consultation as required on each chunk of the proposed MOU
February 2017	Proposed MOU in full submitted to PR for initial support and for ADRIC\Affiliates to review with their boards
March – June 2017	Consultation and input collected from Affiliates and MOU refinements are made
September\October 2017	A final draft MOU is approved by all signatories and signed at the October 2017 AGM

DURATION OF COMMITTEE: Target completion – October 2017

7.1.5.

Draft Memorandum of Understanding: Background, Purpose and Objectives – V6: May 3, 2016

BACKGROUND:

While ADRIC and the seven (7) ADR Regions are separate organizations, they have a joint, collaborative history and are structurally tied together. In 1974, the Arbitrator's Institute of Canada Inc. (AIC) based in Ontario was formed. Its goal was to act as a national center of information, education and research on arbitration and mediation. Separate Regional organizations (whose members were also Mediators and Arbitrators) soon started forming: Quebec (1977), BC (1980) and Alberta (1982). Discussions between national and regional leaders led to creation of the Arbitration and Mediation Institute (AMIC) in 1984. The new AMIC Board consisted of one (1) representative from each region. Regions agreed to collect a fee from their members to fund the national organization. As part of this, AMIC Ontario was created to function as a separate organization (Ontario was previously served by AIC). Additional Regional organizations developed in Saskatchewan (1987), Manitoba (1989) and Nova Scotia, which became the Atlantic region. In 1996, the first Memorandums between AMIC and each region were signed, to "clarify their relationship and provide consistent integration". In 1994, a separate organization of Canadian corporations and law firms had come together to promote creative resolution of business disputes (the use of ADR). Leaders of AMIC and Canadian Foundation for Dispute Resolution (CFDR) agreed to consolidate the two (2) organizations, which became the ADR Institute of Canada in August 2000. The goal of this union was to provide a forum to integrate ADR professionals with ADR users, combine resources to

increase the profile and ability to promote ADR across the country and to provide greater ability to represent its members as the professional organization for ADR practitioners in Canada.

PURPOSE:

This Memorandum of Understanding sets out the relationships among:

- ADR Atlantic Institute (ADRAI);
- ADR Institute of Alberta (ADRIA);
- ADR Institute of British Columbia (ADRIBC); **[new name pending]**
- ADR Institute of Canada Inc. (ADRIC);
- ADR Institute of Manitoba (ADRIM);
- ADR Institute of Ontario (ADRIO);
- ADR Institute of Saskatchewan Inc. (ADRSK);
- Institut de médiation et d'arbitrage du Québec (IMAQ).

We are a national federation of peers.

We share the following objectives:

- Increase the understanding and use of ADR by the public, business, academia and government;
- Ensure excellence and quality in the practice of ADR, including expansion of the recognition and use of ADR professional designations;
- Provide excellent services to our members.

GUIDING PRINCIPLES:

National Scope: We are a national organization. We focus on achieving our objectives across a.

Diversity: We value our diversity. We recognize our uniqueness, including variations in nature, size, finances and other resources, geography, business focus, language and kinds of members represented. We respect our differences and our autonomy within our federation.

Collaboration: Collaboration is our strength. We look for creative ways to collaborate to achieve our objectives. We leverage our strengths, rather than duplicating our efforts. We avoid actual or perceived competition with one another. We provide consistent, unified and complementary messages to our members, their clients and the public.

Transparency: We communicate openly and honestly. We share information willingly. We consult one another on matters of mutual interest and where our decisions may affect each other.

Mutual Accountability: We are clear about our distinct roles and responsibilities. We create sound and effective structures (including this Memorandum of Understanding) and processes to frame and build our relationships. We support each other. We honour our commitments to each other. We use ADR practices in resolving issues among ourselves.