

The Asia-Pacific Arbitration Review 2022

Published by Global Arbitration Review in association with

AZB & Partners
Clayton Utz
Debevoise & Plimpton LLP
Dzungsr & Associates LLC
Fangda Partners
F J & G de Saram
Herbert Smith Freehills
KCAB INTERNATIONAL

Rajah & Tann Singapore LLP
Shanghai International Economic and Trade
Arbitration Commission (Shanghai International
Arbitration Centre)
Singapore Chamber of Maritime Arbitration
Tashkent International Arbitration Centre
WongPartnership LLP

The Asia-Pacific Arbitration Review 2022

A Global Arbitration Review Special Report

Reproduced with permission from Law Business Research Ltd
This article was first published in June 2021
For further information please contact Natalie.Clarke@lbresearch.com

The logo for Law Business Research, consisting of the words "Law", "Business", and "Research" stacked vertically in a white, sans-serif font on a black square background.

**Law
Business
Research**

The Asia-Pacific Arbitration Review 2022

Head of insight Mahnaz Arta

Account manager J'neal-Louise Wright

Production editor William Holt

Chief subeditor Jonathan Allen

Subeditor Tessa Brummitt

Head of content production Simon Busby

Senior content coordinator Hannah Higgins

Publisher David Samuels

Cover image credit Mirexon/iStock

Subscription details

To subscribe please contact:

Global Arbitration Review

Meridian House, 34-35 Farringdon Street

London, EC4A 4HL

United Kingdom

Tel: +44 20 3780 4134

Fax: +44 20 7229 6910

subscriptions@globalarbitrationreview.com

No photocopying. CLA and other agency licensing systems do not apply.

For an authorised copy, contact gemma.chalk@globalarbitrationreview.com.

The information provided in this publication is general and may not apply in a specific situation. Legal advice should always be sought before taking any legal action based on the information provided. This information is not intended to create, nor does receipt of it constitute, a lawyer–client relationship. The publishers and authors accept no responsibility for any acts or omissions contained herein. Although the information provided is accurate as of May 2021, be advised that this is a developing area.

ISBN: 978-1-83862-572-6

© 2021 Law Business Research Limited

Printed and distributed by Encompass Print Solutions

Tel: 0844 2480 112

The Asia-Pacific Arbitration Review 2022

A Global Arbitration Review Special Report

Published in association with:

AZB & Partners

Clayton Utz

Debevoise & Plimpton LLP

Dzungst & Associates LLC

Fangda Partners

F J & G de Saram

Herbert Smith Freehills

KCAB INTERNATIONAL

Rajah & Tann Singapore LLP

Shanghai International Economic and Trade Arbitration Commission
(Shanghai International Arbitration Center)

Singapore Chamber of Maritime Arbitration

Tashkent International Arbitration Centre

WongPartnership LLP

Prefacevi

Overviews

Choosing an arbitration model – why flexibility is key 1

Damien Glenn Yeo

Singapore Chamber of Maritime Arbitration

Disputes in Asia-Pacific construction and infrastructure projects 7

Craig Shepherd, Daniel Waldek and Mitchell Dearness

Herbert Smith Freehills

Innovating the future: recent changes and developments in global and regional arbitral institutions..... 12

Sangyub (Sean) Lee and Ji Yoon (June) Park

KCAB INTERNATIONAL

International commercial arbitration in the time of covid-19..... 18

Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center)

Investment treaty arbitration in the Asia-Pacific: the impact of the CPTPP and the RCEP 21

Tony Dymond, Cameron Sim and Benjamin Teo

Debevoise & Plimpton LLP

The rise of arbitration in the Asia-Pacific 29

Andre Yeap SC, Kelvin Poon and Alessa Pang

Rajah & Tann Singapore LLP

Tashkent International Arbitration Centre – Uzbekistan's new arbitral institution 35

Diana Bayzakova, Yan Kalish, Charles Tay and Nodir Malikov

Tashkent International Arbitration Centre

Country chapters

Australia 42

Frank Bannon, Dale Brackin, Steve O'Reilly and Clive Luck

Clayton Utz

Hong Kong..... 50

Peter Yuen, Olga Boltenko and Zi Wei Wong

Fangda Partners

India..... 53

Vijayendra Pratap Singh, Abhijnan Jha and Arnab Ray

AZB & Partners

Japan 59

Yoshimi Ohara, Kei Kajiwara and Annia Hsu

Nagashima Ohno & Tsunematsu

Malaysia..... 63

Andre Yeap SC and Avinash Pradhan

Rajah & Tann Singapore LLP

Singapore 72

Alvin Yeo SC, Sean Yu Chou and Wei Lee Lim

WongPartnership LLP

Sri Lanka 78

Avindra Rodrigo

F J & G de Saram

Vietnam 83

Nguyen Ngoc Minh, Nguyen Thi Thu Trang and

Nguyen Thi Mai Anh

Dzungsr & Associates LLC

Welcome to *The Asia-Pacific Arbitration Review 2022*, a *Global Arbitration Review* special report. For the uninitiated, *Global Arbitration Review* is the online home for international arbitration specialists the world over, telling them all they need to know about everything that matters.

