

# World & Arbitration & Mediation Report



Vol. 15, No. 1

Covering Dispute Resolution in the United States and Around the World

January 2004

## HIGHLIGHTS

The NASD has proposed a major revision of its **Dispute Resolution Code**. What began as a limited stylistic exercise has evolved into a major reorganization that attempts to make the code more accessible and user friendly. The NASD has further recommended that the revised rules be reorganized into three separate codes for consumer arbitration, industry arbitration, and mediation. The proposed revisions are currently under review by the Securities and Exchange Commission. (Article on page 3.)

The **California Judicial Council** has announced new arbitration rules that will require more cases to go to arbitration and will establish superior court committees to oversee local ADR programs and arbitrator appointment procedures. All civil cases involving \$50,000 or less will be referred to arbitration. The new amendments went into effect on January 1, 2004. (Article on page 3.)

The **Dispute Resolution Section** of the American Bar Association is seeking proposals to implement a pilot *pro bono* ADR program. The program's purpose is to provide increased access to justice for the indigent and low-income people through ADR. The project endeavors to enlist mediators as *pro bono* neutrals and attorneys to represent clients in ADR proceedings. All participants will receive the necessary training. (Article on page 4.)

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Nicaragua became the most recent country to accede to the **United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards**. The Convention came into force there in December 2003. (Article on page 6.)

The **Minnesota state Supreme Court** overruled its previous decision in *Atcas v. Credit Clearing Corp.* and abrogated its decision in *Thayer v.*

*American Financial Advisors, Inc.* to hold that the FAA preempts state law on matters involving the contract validity of the arbitration agreement. The court stated in its opinion that "Minnesota courts must apply the FAA to transactions that affect interstate commerce." (Article on page 11.)

In the *Perspectives* section, Judge Aleš Zalar provides an experienced insider's view of the increasing role of court-annexed mediation in the Ljubljana District Court. He discusses how Slovenia, like many other countries, is managing court inefficiency by applying alternative dispute resolution to public and private conflicts. According to Judge Zalar, "Measures aimed at reducing court backlogs must...ensure not only faster administration of justice but also improved participation by the parties in the dispute, cheaper procedures, earlier attention to the dispute by attorneys and their clients, [and] faster exchange of information...." (Article on page 15.)

The issue also contains a recent and thorough **Bibliographic Resources** section provided by the Senior Editor. (*Bibliographic Resources* section begins on page 28.)

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Published in conjunction with Penn State University's  
Dickinson School of Law, Carlisle, PA, USA

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### Publication and Subscription Information

The WORLD ARBITRATION AND MEDIATION REPORT is published monthly by Juris Publishing, Inc., 71 New Street, Huntington, New York 11743; telephone: (631) 673-3330; fax: (631) 673-9117; (800) 887-4064; e-mail: [subscriptions@jurispub.com](mailto:subscriptions@jurispub.com). Visit our website at <http://www.jurispub.com>. The Report is distributed worldwide by Juris Publishing, Inc. Subscription price: In the United States: \$650.00 yearly; International: \$710.00 yearly. Prices include shipping & handling and complete online access to the full archive of *all* WAMR issues. ISSN # 0960-0949.

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