



ADR VIETNAM NEWSLETTER

QUARTER III/2024



ADR VIETNAM CHAMBERS LLC
— INDEPENDENT ARBITRATORS & MEDIATORS —

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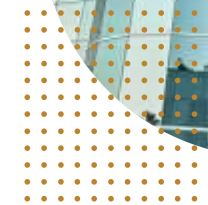
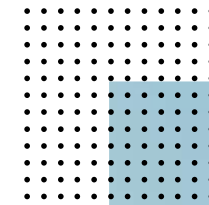
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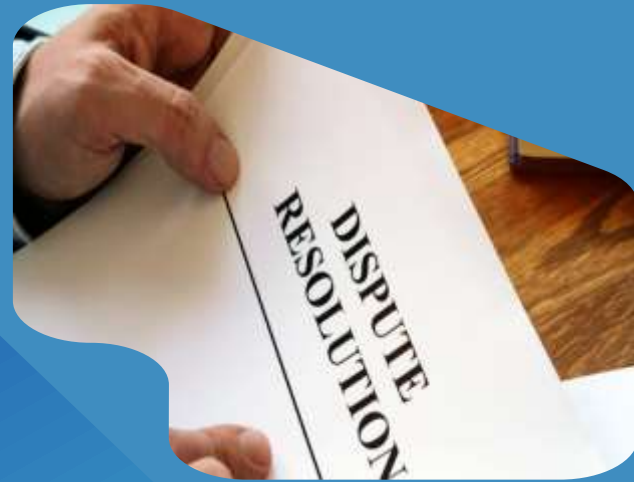
ADR VIETNAM CHAMBERS' ACHIVEMENTS



Lawyer and Arbitrator Nguyen Manh Dzung has been recognised as an Elite Practitioner in Dispute Resolution in the year of 2024 by *Asialaw*.

Asialaw researches, ranks, and analyses data from over 550 law firms and 2,400 lawyers across 20 jurisdictions and 14 practice areas.

DISPUTE RESOLUTION ACTIVITIES



SALES AND PURCHASE DISPUTE

Arbitrator Nguyen Manh Dzung, along with other members of the international arbitral tribunal, continues to resolve an international goods sales contract dispute under the United Nations Convention on Contracts for the International Sale of Goods (CISG) between companies from China and South Korea, following international arbitration rules.

CONSTRUCTION CONTRACT DISPUTE

In this quarter, Mr. Nguyen Manh Dzung continues to gain trust among arbitration users and has been selected to act as the arbitrator in three new cases. The disputes arise from diverse substantive issues, including defects and obligations in material lease contracts. On procedural issues, the disputes also revolve around evidentiary matters, multiple contract disputes, and document production.

This shows a growth of construction arbitration in Vietnam, where parties are becoming increasingly familiar with arbitration procedures that are approaching international standards.

M&A DISPUTE

Arbitrator Nguyen Manh Dzung was appointed as a member of the Arbitral Tribunal to resolve an M&A dispute arising out of and in connection with convertible loan agreements and personal guarantees related to corporate share purchases. This is not a common type of dispute in Vietnam.



1. ORGANISING THE VAS CROSSOVER 2024 WEBINAR SERIES

09/08/2024 - 23/08/2024

ADR Vietnam Chambers, in collaboration with the Vietnam International Arbitration Centre (VIAC) and other partner organisations, successfully organised the VAS CROSSOVER 2024 webinar series themed “*Enhancing Vietnam's International Arbitration: From Basic Principles to Professional Skills*”.



The series comprised three discussion sessions with the following topics:

- Topic 1: Teaching & Self-Study of Basic Principles of International Arbitration
- Topic 2: Lawyers' Advocacy Skills in International Arbitration
- Topic 3: Professional Skills of Arbitrators in Handling Arbitration Cases

ARBITRATION COMMUNITY ENGAGEMENT



The series concluded with great success, generating considerable interest from the community, with **1,192 online registrants** from law firms, academic institutions, arbitration organisations, the business community, and students, alongside the participation of **32 guest experts**. Additionally, ADR Vietnam Chambers launched an online library containing over **160 arbitration resources** and nearly **100 mediation resources**, which also attracted significant attention from participants.

2. WELCOMING A DELEGATION OF HONG KONG LAWYERS LED BY THE MINISTER OF JUSTICE

25/09/2024



On the morning of 25 September 2024, Mr Nguyen Manh Dzung joined other arbitrators of the Vietnam International Arbitration Center in a meeting with the Executive Board of VIAC to discuss several recent changes at the center.