Throughout the year, we deliver our readers pitch-perfect daily news, surveys and features; lively events (under our GAR Live and GAR Connect banners (GAR Connect for virtual)); and innovative tools and know-how products.

In addition, assisted by external contributors, we curate a range of comprehensive regional reviews – online and in print – that go deeper into developments in each region than the exigencies of journalism allow. *The Asia-Pacific Arbitration Review*, which you are reading, is part of that series.

It contains insight and thought leadership inspired by recent events, from 35 pre-eminent practitioners. Across 14 chapters and 92 pages, they provide us with an invaluable retrospective on the past year. All contributors are vetted for their standing and knowledge before being invited to take part.

The contributors' chapters capture and interpret the most substantial recent international arbitration events across the Asia-Pacific region, with footnotes and relevant statistics. Elsewhere they provide valuable background on arbitral infrastructure in different locales to help readers get up to speed quickly on the essentials of a particular country as a seat.

This edition covers Australia, Hong Kong, India, Malaysia, Singapore, Sri Lanka and Vietnam and has overviews on construction and infrastructure disputes in the region (including the effect of covid-19), the state of ISDS and what to expect there, and trends in commercial arbitration, as well as contributions by four of the more dynamic local arbitral providers.

Among the nuggets this reader learned is that:

- force majeure is not necessarily the only option for project participants affected by covid-19, especially if the FIDIC suite is in the picture;
- Korea's diaspora is known as its *Hansang* and more 'international' arbitrators are now accepting KCAB appointments (the number of KCAB 'first-timers' is up by 23 per cent);
- it has become far easier for foreign counsel and arbitrators to conduct cases in Thailand;
- there have been some strongly pro-arbitration decisions from the Philippines and Vietnam of late;
- Sri Lanka's courts also seem to have turned a corner on avoiding excessive interference; and
- improvements in the arbitral environment in Vietnam are part of a concerted effort that began in 2015.

I also found answers to some other questions that had been on my mind, such as whether an increase in case numbers in the SIAC in 2020 was matched by an increase in the total value at stake there (spoiler alert: no), and a number of components I plan to consult when the need arises – including a summary of key decisions in Singapore; a long explainer on the background to the Amazon-Future dispute in India; and a fabulous chart deconstructing the arbitral furniture in Uzbekistan.

I hope you enjoy the volume and get as much from it as I did. If you have any suggestions for future editions, or want to take part in this annual project, my colleagues and I would love to hear from you. Please write to insight@globalarbitrationreview.com.

David Samuels

Publisher

May 2021

Tashkent International Arbitration Centre – Uzbekistan’s new arbitral institution

Diana Bayzakova, Yan Kalish, Charles Tay and Nodir Malikov

Tashkent International Arbitration Centre

In summary

Uzbekistan is fast developing to become a prominent international arbitration forum in the Commonwealth of Independent States (CIS) region and globally. Tashkent International Arbitration Centre (TIAC) launched in April 2019 and is front and centre of this development. Having gained a significant caseload in its early operations, TIAC is expanding to reach arbitration users from all parts of the world. This is reflected in various initiatives, such as the development of technology disputes rules, the establishment of the Uzbek Arbitration Week and the initiation of educational programmes to share knowledge about arbitration and promote cooperation between TIAC, other arbitration institutions and national courts.

Discussion points

- Arbitration in Uzbekistan
- Introduction to TIAC and its launch
- TIAC’s statistics, collaboration efforts and initiatives to date
- Enforcement of arbitral awards in Uzbekistan

Referenced in this article

- 2018 Uzbek Presidential Decree on the Establishment of TIAC
- 2006 Uzbek Law on Domestic Arbitration Courts
- 2012 Resolution of the Supreme Commercial Court of Uzbekistan
- 2018 Uzbek Code of Economic Procedure
- 2018 Uzbek Code of Civil Procedure
- UNCITRAL Model Law on International Commercial Arbitration
- 2021 Uzbek Law on International Commercial Arbitration

In 2018, the Tashkent International Arbitration Centre (TIAC) was founded by a Decree of the President of the Republic of Uzbekistan (the Decree).¹ Pursuant to the Decree, TIAC was granted Uzbekistan’s national mandate to set up and implement state-of-the-art dispute resolution services for the business community in Uzbekistan, the CIS region and further abroad. In TIAC’s foundation, specific emphasis is placed on international commercial and investor-state arbitrations, including disputes at the frontiers of law and technology addressing matters such as artificial intelligence, blockchain and other disruptive technologies. Over the past three years, much work has gone into getting TIAC up and running. Led by the director, Ms Diana Bayzakova, one of Uzbekistan’s four nominated arbitrators on the ICSID Panel of Arbitrators, TIAC

officially launched in April 2019. During the time from launch up to the present, TIAC has received 22 requests for arbitration and handled two applications for emergency arbitration.

