



DA PIU' DI 50 ANNI, AL CENTRO DELLE RELAZIONI ITALO-INDIANE

SINCE MORE THAN 50 YEARS, AT THE CENTER OF INDO-ITALIAN RELATIONS



Italian Institutions & Companies Faced with the Current Health Emergency

15 April 2020

IICCI SURVEY – HOW IS COVID19 AFFECTING YOUR BUSINESS?

SCOPE

To assess the organisational, operational, financial, and supply-chain risks faced by Italian companies in India

TARGET

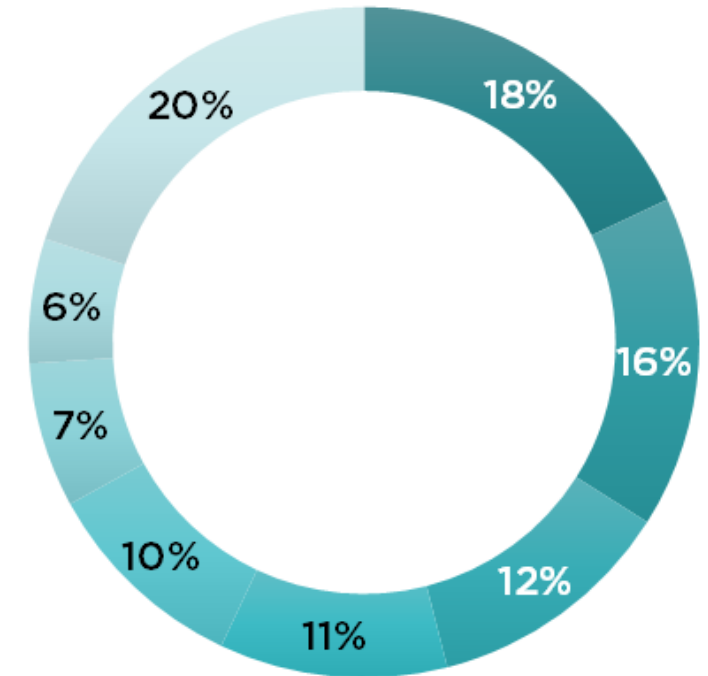
Indian subsidiaries of Italian companies, Indo-Italian JVs and India representatives of Italian brands

DATA COLLECTION

148 surveys collected, approx. 25% of Italian companies in India

TIMING

Between March 24th (at the beginning of lockdown in India) and April 11th 2020



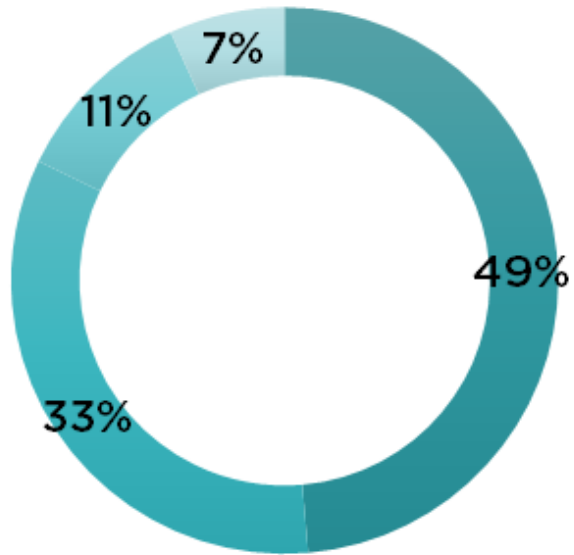
IICCI SURVEY - MAIN ISSUES

1. LIQUIDITY and CASH AVAILABILITY
2. FORCE MAJEURE
3. DISRUPTION of the SUPPLY CHAIN
4. VISAS FOR MANAGEMENT & FACULTY
5. SAFETY OF STAFF



