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Alternative dispute resolution methods – arbitration

1) GENERAL UNDERSTANDING

Arbitration

Arbitration is a consensual mechanism to resolve disputes by one or more private decision makers (arbitrators) selected by the parties pursuant to a mechanism agreed by them in an adjudicatory procedure, and resulting in a final and binding decision /arbitral award/ (Tony Andriotis, Emmanuel Jacomy, and Artis Straupenieks). It is one of the out-of-court alternative dispute resolution procedures in many countries, including Mongolia.

International arbitration

An arbitration is international if:

- ▶ the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States; or
- ▶ one of the following places is situated outside the State in which the parties have their places of business:
 - the place of arbitration if determined in, or pursuant to, the arbitration agreement;
 - any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or
- ▶ the parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one country (Article 1(3) of the UNCITRAL Model Law on International Commercial Arbitration)

Commercial arbitration

The term “commercial” should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road (Note 2 on Article 1(1) of the UNCITRAL Model Law on International Commercial Arbitration).

Arbitration in Mongolia

History of arbitration in Mongolia dates back to 1930 when the Government of Mongolia approved an Arbitration Rule for the first time in order to reduce the workload of courts. It is stated in the Rule that any parties involved in a civil dispute including ordinary people and places, cooperatives, unions, and ministries, and offices established by the people may have their disputes reviewed and resolved by three temporarily elected persons. Further in 1960, the foundation of the Foreign Trade Arbitration Commission or today’s International Arbitration of Mongolia has been put in place, with the establishment of the Chamber of Commerce, and become the only internationally recognized active and permanent arbitration organization in Mongolia. It has become available to resolve disputes through arbitration following the accession to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) by Mongolia in 1994, as well as adoption of the Law on Arbitration by the State Great Khural of Mongolia (the Parliament) in 2003. Moreover, arbitration advanced and brought closer to

international trends and standards upon revision of the Law on Arbitration in 2017 in line with the UNCITRAL Model Law on International Commercial Arbitration (*Compilation of Arbitration Legal Documents in Mongolia, Mongolian International Arbitration Center, 2020*).

[Read more](#)

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Practice areas

[DISPUTE RESOLUTION](#)

Locations





MONGOLIA

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