

# Arbitration

by

The Office of Arbitration Tribunal



# What does Arbitration mean ?

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- Arbitration means a form of alternative dispute resolution by which the parties agree to file their existing or future disputes to be settled by a third party based on the evidence and the parties agree to be bound by the decision of the arbitration so-called "the award". The Arbitrator shall be unprejudiced in making any decision the submitted dispute and is not a representative of either party who appoints such arbitrator.





## History of office of the arbitration tribunal (I)

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- The Board of Trade of Thailand has been a dispute resolution institute arbitrating since 1968 and the Board of Trade of Thailand has revised the Thai Commercial Arbitration Rules by using the ECAFE Rules of International Commercial Arbitration, the ECAFE standards for Conciliation and the ICC Rules of Arbitration as a guide.
- The Thai Arbitration Act was amended in 2002 and the Board of Trade of Thailand through the Thai Commercial Arbitration Committee deemed it necessary to revise its present Commercial Arbitration Rules in order to comply with the amended Arbitration Act and to ensure suitability to the present practices of international trade.



## History of office of the arbitration tribunal (II)

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- Subsequently, the Board of Trade of Thailand and University of the Thai Chamber of Commerce have mutually agreed to begin the "Arbitration Project". The main purpose of this project is to focus on spreading the Arbitral process and improving the understanding and practice of the Arbitral process among both law students and law people.

# How to use Thai Commercial Arbitration (Arbitration Clause)

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- In the event the parties would like to use Thai Commercial Arbitration as their method of dispute resolution, such agreement shall be stated in their contract in clear and explicit terms, such as the following: **“Both parties agree to accept the Thai Commercial Arbitration Rules to govern the resolution of their dispute. In the event of any disagreement or dispute concerning or arising from this contract where the parties are unable to reach agreement such disagreement or dispute shall be finally and exclusively settled by arbitration under the Thai Commercial Arbitration Rules”.**

# How the arbitrators will be selected? (I)

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- ✓ Parties are able to choose arbitrators not only from institute arbitrator list but also from any expert in related field.
- ✓ The arbitrators does not have to be attorney at law or lawyer. They may be the experts in other careers, such as, engineer, accountant, business person, and so on.

# How the arbitrators will be selected?(II)

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- ✓ Normally, the Arbitrator Quorum shall be consisted of the odd number. In case of the even number of arbitrators is designated by the disputant, the arbitrators joint and appoint one more arbitrator as the presiding chairman of the Quorum. (For instance, each party selects one arbitrator. Then, both of them are going to select the presiding chairman)

# How the arbitrators will be selected?(III)

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- ✓ Interestingly enough, our Office of Arbitration Tribunal has approximately 130 arbitrators in list. They are the experts in various fields. Moreover, they are not only from Thailand but also from the country throughout the world. As a result, foreign parties are able to choose the arbitrator who can speak and understand the language in dispute.

# The Advantages of using the Dispute Resolution of Board of Trade of Thailand(I)

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- ✓ Having an office of the Arbitration Tribunal and a collection of experienced arbitrators in our panel list to administer the arbitration.
- ✓ Having a committee to look after the expenses of the parties in the arbitration proceeding.
- ✓ The parties are ensured of a neutral proceeding because the Thai Commercial Arbitration is a private institute.
- ✓ Arbitral proceedings are not complicated like Court of Justice proceedings.
- ✓ Generally, according to the rules the proceeding will be finished faster than court.
- ✓ The parties do not have to worry about jurisdiction because they are able to enforce the award throughout the world.



# The Advantages of using the Dispute Resolution of Board of Trade of Thailand(II)

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- ✓ The arbitrators considering the disputes are experts in many fields. The parties can select their arbitrators from the Arbitrator List of the Office of the Arbitration Tribunal of the Board of Trade of Thailand or the parties may select another qualified party.
- ✓ Parties involving in international trade can settle their dispute without damaging their reputation because the arbitration proceeding is a private hearing. Parties can also maintain good relations because they do not have to confront an argument with the sole goal of being the winner like in a court proceeding.



# How much the parties have to pay?

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There are three different expenses that parties need to pay.

1. The fee of the Office of Arbitration Tribunal is one percent of the amount claimed or of the amount of the dispute.

2. The deposit for managing expenses is at rate of ten percent of the remuneration of the arbitrators as a handling charge prescribed.

# How much the parties have to pay? (To be continued)

3. The last expense is the remuneration of the arbitrators.

## ARBITRATOR'S REMUNERATION OF OFFICE OF THE ARBITRATION TRIBUNAL

SUM IN DISPUTE	MINIMUM	MAXIMUM
No capital of claim	15,000 Baht per hearing	30,000 Baht per hearing
Up to 5,000,000 Baht	30,000 Baht	72,000 Baht
From 5,000,001 to 20,000,000 Baht	45,000 Baht	156,000 Baht
From 20,000,001 to 50,000,000 Baht	95,000 Baht	228,000 Baht
From 50,000,001 to 100,000,000 Baht	155,000 Baht	372,000 Baht
From 100,000,001 to 500,000,000 Baht	205,000 Baht	612,000 Baht
From 500,000,001 to 1,000,000,000 Baht	375,000 Baht	900,000 Baht
From 1,000,000,001 and over	525,000 Baht	3,600,000 Baht

## The calculation of all three expenses ( assume that the amount of claim is 5 Mb.) (I)

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- ❖ One percent of 5,000,000 Baht. is 50,000 Baht. (This fee shall be paid by the petitioner when submitting a claim)
- ❖ Ten percent of the remuneration for managing expense is 7,200 Baht.(This fee shall also be paid by the petitioner when submitting a claim)

## The calculation of all three expenses ( assume that the amount of claim is 5 Mb.) (II)

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- ❖ The remuneration for arbitrators is at the rate of 72,000 Baht.(This fee needs to pay when parties submitting a petition to appoint arbitrators. Then, this fee shall be paid half by the petitioner and another half by the respondent)
- ❖ The total that the petitioner need to pay is 93,200 Baht and the respondent need to pay 36,000 Baht.

# Remark for three expenses

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When arbitrators make final decision so-called “the award”, they shall decide about who have to pay for three expenses. Their decision can vary from case to case. Sometimes, respondent has to pay all three expenses. Sometimes, both parties have to pay the expenses equally.

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If you go to the Court of Justice at the same amount of claim, you have to pay around 100,000 Baht. It is more expensive to go to the Court of Justice.



**Edited by:**

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**- Thank you for your kind attention -**