

## Chapter three : What is Arbitration?

### ما هو التحكيم؟

**Arbitration** is a **procedure** in which a **dispute** is submitted, by **agreement** of the **parties**, to one or more arbitrators who make a **binding decision** on the dispute. In choosing arbitration, the parties **opt** for a private dispute **resolution** procedure instead of going to **court**.

Its principal characteristics are:

- ***Arbitration is consensual***

Arbitration can only take place if both parties have agreed to it. In the **case** of future disputes arising under a **contract**, the parties insert an arbitration **clause** in the relevant contract. An existing dispute can be referred to arbitration by means of a submission agreement between the parties. In contrast to **mediation**, a party cannot **unilaterally withdraw** from arbitration.

- ***The parties choose the arbitrator(s)***

The parties can select a sole arbitrator together. If they choose to have a three-member arbitral tribunal, each party appoints one of the arbitrators; those two persons then agree on the presiding arbitrator. **Alternatively**, the Center can **suggest** potential arbitrators with relevant **expertise** or directly appoint members of the arbitral tribunal. The Center maintains an extensive roster of arbitrators ranging from seasoned dispute-resolution generalists to highly **specialized** practitioners and experts covering the entire **legal** and technical spectrum of **intellectual property**.

- ***Arbitration is neutral***

**In addition** to their selection of **neutrals** of appropriate **nationality**, parties are able to choose such important elements as the applicable law, language and venue of the arbitration. This **allows** them to **ensure** that no party **enjoys** a home court **advantage**.

- ***The decision of the arbitral tribunal is final and easy to enforce***

The parties **agree** to **carry out** the decision of the arbitral tribunal without delay. International awards are **enforced** by national courts under the New York Convention, which permits them to be set aside only in very limited circumstances. More than 165 States are **party** to this **Convention** (1).

(1) <https://www.wipo.int/amc/en/arbitration/ny-convention/index.html>

التحكيم Arbitration

الاجراء procedure

نزاع dispute

اتفاق agreement

الاطراف parties

الحكم decision

يختار opt

توصية resolution

محكمة،مجلس court

رضائي consensual

قضية case

عقد contract

بند clause

وساطة mediation

بصفة بنفردة unilaterally

فسخ withdraw

بطريقة بديلة Alternatively

يقترح suggest

خبرة expertise

مختص specialized

شرعي legal

ملكية فكرية intellectual property

حيادي neutral

بالاضافة In addition

جنسية nationality

يسمح allows

يضمن ensure

يتمتع enjoys

مزايا advantage

يقبل agree

دخل حيز النفاذ enforced

party الطرف

Convention / treaty اتفاقية

**According to vienna treaty 1969** the “**treaty**” means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation (1).

(1) [https://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)