DFDL

DISPUTES LANDSCAPE IN ASIA –

Conventional and Alternative Redressals

CONTENTS

DISPUTES LANDSCAPE IN BANGLADESH

1. Has your jurisdiction ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

Bangladesh ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1992. Later, the same was reflected in the local legislation through the Arbitration Act 2001.

In Bangladesh, the arbitration procedure is governed by The Arbitration Act, 2001 (the "**Bangladesh Act**"). A domestic arbitration award is enforceable in the same manner as if it were a decree of the local Court. Once the tribunal issues the award, it can be enforced through the local Courts under section 45 of the Act. In such events, parties are required to follow relevant procedures under the Code of Civil Procedure 1908 (the "**Bangladesh CPC**"), including filing of an application for execution in the relevant Court having territorial jurisdiction over the judgment debtor or its properties.

The following documents are required for enforcing a foreign arbitral award:

- Original or authenticated copy of the arbitration award complied with the laws of the country where the award was issued;
- Original or certified copy of the arbitration agreement; and
- Evidence showing that the award qualifies as a foreign award.

2. Does your jurisdiction have emergency arbitration proceedings?

While the Arbitration Act 2001 does not provide for emergency arbitration procedures, it empowers the High Court Division (HC) and the lower Court (Court) to impose interim orders. Under Section 7A, the High Court Division may grant interim relief in international commercial arbitration, while lower Courts may do so in domestic arbitration. These measures can be issued before or during arbitration proceedings, or until the arbitral award becomes enforceable.

Interim measures may include appointing a guardian for minors or legally incapacitated persons, protecting disputed property, preserving the sale proceeds of perishable goods, preventing asset transfers that could hinder enforcement, authorising evidence collection, issuing injunctions, appointing a receiver, and other protective actions deemed appropriate by the Court or tribunal.

3. Has your jurisdiction ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters?

No, Bangladesh has not ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. Therefore, foreign judgments are not directly enforceable in Bangladesh. Foreign judgment holders may submit the plaint before the relevant local Court having jurisdiction over the defendant, where the parties may submit the foreign judgment as evidence in support of their claim. In such cases, foreign judgments should be brought into the country by maintaining all relevant formalities, including authentication by the relevant consular office and local public authorities.

4. Does your jurisdiction have special or characteristic bodies and institutions conducting arbitration and Court proceedings?

Arbitration Institution:

Bangladesh International Arbitration Centre (the "**BIAC**") is one of the registered arbitration institutions in Bangladesh. It is registered as a not-for-profit organisation and commenced operations in April 2011 under a license from the Government of Bangladesh. Alongside BIAC, several well-known private arbitration tribunals are regularly referred to for arbitration matters by the relevant district-level Courts.

Involvement of the Court in Arbitration matters:

Under the Bangladesh Act, parties are allowed to approach the Courts at different stages of the arbitration process for assistance, enforcement, or intervention. Applications are made following the Bangladesh CPC. They must be submitted to the appropriate civil Court (typically the District Judge Court or, in some cases, the High Court Division, depending on the nature of the matter). The main types of applications and their procedures are:

- Application for Appointment of Arbitrator (Section 11)
  Either party may file a petition before the District Judge Court or the High Court Division if they fail to agree on the appointment of an arbitrator, depending on the agreement. The application must include a copy of the arbitration agreement and a summary of the dispute.
- Application for Interim Measures (Section 7A)
  A party may apply to the Court for interim relief (i.e. injunctions, preservation of assets, or protective orders). This is filed like a civil miscellaneous case, along with supporting affidavits.
- Application to Set Aside Arbitral Award (Section 42)
  A party may apply to challenge the arbitral award within 60 days to the competent Court on valid grounds such as lack of jurisdiction, procedural irregularities, or public policy concerns.
- Application for Enforcement of Arbitral Award (Section 45)
  To enforce a domestic or foreign award, the award-holder must apply to the appropriate District Court with the original award, a certified copy of the arbitration agreement, and proof of notice to the other party.

5. Are arbitration and Court proceedings conducted confidentially in your jurisdiction? At what stage does the record of the proceedings become a public document?

Arbitration Proceedings:

The Bangladesh Act is silent on the confidentiality of the arbitral proceedings and the award. The parties are free to agree on confidentiality. Arbitration proceedings and award can also be confidential pursuant to the arbitration rules chosen by the parties. Terms of reference or procedural orders may contain provisions on the confidentiality of the proceedings, including pleadings, documents and the award.

Court Proceedings:

In contrast to arbitration, Court proceedings in Bangladesh are generally held in an open Court, ensuring public access and transparency. This principle is grounded in the Bangladesh CPC, and the Code of Criminal Procedure, 1898, as well as in the broader principle of open justice. However, family proceedings can be conducted *in camera*, depending on the sensitivity involved in the case.

Records of Court proceedings, including pleadings, evidence, and judgments, become part of the public record once submitted and accepted by the Court in Bangladesh. However, practical access to these records is not automatic. A party wishing to inspect or obtain certified copies of such records must submit a formal application to the Court under the relevant provisions of the Civil Rules and Orders (CRO) and Court-fee Act, 1870.

However, the general practice is that if the applicant can show their legitimate interest in the proceeding, only then are they granted access to the records of such proceedings.

While there is no centralised online database for real-time case information, basic case status and cause lists are increasingly being made available online in the online database of the Supreme Court of Bangladesh. Judgments of the Appellate Division and High Court Division are also published, and selected decisions are made available through the official Supreme Court website and legal databases. Personal information may be anonymised in sensitive cases, particularly involving minors or sexual offences.

6. What is the evidentiary procedure applicable in your jurisdiction for arbitration and litigation proceedings? Are admissions safeguarded from disclosure by privilege?

Evidentiary Procedure in Arbitration:

Pursuant to Section 34 of the Bangladesh Act, arbitral tribunals in Bangladesh have the discretion to admit evidence in various forms, including oral testimony, written submissions, and affidavits. The tribunal is also empowered to administer oaths or affirmations to witnesses, subject to their consent.

However, the Bangladesh Act does not provide detailed procedural rules regarding matters such as discovery, disclosure, privilege, the use of witness statements, or cross-examination. In practice, arbitrators often refer to the Bangladesh CPC and the Evidence Act, 1872 (the "**Bangladesh Evidence Act**") to guide these aspects of the proceedings. As a result, the handling of witness statements and cross-examinations in arbitration frequently mirrors the procedures followed in traditional Court litigation.

Evidentiary Procedure in Litigation:

Court proceedings in Bangladesh are primarily governed by the Bangladesh CPC and the Bangladesh Evidence Act, which impose structured procedural and evidentiary requirements. The burden of proof lies with the party asserting a fact (usually the plaintiff or claimant), who must substantiate their claims with admissible and relevant evidence as defined under the Bangladesh Evidence Act. Witnesses are generally required to give oral testimony in open Court. Although affidavits or written statements may be submitted during certain stages of the proceedings (e.g., examination-in-chief), they do not eliminate the necessity for oral testimony in most cases, particularly for cross-examination and re-examination, which must be conducted before the presiding judge.

Under the Bangladesh CPC, parties are required to submit a list of documentary evidence they intend to rely on at the time of filing or before the settlement of issues. Generally, any document not listed may be excluded from consideration unless the Court grants leave, upon showing sufficient cause for the delay or omission.

7. Is expert evidence permitted in your jurisdiction for arbitration and litigation proceedings? Are qualifications necessary before a person can act as an expert witness?

Expert Evidence in Arbitration:

In Bangladesh, expert evidence is allowed in both arbitration and Court cases. Under the Bangladesh Act, unless the parties agree otherwise, the arbitral tribunal can appoint experts, legal advisors, or technical assessors to help with specific issues. These experts can be asked to inspect documents, goods, or property and provide reports to assist the tribunal in making a decision.

Further, Section 30(3) reinforces the principle of procedural transparency by requiring the tribunal to inform all parties of any expert report or evidentiary material it intends to rely upon. While there are no strict rules about who can be an expert, they are usually chosen based on their knowledge and experience in the relevant field.

Separately, parties in arbitration can be represented by a lawyer or any person they choose, making the process more flexible and adaptable to the parties' needs (section 31).

Expert Evidence in Litigation:

Expert witnesses also play a significant role in Bangladeshi Court proceedings, especially in cases that involve technical, scientific, medical, or other specialised knowledge. The admissibility and role of expert evidence are governed by the Bangladesh Evidence Act, particularly under Sections 45 to 51. According to Section 45, the Court may rely on the opinion of a person especially skilled in areas such as foreign law, science, art, handwriting, or finger impressions, provided the expert's qualifications and experience are established.

While there is no centralised licensing authority for expert witnesses in Bangladesh, Courts assess the relevance, credibility, and expertise of the individual on a case-by-case basis. The expert's opinion is not binding on the Court, but it may carry substantial persuasive value, especially when supported by proper reasoning and methodology. Experts may also be cross-examined during trial to test the strength and reliability of their opinions.

8. What is the typical duration of the arbitration and Court proceedings in your jurisdiction?

While arbitration is intended to offer a more efficient alternative to litigation, the enforcement of arbitral awards in Bangladesh can face significant practical and procedural challenges. The judiciary continues to experience substantial case backlogs, particularly in the wake of the July revolution, which has further strained the Court system. As a result, any challenge or appeal to an arbitral award can lead to lengthy delays in enforcement.

If the award debtor is uncooperative or actively resists enforcement, the process may be further prolonged. From the creditor's perspective, there are limited procedural tools available to accelerate enforcement. Even proactive steps, such as timely submission of documents and regular Court appearances, may not be sufficient to overcome systemic inefficiencies.

In practice, Court proceedings in Bangladesh typically take 3 to 5 years, and the execution of arbitral awards may require an additional 2 to 3 years. Although arbitration proceedings themselves are generally completed within 1 to 2 years, the reliance on the Court system for enforcement means that the overall resolution timeline can still extend significantly.

9. Does your jurisdiction acknowledge other Alternative Dispute Resolution (ADR), such as mediation or conciliation, before or during arbitration or Court proceedings?

Yes, in Bangladesh, other Alternative Dispute Resolution (ADR), such as mediation or conciliation, are acknowledged. In general, parties are free to choose any method of dispute resolution or settlement till judgment.

10. Are there any recent trends or developments in your jurisdiction regarding arbitration and dispute resolution?

Historically, Courts in Bangladesh were cautious and somewhat sceptical about arbitration and alternative dispute resolution mechanisms. However, this approach has evolved significantly in recent years. Courts now recognise and uphold arbitration clauses and are

increasingly inclined to refer disputes to arbitration when such provisions exist in contractual agreements. This shift reflects a more pro-arbitration stance by the judiciary, aligning with global trends that favour arbitration as an efficient and effective method of resolving commercial disputes.

11. What are some considerations peculiar to your jurisdictions before opting for either an arbitration or a court process?

Arbitration is gaining increasing popularity in Bangladesh as an alternative dispute resolution mechanism. However, before resorting to arbitration or formal Court proceedings, parties often explore other options. Recently, there has been a noticeable trend of incorporating arbitration clauses into contracts to facilitate the possibility of arbitration. Before this shift, parties typically attempted negotiation as a first step to resolve disputes amicably and avoid the time-consuming and costly nature of litigation. Mediation also serves as a viable alternative, offering a collaborative approach to dispute resolution without the formalities of arbitration or Court processes.

	Court proceedings	Arbitration
Cost	Court fees are generally nominal. For civil claims, the maximum Court fee is BDT 57,500 (as of October 2025).	Since there is no fixed rule governing arbitration costs in Bangladesh, the expenses may vary depending on the value of the dispute and the arbitrators engaged. In the case of institutional arbitration, costs are determined by the institution's own fee schedule, which can be significantly higher.
Procedure duration	Bangladesh's legal system, rooted in British common law, allows parties to raise common law defenses and appeals, often prolonging proceedings. Coupled with a backlog of cases and a shortage of judges, the process is notably slow and time-consuming.	Arbitration proceedings are typically more expedient; however, parties may encounter substantial delays in the enforcement of arbitral awards in Bangladesh Courts due to frivolous appeals arising out of common law defenses.
Confidentiality	Court proceedings in Bangladesh are generally held in open Court. However, family law matters may be conducted privately, depending on the sensitivity of the case. As such, most of the case documents are available for public review.	The Arbitration Act 2001 ("Act") is silent on the confidentiality of the arbitral proceedings and the award. The parties are free to agree on the confidentiality. Generally, the arbitration proceedings are conducted with confidentiality.
Expertise of decision-makers	Judges in Bangladesh generally do not possess specialized expertise in commercial or technical matters. While they do receive training, it is mostly generic and often focused on arbitration and mediation rather than subject-specific areas.	In arbitration, parties are free to appoint experts with relevant experience, including retired judges, heavily experienced counsels or professional experts, offering greater flexibility and specialization in resolving disputes.
Language	Parties in Bangladesh are generally free to choose between Bangla and English as the language of proceedings. In practice, Bangla is more commonly used in lower Courts, while English tends to be the preferred language in higher Courts.	Parties have full discretion to select either Bangla or English, although English is more frequently used in arbitration proceedings.
Appealability	Judgments from Courts of first instance may be appealed to higher Courts, allowing for further judicial review.	Arbitral awards are considered final and binding; they are not subject to appeal and may only be set aside on limited grounds as specified under applicable arbitration laws.
Interim urgent measures	Interim measures may be granted either upon a party's request or, in certain cases, initiated by the Court itself.	Under the Act, the arbitral tribunal does not have the authority to enforce its interim orders. Therefore, parties may seek interim relief from the Court under section 7Ka of the Act, either directly or by following directions issued by the tribunal and obtaining corresponding orders from the Court.
Requirements for acceptance of the case	Court proceedings must comply with the laws on Civil Procedure and relevant Court regulations for admission of a case.	Arbitration proceedings must be based on a valid arbitration agreement that satisfies the formal requirements under the Act.