In this article, the authors seek to share with the wider international arbitration community a brief introduction of arbitration in Uzbekistan, the development of TIAC and its present initiatives, as well as an analysis of Uzbekistan as an arbitration-friendly forum. The most recent and significant development in the field of arbitration in Uzbekistan came about on 16 February 2021, when the President of Uzbekistan, Shavkat Mirziyoyev, signed Uzbekistan’s new Law on International Commercial Arbitration (the New ICA Law), which will enter into force on 16 August 2021. Through the New ICA Law, Uzbekistan’s laws on arbitration will align with the UNCITRAL Model Law on International Commercial Arbitration (the UNCITRAL Model Law).

Introduction to arbitration in Uzbekistan

Alternative dispute resolution in Uzbekistan has a long history. Historically, the people of Uzbekistan have regularly sought to refer their disputes for resolution by an elder person of their community known as an *aqsaqal* (literally translated as ‘white beard’). *Aqsaqal* (basically, an informal arbitrator or conciliator) would hear disputants and give their views based on their wisdom, and parties would abide by these views. During the Soviet era, Uzbekistan was part of the USSR and reflected the system of courts and arbitration established in the Soviet Union. After Uzbekistan declared independence from the Soviet Union in 1991, the custom of dispute resolution through the use of *aqsaqal* rather than formal court systems continued and now they also act as conciliators as part of the mandatory dispute prevention procedures for family disputes.

Uzbekistan’s economy started to pick up as the country was undergoing the transition and the levels of internal and external trade began to grow. In 1995 Uzbekistan became a contracting state to the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the ICSID Convention).² In February 1996, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) entered into force in Uzbekistan. Between 1991 and 1996, Uzbekistan signed 24 bilateral investment treaties (BITs), with various countries around the world.³ This number has been steadily increasing. Today, Uzbekistan is party to over 50 BITs.⁴ In addition, Uzbekistan has also signed the international treaties on mutual legal assistance, many of which cover issues of enforcement of arbitral awards.⁵

Uzbekistan is a civil law jurisdiction. Thus, its legal framework comprises the laws enacted by the parliament and by-laws enacted by the executive branch. The decisions made by Uzbek local courts do not have precedential value. However, since 1996, the Supreme Court of Uzbekistan has been issuing resolutions for explanatory and clarification purposes for judges, and these resolutions are binding in nature.

On 16 October 2006, Uzbekistan passed the Law on Domestic Arbitration Courts (the 2006 Law on Domestic Arbitration). This Law sought to comprehensively regulate domestic arbitrations in Uzbekistan. Over nine chapters and 59 articles, it addressed the issues of the scope of arbitrable disputes (Chapter 2), domestic arbitrators (Chapter 3), costs of arbitration (Chapter 4) and various other matters, such as procedures for arbitration, arbitral awards, and challenges and enforcement (Chapters 5 to 8). Pursuant to article 10 of the Law, domestic arbitration courts are allowed to resolve disputes between parties in accordance with Uzbek law. However, issues such as the participation of foreign arbitrators and the application of foreign law are expressly prohibited.

In 2012, the Supreme Commercial Court of Uzbekistan passed a resolution ‘on some issues of application of legislation in considering the cases related to domestic arbitration by economic courts’, which set out guidance for Uzbek courts in interpreting the Uzbek Code of Economic Procedure and the 2006 Law on Domestic Arbitration. This resolution addressed issues such as the annulment or rejection of domestic arbitral awards, procedures for parties’ entry into settlement agreements and the interpretation of domestic arbitration agreements.

In 2016, the changes in the government of Uzbekistan brought about significant political and economic reforms. Rising levels of economic growth and trade rendered it increasingly important for Uzbekistan to be recognised as an arbitration-friendly jurisdiction. The government considered adopting an Uzbek law on international arbitration based on the UNCITRAL Model Law.

In 2018, Uzbekistan adopted its Code of Economic Procedure (CEP) and updated its Code of Civil Procedure (CCP). Chapters 28 and 29 of the CEP set out rules in relation to the challenge and enforcement of domestic arbitral awards, and Chapter 33 addressed the recognition and enforcement of foreign arbitral awards and foreign judicial decisions. Chapter 42 of the CCP set out civil procedure rules concerning the recognition and enforcement of both domestic and foreign arbitral awards.

In parallel with the above, a draft of Uzbekistan’s New ICA Law was developed. On 11 September 2020, the Senate of Uzbekistan approved the second draft of the Law. As indicated above, the New ICA Law is recognised by UNCITRAL as being compliant with the Model Law, and it was signed by the President in February 2021. By adopting the New ICA Law, Uzbekistan seeks to demonstrate its potential to become known as an arbitration-friendly jurisdiction on the global arbitration map.

As Uzbekistan is presently undergoing its transition from being a country with no formal legislation on international arbitration into an UNCITRAL Model Law jurisdiction, TIAC is now involved as a core institution in capacity-building efforts for local legal practitioners and judges, as well as in amendments of existing legislation via ancillary laws.