IMPACT ON BUSINESS

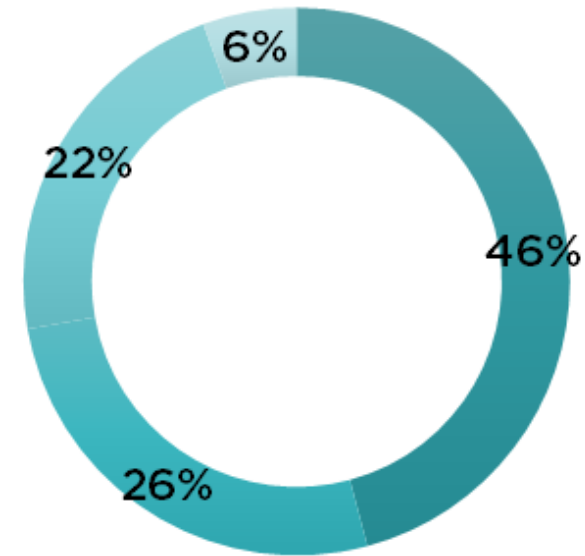
01. Targets and Performance



- Very high
- Extremely high
- Moderate
- Not possible to adjust

“The present scenario does not allow for any projection”

02. Investment Plans

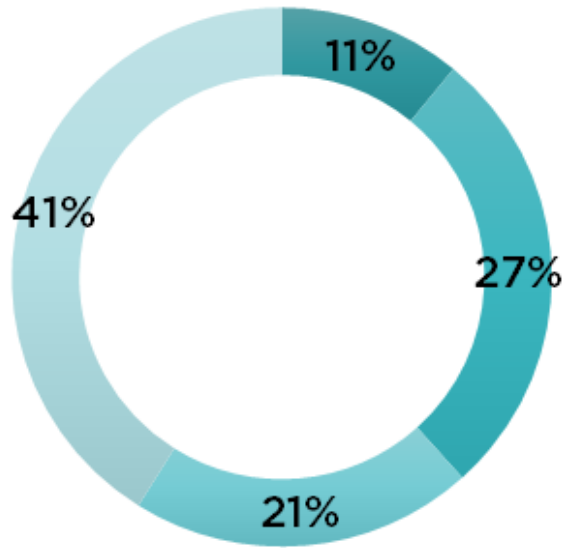


- Very high
- Extremely high
- Moderate
- None

“All capex frozen for the next 6 to 9 months”
“We will branch out to digital business”

TIMEFRAME

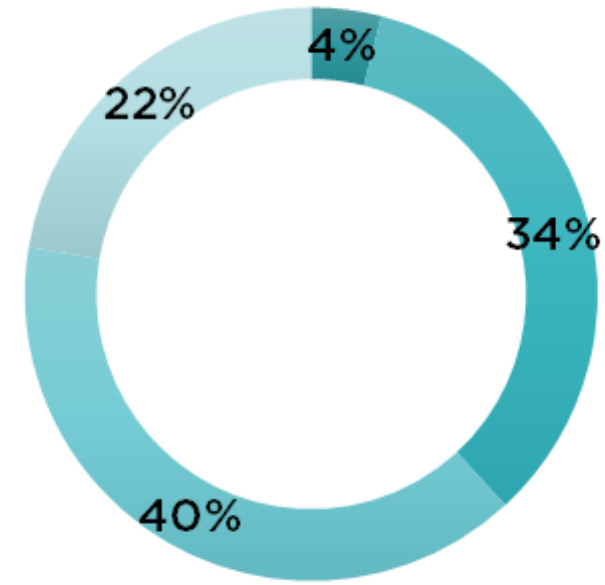
03. How long before resuming operations?