DISPUTES LANDSCAPE IN CAMBODIA

1. Has your jurisdiction ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

Cambodia has ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. It became a party to the Convention on 5 January 1960, and the Convention entered into force in Cambodia on 4 April 1960. Cambodia then enacted the Law on the Recognition and Enforcement of Foreign Arbitral Awards on 23 July 2001 (the "**Cam Law on Enforcement of Foreign Arbitral Awards**"), the Cambodian Code of Civil Procedure, promulgated on 6 July 2006 (the "**Cambodian CCP**") and the Commercial Arbitration Law of the Kingdom of Cambodia, on 5 May 2006 (the "**Cambodian Arbitration Law**"), collectively, the "**Cambodian Laws**". To enforce a foreign arbitral award in Cambodia, the applicant must:

(a) **Submit the award and arbitration agreement:**

- The original or certified true copy of the arbitral award.
- The original or certified true copy of the arbitration agreement.
- If these documents are not in Khmer, certified translations must be provided.

(b) **File the application:**

- The application for recognition and enforcement must be submitted to the Appellate Court of Phnom Penh.

- The Court will notify the opposing party within 10 calendar days of receiving the application.

(c) **Grounds for refusal:**

- Cambodian Courts may refuse enforcement if the award is contrary to public policy, or if other grounds under Article V of the New York Convention are met:
  - a party to the arbitration agreement was under some incapacity;
  - the arbitration agreement is not valid under the law to which the parties have subjected it or by any indication by the parties, under Cambodian Law;
  - the party making the application was not given proper notice of the appointment of an arbitrator(s) or of the arbitral proceedings, or was otherwise unable to present their case effectively;
  - the award deals with a dispute not contemplated by or not falling within the terms of the arbitration agreement or contains decisions on matters beyond the scope of the arbitration agreement. This is provided that if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside;
  - the composition of the arbitral panel or the arbitral procedures were not in accordance with the agreement of the parties or, lacking such an agreement, not in accordance with the laws in force where the arbitration took place;
  - the award has not yet become binding on the parties in the country in which, or under the law of which, that award was made, or the award has been set aside or suspended by a Court in the country where the award was made; and
  - if an application for setting aside or suspension of an award is submitted to the Appeal Court due to these grounds, the Appeal Court may, if it considers appropriate, adjourn its decision and may also, on the application of the party claiming recognition of the award, order the other party to provide appropriate security.
- The Court of Appeal finds that the subject matter of the dispute cannot be settled by arbitration under Cambodian Laws, or recognizing the award would be contrary to Cambodian public policy.

(d) **Jurisdiction:**

- The Cambodian judiciary, specifically the Appellate Court and Supreme Court, has jurisdiction over recognition and enforcement matters.

2. Does your jurisdiction have emergency arbitration proceedings?

Cambodia has emergency arbitration proceedings, introduced under the 2021 Arbitration Rules of the National Commercial Arbitration Centre (the "**NCAC**"), which became effective on 28 June 2021.

The NCAC Rules define an emergency arbitrator as an arbitrator appointed before the full arbitral tribunal is constituted, specifically to handle urgent interim relief applications. Under the NCAC 2021 Rules:

(a) **Application for Emergency Arbitrator:**

- A party may apply for the appointment of an emergency arbitrator before the arbitral tribunal is constituted.

(b) **Appointment Timeline:**

- The emergency arbitrator must be appointed within three calendar days from the date of the application.

(c) **Scheduling:**

- Within two calendar days of the appointment, the emergency arbitrator must establish a schedule for considering the application for interim measures.

(d) **Decision Deadline:**

- The emergency arbitrator must issue a decision on the interim measure within 15 calendar days from the date of appointment. This deadline can only be extended in exceptional circumstances.

Enforcement Challenges

While the emergency arbitrator can issue interim awards, Cambodia has not yet adopted the 2006 amendments to the UNCITRAL Model Law, which means the enforceability of interim awards remains uncertain. This gap may limit the practical effectiveness of emergency arbitration in urgent situations.

3. Has your jurisdiction ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters?

Cambodia has not ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. To enforce a foreign judgment in Cambodia, the following conditions must be met:

(a) **Final and Binding Judgment:**

- The foreign judgment must be final and binding in the jurisdiction where it was issued.

(b) **Execution Judgment from the Cambodian Court:**

- A Cambodian Court must issue an execution judgment confirming that the foreign judgment may be enforced. This is a mandatory procedural step.

(c) **Jurisdictional Requirements:**

- Foreign Court must have had proper jurisdiction under Cambodian law or a treaty to which Cambodia is a party.

(d) **Reciprocity Principle:**

- Cambodian Courts require a guarantee of reciprocity—meaning the foreign country must also recognize Cambodian judgments. This requirement is not clearly defined and has led to uncertainty in practice.

(e) **No Review of Merits:**

- Cambodian Courts do not re-examine the merits of the foreign judgment. They only assess whether the judgment meets procedural and legal criteria for enforcement.

(f) **Jurisdiction for Filing:**

- The application must be filed in the Court with jurisdiction over the debtor's address or the location of the debtor's property.

Once approved, enforcement may be carried out against:

- Movable property
- Immovable property
- Claims and other property rights
- Vessels

4. Does your jurisdiction have special or characteristic bodies and institutions conducting arbitration and Court proceedings?

Arbitration Institutions in Cambodia

(a) **NCAC**

- Established: 2013 (under the Law on Commercial Arbitration, 2006)
- Jurisdiction: Handles commercial disputes arising from contractual obligations.
- Nature: Independent, non-profit institution governed by private individuals.
- Rules: Operates under the 2021 NCAC Arbitration Rules, which include provisions for emergency arbitration, expedited procedures, and evidence-taking.
- Sectoral Focus: While not sector-specific, NCAC is the primary venue for commercial arbitration in Cambodia.

(b) **Arbitration Council (**the **"AC")**

- Established: 2003 under the Labour Law of Cambodia
- Jurisdiction: Resolves collective labour disputes between employers and employees.
- Nature: Quasi-judicial, independent national institution supported by the Ministry of Labour, employers, and unions.

- Support Body: The Arbitration Council Foundation (ACF) provides technical and managerial support.
- Process: Decisions are issued within 15 working days, emphasising speed and transparency.

Court System in Cambodia

(a) **General Court Structure**

- Governed by the Cambodian CCP) and the Law on the Organisation of the Courts (2014).
- Includes Courts of First Instance, Court of Appeal, and Supreme Court.

(b) **Specialised Courts (Planned or Existing)**

- Civil Court: Handles general civil cases, including commercial and labour disputes (until specialised Courts are fully operational).
- Commercial Court:
  - Status: Draft law finalised in 2023; expected to be operational soon.
  - Purpose: To adjudicate business disputes, including contracts, bankruptcy, IP, and international taxation.
  - Goal: Enhance transparency, efficiency, and investor confidence.
- Labour Court: Legally envisioned but not yet operational as of the latest updates

5. Are arbitration and Court proceedings conducted confidentially in your jurisdiction? At what stage does the record of the proceedings become a public document?

Arbitration and Court proceedings in Cambodia are generally conducted confidentially, but the extent and timing of public access vary depending on the forum and stage of the proceedings.

Under the 2021 Arbitration Rules of the NCAC, the records do not become public unless:

- The parties consent to disclosure.
- Disclosure is required for enforcement in Court, which may then become part of the public judicial record.

Cambodia's general Court system operates under the Cambodian CCP, which does not explicitly guarantee confidentiality for all proceedings. Civil and commercial trials are typically public, unless the Court orders otherwise for reasons such as:

- Protection of privacy
- National security
- Sensitive commercial interests

6. What is the evidentiary procedure applicable in your jurisdiction for arbitration and litigation proceedings? Are admissions safeguarded from disclosure by privilege?

In Cambodia, evidentiary procedures for arbitration and litigation are governed by distinct frameworks, with arbitration offering more flexibility and party autonomy, while litigation follows codified rules under the Cambodian CCP.

Evidentiary Procedure in Arbitration:

In Cambodia, parties are free to determine and agree upon evidentiary proceedings between themselves.

For example, the NCAC allows parties to determine their own evidentiary rules, including adopting international standards like the IBA Rules or Prague Rules. Evidence may be submitted in written or oral form, depending on party agreement and tribunal discretion.

Witnesses may provide written witness statements. Oral testimony is permitted during hearings, including cross-examination, which is conducted under the tribunal's supervision. The tribunal may allow remote testimony via videoconferencing, especially under the 2021 Rules. With respect to cross-examination, it is not mandatory but may be requested by parties or ordered by the tribunal. The tribunal has discretion to manage the scope, timing, and method of cross-examination to ensure fairness and efficiency.

The NCAC Rules do not explicitly codify privilege protections, but tribunals may apply legal or ethical standards from applicable jurisdictions. Admissions made during settlement negotiations may be protected under the "without prejudice" principle, depending on the tribunal's discretion and applicable law. Further, parties may invoke privilege to exclude documents or testimony, especially if adopting IBA Rules Article 9.2(b).

Evidentiary Procedure in Litigation:

Submission of Evidence is governed by the Cambodian CCP, which requires evidence to be submitted in written form, including documents, affidavits, and expert reports. Oral testimony is also permitted during hearings, especially for witnesses and experts.

Witnesses may be summoned to the Court and questioned by both parties. Cross-examination is allowed, but the judge controls the process and may limit questions to maintain order and relevance.

Cambodian law does not have a comprehensive statutory framework for legal privilege. However, Courts may exclude evidence deemed confidential or prejudicial, especially in cases involving settlement negotiations or legal advice. The "without prejudice" principle is not formally codified but may be respected in practice depending on judicial discretion.

7. Is expert evidence permitted in your jurisdiction for arbitration and litigation proceedings? Are qualifications necessary before a person can act as an expert witness?

As indicated above, expert evidence is permitted in arbitration and litigation proceedings in domestic Cambodia Courts, as well as the NCAC.

Expert evidence in Arbitration:

In Cambodia, parties are at liberty to call expert evidence during the arbitration proceedings and are not bound by any prescribed qualification requirements for experts.

For example, under the 2021 NCAC Arbitration Rules, parties may submit expert reports and call expert witnesses to testify. The rules allow for party-appointed experts or tribunal-appointed experts, depending on the nature of the dispute and agreement between parties. While the NCAC Rules do not prescribe rigid qualifications, it is expected that experts to have specialised knowledge, skill, experience, training, or education relevant to the subject matter. Further, Parties may adopt international standards such as the IBA Rules on the Taking of Evidence, which require experts to disclose:

- Their qualifications
- The facts and assumptions on which their opinions are based
- The methods used to reach their conclusions.

Expert evidence in Litigation:

In Cambodia's domestic Courts, expert evidence is permitted under the Cambodian CCP. Courts may appoint experts or accept party-appointed experts to clarify technical or specialised issues. While the Code does not specify detailed criteria, Cambodian Courts generally expect experts to demonstrate:

- Relevant academic or professional background
- Experience in the field
- Ability to explain complex matters clearly

Judges will also assess the relevance and reliability of the expert's testimony before admitting it.

8. What is the typical duration of the arbitration and Court proceedings in your jurisdiction?

Arbitration in Cambodia can offer a relatively faster dispute resolution process compared to traditional litigation. For example, a standard NCAC arbitration will typically take 12 to 18 months from the filing of the Notice of Arbitration to the issuance of the final award. The standard arbitration follows the following stages:

- Filing of Notice and Response (15 days for response)
- Constitution of Tribunal
- Preliminary meetings and document submissions
- Hearings (oral or documents-only)
- Final award issuance

There is also an expedited procedure available to parties if:

- The dispute amount is under USD 3 million
- Parties agree to expedited processing
- There is exceptional urgency

In these proceedings, the final award must be issued within 270 calendar days (approx. 9 months) from the date the tribunal is constituted.

On the other hand, Cambodian Court proceedings are generally slower and more formal, especially when appeals are involved. The Court at first instance will typically take 6-12 months for filing, preparatory proceedings, oral argument hearings, and the delivery of judgment. If an

appeal is lodged in the Court of Appeal, this may take an additional 6-12 months, and a Supreme Court appeal will add a further 6-12 months. In total, the process can take between 18 and 36 months, depending on complexity, backlog, and procedural delays.

9. Does your jurisdiction acknowledge other Alternative Dispute Resolution (ADR), such as mediation or conciliation, before or during arbitration or Court proceedings?

Cambodia actively promotes other forms of Alternative Dispute Resolution (ADR) such as mediation and conciliation, both before and during arbitration or Court proceedings. Cambodia's legal system integrates ADR through various laws and institutions:

(a) **Cambodian CCP**

- Article 97 allows for conciliation in civil cases.
- Judges may encourage parties to settle disputes through conciliation before or during litigation.

(b) **Labour Law (1997)**

- Articles 300–303 provide for conciliation and arbitration in labor disputes.
- The Arbitration Council handles collective labor disputes, often starting with conciliation.

(c) **Land Law and Related Regulations**

- Land disputes may be resolved through conciliation under:
- Sub-Decree on the Cadastral Commission (2002)
- Royal Decree on the National Authority for Land Dispute Resolution (2006).

