

# Article

## The Power of the CPR Pledge

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The International Institute for Conflict Prevention & Resolution (CPR) has a long history of helping people consider more thoughtful and collaborative ways of preventing and resolving disputes. One of our vehicles for doing so is a series of pledges:

### 1 The Original Corporate Policy Statement

*“We recognize that for many disputes there is a less expensive, more effective method of resolution than the traditional lawsuit. Alternative dispute resolution (ADR) procedures involve collaborative techniques which can often spare businesses the high costs of litigation.*

*In recognition of the foregoing, we subscribe to the following statements of principle on behalf of our company and its domestic subsidiaries:*

*In the event of a business dispute between our company and another company which has made or will then make a similar statement, we are prepared to explore with that other party resolution of the dispute through negotiation or ADR techniques before pursuing full-scale litigation. If either party believes that the dispute is not suitable for ADR techniques, or if such techniques do not produce results satisfactory to the disputants, either party may proceed with litigation.”*

In 1984, CPR launched the above Corporate Policy Statement on Alternatives to Litigation. More than

4,000 companies<sup>1</sup> have signed this pledge,<sup>2</sup> agreeing that – should they ever face a dispute with another corporate CPR Corporate Policy Statement signatory – they will seriously explore negotiation, mediation or other ADR processes in conflicts before pursuing full-scale litigation. Any company can sign this Policy Statement; they do not have to be a CPR member.

Is your company on this list? You can view the policy statement and the list of signatories on CPR’s website here: [www.cpradr.org/resource-center/adr-pledges](http://www.cpradr.org/resource-center/adr-pledges).

### 2 The 21st Century Pledge

*“Our company pledges to commit its resources to manage and resolve disputes through negotiation, mediation and other ADR processes when appropriate, with a view to establishing and practicing global, sustainable dispute management and resolution processes.”*

This subsequent CPR pledge, the 21st Century Corporate ADR Pledge,<sup>3</sup> lays the foundation for sustainable domestic and international dispute resolution processes within the corporate business model. It reflects a company’s commitment to commit its resources to manage and resolve disputes through negotiation, mediation and other ADR processes, when appropriate.

It does *not* preclude litigation, but instead, promotes alternative forms of resolution. The 21st Century Pledge also indicates that a company has business processes in place that enable it to manage the conflicts that inevitably occur in business relationships.

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1. See [www.cpradr.org/resource-center/adr-pledges/corporate-policy-statement/\\_res/id=Attachments/index=1/CPR%20Corporate%20Pledge%20Signatories.09.28.18.F.pdf](http://www.cpradr.org/resource-center/adr-pledges/corporate-policy-statement/_res/id=Attachments/index=1/CPR%20Corporate%20Pledge%20Signatories.09.28.18.F.pdf).

2. See [www.cpradr.org/resource-center/adr-pledges](http://www.cpradr.org/resource-center/adr-pledges).

3. See [www.cpradr.org/resource-center/adr-pledges/21st-century-pledge](http://www.cpradr.org/resource-center/adr-pledges/21st-century-pledge).

### 3 How Do These Two CPR Pledges Work Together?

The 21st Century Corporate ADR Pledge exists side-by-side with the original CPR Corporate Policy Statement on Alternatives to Litigation, launched in 1984 – and companies are free to sign<sup>4</sup> both. The 21st Century Corporate Pledge is broader than the founding Corporate Pledge because it is not limited to a two-party dispute resolution framework. Instead, it points to proactive dispute management and systems designs. Adherence to the Pledge, along with the accompanying toolkit of ADR resources, provides an even greater ability to achieve efficient, sustainable dispute management and resolution processes.

### 4 What Makes the Pledges Actually Work?

As Steven Greenspan, of United Technologies, shared with CPR:

We had a brewing multi-million-dollar commercial dispute with an important business partner. The matter was headed to litigation, until we realized that the counterparty had signed the CPR Pledge and was a member of CPR. We had the ‘ice-breaker’ we needed. We were able to reach an agreement to mediate the dispute, and quickly selected a neutral from the CPR list. Our mediation occurred just six weeks later and enabled the parties to reach a settlement. The dispute was resolved efficiently, without having to engage outside counsel, and the constructive tone and non-adversarial proceeding also saved the commercial relationship. Without the parties’ separate, preexisting connections to CPR, I don’t think we would have resolved the case without litigation.