- Less than 1 month
- Between 1-1.5 months
- Between 1.5-2 months
- More than 3 months

“At least 3 months, maybe more, it depends on how many countries will go in lockdown”

04. How long before “business as usual”?

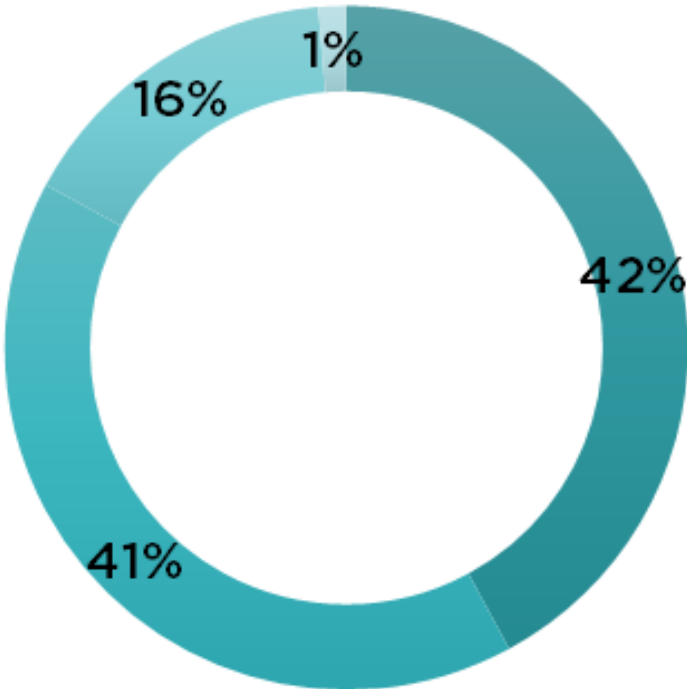


- Less than 3 month
- Between 3 - 6 months
- Between 6 - 9 months
- More than 9 months

“At least 1 year, probably more”

BREACH OF CONTRACTUAL OBLIGATIONS

05. Towards Clients and Suppliers

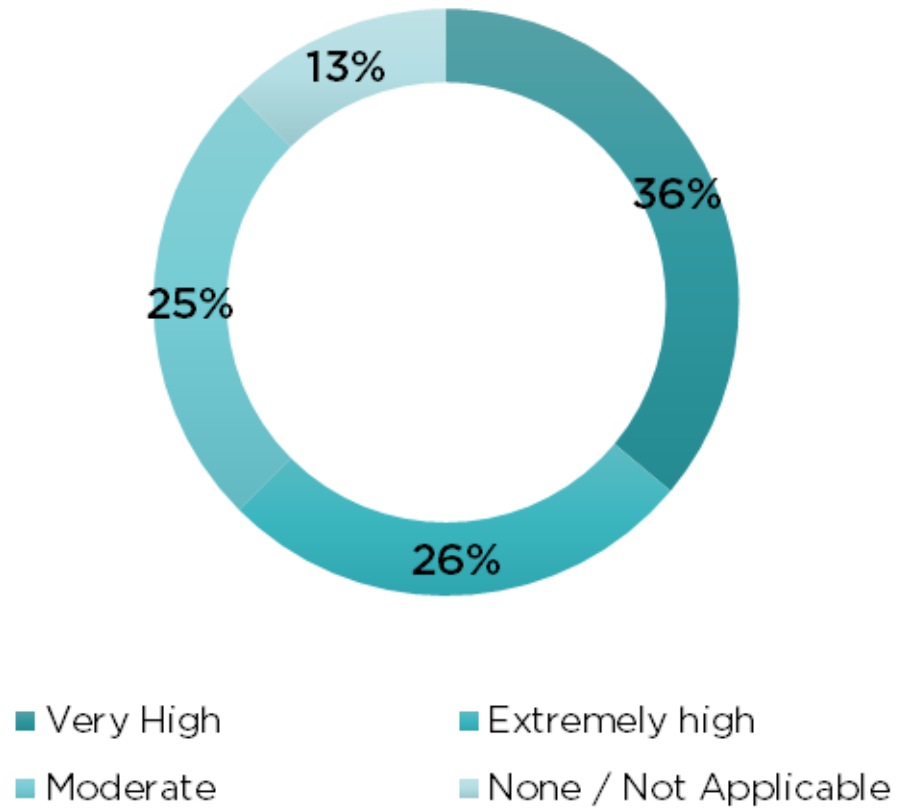


■ Very high ■ Extremely high ■ Moderate ■ None

“Everyone will need to keep cash as much as possible, dealing with contracts’ breach will become a top priority”