(d) **Investment Law**

- Article 20 encourages negotiation and conciliation for investment-related disputes.

Further, in November 2023, the National Authority for Alternative Dispute Resolution (the "**NADR**") was established by Royal Decree No. NS/RKT/1123/2381 to handle civil, commercial, and other disputes through conciliation. It is aimed at reducing Court backlog and promoting community-level dispute resolution. If the conciliation fails, then the case is referred back to the Court.

The NCAC also offers mediation services under its 2023 Mediation Rules, where parties may initiate mediation before or during arbitration. The process is voluntary, confidential, and led by a neutral mediator. The mediation follows the following guidelines:

- Unilateral or joint request for mediation is allowed.
- Mediators are appointed by NCAC or agreed upon by parties.
- Mediation sessions are informal and flexible.
- Settlement agreements reached through mediation can be formalised.

10. Are there any recent trends or developments in your jurisdiction regarding arbitration and dispute resolution?

There are two key developments in Cambodia, both of which have been raised above: the establishment of the NADR and the expansion of the NCAC.

As stated above, the NADR was established to provide mediation and conciliation services for civil and commercial disputes, especially at the local level. It is an attempt to reduce Court backlog, improve access to justice and promote social harmony and efficient conflict resolution.

Further, the NCAC has been expanded in its updated 2021 and 2023 rules to now offer mediation, emergency arbitration, and expedited procedures. The Ministry of Commerce has emphasised NCAC's role in fostering a business-friendly environment and attracting foreign investment.

11. What are some considerations peculiar to your jurisdictions before opting for either an arbitration or a court process?

Given that Cambodian Courts often face delays due to backlog, limited resources, and procedural inefficiencies, arbitration can offer a much faster resolution, especially under NCAC's expedited procedures. Further, arbitration proceedings are private and confidential, which is beneficial for sensitive commercial matters. Whereas

hearings are generally public, and judgments become part of the public record unless sealed by the Court. Further, since Cambodia is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, foreign arbitral awards are enforceable under domestic law. However, Cambodia has not ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, so the enforcement of foreign Court judgments is more complex and subject to reciprocity and procedural hurdles.

On the other hand, there are some matters to consider with respect to arbitration in Cambodia. Arbitration is costlier upfront due to arbitrator fees, whereas Courts are generally less expensive but may incur higher long-term costs due to delays and appeals. Additionally, Arbitration is still relatively new in Cambodia, though it is gaining traction. Parties unfamiliar with arbitration, especially for local parties and traditional legal practitioners, may prefer Courts.

	Court proceedings	**Arbitration**
Cost	Fees are lower, however can become more expensive dependent on the length of the proceedings	Generally a higher up front cost but with a shorter time period the cost may level out.
Procedure duration	Slower proceedings and potential for appeals to further extend proceedings	Faster proceedings generally as well as the availability of expediated NCAC proceedings as well
Court	Generally public; limited confidentiality unless ordered	Confidential by default; proceedings and awards are private
Expertise of decision-makers	Judges may lack specialized commercial expertise	Arbitrators are often selected for subject-matter expertise
Language	Khmer is the official language for all Court proceedings; translation required for foreign documents	Parties may choose the language of proceedings
Appealability	Multi-tiered appeals (Court of Appeal, Supreme Court)	Final and binding; no appeal unless agreed by parties
Interim urgent measures	Available via Court order; may be slow	Emergency arbitration available; faster interim relief
Requirements for acceptance of the case	Must meet jurisdictional and procedural criteria under civil procedure	Requires valid arbitration agreement

DISPUTES LANDSCAPE IN INDONESIA

1. Has your jurisdiction ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

Yes, Indonesia ratified the 1958 New York Convention on 5 August 1981 through Presidential Decree No. 34/1981. The enforcement of domestic and foreign arbitral awards is governed under the Law No. 30 of 1999 regarding Arbitration and Alternative Dispute Settlement (the "**Indonesian Law**").

Enforcement of a foreign arbitral award must be submitted to the Central Jakarta District Court or the Central Jakarta Religious Court (for a sharia foreign arbitral award), accompanied by authenticated documents and diplomatic verification.

2. Does your jurisdiction have emergency arbitration proceedings?

While the Arbitration Law does not regulate emergency arbitration, the BANI Arbitration Rules 2025 recently recognised the use of emergency arbitration proceedings. In general, the proceedings must be completed within 14 days, with a possible extension of up to 7 days. Note BANI is Badan Arbitrase Nasional Indonesia, also known as BANI Arbitration Centre or BANI Mampang.

A key feature of the emergency arbitration proceedings under BANI Arbitration Rules 2025 is that any award rendered by the emergency arbitrator is final and binding. Parties are deemed to have waived their right to seek

recourse before the District Court, including filing for annulment of the emergency arbitral award. This provision underscores BANI's intention to ensure the enforceability of emergency arbitral awards, while aligning its framework more closely with international arbitration practice.

3. Has your jurisdiction ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters?

Indonesia has not ratified the 2019 HCCH Judgments Convention. Foreign Court decisions are not directly enforceable; parties must file a new claim before the Indonesian Court. The foreign judgment can be used as part of the evidence to support the new claim. The Indonesian Court is not required to follow or render its judgment to align with the judgment issued by a foreign Court.

4. Does your jurisdiction have special or characteristic bodies and institutions conducting arbitration and Court proceedings?

(a) **Domestic Arbitration and Alternative Dispute Resolution (ADR) Institutions**

- BANI Arbitration Centre (*Badan Arbitrase Nasional Indonesia*): handles matters concerning commercial disputes.
- BASYARNAS (*Badan Arbitrase Syariah Nasional*): handles matters concerning Islamic finance disputes.
- Capital Market Arbitration Board (*BAPMI*): handles matters concerning capital market disputes.
- Commodity Arbitration Institutions (*BAKTI*): handles matters concerning commodities, futures, derivatives, and financial instruments in the commodities sector.
- Financial Sector ADR Bodies (*LAPS SJK and BAKI*): handles matters concerning banking, insurance, fintech, and other financial service-related disputes, under the supervision of the Indonesia Financial Services Authority or *Otoritas Jasa Keuangan (OJK)*.

(b) **Court Institutions**

- Commercial Court *(Pengadilan Niaga*): handles matters concerning bankruptcy (*pailit*), suspension of debt payment (PKPU), and intellectual property rights, including trademarks, patents, and copyrights.
- Industrial Relations Court (*Pengadilan Hubungan Industrial*): handles matters concerning employment-related disputes.
- Tax Court (*Pengadilan Pajak*): handles tax matter disputes.
- Religious Courts (*Pengadilan Agama*): handle matters concerning family law for Muslim citizens, including marriage, divorce, inheritance, and Islamic economic transactions.
- Military Court (*Pengadilan Militer*): handles criminal offences committed by the Indonesian National Army.
- Administrative Court (*Peradilan Tata Usaha Negara*): handles administrative decisions/ permits issued by government agencies.

(c) **Ad Hoc and Specialized Criminal Court Institutions**

- Corruption Court (Pengadilan Tindak Pidana Korupsi)
- Human Rights Court (Pengadilan HAM)
- Fishery Court (Pengadilan Perikanan)

5. Are arbitration and Court proceedings conducted confidentially in your jurisdiction? At what stage does the record of the proceedings become a public document?

While the Indonesian Law does not regulate the confidentiality of arbitration proceedings, BANI, under the BANI Arbitration Rules 2025, expressly states that all proceedings and awards are confidential, unless the parties agree otherwise.

Court proceedings, on the other hand, are generally open to the public, except for cases involving family law, minors, business confidentiality, or national security. Basic information about litigation cases can generally be obtained through public online search systems or published on the Supreme Court website, including details about the parties, except for specific proceedings as stated above.

6. What is the evidentiary procedure applicable in your jurisdiction for arbitration and litigation proceedings? Are admissions safeguarded from disclosure by privilege?

Evidentiary Procedure in Arbitration:

Arbitration proceedings are more flexible. Parties may submit documents, written witness statements, expert reports, and other evidence, with procedures largely agreed upon by the parties and tribunal. Witnesses could be cross-examined if agreed by the parties and the tribunal involved. Admissions and all evidence in arbitration are generally protected by confidentiality, particularly for cases under the BANI Arbitration Centre.

Evidentiary Procedure in Litigation:

For commercial litigation, evidence includes documents, witness testimony (oral or written), legal presumptions, admissions, and sworn statements before the Court proceeding. Admissions made in Court proceedings may not be considered as grounds for submission or evidence in any other context, but those made outside the Court are not privileged and may still be admissible as evidence.

7. Is expert evidence permitted in your jurisdiction for arbitration and litigation proceedings? Are qualifications necessary before a person can act as an expert witness?

Expert Evidence in Arbitration:

Expert evidence is permitted in arbitration proceedings under Indonesian Arbitration Law. Parties may present expert witnesses during hearings, and arbitral tribunals may appoint independent experts subject to party consultation, as regulated in Article 49 of the Indonesian Arbitration Law. There is no statutory requirement for formal qualifications; however, experts are expected to have relevant academic or professional credentials and experiences. Party autonomy governs evidentiary procedures, and expert testimony is commonly used to clarify technical or specialized issues to support their claim.

Expert Evidence in Litigation:

Expert evidence is permitted in civil litigation. Parties may submit expert opinions to support their claim. The evidentiary weight of such expert witness testimony or opinions are subject to the panel of judges' discretion. While there is no formal certification, expert witness' role are to give opinion on their expertise and are prohibited to give opinions on the ongoing case facts.

8. What is the typical duration of the arbitration and Court proceedings in your jurisdiction?

Pursuant to Article 48 of the Indonasian Law, arbitration proceedings must be completed within 180 days from the establishment of the tribunal, unless agreed otherwise by all parties involved.

While Supreme Court guidance recommends a total of 1.5 years for Court proceedings from the first instance (district Court) to the third instance, known as cassation (Supreme Court), civil commercial litigation in Indonesia typically takes 2.5 to 4 years due to various reasons.

9. Does your jurisdiction acknowledge other Alternative Dispute Resolution (ADR), such as mediation or conciliation, before or during arbitration or Court proceedings?

Yes, Indonesia recognises various ADR methods as regulated under the Indonesian Law, including mediation, conciliation, negotiation, and expert determination. In arbitration, parties are encouraged to settle early, and any agreement can be recorded as a binding arbitral award.

For litigation proceedings, in-Court mediation is mandatory in civil and commercial litigation, and any resulting settlement has the same force as a Court judgment. While out-of-Court ADR is legally valid and enforceable if documented and registered with the Court, it remains underutilised due to limited procedural guidance.

10. Are there any recent trends or developments in your jurisdiction regarding arbitration and dispute resolution?

Yes, Indonesia has taken steps to accelerate the enforcement of foreign arbitral award, requiring court decision for enforcement of foreign arbitral award shall need to be issued within 14 days.

Both Arbitration institution(i.e. BANI) and civil commercial litigation has regulated guideline and procedures to

conduct online proceedings and digital submission. Having said that however, confidentiality issue (particularly for arbitration proceeding) has raised concern for parties involved.

11. What are some considerations peculiar to your jurisdictions before opting for either an arbitration or a court process?

Parties should weigh several factors when choosing between arbitration and litigation.

Arbitration suits complex or high-value disputes requiring sector-specific expertise, procedural flexibility, and confidentiality. On the other hand, it may be more expensive due to arbitrator and administrative arbitration fees, especially for the BANI Arbitration Centre, where the arbitration cost is calculated as a percentage of the claim amount requested by the claimant.

Litigation is often more practical and cost-efficient for simpler disputes, with stronger enforcement mechanisms, particularly for collateral execution. The downside of litigation proceedings in Indonesia is the corruption involving judges or Court officials, which makes the Court decisions issued by the judges questionable.

	Court proceedings	Arbitration
Cost	Relatively low; Court fees are depend on the case type and parties involved in the case (the Court fees are to cover correspondence costs to the parties' addresses).	Relatively high; fees depend on the value of the claim amounts (based on percentage of the claim amount being requested). The arbitration costs are to cover arbitrators' honorarium, administrative charges, and related expenses.
Procedure duration	Often slow (6-10 months) and subject to procedural delays.	Typically faster (around 6 months), particularly for commercial disputes, as procedures are streamlined.
Confidentiality	Hearings and judgments are public by default. However, Party could strike-out the identity or confidential information of evidences since panel of judges are passive in receiving submitted evidence.	Confidential by nature; proceedings and awards are not publicly disclosed unless parties agree otherwise.
Expertise of decision-makers	Judges may lack technical or industry-specific expertise.	Parties can appoint arbitrators with specialized knowledge; tribunals may also involve experts.
Language	Indonesian is mandatory; foreign documents must be translated with sworn translation if they would like to be submitted as evidence.	Parties may agree on the language, especially in disputes involving foreign elements.
Appealability	First-instance judgements may be appealed to High Court and High Court judgements may be appealed to Supreme Court.	Arbitral awards are final and binding under Indonesian Arbitration Law and nut subject to appeal; they can only be annulled under limited grounds.
Interim urgent measures	A request can be made by Party and limited to specific grounds, such as collateral confiscation; Courts have no authority to issue interim measures on their own initiative.	A request can be made by Party; enforcement of interim urgent measures will be made through Court and limited mainly to asset-related measures.
Requirements for acceptance of the case	Must comply and satisfy formal and jurisdictional requirements under Law and Civil Procedure.	Requires a valid arbitration agreement meeting formal requirements under the Indonesian Arbitration Law.

