



No. 288/NCAC/24

Instruction
on
The Use of Dispute Resolution Mechanisms through
Arbitration-Mediation-Arbitration (Arb-Med-Arb)
of National Commercial Arbitration Centre

National Commercial Arbitration Centre (NCAC) has recently observed that the dispute resolution mechanisms through Arbitration-Mediation-Arbitration (Arb-Med-Arb) have been used for resolving commercial disputes especially cross-border commercial disputes.

Arbitration-Mediation-Arbitration (Arb-Med-Arb) mechanisms is a process where a dispute is first referred to arbitration before mediation is attempted. If parties are able to settle their dispute through mediation, their mediated settlement may be recorded as a consent award. The consent award is generally accepted as an arbitral award, which is recognized and enforceable in over 170 countries under United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted on 10 June 1958 in New York City (New York Convention). If the parties are unable to settle their dispute through mediation, they may continue with the arbitration proceedings.

In case the parties wishing to resolve its dispute using the Arbitration-Mediation-Arbitration (Arb-Med-Arb) mechanisms administered by the NCAC, the parties may consider incorporating the Arbitration-Mediation-Arbitration Clause (Arb-Med-Arb Clause) in their contracts as follows:

Arbitration-Mediation-Arbitration Model Clause

Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity, performance or termination, shall be referred to and finally resolved by arbitration administered by the National Commercial Arbitration Centre of the Kingdom of Cambodia in accordance with the Arbitration Rules of the National Commercial Arbitration Centre (NCAC Arbitration Rules) being in force at the time of commencement of arbitration, and by reference in this clause, the NCAC Arbitration Rules are deemed to be incorporated as part of this contract.

The parties further agree that following the commencement of arbitration, they will attempt in good faith to resolve the dispute through mediation that administered by the National Commercial Arbitration Centre of the Kingdom of Cambodia, in accordance with the Mediation Rules of the National Commercial Arbitration Centre of the Kingdom of Cambodia (NCAC Mediation Rules) being in force at the time of commencement of the mediation and by reference in this clause, the NCAC Mediation Rules are deemed to be incorporated as part of this contract.

The seat of the arbitration shall be [Phnom Penh, Kingdom of Cambodia] *.

The Tribunal shall consist of _____ ** arbitrator(s).

The language of the arbitration shall be _____.

Parties may consider the following additional provisions:

1. Language(s) of mediation

The language(s) of the mediation shall be [choose the language(s)].

2. Place of mediation

The place of the mediation shall be [Phnom Penh, Kingdom of Cambodia] ***.

Governing Law Clause

This contract is governed by the laws of _____ ****.

* Parties should specify the seat of the arbitration of their choice. If the parties wish to select an alternative seat to Cambodia, please replace “[Phnom Penh, Kingdom of Cambodia]” with the city and country of choice (e.g., “[City, Country]”).

** State an odd number.

*** Parties should specify the place of the mediation of their choice. If the parties wish to select an alternative place to Cambodia, please replace “[Phnom Penh, Kingdom of Cambodia]” with the city and country of choice (e.g., “[City, Country]”).

**** State the country or jurisdiction.

For more information on the dispute resolution mechanisms through Arbitration-Mediation-Arbitration (Arb-Med-Arb) administered by the NCAC, please contact the General Secretariat of the NCAC via phone +855 96 888 5333 or email: info@ncac.org.kh during working hours.

As mentioned above, the public please be informed.

Phnom Penh, 24 May 2024

NATIONAL COMMERCIAL ARBITRATION CENTRE



PRESIDENT

SAN KIRI
COMMERCIAL ARBITRATOR