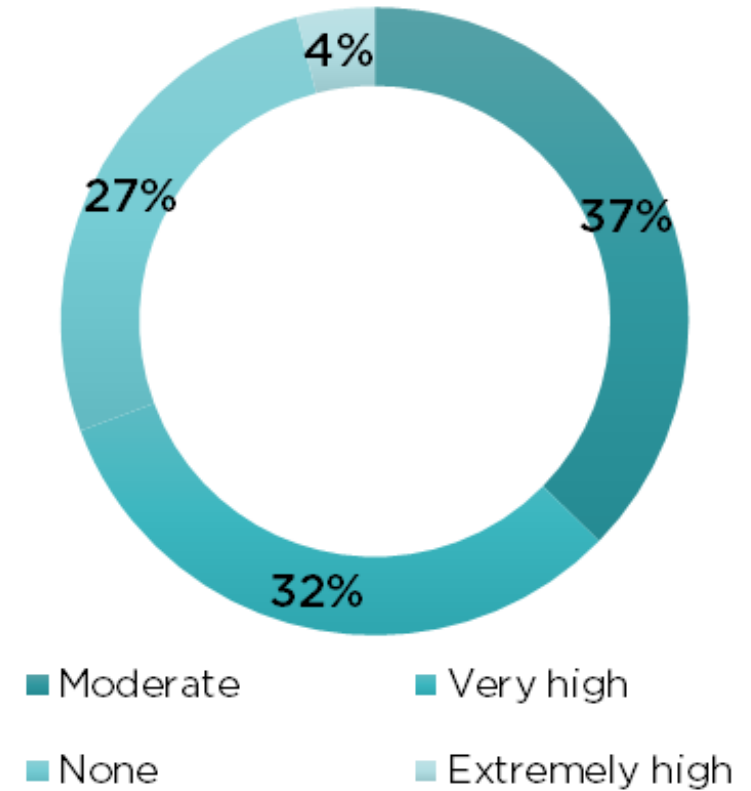
ORGANIZATIONAL CONSTRAINTS

06. Regulatory restrictions on staff downsizing



“Will not be able to sustain the payments for a long close down of activities”

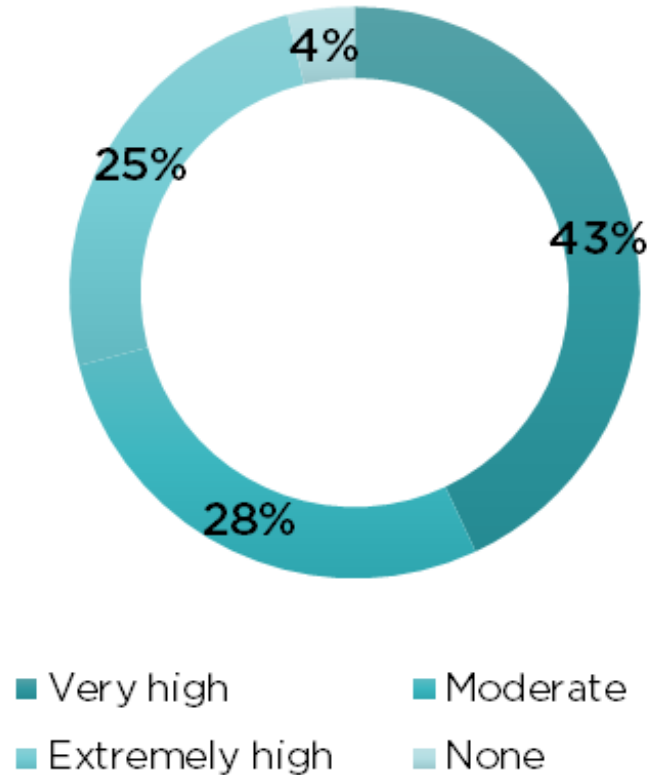
07. Likelihood of lay-offs in the short term



“Extremely high chance of layoffs though due to one quarter of negative impact on financials”