DISPUTES LANDSCAPE IN LAO PDR

1. Has your jurisdiction ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

The Lao PDR is a party to the New York Convention. The Economic Dispute Resolution Law (№ 51/NA, 22 June 2018) (**Dispute Resolution Law**) provides that the Lao PDR acknowledges and enforces the arbitral awards of foreign or international economic dispute resolution organisations. The Dispute Resolution Law provides further that foreign arbitration awards are to be enforced in accordance with the Law on Civil Procedure (№ 67/NA, 11 December 2024) (**Civil Procedure Law**).

The Civil Procedure Law provides for acknowledgement and certification by the People's Court of a foreign arbitral award upon translation into the Lao language and satisfaction of the following criteria:

1. the arbitral award was issued in a country which is a signatory to a treaty to which the Lao PDR is a signatory;
2. the parties to the arbitration hold nationality of a country that is a party to the New York Convention;
3. the arbitral award will not cause an impact on the sovereignty or contradict the laws of the Lao PDR;
4. the arbitral award will not cause adverse impact on national security, public/social order or the environment; and
5. the party against whom the arbitral award will be enforced holds assets in the Lao PDR.

Upon the People's Court's acknowledgement and certification, the arbitral award shall be implemented in

accordance with the Judgment Enforcement Law (№ 12/NA, 17 November 2021) (**Judgment Enforcement Law**).

2. Does your jurisdiction have emergency arbitration proceedings?

The concept of emergency arbitration is not explicitly addressed in the Lao PDR regulations. However, under Article 41 of the Dispute Resolution Law, during arbitration proceedings conducted by the Economic Dispute Resolution Centre (**EDRC**) or Economic Dispute Resolution Office (**EDRO**), any party may request EDRC/EDRO to petition the Court for an injunction. The Court is then required to consider and decide on the request within five business days of receiving it. In practice, EDRC/EDRO may also independently assess the urgency of a matter and, based on the nature and facts of the case, directly request the Court to issue an injunction.

3. Has your jurisdiction ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters?

No, the Lao PDR has not ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. However, Article 376 of the Civil Procedure Law states that "*in the absence of such agreements or treaties, the Lao PDR may consider cases based on mutual cooperation, provided they do not contradict the laws of the Lao PDR*".

4. Does your jurisdiction have special or characteristic bodies and institutions conducting arbitration and court proceedings?

The Dispute Resolution Law appoints the EDRC as the central institution responsible for the administration and facilitation of economic dispute resolution procedures. The EDRC is an independent body placed under the management of the Ministry of Justice.

Additionally, Article 59 of the Dispute Resolution Law provides that "private" resolution centres may also be convened, operating beyond the auspices of the EDRC or the EDRO, but only with the prior consent of the Government of the Lao PDR.

Under the Decree on Labour Conflict Resolution (№ 76/GOL, 26 February 2018), specialised bodies are established to handle labour disputes. The Labour Conflict Resolution Committee is a tripartite institution comprising representatives from the Labour and Social Welfare Sector, employees (through trade unions), and employers. These committees are established at the district, provincial, and central levels. They are primarily responsible for mediating and arbitrating collective labour disputes, particularly those involving rights or interests that could not be resolved internally. In addition, the Labour Management Authorities, represented by the Labour and Social Welfare Offices at various administrative levels, serve as primary mediators in both individual and collective disputes. These authorities facilitate negotiation and conciliation between disputing parties and play a critical role in resolving issues before they escalate to formal arbitration or judicial proceedings.

5. Are arbitration and Court proceedings conducted confidentially in your jurisdiction? At what stage does the record of the proceedings become a public document?

Articles 8(6) and 14 of the Dispute Resolution Law mandate that all parties involved in the dispute, including mediators, mediation panels, arbitrators, and arbitration panels, must maintain confidentiality regarding all information and documents submitted during mediation or arbitration, unless authorization is granted by the disputing parties.

Article 37 of the Civil Procedure Law also states that in commercial cases, the information of individuals, organisations, and enterprises participating in the proceedings should be kept confidential. However, Article 17 of the Civil Procedure Law provides that Court decisions must be delivered in public, meaning that while the proceedings themselves are confidential, the final decisions are made public. Therefore, the records of the proceedings become public documents when the Court decisions are delivered.

6. What is the evidentiary procedure applicable in your jurisdiction for arbitration and litigation proceedings? Are admissions safeguarded from disclosure by privilege?

Evidentiary procedure in Arbitration:

Article 38 of Dispute Resolution Law outlines the evidentiary procedure for arbitration in the Lao PDR:

(a) Submission of Evidence: Disputing parties are required to submit information and evidence related to the dispute to the arbitrator or arbitration panel.

(b) Collection of Evidence: The arbitrator or arbitration panel may collect information and evidence as requested or consented to by the disputing parties.

(c) Expert Testimony: If certain information or evidence needs to be proven, the arbitrator or arbitration panel may request experts or professionals to verify it.

(d) Detailed Examination: The arbitrator or arbitration panel will thoroughly study the claim, counterclaim, documentation, information, and evidence in a detailed, complete, careful, and impartial manner.

(e) Summoning Parties: Before deciding on an award, the arbitrator or arbitration panel will summon the disputing parties to explain or clarify their reasons and submit additional information and evidence.

Evidentiary Procedure in Litigation:

Article 19 of the Civil Procedure Law states that, in litigation proceedings, the Court must apply measures stipulated in the laws to ensure that the collection of information and evidence is comprehensive, complete, and objective. This aims to enable a clear and accurate determination of the events and disputes in a case, ensuring a correct and fair decision. The Court must inform the litigants of their rights and obligations to present their case and provide evidence. Additionally, the Court instructs the litigants to adhere to the laws throughout the process.

Under the Lao PDR law, admissions are not explicitly safeguarded from disclosure by legal privilege.

7. Is expert evidence permitted in your jurisdiction for arbitration and litigation proceedings? Are qualifications necessary before a person can act as an expert witness?

Article 38 of the Dispute Resolution Law provides the arbitrator or arbitration panel with the right to appoint an expert to examine such evidence.

According to Article 69 of the Dispute Resolution Law, an expert or professional must possess recognised qualifications, expertise, and experience in a specific field. They must also be certified or acknowledged by relevant institutions or competent authorities. Under Article 71 of the Dispute Resolution Law, experts have the following obligations:

(a) Provide objective analysis and opinions based on professional standards and principles of their field;

(b) Submit a written report of their findings to the relevant Centre or Office, which is then forwarded to the mediator, arbitration panel, or Court;

(c) Attend proceedings to offer further explanation, if required;

(d) Assume responsibility for the accuracy and reliability of their findings; and

(e) Maintain confidentiality of their analysis and findings.

8. What is the typical duration of the arbitration and court proceedings in your jurisdiction?

In the Lao PDR, arbitration proceedings are generally designed to be more efficient than Court litigation. According to Article 37 of the Dispute Resolution Law, arbitration proceedings typically conclude within three months from the date the arbitrator or arbitration panel is appointed. However, this timeline may be extended in cases involving complex evidence or other procedural difficulties. In such cases, the arbitrator or panel must notify the EDRC or the EDRC of the delay.

In contrast, Court proceedings in the Lao PDR tend to take longer, especially when appeals are involved. The Court system operates on three levels: first instance, appeal, and cassation. A case may progress through all three stages, significantly extending the overall duration.

9. Does your jurisdiction acknowledge other Alternative Dispute Resolution (ADR), such as mediation or conciliation, before or during arbitration or Court proceedings?

The Civil Procedure Law mandates mediation before a claim is filed in Court in various types of cases, including: (i) commercial cases; (ii) cases relating to land use rights; (iii) labour disputes; and (iv) administrative disputes.

Under the Civil Procedure Law, small disputes or disputes which are not of high value must be first settled by the village mediation unit or relevant sectors. If the parties cannot reach a settlement, the justice office of the district must educate the parties and encourage reconciliation and mediation between the parties, based on the regulations of the village mediation unit. If the district justice office is unable to mediate such dispute, the dispute may be

brought to a court for adjudication in accordance with law if a claim is filed. The judicial tribunal may also propose mediation before proceeding to trial upon receipt of a claim.

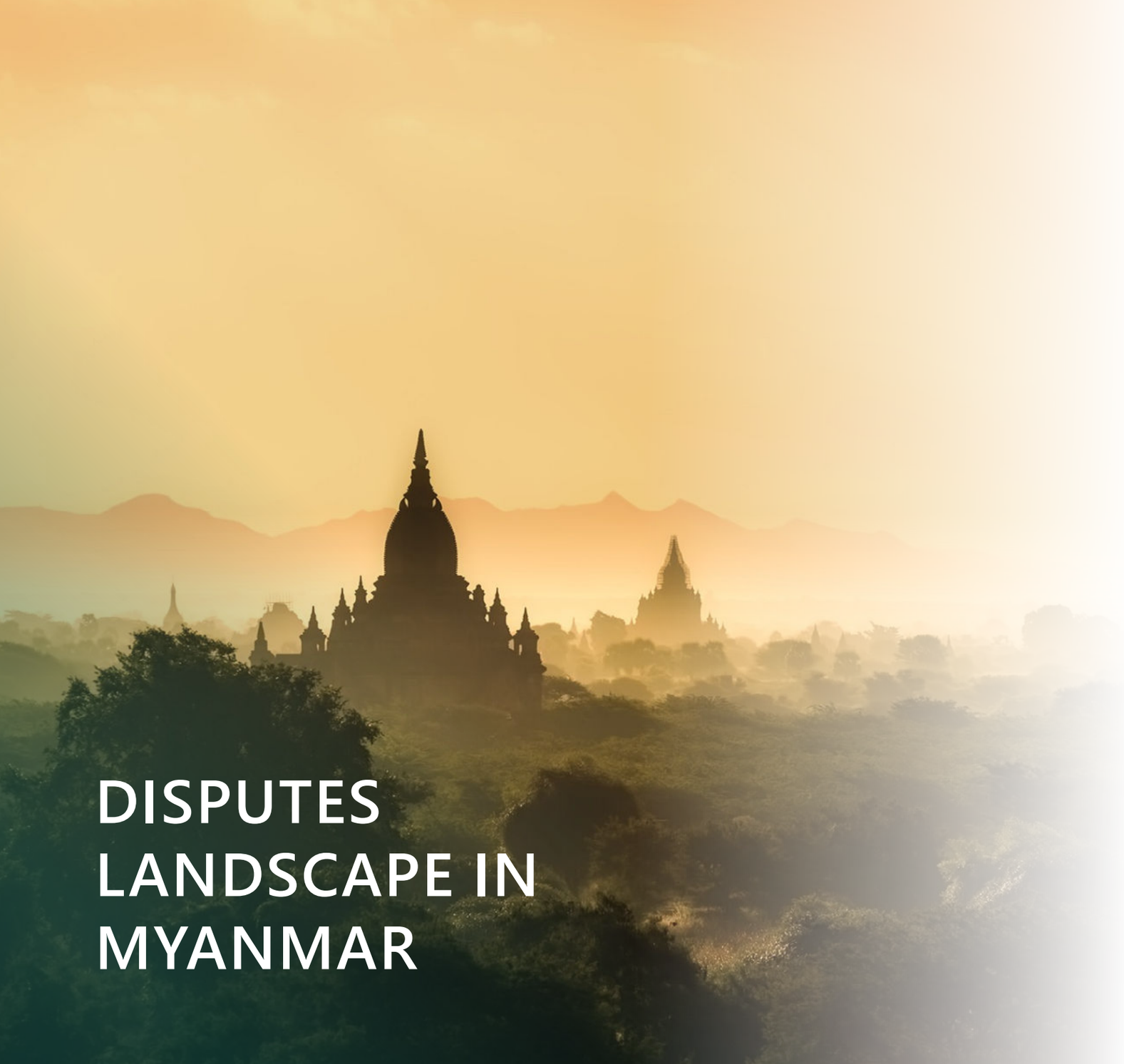
10. Are there any recent trends or developments in your jurisdiction regarding arbitration and dispute resolution?

There have been no significant recent developments in arbitration or dispute resolution in the Lao PDR.

11. What are some considerations peculiar to your jurisdictions before opting for either an arbitration or a Court process?

Arbitration is only applicable where there is a valid written arbitration agreement between the parties, as provided under Article 16(1) of the Dispute Resolution Law. This agreement must express a clear intention to resolve disputes through arbitration and identify the arbitration institution or applicable rules. Without such an agreement, the dispute must be submitted to the competent Court in accordance with the Civil Procedure Law. Moreover, only specific types of disputes—those arising from economic contracts or commercial activities—are eligible for arbitration under Article 16 of the Dispute Resolution Law. Disputes relating to administrative, criminal, or family matters are not arbitrable and fall within the exclusive jurisdiction of the Courts.