I personally think it comes down to this: one fear that some people have about ADR is that suggesting it will make you appear weak. Realizing that both your company and the company you are in conflict with have already put this mechanism into place can therefore be a relief and a gift. It removes some of the emotion from the negotiations and gives both sides the valuable opportunity and ‘excuse,’ if one is needed, to pause and try to resolve matters more thoughtfully before proceeding to litigation.

The bolder 21st Century Pledge demonstrates that a company has the self-confidence to approach a potential adversary to discuss resolution without fear, knowing that mediation is a voluntary process and recognizing

the benefits of thoughtful dispute resolution – financial savings and improved business relationships.

### 5 Other CPR Pledges

CPR has numerous additional CPR Pledges beyond the two main corporate pledges discussed above. They include:

#### 5.1 CPR’s Law Firm Policy Statement

*“We recognize that for many disputes there may be methods more effective for resolution than traditional litigation. Alternative dispute resolution (ADR) procedures – used in conjunction with litigation or independently – can significantly reduce the costs and burdens of litigation and result in solutions not available in court.*

*In recognition of the foregoing, we subscribe to the following statements of policy on behalf of our firm.*

*First, appropriate lawyers in our firm will be knowledgeable about ADR.*

*Second, where appropriate, the responsible attorney will discuss with the client the availability of ADR procedures so the client can make an informed choice concerning resolution of the dispute.”*

A list of law firm signatories can be found (for registered and logged in website visitors) here: [www.cpradr.org/resource-center/adr-pledges/portal-law-firm-signatories](http://www.cpradr.org/resource-center/adr-pledges/portal-law-firm-signatories).<sup>5</sup>

#### 5.2 Industry Specific Pledges

There are too many to reproduce in their entirety here, but CPR has a number of industry-specific pledges, including:

- Banking
- CPR Insurance Industry Environmental Dispute Resolution Protocol
- Chemical
- Food
- Franchise
- Future Major Disaster Pledge
- Global E-Commerce ADR Commitment
- Information Technology Industry Dispute Resolution Commitment
- Insurance Industry Dispute Resolution Commitment
- Insurer California Construction Defect Dispute Resolution Protocol
- Inter-Insurer Dispute Resolution Commitment for Disputes Relating to the September 11, 2001, Disaster
- International Reinsurance Industry Dispute Resolution Protocol
- Nevada Construction Defect Protocol
- Non-Prescription Drugs/OTC
- Year 2000 (Y2K) ADR Commitment

4. See [www.cpradr.org/resource-center/adr-pledges/21st-century-pledge/index/\\_res/id=Attachments/index=0/21st%20Century%20Pledge%202017.pdf](http://www.cpradr.org/resource-center/adr-pledges/21st-century-pledge/index/_res/id=Attachments/index=0/21st%20Century%20Pledge%202017.pdf).

5. See [www.cpradr.org/resource-center/adr-pledges/portal-law-firm-signatories](http://www.cpradr.org/resource-center/adr-pledges/portal-law-firm-signatories).

These individual pledges can be accessed by utilizing the drop-down menu on this page: [www.cpradr.org/resource-center/adr-pledges/industry-specific-pledges](http://www.cpradr.org/resource-center/adr-pledges/industry-specific-pledges).

### 5.3 International Agreements

As part of its international outreach, CPR is promoting the 21st Century Corporate ADR Pledge worldwide by working with other international ADR groups. As the founder of early ADR pledges, CPR is in a unique position to serve as an international clearinghouse for pledges to strengthen and solidify all mutually supportive ADR pledges. Through a network of international agreements, including mutual recognition agreements, CPR and other international ADR groups enable corporations operating internationally to seamlessly interface with other corporations recognizing the value of ADR.