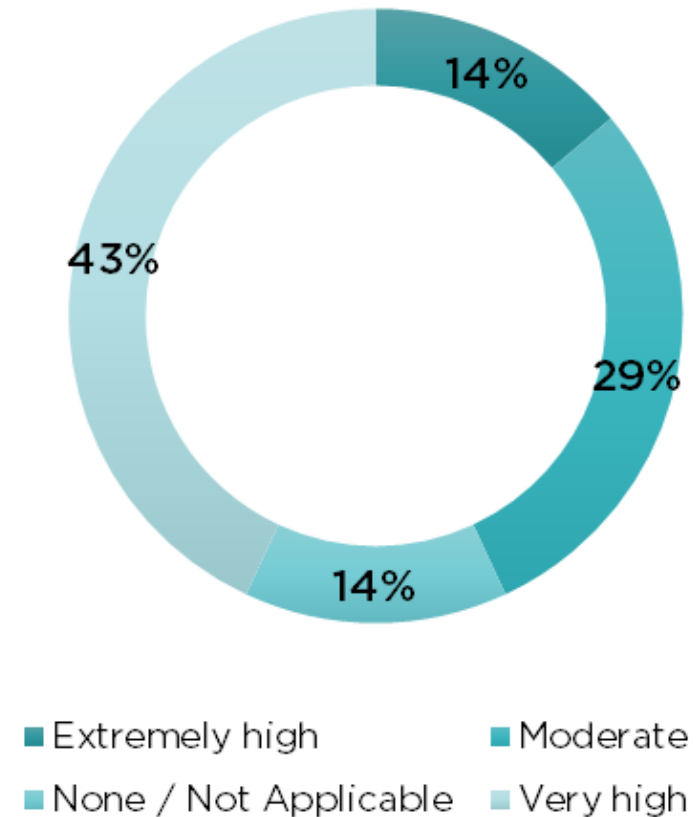
FINANCIAL & LIQUIDITY SHORTAGE

08. From reduction of receivables



“With low collections in March and zero collections in April, our reserves will take a major hit and we can foresee liquidity crisis in a month or two”

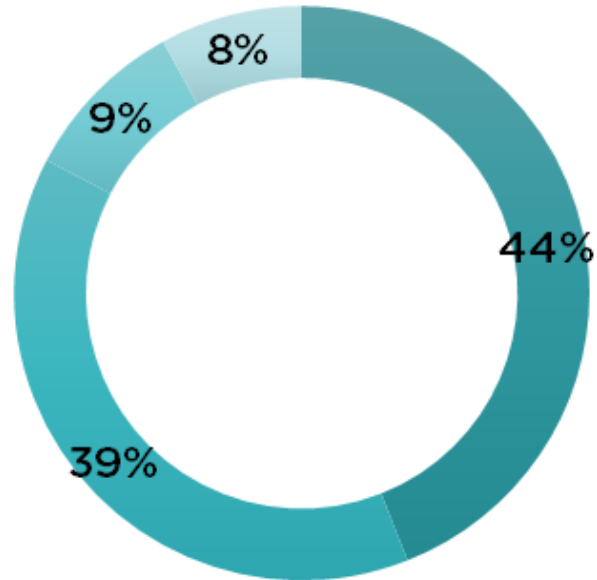
09. From unavailability of loans from banks



“With limited manpower available in financial institution, so access to credit is not easy and completing document process will be difficult”