	Court proceedings	Arbitration
Cost	Generally lower Court fees but may increase due to multi-level appeals and longer timelines.	Usually higher due to arbitrator fees and administrative costs of the EDRC.
Procedure duration	Typically lengthy, as cases can go through three stages — first instance, appeal, and cassation.	Designed to be faster; per Article 37 of the Dispute Resolution Law, proceedings should conclude within three months (extendable for complex cases).
Confidentiality	Proceedings are confidential under Article 37 of the Civil Procedure Law, but judgments are public per Article 17 of the Civil Procedure Law.	Strictly confidential per Articles 8(6) and 14 of the Dispute Resolution Law — all parties and arbitrators must maintain confidentiality unless authorized.
Expertise of decision-makers	Courts rely on external experts under Article 21 of the Civil Procedure Law.	Arbitrators may be appointed for their technical or industry expertise; experts can be engaged under Articles 38 and 69–71 of the Dispute Resolution Law.
Language	Proceedings and documents must be in the Lao language per Article 16 of the Civil Procedure Law. However, per Article 16 of the Civil Procedure Law, parties who do not know the Lao language can use their own languages or other languages through a translator.	Proceedings are also conducted in the Lao language per Article 13 of the Dispute Resolution Law, but may allow foreign evidence with translation. However, per Article 13 of the Dispute Resolution Law, parties who do not know the Lao language can use their own languages or other languages through a translator.
Appealability	Multi-tiered: decisions can be appealed and further reviewed at cassation level per Article 137 of the Civil Procedure Law.	Under Article 47 of the Dispute Resolution Law, a party may object to an arbitral award before the People's Court on limited grounds — such as invalid arbitration agreement, improper constitution of the arbitration panel, procedural non-compliance, falsified evidence, or bias affecting the award. Per Article 52 of the Dispute Resolution Law, once the People's Court issues its decision to certify the award, that decision takes immediate effect and cannot be appealed. The People's Court only reviews procedural compliance and does not reconsider the merits of the dispute.
Interim urgent measures	Injunction although not a specifically defined term is prevalent in practice in the form of an order issued by Courts.	Emergency arbitration is not recognized, but per Article 41 of the Dispute Resolution Law, EDRC/EDRO may petition the Court for injunctions within 5 business days of receipt of the request.
Requirements for acceptance of the case	No specific agreement needed; Courts have general jurisdiction.	Per Article 16 of the Dispute Resolution Law, the dispute must be one that the parties have mutually agreed to submit for dispute resolution, has not been previously considered or decided by the People's Court, and does not concern matters of national security, social peace, or the environment.



DISPUTES LANDSCAPE IN MYANMAR

1. Has your jurisdiction ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

Yes, Myanmar has ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

The recognition and enforcement of foreign arbitral awards in Myanmar are governed by the Arbitration Law of 2016 (the "**Myanmar Law**"). Under Section 46 (a) of the Myanmar Law, foreign arbitral awards are recognised and enforceable in Myanmar. However, enforcement may be refused on specific grounds outlined in Sections 46 (b) and 46 (c) of the law. These grounds include:

1. A party to the arbitration agreement was under some incapacity under the law applicable to it;
2. The arbitration agreement was not valid under the law to which the parties have agreed or, failing any indication thereon, under the laws of Myanmar or those of the country in which the award was made (as applicable);
3. The party making the application was not given proper notice of the appointment of an arbitrator or the arbitral proceedings, or was otherwise unable to present its case;
4. The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration;
5. The composition of the Arbitral Tribunal or the arbitral procedures were not as per the agreement

of the parties or with the Arbitration Law or, absent such agreement, were not under the law of the country in which the arbitration took place (as applicable);

6. The award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the country in which (or under the law of which) it was made;

7. The subject matter of the dispute was not arbitrable under the laws of Myanmar; and

8. The award is contrary to Myanmar's national interest.

It is important to note that the term "**contrary to national interests**" is broadly defined per the Notification No. 643/2018 issued by the Union Supreme Court under the aegis of the Myanmar Law (the "**Myanmar Notification**"), granting Myanmar courts significant discretion in interpreting this provision and deciding whether to refuse enforcement on this basis. The Myanmar Notification defines national interest as any impact that damages the State-owned natural environment, such as land, water, and air, violates the interests of all citizens, or harms the nation's cultural heritage.

To enforce a foreign arbitral award in Myanmar, the applicant must submit:

1. The original arbitration agreement;

2. Proof that the award is foreign; and

3. A certified English translation of the relevant documents.

Enforcement applications are typically submitted to the District Court. In practice, Myanmar has seen several successful cases involving the enforcement of foreign arbitral awards.

2. Does your jurisdiction have emergency arbitration proceedings?

Myanmar does not currently recognise or provide for emergency arbitration proceedings. However, a party can request interim measures from either a Court or the arbitral tribunal. A Court can order measures like preserving property, securing assets, or appointing a receiver, especially in urgent cases.

3. Has your jurisdiction ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters?

Myanmar has not ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. Foreign judgments, while recognised, are not directly enforceable as a decree unless there is reciprocity under section 44A of the Myanmar Civil Procedure Code, 1908 (the "**Myanmar CPC**").

4. Does your jurisdiction have special or characteristic bodies and institutions conducting arbitration and Court proceedings?

Myanmar has two centres involved in conducting arbitration, namely the Myanmar Arbitration Centre (the "**MAC**") and Myanmar International Arbitration Centre (the "**MIAC**")..

- MAC, established by the Union of Myanmar Federation of Chambers of Commerce and Industry (the "**UMFCCI**"). The MAC is a non-statutory institution, established under the auspices of UMFCCI as a company limited by guarantee. MAC currently handles domestic commercial disputes, particularly those between member entrepreneurs of UMFCCI, according to MAC's Arbitration Procedures 2018 (the "**MAC Procedures**"). MAC Procedures were adopted during the meeting of the Central Executive Committee of the UMFCCI held on 24 August 2018 for use by parties who freely agree to seek the benefits. MAC does not engage in labour-related matters or disputes involving government investments.

- MIAC, established by the Union Level association. MIAC handled both domestic and international cases according to its Administered Arbitration Rules, which are prepared based on the ICC International Arbitration Rules 2021 (the "**MIAC Rules**"). MIAC also does not engage in labour-related matters or disputes involving government investments.

The Court system in Myanmar is unified and structured into various levels, including specialised Courts.

- Supreme Court of the Union: The highest Court in Myanmar, located in Nay Pyi Taw. It has both original and appellate jurisdiction in civil and criminal cases and supervises all subordinate Courts in the Union. The Supreme Court also has the authority

to issue writs such as habeas corpus, mandamus, prohibition, quo warranto, and certiorari. Please note that Myanmar is currently under a declared state of emergency; as a result, the application of writs has been suspended.

- High Courts of the Regions and States: These Courts handle appeals from District Courts and Township Courts within their jurisdiction.
- District Courts and Courts of Self-Administered Divisions and Zones: These Courts serve as the first appellate level, handling appeals from Township Courts and other lower Courts. They have jurisdiction over civil and criminal cases.
- Township Courts and Other Courts Constituted by Law: These are the Courts of first instance, dealing with most civil and criminal cases. They handle matters such as family law, land disputes, and minor criminal offences.
- Specialised Courts: Myanmar has specialised Courts for certain areas of law, including (1) Juvenile Courts; (2) Motor Vehicle Courts; (3) Municipal Courts; (4) Labour Tribunals and (5) Military Courts (Courts-Martial).

Constitutional Tribunal of the Union: This tribunal interprets the provisions of the Constitution, reviews laws enacted by the Parliament, and resolves constitutional disputes.

5. Are arbitration and Court proceedings conducted confidentially in your jurisdiction? At what stage does the record of the proceedings become a public document?

Arbitration Proceedings

Arbitration proceedings in Myanmar are generally conducted confidentially. Although the Arbitration Law does not explicitly require confidentiality, it is commonly understood as a standard practice, especially when arbitration is administered under institutional rules such as those of the MAC Procedures[3] or MIAC Rules[4]. Additionally, parties often include confidentiality clauses in their arbitration agreements or rely on the confidentiality provisions within the applicable institutional rules. Ultimately, whether hearings are open or awards are published depends on the parties' mutual agreement.

Court Proceedings

In Myanmar, Court proceedings are generally open to the public, but there are significant exceptions that limit transparency, particularly in criminal cases involving sensitive issues or political figures.

The Myanmar CPC and the Code of Criminal Procedure (1898) (the "**Myanmar CrPC**") govern civil and criminal proceedings in Myanmar, respectively. While these codes do not explicitly mandate public access, they do not prohibit it either. In practice, however, public access is often limited, especially in politically sensitive cases.

Certain cases are subject to *in camera* proceedings:

- **Juvenile Cases:** Proceedings involving children and juveniles are typically closed to the public to protect their privacy and best interests.
- **Sensitive Cases:** Trials involving national security, state secrets, or matters of public order may be conducted in camera, meaning behind closed doors, to prevent the disclosure of sensitive information.
- **Political Trials:** High-profile political cases have been conducted in secret, with limited or no access for the public and media. Lawyers have been prohibited from discussing case details publicly, and hearings have been held without prior notice to defence attorneys.

Access to Court records in Myanmar is also restricted. While judgments may be available upon request, obtaining copies often requires formal procedures, and access can be denied, especially in politically sensitive cases. The public and media may face challenges in obtaining information about ongoing trials or accessing Court documents.

Although Myanmar's legal framework permits public access to Court proceedings, in practice, such access is often restricted, particularly in cases involving sensitive issues or political matters.

[3] MAC Procedures: Clause 21.1 According to the provisions of these procedures, without the written consent of each Party included in the arbitration, no person shall disclose any information relating to the arbitration.

[4] MIAC Rules: Article 45.1 Unless otherwise agreed by the parties, no party or party representative may publish, disclose, or communicate any information relating to: (a) the arbitration under the arbitration agreement; or (b) an award or emergency decision; or (c) arbitration.

6. What is the evidentiary procedure applicable in your jurisdiction for arbitration and litigation proceedings? Are admissions safeguarded from disclosure by privilege?

Evidentiary Procedure in Arbitration:

Under Section 27 of the Arbitration Law, the arbitral tribunal has broad discretion regarding the admissibility, relevance, materiality, and weight of any evidence. Unless the parties agree otherwise, the tribunal may determine its own procedure.

- Witness Evidence:
  Witnesses in arbitration may provide evidence either:
  - In writing: Typically through signed witness statements or affidavits, which are submitted in advance.
  - Orally: Especially where there are factual disputes or credibility concerns. The tribunal may call for oral hearings to clarify or assess testimony.
- Cross-Examination:
  Witnesses who submit written statements may be subject to cross-examination by the opposing party. The tribunal controls the extent and scope of cross-examination, depending on what it deems necessary for a fair resolution.
- Application of Evidence Act:
  The Evidence Act of 1872 (the "**Myanmar Evidence Act**") does not strictly apply to arbitration proceedings. This allows the tribunal to accept evidence that may not otherwise be admissible in Court, offering procedural flexibility.
- Admissions and Privilege:
  - The tribunal may consider any admission made during the arbitration, provided it is not made under a privilege.
  - There is no automatic protection or privilege over admissions in arbitration unless:
    - The parties agree to protect such statements;
    - The applicable institutional arbitration rules impose confidentiality obligations; or
    - The admission is part of a legally privileged communication (e.g., attorney-client).
- Confidentiality:
  Although arbitration is generally considered private, confidentiality is not presumed under Myanmar law. Parties should expressly agree to confidentiality or adopt institutional rules (e.g., UNCITRAL, SIAC, MAC Procedures, MIAC Rules) that provide for it.

Evidentiary Procedure in Litigation:

The Myanmar Evidence Act, Myanmar CPC, and Myanmar CrPC govern Myanmar Courts.

- Witness Evidence:
  - Witnesses generally give oral evidence in open Court.
  - Written affidavits may be used in interlocutory proceedings or when allowed by the Court, but cross-examination is typically required to test their credibility.
- Cross-Examination:
  A party presenting a witness for oral evidence must make them available for cross-examination by the opposing party. Failure to do so may result in the Court assigning less weight or disregarding the testimony altogether.
- Admissions and Privilege:
  - Attorney-client privilege is recognised and protects confidential communications, including any admissions made within those communications.
  - Admissions made outside privileged contexts (e.g., in pleadings or oral statements in Court) are generally admissible and can be used against the party making them.
  - Privilege does not extend to all admissions unless covered by a specific legal or evidentiary rule.

7. Is expert evidence permitted in your jurisdiction for arbitration and litigation proceedings? Are qualifications necessary before a person can act as an expert witness?

Expert evidence in Arbitration:

Expert evidence is allowed and commonly used in arbitration. Parties may appoint and present expert reports and call expert witnesses during the hearing with the approval of the arbitration centre. There is no formal statutory requirement for pre-qualification; however, the arbitration center has the discretion to assess the expert's

qualifications and the relevance of their testimony before admitting their evidence.

Expert evidence in Litigation:

If a case involves technical or specialised knowledge that the Court may not fully understand (such as medical, scientific, or engineering matters), either party may bring an expert witness to help explain those issues. According to sections 45 and 46 of the Evidence Act, an expert is someone with special knowledge, training, or experience in a specific area, such as science, medicine, handwriting, or foreign law. The expert may provide a written report and must also give oral testimony in Court. The expert must help the Court understand the facts, not to support one side.

8. What is the typical duration of the arbitration and Court proceedings in your jurisdiction?

Arbitration in Myanmar generally takes between 3 months and 18 months, depending on the complexity of the case and the cooperation of the parties.

Court proceedings in Myanmar often take longer, typically ranging from 1 to 3 years for the first original case. The first appeal to the higher Court may add 1 to 2 years, and further appeals to the Union Supreme Court can extend the process by an additional year.

9. Does your jurisdiction acknowledge other Alternative Dispute Resolution (ADR), such as mediation or conciliation, before or during arbitration or Court proceedings?

Myanmar acknowledges other forms of Alternative Dispute Resolution (ADR), such as mediation and conciliation. The Arbitration Law does not prohibit these methods; therefore, mediation and conciliation may be conducted either before or during arbitration, based on the parties' mutual agreement.

