

# Dispute Management & Prevention in the Energy Sector

## An Examination of Foreign Commercial Arbitration in the Energy Industry

### Introduction

The energy sector makes long-term investments in big, intricate, capital-intensive projects. In these energy projects, circumstances, economics, governments, and parties continually change, which can frequently result in disagreements. As a result, the world's greatest portfolio of international commercial and state investment conflicts is comprised of the worldwide energy sector and the construction projects that are affiliated with it.

Thus, disagreements pose a serious risk to any global energy project. The risk in a project is not in the possibility of a conflict but rather in the ability of a party to resolve one through effective dispute resolution.

Therefore, from the time the transaction is made until a dispute develops and is ultimately settled, the parties must continuously manage that risk.

Because of the origins of the parties involved, energy disputes frequently have a significant monetary value, strong public interest, and a cross-border nature. How Alternative Dispute Resolution (ADR) can result in increased procedural flexibility, improved certainty, faster and better outcomes, possible cost savings, and other efficiency. ADR will provide the industry—businesses, regulators, and consumers—more power to steer its own course and develop practical solutions that are tailored to specific situations.

Participants in this Course N Carry training session will have a working grasp of all available ADR options, including early neutral evaluation, expert determination, med-arb, arbitration, mediation, and facilitation.

### **This training session on Course N Carry will emphasise:**

- The primary categories of conflicts in the energy industry
- The available dispute resolution procedures
- ADR's advantages in settling energy-related disputes
- Choosing ADR Approaches and Conducting Conflict Analysis
- Using Better Conflict Management Techniques and Awareness to Prevent Conflict

### Objectives

## **Following completion of this Course N Carry training programme, you will:**

- Gain a thorough understanding of the many kinds of energy disputes.
- Recognise the primary dispute resolution provisions in contracts for the energy sector.
- Thorough understanding of ADR mechanisms
- Recognise all available choices for resolving conflicts
- Learn conflict resolution techniques to prevent and resolve energy-related conflicts.

## **Training Methodology**

Presentations by a seasoned worldwide practitioner aim to enlighten and expand the participants' horizons would help them comprehend the subject matter better. We'll review and talk about recent case studies. Participants will take part in interactive talks about managing and resolving disagreements. We will investigate and evaluate dispute avoidance strategies.

## **Organizational impacts**

### **The following will help the organisation:**

- Educating their pertinent staff about the various dispute resolution techniques available to settle energy-related disputes
- Using the Alternative Dispute Resolution procedure can save management time and money when settling disagreements.
- Presenting solutions to high management for resolving energy-related conflicts
- Evaluating and planning the best course of action to prevent conflicts and handle them once they do occur

## **Personal Impact**

### **Participation in this session will benefit attendees because:**

- Greater comprehension of the most effective dispute resolution techniques
- Recognising the main legal and practical objectives in dispute management
- Understanding their part in preventing and/or resolving conflicts
- More equipped to handle conflict head-on and have practical abilities to tackle challenging problems
- Understanding how alternative dispute resolution (ADR) can be utilised to settle conflicts helps reduce management time spent on disputes resolution and avoid expensive legal fees.

## **Who should attend?**

All workers involved in resolving conflicts in the energy industry will benefit from this Course N Carry training session. It will make it possible for experts from a wide range of

fields to comprehend the difficulties involved in managing and resolving conflicts in the energy industry.

**A wide range of professionals can benefit from this Course N Carry training course, but the following will be especially beneficial:**

- Legal counsel and managers
- Managers of businesses and commerce
- Managers and administrators of contracts
- Professionals in banking, insurance, and commerce
- General Management and Projects

## Course Outline

### Day 1

#### Dispute forms in the Energy industry

- A summary of the many dispute forms in the energy industry
- Conflicts between states
- Investment conflicts between states or investors.
- Treaty on Energy Charter (TEC)
- Conflicts between companies
- Contractual disagreements between joint venture participants
- Conflicts between service providers and operators
- Conflicts between individuals and companies

### Day 2

#### Conflicts Resulting From Energy Deals

- Energy Agreement Types and Dispute Settlement Procedures
- Energy commodity purchases and sales as well as associated financial energy transactions (Standardised Agreements)
- Agreements and Transactions pertaining to Fuel Supply and Tolling
- Off-Take and Power Purchase Agreements and Transactions
- Agreements/Transactions for Transmission and Transportation
- Transactions and Agreements pertaining to Operations & Maintenance (O&M)
- Transactions and Agreements Related to Engineering, Procurement, and Construction (EPC)
- Finance Transactions and Agreements for the Development of Energy Projects
- Conventional Energy Asset Purchase and Sale Transactions and Agreements
- Transactions and Agreements for Energy Risk Management Services

## Day 3

### ADR's Advantages in Resolving Energy Conflicts

- ADR Process Types: Mediation
- Arbitration in Conciliation: Ad hoc and institutional
- Location of arbitration Expert assessment
- Enforcing the ADR benefits awarded
- Encourages Original Thoughts
- Encourages Regulatory Agencies to Make Decisions More Effectively
- Maintains Partnerships
- Encourages Profitable Enterprises Conserves Time and Expenses Benefits Even in the absence of Complete Settlements

## Day 4

### Conflict Analysis and ADR Approach Selection That Fits the "Forum to the Fuss" ADR Suitability Guide

- Broad legal and practical objectives for handling disputes
- Acceptability of the disagreement for resolving issues
- ADR's potential advantages in a specific situation

## Day 5

### Using Better Conflict Management Techniques and Awareness to Prevent Conflict

- Government/Regulatory Agency's Function
- Being aware of the variety of ADR alternatives
- Employee proficiency with the ADR process
- Savings on managerial time and legal fees
- Favouritism for conflict settlement techniques
- Using ADR to prevent conflicts over energy