

Investment and Commercial Dispute Resolution Mechanism

The legal nature for international trade and foreign investment has transformed with time. Settlement of International trade and investment disputes is now preferred through international arbitration regimes and other non-conventional dispute settlement mechanisms. From the investors point of view, protection of investment, specifically legal protection, is very necessary and which protection depends on transparency of legal processes in the host country and the adequacy of dispute resolution mechanisms. Thus, the developing countries desiring international investments need to improve dispute resolution processes. In addition to the arbitration, conciliation and fact-finding procedures, the disputing parties may select other alternative dispute resolution mechanisms, such as early neutral evaluation, facilitated negotiation and/or mediation. Many treaties and other instruments permit parties to settle investment disputes through other alternative dispute resolution mechanisms. The process may generally be commenced at any stage by agreement of the parties.

In Pakistan, the Arbitration Act 1940 is applicable for resolution of disputes outside the court through an arbitrator which is then made a decree of the court. However, it is observed that the arbitration proceedings are not strictly carried out in accordance with law but in accordance with customs and usages. Therefore, in this context, the Arbitration Act 1940 require changes. Similarly, UNCITRAL Model Law 1985 also requires implementation.