Introduction to TIAC

The Decree is the cornerstone of TIAC. The preamble to the Decree states:

In order to create the most favourable investment climate in the country, comprehensive measures are being implemented to liberalise the economy, create favourable legal conditions for the activities of investors, especially foreign ones, as well as strengthen international economic ties. Of particular importance is the introduction in Uzbekistan of a mechanism for resolving disputes in arbitration . . .

The Decree provided for the establishment of TIAC as an independent international arbitral institution. This was a major step for the development of international arbitration in Uzbekistan. Before 2018, there were many domestic arbitration institutions in Uzbekistan offering services based on the 2006 Law on Domestic Arbitration. These institutions handled thousands of cases each year, but their services were confined to purely Uzbek disputes. Between 2006 and 2018, an exponential growth in domestic arbitration created an impetus for the Uzbek government to set up an international arbitral institution.

The Decree did not just set up TIAC. It also contained many significant changes and incentives designed specifically to promote international arbitration under the TIAC Rules of Arbitration. For instance, according to the Decree:

- parties to a dispute are now allowed to engage foreign arbitrators to resolve their disputes;
- arbitrating parties can resolve their disputes in accordance with the substantive laws of other jurisdictions, and not only the laws of Uzbekistan;
- local courts are to assist arbitrators in granting interim relief, in the collection of evidence and in the enforcement of arbitral awards;
- no VAT charges are applicable for arbitration services rendered by TIAC;
- foreign arbitrators’ fees are exempted from income tax for their services rendered under the TIAC Rules of Arbitration;
- there will be no licensing requirements for foreign advocates or counsel willing to act in arbitral proceedings in accordance with the TIAC Rules of Arbitration and in court proceedings related to challenges of arbitral awards in Uzbek courts; and
- smart arbitration, or the conduct of arbitration hearings and other procedural meetings online, is expressly allowed.

Some of these changes create a legal environment in Uzbekistan that is friendly to international arbitration at a level comparable to states that have a reputation as well-established arbitration forums. For instance, the changes to allow the involvement of foreign arbitrators, the use of foreign law, and judicial assistance in relation to interim measures and enforcement fall into this category. The other changes in the list, however, are more innovative in nature and seek to assist users to easily and seamlessly adopt the framework for dispute resolution under the TIAC Rules of Arbitration. For instance, the exemption of VAT charges for TIAC arbitration services, the exemption of income tax for foreign arbitrators’ fees and the waiver of the licensing requirements for foreign counsel to act not just in arbitral proceedings in Uzbekistan but also in arbitration-related court proceedings in Uzbek courts, all seek to make TIAC an attractive choice for arbitration users in Uzbekistan and in the wider CIS region.

Additionally, TIAC has implemented a zero-admin fee policy for its administration of arbitrations. This seeks to promote access to justice and to make the choice of TIAC arbitration a means for contracting parties to save on costs in their dispute resolution processes. Notably, despite the zero-admin fee policy, TIAC as an institution is independent and does not receive any financing from the Uzbek government. The institution maintains its operations through fees generated from other avenues, such as memberships, training programmes and events.

TIAC has also implemented strict ‘no conflict of interest’ rules. For instance, members of TIAC’s Court of Arbitration or Secretariat and the TIAC director and other TIAC employees are not permitted to serve as arbitrators in arbitrations under the TIAC

Rules of Arbitration during their term of service. This measure exceeds the standards for assessing conflict of interest set out in the IBA Guidelines on Conflict of Interest, and it has been taken to allow TIAC to maintain the strictest standards of impartiality, independence and neutrality as its operations gather momentum.

TIAC's caseload statistics

The 22 requests for arbitration and the two applications for emergency arbitrations that TIAC has received so far cover various types of disputes and industry sectors, including construction and real estate, sale of goods, agriculture, and oil and gas. All these cases are international in nature, with at least one party not being from Uzbekistan. Notably, in one of the more recent requests for arbitration that the TIAC registered, both parties were foreign, with the claimant being from Russia and the respondent being from Singapore. Thus far, parties in arbitrations commenced under the TIAC Rules of Arbitration have come from Uzbekistan, Kazakhstan, Russia, China (mainland China and Hong Kong), Turkey, Italy, the Netherlands, Singapore, the Philippines and Moldova.

The caseload of TIAC so far broadly matches Uzbekistan's foreign trade profile. From 2020 statistics, the top five trading partners of Uzbekistan in terms of total trade volume (both import and export) are China, Russia, Kazakhstan, South Korea and Turkey.⁶ To take China and Russia as examples, from January to December 2020, total Uzbek–China trade volume was US\$6.43 billion (comprising US\$1.93 billion in exports and US\$4.5 billion in imports), and total Uzbek–Russian trade volume was US\$5.64 billion (comprising US\$1.47 billion in exports and US\$4.17 billion in imports).⁷ Other major trading partners are Kyrgyzstan, Germany, Afghanistan, the Czech Republic and Turkmenistan.⁸ Besides these countries, Uzbekistan's BITs also cover trade with countries such as Saudi Arabia, Japan, Singapore, France and the United Kingdom.⁹