In Court proceedings, Section 89A of the CPC empowers the Court to refer parties to mediation to resolve civil disputes, based on the parties' mutual agreement. In such cases, a mediator is appointed by the Court to assist the parties in settling. The Court may refer various types of cases to mediation, including family and matrimonial disputes, contractual and commercial disputes, land and property disputes, tort and compensation claims, as well as labour and employment disputes.

There is no provision for initiating Court-led mediation before the commencement of Court proceedings; mediation can only be conducted during the Court process. If the parties do not agree to proceed with mediation when first referred by the Court, the case will continue through the regular Court process. Once this opportunity for mediation is declined and the case proceeds, the Court will not allow a second attempt at mediation, even if the parties later agree and request it.

10. Are there any recent trends or developments in your jurisdiction regarding arbitration and dispute resolution?

In recent years, Myanmar has taken important steps to modernize its arbitration and dispute resolution framework. One major development was the issuance of the Arbitration Procedure by the Union Supreme Court through Notification No. 643/2018. This provides detailed rules on various aspects of arbitration, including the appointment and qualifications of arbitrators, court assistance in arbitration matters, and the enforcement and setting aside of arbitral awards. It also clarifies legal definitions, such as "contrary to national interest", which is relevant for refusing the enforcement of foreign arbitral awards. These procedures aim to improve clarity and predictability i the arbitration process within Myanmar.

Another significant development occurred on 10 February 2020, when the Union Supreme Court of Myanmar signed a Memorandum of Guidance (MOG) with the Supreme Court of Singapore. This non-binding agreement sets out a shared understanding between the two ourts regarding the enforcement of money judgments in each jurisdiction. While the MOG does not create legal obligations, it outlines the conditions under which judgments may be recognized and enforced, including the requirement that judgments be final, conclusive, and for a fixed sum of money. It also sets out grounds on which enforcement may be refused, such as fraud, breach of natural justice, or conflict with public policy. Although the MOG does not address arbitration directly, it reflects Myanmar's broader commitment to aligning with international legal standards and fostering cross-border judicial cooperation.

11. What are some considerations peculiar to your jurisdictions before opting for either an arbitration or a Court process?

While arbitration in Myanmar is intended to offer procedural advantages, in practice, it often mirrors the Court system in terms of delays. Court acceptance of arbitration-related applications can take over a year, and enforcement may take two to three years, providing little practical benefit over litigation.

As a result, Court proceedings are generally more suitable for low-value disputes or when cost is a critical factor. In contrast, arbitration, especially international arbitration, is preferable when foreign parties are involved, the dispute is complex or cross-border, confidentiality is important, judicial neutrality is a concern, or enforcement across multiple jurisdictions is required.

	Court proceedings	Arbitration
Cost	Relatively low; it depends on the type of case and the monetary value in dispute.	Generally, more expensive; fees depend on the value of the dispute and the chosen arbitration centre.
Procedure duration	Often slow and subject to procedural delays.	Typically faster, particularly in commercial or cross-border disputes.
Confidentiality	Generally held in public as required by law, unless the court decides otherwise or confidentiality is requested by the parties and approved by the court.	Confidential by law, unless the parties agree otherwise.
Expertise of decision-makers	Judges may not have specific expertise in commercial or technical matters.	Parties may appoint arbitrators with specialised knowledge and industry experience.
Expert involvement is allowed.	Proceedings and documents must be in the Lao language per Article 16 of the Civil Procedure Law. However, per Article 16 of the Civil Procedure Law, parties who do not know the Lao language can use their own languages or other languages through a translator.	Proceedings are also conducted in the Lao language per Article 13 of the Dispute Resolution Law, but may allow foreign evidence with translation. However, per Article 13 of the Dispute Resolution Law, parties who do not know the Lao language can use their own languages or other languages through a translator.
Language	The Myanmar language is mandatory; foreign-language documents must be translated.	The parties are free to agree on the language of arbitration.
Appealability	First-instance judgments may be appealed to higher courts.	Arbitral awards are final and not subject to appeal; they can only be set aside under limited grounds.
Interim urgent measures	Interim measures such as injunctions or temporary restraining orders can be granted upon the request of a party. The court does not generally grant interim relief on its own initiative. It must be applied for by one of the parties.	It can only be granted upon the request of one of the parties.
Requirements for acceptance of the case	Must comply with the Myanmar CPC and relevant court regulations.	Must be based on a valid arbitration agreement that meets formal requirements under the Myanmar Arbitration Law.

DISPUTES LANDSCAPE IN THAILAND

1. Has your jurisdiction ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

Thailand ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards on 21 December 1959 and came into force on 20 March 1960. The enforcement of both domestic and international arbitral awards in Thailand is governed by the Arbitration Act B.E. 2545 (2002) (the "**Thailand Act**"). The qualifications or requirements for enforcement, as outlined in such an Act, state that the applicant must submit an original or a certified copy of the arbitral award and an arbitration agreement, along with certified Thai translations.

Suppose an arbitral award is made in a foreign country. In that case, the award shall be enforced by the competent Court in Thailand only if it is subject to an international convention, treaty, or agreement to which Thailand is a party. Such an award shall be applicable only to the extent that Thailand accedes to be bound by whichever instrument.

The Thai Court may refuse to enforce the arbitral award due to the following conditions.

- A party to the arbitration agreement was under some incapacity under the law applicable to that party;
- The arbitration agreement is not binding under the law of the country agreed to by the parties, or failing any indication thereon, under Thai law;
- The party making the application was not given proper advance notice of the appointment of the

arbitral tribunal or of the arbitral proceedings or was otherwise unable to defend the case in the arbitral proceedings;

- The award deals with a disputed not falling within the scope of the arbitration agreement or contains a decision on matters beyond the scope of the arbitration agreement. However, if the award on the matter which is beyond the scope thereof can be separated from the part that is within the scope of arbitration agreement, the Court may set aside only the part that is beyond the scope of the arbitration agreement or clause;
- The composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties or arbitration rules of an arbitration institute that rendered the award;
- The arbitral award has not yet become binding, or has been set aside or suspended by a competent Court or under the law of the country where it was made.
- The award deals with a dispute not capable of being settled by arbitration under the law; or
- The recognition or enforcement of the award would be contrary to social morality or public policy.

2. Does your jurisdiction have emergency arbitration proceedings?

While the Thailand Act does not provide for the appointment of emergency arbitration procedures, it empowers arbitral tribunals to issue interim measures. A party may submit a petition to a competent Thai Court for interim measures before or during the arbitration proceedings. Should the Court determine that the Court could have issued such an order, the Court may grant the requested relief. Thai Court-ordered interim measures are confined to those permissible under the Thailand Civil Procedure Code, including, but not limited to, orders for security for costs, seizure or attachment, injunctions, and directives to government authorities to suspend property registrations. If the Court orders accordingly, the applicant must proceed with the arbitration within 30 days of the order date. Failure to initiate arbitration causes the interim measures to be automatically revoked.

3. Has your jurisdiction ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters?

Thailand has not ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. Parties seeking to enforce foreign judgments must file a new civil complaint with a competent Court in Thailand. All Thai Court procedures must be followed, and all parties can present any issues to the Thai Court. The foreign judgment can be used as part of the evidence to support the claim. The Thai Court is not required to follow or render its judgment to align with the judgment issued by a foreign Court.

4. Does your jurisdiction have special or characteristic bodies and institutions conducting arbitration and Court proceedings?

Arbitration Institutes:

There are five main domestic arbitration institutes in Thailand:

- the Thai Arbitration Institute (the "**TAI**") of the Alternative Dispute Resolution Office, Office of the Judiciary
- the Thai Commercial Arbitration Institute of the Board of Trade (the "**TIBT**").
- the Thailand Arbitration Centre (the "**THAC**"), under the Ministry of Justice.
- Sectoral-specific arbitration centers:
  - The Arbitration Centre of the Office of the Insurance Commissioner: Resolves disputes between insureds/beneficiaries and insurance companies (the "**TIC**").
  - The Arbitration Centre of the Office of the Securities Commission: Resolves disputes between investors in the capital market and securities companies (the "**TSC**").

These institutes are well managed, have standard arbitration rules, and maintain a list of qualified available arbitrators.

Court System:

Thailand has a unified Court system, with various levels and specialised Courts:

- **Courts of First Instance:** These Courts address both general and smaller-scale matters, including:
  - Civil Courts and Criminal Courts for general civil and criminal matters.
  - District Courts for smaller civil and criminal cases.
  - Specialised Courts:
    - Intellectual Property and International Trade Central Court (IP&IT Court): Handles intellectual property rights, international trade disputes, and related arbitral award enforcement.
    - Labour Courts: Handle labor disputes.
    - Family and Juvenile Courts: Handle family and juvenile matters.
    - Bankruptcy Courts: Handle bankruptcy and rehabilitation cases.
    - Tax Courts: Handle tax-related disputes.
- **Courts of Appeal:** Review decisions from the Courts of First Instance. There are regional Appeal Courts and an Appeal Court for Specialised Cases.
- **Supreme Court:** The highest Court of appeal for civil and criminal cases.
- **Administrative Courts:** Handle disputes between individuals or private entities and state agencies or state officials, as well as disputes among state agencies or state officials. This includes disputes related to government contracts and administrative actions.
- **Constitutional Court:** Deals with matters concerning the constitutionality of laws and actions of the government.

5. Are arbitration and Court proceedings conducted confidentially in your jurisdiction? At what stage does the record of the proceedings become a public document?

Arbitration Proceedings

While the Thailand Act does not explicitly contain provisions on confidentiality, the inherent nature and fundamental principle of arbitration dictate that proceedings are conducted confidentially. Access to arbitration hearings is typically restricted to the involved parties and their authorised representatives.

Confidentiality in arbitration is primarily established and ensured through:

- **Agreements between the parties:** Often stipulated in the arbitration agreement itself.
- **Terms of reference:** A document defining the scope and rules of the arbitration.
- **Rules of the arbitral institution:** Specific regulations governing the arbitration process.

Examples from Arbitration Institution Rules:

- **Article 36 of the TAI Arbitration Rules provides that:**

"All arbitration proceedings, the statement of claims, the statement of defence, correspondence, documents, evidence, hearings, orders, and awards are confidential.

The parties, the arbitral tribunal and the Institute shall not disclose all or certain matters relating to the arbitral proceedings except

1. with the consent of the parties;
2. for the purpose of obtaining protection or exercising rights under the law, or enforcing or challenging an award; or
3. where there is a duty to disclose as prescribed by the law."

- **Article 87 of the THAC Rules 2015 provides that:**

"A party or any arbitrator, including the President, the Registrar, officials, employees and staff, shall not disclose to a third person any matter relating to the arbitration proceedings, except where the parties have provided written consent, or in the following circumstances:

1. to file a motion in a Court to enforce or set aside an award;
2. to comply with an order or summons from a Court with jurisdiction over the arbitration proceedings;
3. to enforce a legal right;
4. to comply with the legal provisions of a country which are binding on the party making the disclosure;

5. to comply with the request or requirement of an entity which regulates activities related to arbitration proceedings; or

6. to comply with an order by the arbitral tribunal pursuant to a request by a party which has been notified to the other party.

The matters relating to arbitration proceedings include the facts relating to the proceedings, the names of arbitrators, statements, evidence, witnesses, or any object used in the proceedings and all the documents produced by the other party during the proceedings, as well as the award made following the proceedings, except for matters already in the public domain."

Public Record: The vast majority of arbitration cases remain confidential. Case records generally only become a matter of public record when **their enforcement or setting aside is challenged in Thai Courts**. At this stage, the Court filings related to the challenge/enforcement may become publicly accessible, though the underlying details of the arbitration itself might still be subject to confidentiality orders.

Court Proceedings

In contrast to arbitration, Court proceedings in Thailand are generally open to the public. However, exceptions may apply if the parties request a confidential proceeding or if specific circumstances, such as family matters or trade secrets, necessitate it. This principle is enshrined in the Civil Procedure Code and the Criminal Procedure Code, promoting transparency and public scrutiny of the judicial process.

In Thailand, records of Court proceedings, including filings, evidence, and judgments, are generally considered public documents upon official submission. However, in practice, the Court exercises discretion regarding the public disclosure of specific details. Accessing certain documents or particular aspects of the proceedings requires a formal request. The Court may grant such a request, especially if the requesting party is deemed an "interested party" in the case.

Nevertheless, basic information about litigation can often be obtained through public search systems, and supreme Court judgments are typically published and accessible to the public, with personal identifying information potentially anonymised.

6. What is the evidentiary procedure applicable in your jurisdiction for arbitration and litigation proceedings? Are admissions safeguarded from disclosure by privilege?

Evidentiary Procedure in Arbitration:

Arbitration proceedings in Thailand are generally more flexible than Court litigation. The rules governing evidence can be mutually agreed upon by the parties or determined by the arbitral institution. Witnesses may provide either written statements or oral testimony, depending on the procedure adopted. Cross-examination is permitted and commonly used to assess the credibility of witnesses. The submission of documentary evidence is less formal, allowing parties greater freedom compared to Court proceedings.

Evidentiary Procedure in Litigation:

Court proceedings are governed by the Thai Civil Procedure Code, which imposes more structured evidentiary requirements. The burden of proof lies with the claimant, who must substantiate their claims with admissible evidence. Witnesses are typically required to give oral testimony in Court. While written statements may be submitted, they do not replace oral testimony; witnesses must appear in Court to allow for cross-examination and re-examination by legal counsel. Parties must submit a list of documentary evidence in advance. Generally, documents not listed may be excluded from consideration unless permitted by the Court under specific circumstances.