TRADE & LOGISTICS

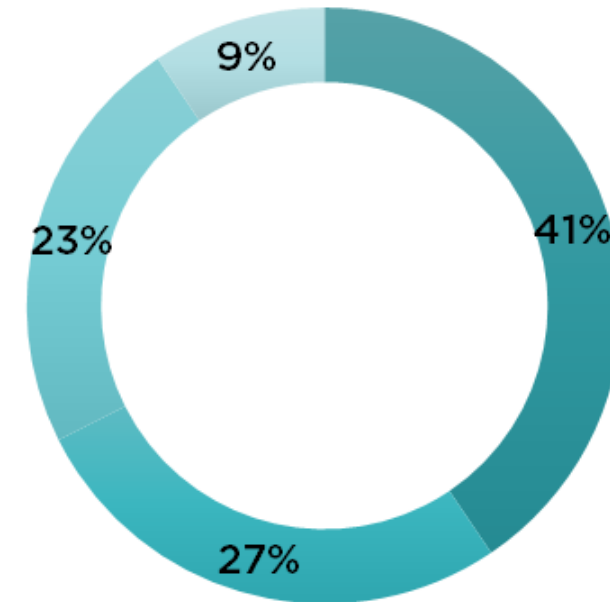
10. Reduction of cross-border trade



■ Very high ■ Extremely high
■ None / Not Applicable ■ Moderate

“We do not know when our experts and technicians from Italy will be able to come to India”

11. Reduction of goods' movement



■ Very high ■ Extremely high
■ Moderate ■ None / Not Applicable

“Many trucks with our products are stuck at the borders of Indian states”
“High freight rates and port congestion will slow down recovery of operations”

PROBLEM 1 – Liquidity

Today more than ever, **cash is king**: how to help Italian investments abroad to keep liquidity?

1. ACTION TAKEN

The IICCI has implemented the following actions:

- Communication to Ambassador Vincenzo De Luca
- Letter to the Italian Chambers of Commerce in Asia
- Letter from Assocamerestero to Italian Ministries and Institutions

2. SOLUTION

Italian financial institutions to offer financial solutions to meet the specific needs of Italian investments abroad



PROBLEM 2 – Visas for Managers, Experts, Faculty

When will my managers, faculty, technicians be able to travel back to Italy/India? How to make sure that, once traveling will be opened again, there is a **smooth re-issuance of business and employment visas**?

1. ACTION TAKEN

Discussion during IICCI's Board

2. POSSIBLE SOLUTION

Establishment of a bilateral channel with Diplomatic Institutions at Italian, European and Indian level to represent the various needs of the concerned companies and professionals



PROBLEM 3 – Stuck Products and Documents

Since customs are operating with reduced workforce and inter-State consignments are blocked, how do I deliver/receive my products

ACTION TAKEN

Support to ICE – Italian Trade Agency in clearing apple consignments from Mumbai port



PROBLEM 4 – Staff Safety & Security

How can I ensure the health safety of my maintenance team at the plant? How can I also make sure I have guards available to protect my plant?

ACTION TAKEN

Contact list of masks and medical vests suppliers, with the support of ICE – Italian Trade Agency



How can my company invoke or respond to the enforcement of the **Force Majeure Clause**?

1. ACTION TAKEN

- Discussion during IICCI's Board
- Set-up of a Legal Team coordinated by AD IDEM
- Position paper prepared by the Team

2. SOLUTION

AD IDEM provides companies with:

- Information on the “Force Majeure” clause
- Support in preparing a fresh set of contractual obligations
- Mediation & Arbitration



REGULATORY FRAMEWORK IN ITALY

All industrial and commercial production activities have been suspended, with some exceptions.

REGULATORY FRAMEWORK IN INDIA

COVID-19 may be considered as a **Natural Calamity**

ISSUES

- Check if Force Majeure clause is included in the agreements and which type («open» or «closed»)
- Since Force Majeure is not a codified remedy under Italian law, if no clause is included, other remedies shall be activated (supervening impossibility to perform an obligation; excessive onerousness; etc)

- If «Epidemic» is not specifically provided for in a Force Majeure clause reliance may be placed in terms like «Act of God»
- 3 types of provisions for **supervening impossibility**:
 - Force majeure (Indian Contract Act)
 - Frustration of a contract (Indian Contract Act)
 - Frustration of a lease (India Property act)