To handle a wide variety of disputes concerning various parts of the globe, TIAC has assembled a diverse and international panel of arbitrators consisting of a main panel of arbitrators, which comprises senior and well-reputed arbitration practitioners, and a reserve panel of arbitrators, which comprises younger and rising members of the profession. Geographically, the arbitrators currently listed in TIAC's main and reserve panels hail from the Middle East and North Africa (26 per cent), the CIS region (24 per cent), Europe (12 per cent) and the Asia-Pacific (8 per cent). Fourteen per cent are from the United States and 16 per cent from the United Kingdom. TIAC aims to maintain diversity in areas such as geography, cultural background, linguistic background, gender and ethnicity in the opportunities that it builds and supports. This is based on a firm belief that such efforts are critical for making international arbitration a truly international and inclusive form of dispute resolution, usable and accessible by parties and disputants regardless of location or background.

TIAC's second year in operation, 2020, was marked by the covid-19 pandemic. The government of Uzbekistan, like many other governments worldwide, imposed strict quarantine measures and travel restrictions. TIAC's operations, however, were not negatively impacted. As trade goes on, dispute resolution services go on as well. As a new and modern arbitral institution, TIAC primarily accepts and administers cases virtually. In fact, TIAC has successfully handled two emergency arbitration cases in the midst of the pandemic virtually. To assist in expediting arbitral proceedings and to promote cybersecurity, TIAC is presently implementing new hearing platform options into its day-to-day operations and case administrations.

TIAC's cooperation with other international arbitration institutions

TIAC is keen on working closely with the international arbitration community worldwide to promote arbitration in Uzbekistan and the CIS region. Although TIAC is a young institution, it is ready to share information and learn from the experiences of foreign partners. Since TIAC's launch in 2019, it has concluded various memorandums of understanding (MOUs) with arbitration and dispute resolution institutions globally. These institutions include the Hong Kong International Arbitration Centre, the Vienna International Arbitration Centre (VIAC), the Astana International Financial Centre, the Florence International Mediation Chamber, and the China International Economic and Trade Arbitration Commission.

Under these various MOUs, TIAC and the corresponding institutions have agreed to cooperate in promoting the use of arbitration and other alternative dispute resolution methods for the purposes of international commercial transactions, in the recommendation of arbitrators, in research and development programmes and training, and in the exchange of information of mutual interest as may be available in relation to arbitration, trade and investment. TIAC is hopeful that its cooperative efforts will help in facilitating cross-border integration of arbitration services and the promotion of joint activities for the development of arbitration worldwide.

Enforcement of international arbitral awards in Uzbekistan

Enforcement of international arbitral awards is conducted by the state economic courts of Uzbekistan. As Uzbekistan is a party to the New York Convention, the recognition and enforcement procedure is governed by article IV thereof and this procedure is reflected in article 251 of the CEP. To seek recognition and enforcement of an arbitral award, it would be necessary for an applicant to submit to the court a standard set of documents, including the originals or duly certified (ie, notarised and apostilled as necessary) copies of an arbitration agreement and an arbitral award. If enforcement of an arbitral award is granted, the court will issue a writ of execution. Awards that have been set aside at the seat of arbitration cannot be recognised or enforced in Uzbekistan.

In recent years, the courts of Uzbekistan have granted the majority of applications seeking to recognise and enforce international arbitral awards. An analysis of the relevant case law available for 2017–2020 shows that a refusal to recognise and enforce an international arbitral award is typically due to deficiencies in an award matching the grounds for refusal under the New York Convention.

A review of the most recent cases shows an arbitration-friendly and largely pro-enforcement attitude among the Uzbek courts. Over the past three years, Uzbek courts recognised and enforced awards rendered in proceedings administered by international arbitration centres such as the International Court of Arbitration of the International Chamber of Commerce, VIAC, the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation (ICAC) and others. Without going into detail of each of the cases, a few notable observations are set out below.

For example, in *Masterrind GmbH v LLC Grand Milk*, concerning enforcement of a VIAC award, the court rejected the defendant's arguments that it had not been duly notified of the arbitration and its attorney had not been properly authorised. The court also did not agree to put the proceedings on hold until resolution of the parallel Uzbek court proceedings concerning the same agreement that gave rise to the arbitration in VIAC.

In *KEGOC v Uzbekenergo*, the court rejected the defendant's (which notably is a state-owned entity) allegations that an ICAC award had been unreasonable, in violation of procedural norms. The defendant's case was that the tribunal lacked jurisdiction as the delay interest was awarded under the additional agreements to the underlying contract between the parties, which had by then expired. Without going into the merits of the award, the court rejected the defendant's arguments and granted the application to recognise and enforce the award.

In *Grundfos Kazakhstan v Muborak*, the court refused to enforce a foreign arbitral award based on evidence of a failure of the applicant to provide proof that the defendant had been notified about the arbitration. The court found that the delivery record from the postal company did not contain the date, the reference number and the information on the recipient. The court's ruling was then upheld on appeal.