In the afternoon, the VIAC Executive Board, along with several arbitrators, including Arbitrator Nguyen Manh Dzung, welcomed the Minister of Justice and a delegation of lawyers from Hong Kong. During the meeting, the Hong Kong lawyers introduced arbitration and mediation services in Hong Kong and expressed their desire to collaborate with Vietnam, particularly VIAC, to enhance service quality and meet market demands in both Hong Kong and Vietnam.

From September 20 to 22, 2024, the London Court of International Arbitration (LCIA) successfully hosted its flagship event: the Tylney Hall Symposium. The event attracted interest and active discussions from lawyers, experts, and arbitrators on notable issues in the field of arbitration.



Our Arbitral Assistant, Dao Linh Chi, had the opportunity to receive sponsorship from the LCIA and became a representative of the School of International Arbitration, Queen Mary University of London, where she is pursuing a Master's degree in International Dispute Resolution. She participated in discussions at the event, sharing her insights on arbitration procedural issues and the differences in conducting arbitration proceedings under Vietnamese law and in international arbitration, while also gaining valuable perspectives from practitioners from different jurisdictions.



3. LCIA SYMPOSIUM

20/09/2024 - 22/9/2024





The aim of the conference is to create an academic forum on commercial arbitration law in the context of international economic integration, enhance the research capacity of lecturers, and foster networking and collaboration among scholars and legal experts. The conference also provided a scientific foundation to support the development of a new Commercial Arbitration Law, aligning with socio-economic progress, with nearly 70 conference papers submitted.

Our Arbitral Assistant Pham Duong Hoang Phuc, participated in this event to share his insights on the evaluation of the application of "Soft Law" such as the IBA Rules on the Taking of Evidence in International Arbitration, IBA Guidelines on Conflicts of Interest, CIArb Guidelines, and more, in the development of arbitration proceedings in Vietnam, from the perspective of international arbitration experience. This event also served as a good opportunity for arbitration practitioners in Vietnam to engage and learn about the recent developments in international arbitration.



4. NATIONAL SCIENTIFIC CONFERENCE IN DA NANG CITY

06/09/2024

On 6 September 2024, the National Scientific Conference titled ***"Improving Commercial Arbitration Law to Meet the Requirements of Integration and Development"*** took place at the University of Economics - University of Danang. The conference was co-organised by the University of Economics - UDN, Ho Chi Minh City University of Law, Hue University of Law, and the Middle Commercial Arbitration Center (MCAC).

MEDIATION PROMOTION ACTIVITIES

1. SINGAPORE CONVENTION WEEK 2024

26/8/2024 – 30/8/2024

The Singapore Convention Week 2024, themed “**Separating Disruptions from Distractions in an Evolving World**”, took place from 26-30 August 2024. Organised by the Singapore Ministry of Law since 2019, the event focuses on dispute resolution, arbitration, mediation, and the judiciary. It serves as a key forum for professionals, practitioners, and policymakers to discuss emerging trends, address practical issues, and propose future initiatives.

This year, members of ADR Vietnam Chambers participated online in workshops and seminars covering diverse topics such as "The Use of Mediation to Resolve Disputes Involving States," "Is Integrated Dispute Resolution (IDR) Mechanism the Future of Dispute Resolution?" and "Compliance With and Enforcing Mediated Settlement Agreements." Vietnam has demonstrated efforts to align with international mediation standards through mechanisms like the Arb-Med-Arb protocol between the Vietnam International Arbitration Centre (VIAC) and the Vietnam Mediation Centre (VMC). However, Vietnam's non-accession to the Singapore Convention on Mediation may put it behind in resolving international commercial disputes, similar to the slow adoption of the UNCITRAL Model Law on Arbitration. It is hoped that Vietnam will soon join the Singapore Convention and work towards harmonising its legal framework with international practices.



www.singaporeconventionweek.sg

2. VIETNAM COMMERCIAL MEDIATION COMPETITION V- MED AND SCIENTIFIC SEMINAR BY VICMC

30/09/2024

On September 30, 2024, Mr Nguyen Manh Dzung had the honor of serving as a Judge at the Vietnam Commercial Mediation Competition V-Med 2024, co-organised by VICMC (Vietnam International Commercial Mediation Center) and the University of Law, Hue University. He also participated as a speaker at the scientific symposium ***“The Singapore Convention on Mediation – Challenges, Opportunities, and Prospects for Vietnam”*** held within the competition. At the symposium, Mr Nguyen Manh Dzung and other speakers discussed the key legal aspects of the Singapore Convention and the compatibility of Vietnamese laws. He also provided valuable insights into the development of commercial mediation in jurisdictions such as the UK, US, Singapore, Hong Kong, and China. Through these discussions, he shared his views on the future of mediation in Vietnam, its opportunities, challenges, and the potential for Vietnam to join the Singapore Convention on Mediation.