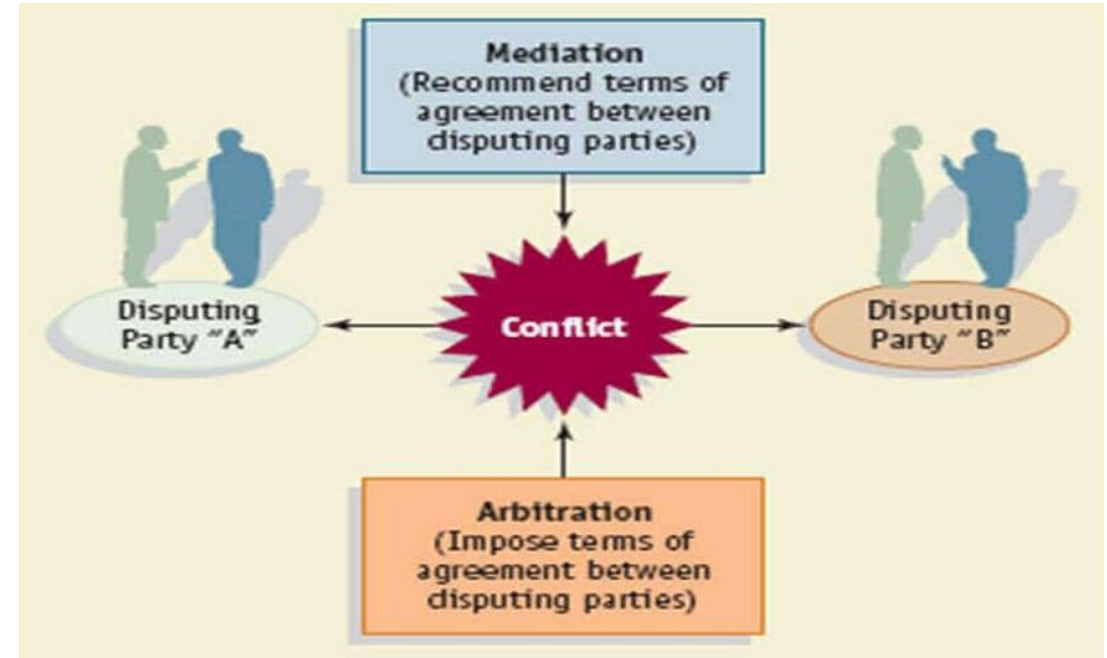
POSSIBLE SOLUTIONS

- Check, interpret and apply Force Majeure clauses in agreements
- In the absence of specific clauses, check if circumstances allow the application of other remedies expressly recognized under Italian law

- Apply the clause “Force Majeure”
- Apply the “Frustration of contract” if Force Majeure clause is not defined
- Agree to a fresh set of contractual stipulations to deal with the present needs

	Mediation	Arbitration
Meaning	A process of resolving disputes wherein an independent third party assists the parties in arriving at solution agreeable to all.	A substitute of public trial (no need to go to court), wherein an independent third party analyses the entire situation and takes a decision binding on the parties.
Nature	Collaborative	Adversarial
Process	Informal	Formal
Role of expert	Facilitator	Judge
N. of experts	One	One or more
Communication	Joint and separate meetings between the parties concerned	Only evidentiary hearings, no private meetings with the arbitrator.
Control over outcome	Parties	Arbitrator
Basis of outcome	Needs, rights and interest of parties	Facts and evidences
Outcome	May or may not be reached.	Definitely reached.
Decision	No judgement passed, only a settlement with the approval of parties	Final and binding upon the parties.

- **Competence** - mediators and arbitrators are selected among a list of pre-qualified professional experts in the field of the dispute, with renowned practical and theoretical expertise in the field of arbitration
- **Impartiality** - all arbitrators are required to submit a statement of independent to the parties, to their counsels and on the subject matter of the dispute
- **Enforceability** - the resolution of the Mediator/Arbitrator is immediately enforceable both in India and Italy. Appeals are not permitted
- **Fees**: the fee charged by AD IDEM are competitive with the most important arbitration chambers
- **Confidentiality**: all the subjects involved in the arbitral proceedings are required, according to the Rules, to comply with the confidentiality of the proceedings



THANK YOU

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IICCI PLATINUM MEMBERS



IICCI KNOWLEDGE PARTNER