7. Is expert evidence permitted in your jurisdiction for arbitration and litigation proceedings? Are qualifications necessary before a person can act as an expert witness?

Expert evidence in Arbitration:

Expert witness is clearly allowed in Thai arbitration under Section 32 of the Thailand Act. The arbitral tribunal can appoint experts to give opinions on technical issues. These experts do not need formal qualifications, but they must have specialised knowledge or experience. Parties can also bring their own experts to support their case.

Expert evidence in Litigation:

Expert witness is also important in Thai Court cases, especially when specialised knowledge is needed. Although there is no single licensing body, experts must

have relevant qualifications and experience.

8. What is the typical duration of the arbitration and Court proceedings in your jurisdiction?

Arbitration Proceedings:

The duration of arbitration proceedings in Thailand can vary significantly depending on factors such as the complexity of the dispute, the number of arbitrators, the cooperation of the parties, and the rules of the chosen arbitral institution. There is no publicly available "typical duration" as there is for Court cases under the new Act. However, arbitration is generally considered to be faster and more efficient than traditional litigation.

- **Factors influencing duration:**
  - **Complexity:** More complex cases with extensive evidence and numerous issues will naturally take longer.
  - **Number of Arbitrators:** A sole arbitrator might resolve a case faster than a three-arbitrator panel.
  - **Party Cooperation:** Parties actively cooperating in the process (e.g., timely submissions, agreement on procedures) can significantly expedite the process.
  - **Institutional Rules:** Different institutions have different procedural timelines and case management approaches that can impact the duration of cases.
  - **Challenges/Enforcement:** If an award is challenged in Court or requires Court enforcement, this will add to the overall timeframe.
- **Average Timeframe (Estimate based on general practice, not statutory):** While a precise average is difficult to give, many arbitrations can be concluded within 6 months to 2 years, often faster than comparable Court cases, especially for less complex disputes. Complex international arbitrations can extend beyond this.

Court Proceedings:

Litigation in Thailand has historically been perceived as a time-consuming process. To address this, the **Timeframe for Judicial Proceedings Act B.E. 2565 (2022)**, which came into effect on 23 January 2023, clarifies timeframes for all stages of the judicial process.

- **Court of First Instance:**
  - **Special Management Case (no complications, completed within one hearing or by document submission):** 6 months from the date the lawsuit is accepted.
  - **Ordinary Case (witness examination required):** 1 year from the date the case is accepted.
  - **Extraordinary Case (complicated, requires multiple days of witness examination):** 1 year from the date the case is accepted.
  - *Exceptions:* Criminal cases with detained defendants: 6 months from arrest warrant. District Court cases: 6 months from acceptance.
- **Appeal Court:**
  - **All civil and criminal cases:** 1 year from the date the case is received from the Court of First Instance.
  - *Exception:* Criminal cases with only punishment discretion as an issue: 6 months.
  - **Regional Appeal Court and Appeal Court for Specialised Cases:**
    - Special Urgent Case: 4 months
    - Urgent Case: 6 months
    - Special Case: 1 year
    - General/Normal Case: 1 year
- **Supreme Court:**
  - **Civil and Criminal Cases:** 1 year from the date the file is received from the Court of First Instance.
  - *Exceptions:* Criminal cases with only punishment discretion as an issue: 6 months. Cases requiring inquiry or witness examination at the Supreme Court: 1 year from inquiry/examination hearing.

9. Does your jurisdiction acknowledge other Alternative Dispute Resolution (ADR), such as mediation or conciliation, before or during arbitration or Court proceedings?

Thailand extensively acknowledges and actively promotes ADR, particularly mediation and conciliation, both before and during Arbitration and Court proceedings.

The most effective and practical way to initiate ADR in Thailand is by applying the Mediation Act B.E. 2562 (2019) through the Mediation Centre of the Court of Justice, utilising the Regulations of the Office of the Judiciary on Dispute Mediation under the Dispute Mediation Act B.E. 2562 (2019). The Court of Justice has successfully incorporated mediation as a mainstream ADR mechanism alongside traditional trial and adjudication. The Court actively encourages pre-litigation mediation before lawsuits are even filed. The overarching goals are to facilitate swift and amicable resolutions, reduce the number of cases proceeding to trial, and minimise financial burdens on the litigation parties.

The Court of Justice further supports this by coordinating pre-litigation mediation efforts with other government agencies, private organisations, and the general public through a dedicated Working Group for the Development of the Pre-Litigation Mediation System. They also actively raise public awareness about pre-litigation mediation through various media channels.

The primary legal framework and operational guidelines for this are:

- **The Mediation Act B.E. 2562 (2019):** Effective from 23 May 2019, explicitly encourages government agencies to utilise mediation for resolving civil disputes involving smaller claims and certain types of criminal disputes. It emphasises prioritising the parties' consent to reduce Court caseloads, minimise conflicts, and foster social harmony.
- **Regulations of the Office of the Judiciary on Dispute Mediation under the Dispute Mediation Act B.E. 2562 (2019), B.E. 2562 (2019):** These regulations, issued by the Office of the Judiciary, provide the specific operational procedures and guidelines for the implementation of mediation under the Mediation Act. This includes aspects related to the qualifications of mediators, the mediation process, and the enforceability of mediated agreements.
- **Section 20 Ter of the Civil Procedure Code:** This section also supports pre-litigation mediation.

10. Are there any recent trends or developments in your jurisdiction regarding arbitration and dispute resolution?

There have been no significant developments at this time.

11. What are some considerations peculiar to your jurisdictions before opting for either an arbitration or a court process?

Court Costs and lawyer fees in Thailand – Usually, the losing party pays the Court costs, but the Court can decide otherwise.

If you win a case, you might get back some of the Court fees you paid upfront. In addition, lawyer fees awarded by the Court are usually low, only a small part of what you actually spent. The Court uses a set of guidelines to decide how much to award, based on the case's complexity and the lawyer's work.

Security for Costs (for Foreign Plaintiffs) – If the plaintiff is not based in Thailand or has no assets there, the defendant can ask the Court to order the plaintiff to deposit money to cover potential costs. If the plaintiff does not pay, the Court may dismiss the case.

	Court Proceedings	Arbitration
Cost	Relatively low; depends on case type and monetary value in dispute.	Generally more expensive; fees depend on dispute value and arbitration center.
Procedure Duration	Typically 8–12 months after filing a complaint.	Usually faster, about 6–8 months after filing a statement of claim.
Confidentiality	Public hearings, unless Court or parties decide otherwise.	Confidential, unless parties agree otherwise.
Expertise of Decision-Makers	Judges may lack specific commercial or technical expertise.	Arbitrators can be chosen for specialized knowledge and industry experience.
Language	Thai language mandatory; foreign documents must be translated.	Parties may agree on language for disputes with foreign elements.
Appealability	First-instance judgments can be appealed to higher Courts.	Arbitral awards are final; can only be set aside on limited grounds.
Interim Urgent Measures	Parties can request.	Parties can request.
Requirements for Acceptance	Must comply with Civil Procedure Code and Court regulations.	Must have a valid arbitration agreement meeting formal requirements.
Requirements for acceptance of the case	Must comply with the Myanmar CPC and relevant court regulations.	Must be based on a valid arbitration agreement that meets formal requirements under the Myanmar Arbitration Law.

DISPUTES LANDSCAPE IN VIETNAM

1. Has your jurisdiction ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

The President of Vietnam issued Decision No. 453/QD-CTN on 28 July 1995 regarding participation in the New York Convention, and Vietnam officially ratified the New York Convention on 12 September 1995. The accession became effective for Vietnam on 11 December 1995. Following this, Vietnam issued Law No. 54/2010/QH12 on 17 June 2010 on commercial arbitration (the "**Vietnam Law**").

Foreign arbitral awards are considered by Vietnamese Courts for recognition and enforcement in Vietnam under the Vietnam Law, which provides two legal bases:

- the country of the foreign arbitration forum and Vietnam are members of a relevant international treaty; and
- there are grounds to apply the reciprocity principle with countries with which Vietnam does not have a treaty.

Only the person in whose favour an arbitral award is rendered (i.e., the judgment creditor) or their legal representative may petition Vietnamese Courts to recognise and enforce a foreign arbitral award in Vietnam.

2. Does your jurisdiction have emergency arbitration proceedings?

Vietnamese law currently does not recognise "emergency arbitration proceedings". According to the Vietnam Law,

arbitration proceedings must generally be conducted in accordance with the timeline outlined in the law. While the concept of emergency arbitrator appointment is not mentioned in the Vietnam Law, it does leave room for the parties to agree on specific fast-track processes or for the arbitration rules of authorised arbitration centres to make additional provisions on the timeline of arbitration proceedings (such as the timeframes to submit a notice of arbitration, statement of claim/defence, etc.).

The arbitration rules of several arbitration centres in Vietnam, such as the Vietnam International Arbitration Centre ("**VIAC**") recognise and permit the parties to opt for an expedited procedure (in Vietnamese: *Thủ tục rút gọn*), which is designed to streamline and enhance the efficiency of the arbitration process. Specifically, the expedited procedure at VIAC offers the parties shortened timeframes, hearings conducted without the physical presence of the parties, and the use of teleconferencing or video conferencing—unless a party objects—offering a more efficient alternative to traditional arbitral proceedings.

3. Has your jurisdiction ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters?

Vietnam has neither signed nor ratified the 2019 HCCH Judgments Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. Accordingly, foreign Court judgments may be recognised and enforced in Vietnam either (i) under a relevant international or bilateral treaty to which both Vietnam and the foreign Court's home country are parties, or (ii) in the absence of such a treaty, based on the applicability of the reciprocity principle.

Parties seeking enforcement of foreign Court judgments in Vietnam (including judgment creditors, persons with related rights and interests, or their legally authorised representatives) may file a petition to a competent Vietnamese Court— for recognition and enforcement of a foreign Court judgement in Vietnam. In practice, with respect to commercial disputes, the number of foreign Court judgments recognised and enforced by Vietnamese Courts remains very limited, e.g. a few judgments rendered by the Seoul Supreme Court and Singaporean Courts.

4. Does your jurisdiction have special or characteristic bodies and institutions conducting arbitration and Court proceedings?

Vietnamese law permits civil parties to freely choose their preferred method of dispute resolution—such as arbitration—so long as there is a mutual agreement between the parties. However, this flexibility does not apply to disputes that do not fall within the authority of commercial arbitration[3] , but under the exclusive jurisdiction of the Vietnamese Courts.[4] For such disputes, arbitration or other alternative methods are not permissible regardless of an existing arbitration agreement.

Arbitration: If the parties have a valid agreement to resolve their dispute through arbitration, and the dispute falls within the jurisdiction of commercial arbitration, the arbitration centre chosen by the parties will have the authority to handle the case. In Vietnam, approximately 40 licensed arbitration centres are operating nationwide. Notable examples include VIAC, the Hanoi International Arbitration Centre (the "**HIAC**"), and the Vietnam Economic Arbitration Centre (the "**VEAC**").

Court proceedings: Under Vietnam's new two-level Court system, effective 1 July 2025, civil lawsuits must be filed at the regional People's Court where the defendant is located. For a company, this is the location of its head office; for an individual, it's their place of residence. These regional Courts are the primary trial Courts and have the authority to hear most civil cases, including those involving foreign parties.[5]

Previously, initial trials for civil cases were handled by district-level Courts, unless the case involved a foreign party, in which case the provincial-level Court heard it.

[3] Jurisdiction of Arbitration in Dispute Resolution is limited to (i) Disputes arising between parties from commercial activities; (ii) Disputes arising between parties where at least one party is engaged in commercial activities; and (iii) Other disputes between parties that are permitted by law to be resolved through arbitration.

[4] Resolution No. 01/2014/NQ-HDTP issued by the Council of Judges of the Supreme People's Court dated 20 March 2014 on guidelines for the Vietnam Law, Article 2.3

[5] Law no. 81/2025/QH15 of the National Assembly of Vietnam dated 24 June 2025 on Amendments to the Law on the Organization of the People's Courts, Article 59.1; and Resolution No. 01/2025/NQ-HDTP of the Council of Judges of the Supreme People's Court dated 27 June 2025 on guidance on the application of certain provisions regarding the assumption of duties and the exercise of jurisdiction by the People's Courts, Article 5.1(b)

5. Are arbitration and Court proceedings conducted confidentially in your jurisdiction? At what stage does the record of the proceedings become a public document?

Arbitration:

By the Vietnam Law, dispute settlement by arbitration shall be conducted in private, unless otherwise agreed by the parties.[6] Accordingly, the arbitral awards held by the arbitral tribunals shall not be disclosed to the public. Parts or all of an arbitral award may be publicly disclosed when the award is brought before a Court in an action to set aside the arbitral award.

Court Proceedings:

It is a principle that the Vietnamese Courts shall conduct hearings publicly, except in certain cases provided by law. Exceptions are made for the protection of state secrets, conformity with the nation's fine traditions and customs, protection of minors or protection of private life, personal life, business know-how, family secrets and professional secrets. For such cases, the Courts may conduct trials behind closed doors.

By law, the decisions and judgments of the Courts shall be published online at the official website https://congbobanan.toaan.gov.vn/, except for cases tried in closed hearings.

[6] Vietnam Law, Article 4.4

6. What is the evidentiary procedure applicable in your jurisdiction for arbitration and litigation proceedings? Are admissions safeguarded from disclosure by privilege?