3. MINISTRY-LEVEL SCIENTIFIC RESEARCH PROJECT AT THE JUDICIAL ACADEMY

On September 16, Mr Nguyen Manh Dzung participated in a seminar of a Ministry-level scientific research project titled *"Improving the laws on resolving business and commercial disputes through mediation and arbitration in Vietnam"*, where he presented the topic *"The current legal provisions and practical implementation of the laws on the recognition and enforcement of mediation outcomes and arbitral awards in business and commercial disputes in Vietnam, and directions for improvement"*, co-authored by Mr Nguyen Manh Dzung and author Phan Huy Hieu.





4. INTRODUCING VIETNAMESE TRANSLATION OF ICC REPORT ON FACILITATING SETTLEMENT IN INTERNATIONAL ARBITRATION AND THE CIARB GUIDELINES ON THE PROFESSIONAL PRACTICE OF MEDIATION IN ARBITRATION

To support the research on negotiation and mediation in arbitration proceedings, ADR Vietnam Chambers introduces to readers the Vietnamese translation of the ICC Report on Facilitating settlement in International Arbitration prepared by the Task Force on ADR and Arbitration under the ICC Commission on Arbitration and ADR, a think tank organisation of the ICC International Court of Arbitration, with the participation of mediators such as Mr. Nguyen Manh Dzung, Director of ADR Vietnam Chambers, and Mr. Nguyen Nam Trung, Chairman of the Vietnam Society of Construction Law, who were members in 2023. Additionally, it includes the Guidelines on Professional Practice of Mediation in Arbitration issued by the Chartered Institute of Arbitrators (CI Arb). This translation was carried out by ADR Vietnam Chambers for reference purposes and is not an official translation of the ICC.



RESEARCH ACTIVITIES

1. COMMENTS ON AMENDING THE LAW ON LAWYERS

Based on Report No. 339/BC-BTP dated 16 August 2024 from the Ministry of Justice on the Summary of the Implementation of the Law on Lawyers and the Practical Enforcement of the Law on Lawyers 2006 amended in 2012, the commentary report on Law on Lawyers 2006 by a group of authors from ADR Vietnam Chambers, including Lawyer Nguyen Manh Dung (Director of ADR Vietnam Chambers) and Arbitral Assistant Pham Duong Hoang Phuc, focused on analyzing the current status of lawyers in Vietnam, from the number and quality to their performance within the context of the modern legal economy.

The report emphasises the importance of state management and self-regulation by lawyer associations in improving and developing this profession in the context of Vietnam's current legal services market. The main proposed solutions include:

- Shifting the policy focus from primarily lawyers to legal practice organizations as the key players in the legal services market;
- Enhancing the quality of human resources and removing barriers to expand market entry opportunities;
- Strengthening the financial capacity of law firms through financial loans from credit institutions, tax policies, and direct investments in legal practice organizations;



- Professionalizing the governance and management of law firms: Diversifying organizational forms, business strategies, business development and marketing, human resources management, office management, and technology applications;
- Expanding the legal services market beyond primarily criminal litigation, administrative-civil services to include corporate, commercial, and investment fields; and
- Innovating self-regulation activities that represent the interests of trainee lawyers, foreign lawyers, and support staff.



2. RESEARCH ON COMBINING ALTERNATIVE DISPUTE RESOLUTION (ADR) WITH COURT LITIGATION

ADR Vietnam Chambers conducted a study on integrating alternative dispute resolution (ADR) methods with court litigation in civil proceedings. The research offers specific recommendations aimed at enhancing the effectiveness of ADR in Vietnam for business, commercial, and investment disputes, thereby reducing the burden on the court system. Based on legal studies and practical applications from jurisdictions such as the European Union, England and Wales, and Singapore, the research focuses on proposals to amend and supplement certain provisions in Vietnam's current legal framework, including the 2015 Civil Procedure Code, the 2020 Law on Court Mediation and Dialogue, and the 2010 Law on Commercial Arbitration. The objective is to promote the development of ADR methods as alternatives to court litigation in Vietnam and to harmonise legal regulations to align with international standards and practices.