CPR is proud to announce that it has signed Pledge Mutual Recognition Agreements with the Paris-based *Centre de Médiation et d'Arbitrage de Paris* (CMAP) in France, the Irish Commercial Mediation Association (ICMA) in the Republic of Ireland, the Chamber of Conciliation, Mediation and Arbitration of CIESP/FIESP (Center of Industries of the State of São Paulo/Federation of Industries of the State of São Paulo) and the Brazilian Center for Mediation and Arbitration (CBMA).<sup>6</sup> It has also signed agreements for the joint promotion of the CPR 21st Century Corporate ADR Pledge in Italy and the UK, respectively with the Milan Chamber of Arbitration (CAM) and the Centre for Effective Dispute Resolution (CEDR). These agreements provide an international network for companies to reach out to other corporation signatories of ADR pledges.

### 5.4 Diversity Pledge

CPR offers a diversity pledge of sorts, in the form of a Corporate Commitment to Diversity.<sup>7</sup> Created by CPR's Diversity in ADR Task Force, this commitment provides:

*"We recognize that our greatest successes come when we value and draw upon the knowledge, experience and talents of all people by being both diverse and inclusive. To achieve those successes, our organization seeks diversity not only in its work force but also in its providers of goods and services.*

*We see great value in diversity and inclusion among those who represent our organization, we see equal value in diversity and inclusion among those who mediate and arbitrate our matters. Therefore, we actively support the inclusion of diverse mediators and arbitrators in matters to which we are a party or counsel.*

*To implement our commitment to diversity and inclusion in the selection of neutrals:*

6. See [www.cpradr.org/news-publications/press-releases/2015-04-28-cpr-and-brazilian-center-of-mediation-and-arbitration-sign-historic-pledge-mutual-recognition-agreement-press-release](http://www.cpradr.org/news-publications/press-releases/2015-04-28-cpr-and-brazilian-center-of-mediation-and-arbitration-sign-historic-pledge-mutual-recognition-agreement-press-release).

7. See [www.cpradr.org/programs/committees/diversity-task-force-adr-Diversity-Pledge](http://www.cpradr.org/programs/committees/diversity-task-force-adr-Diversity-Pledge).

*We ask that our outside law firms and counterparties include qualified diverse neutrals among any list of mediators or arbitrators they propose. We will do the same in lists we provide.*

## 6 Early Case Assessment Toolkit

While not a pledge, per se, one final item worth mentioning is CPR's Early Case Assessment Toolkit, which outlines a simple conflict management process designed to facilitate more informed and expedited decision-making at the early stages of a dispute. The process calls for a team working together in a specified time frame to gather the key facts of the dispute, identify the key business concerns, assess the various risks and costs the dispute poses for the company, and make an informed choice or recommendation on how to handle the dispute.

CPR's ECA Guidelines provide a structured approach for conducting early evaluation of a dispute. It is intended to be a flexible tool that may be adjusted by in-house counsel to meet the particular needs of their business. It can be applied in whole or part (depending on dispute circumstances) to conduct early, rapid and consistent analysis of a dispute to find the most effective resolution path geared toward limiting corporate expenditures, serving business concerns and utilizing the most appropriate conflict resolution process.

Many companies employ a computerized matter management system for purposes of tracking litigation, claims, government investigations, and related legal matters. The ECA is not intended to take the place of a matter management system; however, one may usefully become a component of the other. Therefore, corporate users are encouraged to tailor these guidelines and tools to their particular needs and requirements.

That tool can be accessed on CPR's website here: [www.cpradr.org/resource-center/toolkits/early-case-assessment-guidelines](http://www.cpradr.org/resource-center/toolkits/early-case-assessment-guidelines).

## 7 Conclusion

It is CPR's hope that, by undertaking one or more of these pledges (and CPR's many related resources and tools),<sup>8</sup> with the term being defined as a 'solemn promise or undertaking,' that we can all get even closer to accessing the true promise and potential of ADR.

8. See [www.cpradr.org/resource-center/adr-pledges/21st-century-pledge/index/\\_res/id=Attachments/index=0/21st%20Century%20Pledge%202017.pdf](http://www.cpradr.org/resource-center/adr-pledges/21st-century-pledge/index/_res/id=Attachments/index=0/21st%20Century%20Pledge%202017.pdf).