To support arbitration in Uzbekistan, TIAC has been negotiating with the Supreme Court of Uzbekistan to sign a memorandum of collaboration (MOC) and these negotiations are now in the advanced stages. The MOC aims to establish an expedited and facilitated framework for recognition and enforcement of arbitral awards and orders issued in TIAC arbitrations. The MOC is expected to set all-encompassing goals, such as:

- cooperation for the effective enforcement of arbitral awards in Uzbekistan;
- promotion and development of international arbitration and other forms of alternative dispute resolution; and
- assistance in the formation of a favourable investment climate and the business environment in Uzbekistan.

The MOC will also provide for a number of options for the courts to assist with arbitration. For example, in considering applications:

- for interim measures in support of arbitrations;
- for assistance in obtaining evidence; and
- to recognise and enforce arbitral awards, etc.

According to the MOC, TIAC is going to co-organise educational seminars for the economic court judges in relation to legislation of Uzbekistan regulating international arbitration. There are also other forms of cooperation anticipated between TIAC and the Uzbek courts, including *amicus curiae* type advice to be provided to courts, holding joint events and joint research activities, and exchange of best practices.

Initiatives of TIAC

TIAC has introduced a number of initiatives that not only seek to promote international arbitration in Uzbekistan and inform the global arbitration community about Uzbekistan as an attractive seat, but also aim to more broadly benefit users of arbitration from all over the globe.

Draft rules for technology disputes

Disputes in the field of high-end technology require particular qualifications from the parties, the arbitrators and the arbitration institutions. A trend in the further technologisation of the economy is easily recognisable, and many arbitral institutions increasingly encounter technology disputes that warrant special attention.

For these reasons, TIAC, jointly with the Organising Committee members of the Nikonov Tech Moot, developed the draft TIAC Rules of Arbitration for Technology Disputes (the TIAC Tech Rules) for possible consideration by the TIAC

Supervisory Board. The TIAC Tech Rules are planned to be tested in the first international Nikonov Tech Moot scheduled for September 2021.

The Nikonov Tech Moot will be a unique opportunity for students and arbitration practitioners to get involved in a variety of advanced technology matters, such as artificial intelligence, cybersecurity and other complex issues.

Uzbek Arbitration Week

TIAC and the Chamber of Commerce and Industry of Uzbekistan are co-organising the inaugural Uzbek Arbitration Week on 6–10 September 2021. The event will be conducted in a hybrid mode allowing both remote and in-person participation for speakers and attendees.

Among other things, the Uzbek Arbitration Week will feature the following events:

- the fourth meeting of the TIAC Supervisory Board;
- general and final rounds of the Nikonov Tech Moot; and
- a flagship conference: 'Uzbekistan as a favourable seat for arbitral proceedings in the CIS region and beyond'.

The hybrid events will be organised with support from the government. Uzbek governmental and quasi-governmental organisations and entities are expected to take part in the various sessions. The Uzbek Arbitration Week will have a global reach.

TIAC45 Young Practitioners Group

TIAC45 was launched on 9 March 2021 under the auspices of TIAC and with the support of the TIAC Supervisory Board and the TIAC Court of Arbitration. The aim of TIAC45 is to nurture young arbitration practitioners in the CIS region and globally, and to encourage the use of TIAC services through TIAC45 and TIAC, and TIAC45 events and initiatives. TIAC45 is chaired by Kirsten Teo, with Olga Kim as the vice chair. Other members of the Steering Committee of TIAC45 are Charles Tay, Yan Kalish, Bryan J Brannon, Orlando Cabrera C and Diana Tsutieva.

Educational events for Uzbek judges

TIAC is actively involved in capacity building for Uzbek judges. In cooperation with various organisations and development partners, TIAC is organising a series of training sessions on best enforcement practices.¹⁰

The team of experts will include internationally recognised professionals working on the frontiers of dispute resolution practices around the globe. Programmes will be delivered through concise closed-group lectures and practical seminars conducted in English. As a result of this initiative, Uzbek judges will not only gain insights into best dispute resolution practices, but also connect with colleagues from various parts of the world.

Draft mediation rules

Arbitration is not the only method of alternative dispute resolution. Mediation is also a popular choice among businesses as an efficient way to settle their differences. Mediation is also known to have good compatibility with arbitration in various forms (eg, arb–med, med–arb, arb–med–arb). That is why TIAC, in cooperation with the Florence International Mediation Chamber and the United States Agency for International Development, initiated the development of a set of mediation rules. TIAC aims to introduce state-of-the-art international mediation services in Uzbekistan and beyond, with a particular emphasis on investor-state mediation.

Given that international mediation has not been introduced into the Uzbek legislation, TIAC is serving as a driving force behind a number of initiatives seeking to introduce international mediation practices and invite foreign mediators to Uzbekistan.