United Nations Convention on
Contracts for the International
Sale of Goods (CISG)



3. RESEARCH ON SUBSTANTIVE AND PROCEDURAL ISSUES IN ARBITRATION

ADR Vietnam Chamber's interns of the Fall 2024 term conducted research on both substantive and procedural matters in arbitration proceedings. For substantive issues, the interns explored ***“Fundamental Breach”*** in sales contracts under the 1980 Vienna Convention on Contracts for the International Sale of Goods (CISG), the 2015 Civil Code of Vietnam, and the 2015 Law on Commerce of Vietnam. On the procedural side, they delved ***into “Disputes Arising from Multiple Contracts” and “Consolidation of Dispute”*** as outlined in the arbitration rules of the Vietnam International Arbitration Centre (VIAC), the ICC Court of Arbitration, and the Singapore International Arbitration Centre (SIAC). Upon completing their research, the interns will present their findings and receive feedback from Arbitrator Nguyen Manh Dzung to further improve their legal research skills.



UPCOMING EVENTS

2. Hong Kong Arbitration Week 2024

21/10/2024 - 25/10/2024

From 21 to 25 October 2024, Arbitrator Nguyen Manh Dzung will attend Hong Kong Arbitration Week 2024. This event, hosted by the Hong Kong International Arbitration Centre (HKIAC), aims to discuss achievements and challenges in the field of international arbitration while promoting the development of arbitration activities in the Asia region. The growing demand for international arbitration in recent years, along with the rapid economic development in various areas, makes this event significant. It is expected to be an open forum for practitioners and experts to exchange and share different perspectives on topics of interest in international arbitration.

1. TRAINING PROGRAMME ON ARBITRATION ORGANISED BY THE MINISTRY OF JUSTICE 18/10/2024

A training course organised by the Ministry of Justice will take place in Hanoi on 18 October 2024, aimed at lawyers and arbitration practitioners in Vietnam. Arbitrator Nguyen Manh Dzung will participate in teaching the topic “Certain Issues Regarding Advocacy Skills in the Arbitration Process According to Vietnamese Law.”.

UPCOMING EVENTS

Arbitrator Nguyen Manh Dzung will participate in the Seoul ADR Festival 2024, organised by the Korea Commercial Arbitration Board (KCAB) from 28 October to 1 November 2024 in Seoul, South Korea. With various discussion sessions on the dispute resolution process from different angles, the Seoul ADR Festival serves as a forum for legal professionals, scholars, and service users to discuss and exchange ideas on better meeting the growing demand for ADR services and developing dispute resolution methods worldwide. The 13th Asia-Pacific ADR Conference, a highlight of SAF 2024, will be held on 30 October under the theme ***“ADR Reborn: Dynamics of Renewed Asian ADR Landscape”***. Experts from around the globe will discuss the current ADR methods in Asia and their potential for future development.

3. Seoul ADR Festival 2024

28/10/2024 – 01/11/2024



1. IBA GUIDELINES ON CONFLICTS OF INTEREST IN INTERNATIONAL ARBITRATION 2024

The revised IBA Guidelines on Conflicts of Interest in International Arbitration has recently been approved by the IBA Council on 25 May 2024 (referred to as the “Guidelines”). The 2024 version provides additional explanations, context, and supplementary examples to the existing Guidelines while maintaining the content and spirit of previous editions.

Specifically, the IBA Guidelines 2024 emphasises the need for joint efforts to ensure that the arbitration process is conducted transparently, independently, impartially, and objectively. These requirements are often regarded primarily as obligations of the arbitrators. However, the IBA Guidelines 2024 highlights that the roles of lawyers and stakeholders are equally important. The Revised Guidelines has set higher requirements for lawyers and parties, focusing on:

- The due diligence requirements imposed by the revised General Standard 4 on parties who wish to avoid waiving their right to challenge arbitrators for issues of conflict; and;
- The disclosure obligations imposed by the revised General Standard 7 on parties with respect to the arbitrator’s relationships.

