

§ 1-567.31. Scope of application.

(a) This Article applies to international commercial arbitration and conciliation, subject to any applicable international agreement in force between the United States of America and any other nation or nations, and any federal law.

(b) The provisions of this Article, except G.S. 1-567.38, 1-567.39, and 1-567.65, apply only if the place of arbitration is in this State.

(c) An arbitration or conciliation is international if any of the following are true:

- (1) The parties to the arbitration or conciliation agreement have their places of business in different nations when the agreement is concluded.
- (2) One or more of the following places is situated outside the nations in which the parties have their places of business:
 - a. The place of arbitration or conciliation if determined pursuant to the arbitration agreement.
 - b. Any place where a substantial part of the obligations of the commercial relationship is to be performed.
 - c. The place with which the subject matter of the dispute is most closely connected.
- (3) The parties have expressly agreed in a record that the subject matter of the arbitration or conciliation agreement relates to more than one nation.

(d) For the purposes of subsection (c) of this section:

- (1) If a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration or conciliation agreement.
- (2) If a party does not have a place of business, reference is to be made to the party's domicile.

(e) An arbitration or conciliation, respectively, is deemed commercial for the purposes of this Article if it arises out of a relationship of a commercial nature, including, but not limited to any of the following:

- (1) A transaction for the exchange of goods or services.
- (2) A distribution agreement.
- (3) A commercial representation or agency.
- (4) An exploitation agreement or concession.
- (5) A joint venture or other related form of industrial or business cooperation.
- (6) The carriage of goods or passengers by air, sea, water, land, or road.
- (7) A contract or agreement relating to construction, insurance, licensing, factoring, leasing, consulting, engineering, financing, or banking.
- (8) The transfer of data or technology.
- (9) The use or transfer of intellectual or industrial property, including trade secrets, trademarks, trade names, patents, copyrights, plant variety protection, and software programs.
- (10) A contract for the provision of any type of professional service, whether provided by an employee or an independent contractor.

(f) This Article shall not affect any other law in force by virtue of which certain disputes may not be submitted to arbitration, conciliation, or mediation, or may be submitted to arbitration, conciliation, or mediation only according to provisions other than those of this Article.

(g) This Article shall not apply to any agreement providing explicitly that it shall not be subject to the North Carolina International Commercial Arbitration and Conciliation Act. This Article shall not apply to any agreement executed prior to June 13, 1991.

(h) This Article does not govern arbitrations under Article 1H of Chapter 90 of the General Statutes. (1991, c. 292, s. 1; 1997-141, s. 1; 1997-368, s. 6; 2017-171, s. 1.)