Conclusion

Over the past several years, Uzbekistan has steadily demonstrated its commitment to supporting arbitration as a means of international dispute settlement. Through various incentives, the adoption of the UNCITRAL Model Law and a consistent judicial practice of respecting international arbitration awards, Uzbekistan

has been building a friendly environment for international arbitration. TIAC has been set up in this context and is steadily gaining momentum as a choice institution for international dispute resolution services for parties in the country and beyond. As TIAC enters into its third year of operations, it seeks to further consolidate its efforts to establish itself as a truly innovative and inclusive platform for arbitration and other forms of alternative dispute resolution. To assist it in being able to better serve the needs of the global business and arbitration community, across geography, languages, nationalities and cultures, TIAC warmly welcomes the support of all.

Uzbek ADR glossary

Abbreviation	Full definition in English	Link/information
Constitution		
Constitution RUz	Constitution of the Republic of Uzbekistan, dated 8 December 1992	https://lex.uz/docs/4032775 (English)
Codes		
CEP RUz	Code of Economic Procedure of the Republic of Uzbekistan, dated 24 January 2018	https://lex.uz/docs/3523895 (available in Russian and Uzbek)
CCP RUz	Code of Civil Procedure of the Republic of Uzbekistan, dated 22 January 2018	https://www.lex.uz/docs/3517334 (available in Russian and Uzbek)
CC RUz (part 1)	Civil Code of the Republic of Uzbekistan (Part 1), dated 21 December 1995	https://lex.uz/docs/111181 (available in Russian and Uzbek)
CC RUz (part 2)	Civil Code of the Republic of Uzbekistan (Part 2), dated 29 August 1996	https://lex.uz/docs/180550 (available in Russian and Uzbek)
Laws		
ICA Law RUz	Law of the Republic of Uzbekistan on international commercial arbitration, No. ZRU-674, dated 16 February 2021	https://lex.uz/docs/5294087 (available in Russian and Uzbek)
IIA Law RUz	Law of the Republic of Uzbekistan on investments and investment activity, No. ZRU-598 dated 25 December 2019	https://lex.uz/ru/docs/4751834 (English)
DAC Law RUz	Law of the Republic of Uzbekistan on domestic arbitration courts, No. ZRU-64, dated 16 October 2006	https://lex.uz/docs/1072094 (available in Russian and Uzbek)
Med Law RUz	Law of the Republic of Uzbekistan on mediation, No. ZRU-482, dated 3 July 2018	https://lex.uz/docs/4407205 (English)
By-laws		
TIAC Decree	Decree of the President of the Republic of Uzbekistan on establishing the Tashkent International Arbitration Centre (TIAC) at the Chamber of Commerce and Industry of the Republic of Uzbekistan No. PP-4001, dated 5 November 2018	https://lex.uz/docs/4039518 (available in Russian and Uzbek)
DA RSC RUz	Resolution of the Plenum of the Supreme Commercial Court of the Republic of Uzbekistan on some issues of application of legislation in considering the cases related to domestic arbitration by economic courts, No. 238, dated 15 June 2012	https://lex.uz/docs/2483048 (available in Russian and Uzbek)
Uzbek state bodies		
MIFT RUz	Ministry of Investments and Foreign Trade of the Republic of Uzbekistan	The authorised state body for the state regulation of investments and investment activities
MoJ RUz	Ministry of Justice of the Republic of Uzbekistan	The authorised state body for the protection of interests of the Republic of Uzbekistan in foreign courts and international arbitration proceedings
SC RUz	Supreme Court of the Republic of Uzbekistan	The highest judicial instance in the area of civil, criminal, economic and administrative process
ECRK RUz	Economic Court of the Republic of Karakalpakstan within the Republic of Uzbekistan	The judicial instance authorised to decide on recognition and enforcement of foreign arbitral awards on the territory of the Republic of Karakalpakstan within the Republic of Uzbekistan
REC RUz	Regional Economic Court of the Republic of Uzbekistan	The judicial instance authorised to decide on recognition and enforcement of foreign arbitral awards in any region, except for the Tashkent city and the Republic of Karakalpakstan
TCEC RUz	Economic Court of the Tashkent city of the Republic of Uzbekistan	The judicial instance authorised to decide on recognition and enforcement of foreign arbitral awards on the territory of the Tashkent city

Notes

- 1 Presidential Decree of the President of the Republic of Uzbekistan on the Establishment of the Tashkent International Arbitration Centre (TIAC) at the Chamber of Commerce and Industry of the Republic of Uzbekistan, signed 5 November 2018.
- 2 ICSID, Contracting States and Measures Taken by Them for the Purpose of the Convention (July 2020) (available at: https://icsid.worldbank.org/sites/default/files/2020_July_ICSID_8_ENG.pdf).
- 3 Investment Policy Hub, Uzbekistan Country Profile (available at: <https://investmentpolicy.unctad.org/international-investment-agreements/countries/226/uzbekistan>).
- 4 *ibid.*
- 5 Ministry of Foreign Affairs, International treaties on mutual legal assistance and legal relations, signed by Uzbekistan (available at: <https://m.mfa.uz/en/cooperation/legalrelations/>).
- 6 State Committee of the Republic of Uzbekistan on Statistics, Foreign Trade Turnover in the Republic of Uzbekistan (January–December 2020) (available at: <https://stat.uz/ru/press-tsentr/novosti-goskomstata/7404-vneshnetorgovij-oborot-v-respublike-uzbekistan-yanvar-dekabr-2020-goda>).
- 7 *ibid.*
- 8 *ibid.*
- 9 Investment Policy Hub, Uzbekistan Country Profile.
- 10 The Slynn Foundation is an educational charity working with judges and justice institutions around the world to improve justice systems.