IBA Guidelines on Conflicts of Interest in International Arbitration

Adapted by resolution
of the IBA Council
on Thursday 23 October 2014

OTHER NOTABLE NEWS



2. UK ARBITRATION BILL

Since 2022, the Law Commission of England and Wales has conducted a consultation to amend the Arbitration Act 1996. Aiming to ensure that London remains the world's leading arbitration venue, the current bill several changes:

- Law governing the arbitration agreement: If the parties do not have a clear agreement, the law governing the arbitration agreement will be the law of the seat of arbitration.
- New tribunal powers to summarily dismiss meritless claims and defenses.
- Interim relief: enhanced court powers to support the arbitral process.
- More limited scope of review of jurisdictional awards by English courts in certain circumstances



1. PROMOTING THE DEVELOPMENT OF COMMERCIAL MEDIATION

Commercial mediation is a method of dispute resolution that has many potential growth points. Developing mediation globally is a crucial aspect of the growth of this method in Vietnam. In the current legal framework for mediation in Vietnam, it is necessary to have specific legal provisions to further enhance the status of mediation. Applying international standards will also be essential for the development of this field and for practitioners involved.



2. CONSTRUCTION CONTRACT DISPUTES ARE EMERGING AS A COMMON AREA OF CONFLICT RESOLVED BY ARBITRATION IN VIETNAM

2023 annual report by VIAC shows that construction is the third most common type of dispute at VIAC, accounting for 18.6% of the total disputes. This is also the area of dispute that arbitrator Nguyen Manh Dzung frequently handles in both domestic and international arbitration.



3. EDUCATION IS THE KEY TO DEVELOPING THE FIELD OF DISPUTE RESOLUTION

Legal expertise and Education are two of the first three factors in the 10 London Millennium Principles by the Chartered Institute of Arbitrators (CI Arb) that contribute to creating an ideal arbitration venue. Not only for arbitration, but education in knowledge and skills related to mediation and other dispute resolution methods is also a crucial factor determining the quality of practitioners and the development of this field.



HIGHLIGHTS OF ADR VIETNAM NEWSLETTER



4. ORGANIZATIONS PROVIDING DISPUTE RESOLUTION SERVICES, AS WELL AS ARBITRATORS, MEDIATORS, AND LAWYERS, NEED TO INTERNATIONALISE THEIR OPERATIONS TO IMPROVE THE QUALITY OF SERVICES AND PERSONNEL



1. Information on Asialaw 2024 rankings: <https://www.asialaw.com/Jurisdiction/Vietnam/Rankings/455#lawyers>
2. VAS CROSSOVER 2024 event series: <https://bit.ly/3ZVcdM3>
3. Information on Singapore Convention Week 2024: <https://www.singaporeconventionweek.sg/>
4. Closing ceremony of the V-Med competition and scientific discussion “The Singapore Convention on Mediation – challenges, opportunities, and prospects for Vietnam”:: <https://www.facebook.com/hul.edu.vn/videos/530783106104587/>
5. Nguyen Manh Dzung & Phan Huy Hieu, *The current legal framework and practical implementation of laws on the recognition and enforcement of mediation outcomes and arbitral awards in business and commercial disputes in Vietnam, and recommendations for improvement.* <https://bit.ly/3XVZDJN>
6. Information on Hong Kong Arbitration Week 2024: <https://bit.ly/4dAD4jJ>
7. Information on Seoul ADR Festival 2024: <https://www.seouladrfestival.com/>
8. Vietnamese translation of the IBA 2024 Guidelines on the Conflict of Interest: <https://bit.ly/471ZTuW>
9. Vietnamese translation of the ICC Report on Facilitating settlement in International Arbitration: <https://bit.ly/3BaF8Bs>
10. UK Arbitration Bill: <https://bills.parliament.uk/publications/54937/documents/4640>
11. Nguyen Manh Dzung & Dao Linh Chi, *Research on combining Alternative Dispute Resolution (ADR) methods with court litigation in civil procedures.* <https://bit.ly/4exwD2d>
12. Vietnamese translation of the CIArb Professional Practice Guideline on the Use of Mediation in Arbitration : <https://bit.ly/4qZsGEX>

REFERENCE



THANK YOU

ADR VIETNAM CHAMBERS

Visit our website to future newsletters or follow your company's social media channels for regular updates.

The event materials will be posted on the electronic library Academia:
<https://independent.academia.edu/ManhDzungNguyen>

Thank you for reading!

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OUR SERVICES



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AC-HOC MEDIATION



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EXPERT WITNESS



CONSULTANCY



RESEARCH AND TRAINING

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