Evidentiary Procedure in Arbitration:

During arbitration, (i) parties have the right and obligation to submit the evidence to the arbitration council to prove facts related to the matters in dispute; and (ii) at the request of one or more parties, the arbitral tribunal has the authority to require witnesses to provide information and documents relevant to the resolution of the dispute.[7]

In cases where the arbitral tribunal or one or more parties have taken the necessary measures to collect evidence but are still unable to do so, a written request may be submitted to the competent Court to request that an agency, organisation, or individual provide readable, audible, or visible materials or other physical evidence related to the dispute.[8] The Court will review the request and may issue a decision: (i) for agencies, organisations and individuals that are managing and preserving evidence to provide such evidence to the Court; and (ii) to summon a witness to a dispute settlement meeting.

Evidentiary Procedure in Litigation:

In disputes resolved by the Courts, the parties involved have the right and obligation to actively collect and submit evidence to the Court to prove that their claims are well-founded and lawful. Besides, agencies, organisations, and individuals initiating lawsuits or making requests to protect the lawful rights and interests of others have the same rights and obligations as litigants to collect, provide evidence, and substantiate their claims. The Court is responsible for assisting litigants in collecting evidence and shall only collect and verify evidence in cases stipulated by law.[9]

The evidence shall be submitted by the parties to the Court, and the judge in charge of the case shall convene a hearing to review the submission, access, and disclosure of evidence, as well as to conduct a conciliation between the litigants (the "Pre-Hearing Meeting"). During the Pre-Hearing Meeting, the judge shall disclose the documents and evidence in the case file and question the litigants on relevant matters, including whether the parties have further requests regarding the supplementation of documents and evidence, requests for the Court to collect documents and evidence, or requests for the Court to summon other litigants, witnesses, and other participants in the proceedings at the trial.[10]

Admission of evidence / legal privilege

Vietnamese law does not recognise the concept of legal "privilege".[11]

Under Vietnamese law, testimonies are only regarded as evidence if they were collected in accordance with the law and recorded in a readable form, such as in writing, audio tapes, audio discs, video tapes, or discs, or other audio or image recording devices.[12] Admissions shall be

[7] Vietnam Law, Article 46.1

[8] Vietnam Law, Article 46.2

[9] Civil Procedure Code No. 92/2015/QH13 of the National Assembly of Vietnam dated 25 November 2015 (the "Vietnam CPC"), Article 6

[10] Vietnam CPC, Articles 208 and 210

[11] Vietnam CPC, Article 94

[12] Vietnam CPC, Article 95

collected and disclosed to the parties in accordance with the procedures at the Pre-Hearing Meeting.

We note that there is a confidentiality obligation for lawyers and other advocates towards their clients under Vietnamese law. This confidentiality obligation is subject to exclusions in matters of public security or where required to report certain serious crimes. While there is no enshrined concept of privilege that could be used to withhold certain information in a discovery process, it is nevertheless conceivable to argue that disclosure of information in breach of a lawyer or other advocate's confidentiality obligation would be unlawful. But we are not aware of any precedents in this regard.

7. Is expert evidence permitted in your jurisdiction for arbitration and litigation proceedings? Are qualifications necessary before a person can act as an expert witness?

Expert evidence in Arbitration:

Pursuant to Article 46 of the Vietnam Law, the parties or the arbitral tribunal may consult with experts on matters falling within the expert's area of specialisation. The expert may be engaged to provide a written report in the form of an expert opinion, addressing technical or specialised issues relevant to the dispute. This mechanism allows the arbitral tribunal to benefit from professional insights that aid in the resolution of complex matters beyond the tribunal's own expertise, thereby ensuring a more informed and accurate assessment of the case.

In practice, the arbitration rules of many arbitration centres also recognise expert reports and permit selected experts to be involved in dispute resolution (such as Article 19 of VIAC Rules).

Expert evidence in Litigation:

Unlike in arbitration, Vietnamese law does not explicitly recognise the involvement of experts in litigation proceedings. In principle, the Courts shall settle the case independently and solely comply with the laws; and it is strictly prohibited for any agency, organisation, or individual to interfere in the adjudication or settlement of a case or matter by Judges or Jurors in any form. However, the law recognises and permits expert conclusions (in Vietnamese: *Kết luận giám định*) as a form of evidence usable by the Court.[13] So we can conclude that during a proceeding, the Court may use expert evidence indirectly.

Expert qualifications

Vietnamese law does not set out specific criteria or mandatory qualifications for individuals to serve as experts in dispute resolution proceedings. Nevertheless, in practice, it is generally expected that experts possess substantial knowledge, experience, and expertise in the subject matter of the dispute. Their selection is typically based on their professional background and credibility in the relevant field, and they must be acceptable to both parties and the arbitral tribunal to be appointed.

[13] Vietnam CPC, Article 94.5

8. What is the typical duration of the arbitration and Court proceedings in your jurisdiction?

Arbitration

In principle, time limits in arbitral dispute resolution are observed in the following order of precedence: (i) as agreed upon by the parties, (ii) as set out in the arbitration rules of the arbitral institution, and (iii) as provided under the Vietnam Law. The Vietnam Law only prescribes specific time limits for certain procedural steps. For example, the claimant's time limit for submitting a defence statement in response to the respondent's counterclaim is 30 days. The duration of arbitral proceedings can vary significantly depending on the nature and complexity of the dispute. Additional factors such as the conciliation process between the parties, any negotiations or attempts at settlement, and whether the parties agree to terminate the proceedings may also impact the overall timeline.

In practice, the typical duration of arbitration proceedings is reported to be approximately 3 to 5 months (*according to VIAC's 2020 Annual Report*), subject to the complexity of the case and the procedural dynamics involved.

Court proceedings

By law, there are no specific provisions stipulating a fixed timeframe for the whole proceedings of a case at the Court. The duration of proceedings may vary depending on various factors, such as the complexity of the case, the conciliation process between the parties at the Pre-Hearing Meeting, and other relevant circumstances. Therefore, the duration of a Court proceeding can be much higher than previously estimated.

The Vietnam CPC only provides a fixed time limit for trial preparation for various types of cases, (excluding those tried under summary procedures or involving foreign elements), which can be summarised as follows:[14]

(i) For civil disputes, and marriage family-related disputes, the time limit is 4 months from the date the case is accepted by the Court;

(ii) For business and/or trade disputes and labor disputes, the time limit is 2 months from the date the case is accepted by the Court.

In complex cases or in the event of force majeure or objective obstacles, the Chief Justice of the Court may decide to extend the time limit for trial preparation, but the extension shall not exceed 2 months for cases (i) and 1 month for cases (ii).

9. Does your jurisdiction acknowledge other Alternative Dispute Resolution (ADR), such as mediation or conciliation, before or during arbitration or Court proceedings?

Yes, ADR such as conciliation is widely recognised in Vietnamese laws. The most common types of ADR are negotiation, mediation and arbitration.

Negotiation: In Vietnam, negotiation is recognised under Article 9 of the Vietnam Law as a method for resolving disputes either before or during arbitration proceedings. This is a voluntary and non-binding mechanism, which the parties may choose to engage in or bypass, depending on their mutual agreement.

Mediation: In terms of an ADR, mediation requires the involvement of a mutually selected mediator(s), the language, and the procedures - usually regarded as commercial mediation to distinguish from mediation conducted at the Court as a part of Court proceedings.

Commercial mediation in Vietnam is governed primarily by Decree 22 No. 22/2017/ND-CP of the Government of Vietnam on commercial mediation dated 24 February 2017 ("**Decree 22**"), which provides the legal framework for the organisation and operation of commercial mediation. This decree outlines the principles, procedures, and conditions for mediation of commercial disputes, promoting mediation as a voluntary, confidential, and efficient method of dispute resolution. Mediators may be registered with a recognised mediation organisation or act independently, provided they meet certain criteria regarding qualifications and ethical standards. Of note, commercial mediation can be carried out by either an ad-hoc commercial mediator or a commercial mediation institution.[15] The mediation agreement and the settlement agreement reached by the parties are legally binding and may be recognised and enforced by the Court upon request.

10. Are there any recent trends or developments in your jurisdiction regarding arbitration and dispute resolution?

Recently, there have been several notable trends and developments in arbitration and dispute resolution in Vietnam:

Increased Use of Arbitration: Businesses are increasingly turning to arbitration, particularly through institutions like VIAC, due to its efficiency, confidentiality, and flexibility compared to litigation.

Electronic arbitration: As e-commerce and digital trade expand, Vietnam is actively promoting the use of Online Dispute Resolution (ODR) and working toward a more complete legal framework to support fully digital arbitration processes. One notable advancement is the launch of the VIAC eCase platform, which allows parties to submit claims, manage documents, and monitor case progress entirely online. Other arbitration centres are also increasingly adopting digital tools for case management and allowing virtual hearings.

Integrated ADR models: Several integrated ADR models have been introduced, such as the Mediation - Arbitration (Med - Arb) and Arbitration - Mediation - Arbitration (Arb - Med - Arb) model. In a Med-Arb approach, parties begin with mediation and, if no settlement is reached, proceed directly to arbitration with the same or a different neutral. The Arb - Med - Arb model, meanwhile, starts with arbitration, pauses for mediation (often encouraged by the arbitration council), and then returns to arbitration if necessary. These integrated procedures offer a flexible, time-efficient alternative that encourages settlement while still ensuring enforceability through a final arbitral award. In practice, Vietnam is promoting integrated mechanisms like Med-Arb, where mediation is attempted first, and unresolved issues proceed to arbitration.

[14] Vietnam CPC, Article 203

[15] Decree 22, Article 3.3

11. What are some considerations peculiar to your jurisdictions before opting for either an arbitration or a court process?

There are specific criteria for consideration before opting for either an arbitration or a Court process, including (i) costs and fees, (ii) procedure duration, (iii) confidentiality, (iv) expertise of decision-makers, (v) language, (v) appealability, (vi) interim urgent measures and (vii) requirements for acceptance of case, specifically as follows:

	Court proceedings	Arbitration
Cost	Relatively low; it depends on the type of case and the monetary value in dispute.	Generally, more expensive; fees depend on the value of the dispute and the chosen arbitration centre.
Procedure duration	Often slow and subject to procedural delays.	Typically faster, particularly in commercial or cross-border disputes.
Confidentiality	Public hearings by law, unless otherwise decided by the Court or requested by the parties.	Confidential by law, unless the parties agree otherwise.
Expertise of decision-makers	Judges may not have specific expertise in commercial or technical matters.	Parties may appoint arbitrators with specialised knowledge and industry experience.
Expert involvement is allowed.	Thai language mandatory; foreign documents must be translated.	Parties may agree on language for disputes with foreign elements.
Language	Vietnamese is mandatory; foreign-language documents must be translated.	Vietnamese for purely domestic disputes; parties may agree on the language in disputes involving foreign elements.
Appealability	First-instance judgments may be appealed to higher Courts.	Arbitral awards are final and not subject to appeal; they can only be set aside under limited grounds.
Interim urgent measures	A request can be made by the parties or, in some cases, initiated by the Court itself.	It can only be granted upon the request of one of the parties.
Requirements for acceptance of the case	Must comply with the Law on Civil Procedure and relevant Court regulations.	Must be based on a valid arbitration agreement that meets formal requirements under the Law on Commercial Arbitration.

Based on the comparison above, arbitration—and other forms of ADR—offer a more flexible, efficient, and confidential alternative to traditional litigation, particularly well-suited for complex commercial and cross-border disputes. As a result, an increasing number of parties are choosing to include arbitration clauses in their contracts as the preferred mechanism for resolving disputes, turning to the Courts primarily as a last resort or in matters falling under the exclusive jurisdiction of Vietnamese Courts.

AUTHORS

Bangladesh

Shakhawat Chowdhury

Associate

shakhawat.chowdhury@dfdl.com

Cambodia

Guillaume Massin

Partner

guillaume.massin@dfdl.com

Indonesia

Afriyan Rachmad

Partner

afriyan.rachmad@dfdl.com

Lao PDR

Kooi Thong Lai

Partner and Country Managing Director

kooithong.lai@dfdl.com

Lao PDR

Senesakoune Sihanouvong

Partner and Deputy Country Managing Director

senesakoune.sihanouvong@dfdl.com

Myanmar

Kyaw Kyaw Han

Legal Advisor

kyawkyaw.han@dfdl.com

Myanmar

Rohan Bishayee

Legal Advisor

rohan.bishayee@dfdl.com

Thailand

Noppadon Treephetchara

Partner

noppadon@dfdl.com

Vietnam

Thang Huynh

Partner

thang.huynh@dfdl.com

Vietnam

Patrick S. Keil

Senior Legal Adviser

patrick.keil@dfdl.com

KEY CONTACTS

Bangladesh

Shahwar Nizam

Partner and Managing Director

shahwar.nizam@dfdl.com

Cambodia

Guillaume Massin

Partner

guillaume.massin@dfdl.com

Indonesia

Afriyan Rachmad

Partner

afriyan.rachmad@dfdl.com

Lao PDR

Kooi Thong Lai

Partner and Country Managing Director

kooithong.lai@dfdl.com

Myanmar

Nishant K. Choudhary

Partner and Managing Director

nishant.choudhary@dfdl.com

Thailand

Noppadon Treephetchara

Partner

noppadon@dfdl.com

Vietnam

Thang Huynh

Partner

thang.huynh@dfdl.com

EXCELLENCE · CREATIVITY · TRUST

Since 1994

BANGLADESH | CAMBODIA* | INDONESIA* | LAO PDR | MALAYSIA* | MYANMAR | PHILIPPINES* | SINGAPORE | THAILAND | VIETNAM

**DFDL collaborating firms*