Diana Bayzakova

Tashkent International Arbitration Centre

Diana Bayzakova is director of the Tashkent International Arbitration Centre, the arbitral institution delivering zero-admin-fee, state-of-the-art arbitration services under a unique conflict-free operational framework. As a multilingual dispute resolution expert, Diana acted as the sole arbitrator on a panel of arbitrators and as counsel in international arbitral proceedings under a variety of arbitration rules (DIAC, DIFC-LCIA, ICC, SCC, ADCCAC and others) and is the only arbitration practitioner from Uzbekistan ranked by *The Legal 500* in its Arbitration Powerlist: CIS and Caucasus. She is the founder of the Nikonov Tech Moot, a forum where students, academics, arbitrators and legal practitioners in the field of advanced technologies meet, plead and network. In 2020, Diana was appointed to the ICSID Panel of Arbitrators.



TASHKENT INTERNATIONAL ARBITRATION CENTRE

4 Amir Temur Street
Tashkent
Uzbekistan
Tel: +998 78 1506006

Diana Bayzakova
dbayzakova@tiac.uz

Yan Kalish
ykalish@rgp.legal

Charles Tay
charlestay@zhonglun.com

Nodir Malikov
info@tiac.uz

www.tiac.uz

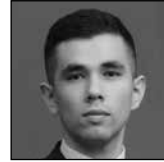
TIAC is an international arbitration centre established in November 2018 and officially launched in April 2019, which delivers zero-admin-fee, state-of-the-art arbitration services under a unique conflict-free operational framework to users in the CIS region and beyond. The TIAC Court of Arbitration is a fully autonomous organ within the TIAC and is the only body within the TIAC's structure that administers disputes according to the TIAC Rules of Arbitration in complete independence from TIAC, its founders, the director or any other entities. The TIAC Court of Arbitration is assisted by the TIAC Secretariat. To avoid issues of conflict of interest and to maintain the strictest standards of impartiality, independence and neutrality, under TIAC's operational framework no member of the TIAC Court of Arbitration or the TIAC director or other TIAC employees can act as arbitrators under the TIAC Rules of Arbitration during their term of service.



Yan Kalish
Rybalkin, Gortsunyan & Partners

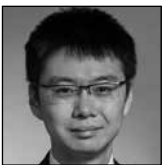
Yan Kalish, PhD, MCI Arb, is an attorney and counsel at the dispute resolution practice of RGP. Yan represents clients before arbitral tribunals, acting under the rules of various institutions, including ICC, SCC, LCIA and SCAI. He also advises clients on complex cross-border litigations involving proceedings before the courts of the United States, Norway, the British Virgin Islands (BVI), Cyprus, Singapore and Russia. Yan's experience covers matters governed by New York, Delaware, English, Swedish, Norwegian, Singaporean, Italian, German, BVI, Cypriot, Swiss, Monegasque, Bahamian, Panamanian and Russian law, among others. He also sits as an arbitrator.

In addition to his service on the TIAC45 Steering Committee, Yan is a co-chair of the Arbitration Association 40 and Thought Leaders 4 FIRE CEE-CIS Committee, a member of the ICC Russia Commission on International Arbitration and a member of the Steering Committee of the CI Arb Russian Branch and executive secretary of the Commission for Development of Arbitration and Alternative Settlement Mechanisms of the Moscow regional department of the Association of Lawyers of Russia.



Nodir Malikov
Tashkent International Arbitration Centre

Nodir Malikov is a member of the TIAC Secretariat and his area of practice primarily includes international arbitration and mediation. In addition to alternative dispute resolution, he has advised high-profile clients in the areas of air industry, construction, anti-trust law, banking and finance, corporate law, international trade law, licensing and certification, and consumer protection matters in Uzbekistan and beyond.



Charles Tay
Zhong Lun Law Firm

Charles Tay, FCI Arb, is a foreign legal counsel with Zhong Lun Law Firm. His practice focuses on international arbitration and his experience includes work on major cross-border disputes spanning energy (nuclear, oil and gas, etc), construction, post-M&A, investor-state and general commercial interests. Before joining Zhong Lun in 2020, Charles worked in Singapore and London for approximately five years, including as a visiting foreign lawyer with Wilmer Cutler Pickering Hale & Dorr LLP's international arbitration group and as an associate and tribunal secretary to one of Asia's foremost arbitrators.

In addition to his service on the TIAC45 Steering Committee, Charles is also an Asia-Pacific Regional Representative of the London Court of International Arbitration's Young International Arbitration Group and a research affiliate with the Singapore International Dispute Resolution Academy.

an **LBR** business