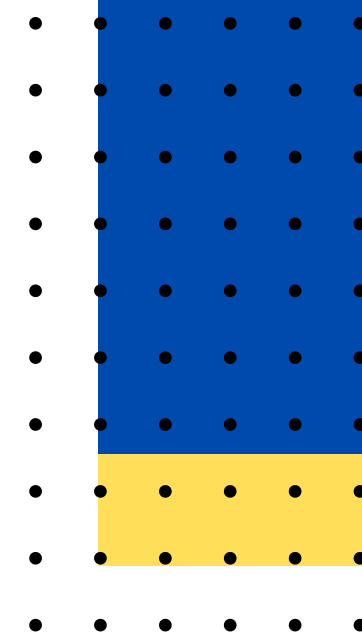




INTERNATIONAL TRADE

DISPUTE RESOLUTION

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CONCEPT OF INTERNATIONAL TRADE DISPUTE RESOLUTION

In the context of globalization and the increasing international trade activities, resolving trade disputes has become an increasingly important issue for businesses. In Vietnam, there are four methods for resolving international trade disputes: negotiation, mediation, arbitration, and court litigation. These methods provide flexible options for parties involved in international trade transactions, depending on the nature and complexity of the disputes.

WHAT IS AN INTERNATIONAL TRADE DISPUTE?

An international trade dispute arises from conflicts when one of the parties violates, fails to perform, or improperly executes the obligations committed in an international trade contract.

HOW IS INTERNATIONAL TRADE DISPUTE RESOLUTION UNDERSTOOD?

International trade dispute resolution refers to the process by which disputing parties use appropriate forms and procedures to implement solutions aimed at eliminating conflicts and disagreements over economic interests, clarifying the rights and obligations of each party, thereby protecting the legitimate rights and interests of both parties.

Characteristics of International Trade Dispute Resolution:

- Both disputing parties have the right to choose the form of resolution and the competent authority to resolve the dispute. This regulation allows relevant parties to undertake any actions necessary to alleviate disagreements and resolve disputes in international trade relations, as long as they do not violate the law.
- Depending on the entities and types of subjects involved in international trade activities, the applicable regulations may vary. For instance, if the trade dispute relates to real estate, the relevant real estate laws must be applied. Conflicts between traders may agree on the form of resolution, while conflicts between foreign investors and the receiving party must refer to the international treaties to which the receiving country is a member, as well as the laws of the receiving country.



SOME METHODS OF RESOLVING INTERNATIONAL TRADE DISPUTES IN VIETNAM

RESOLVING INTERNATIONAL TRADE DISPUTES THROUGH NEGOTIATION:

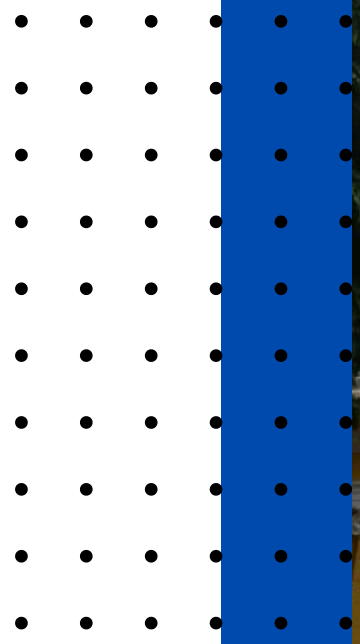
Negotiation is the most commonly used method for resolving international trade disputes today. Parties apply this method to resolve any disputes arising in commercial activities.

The advantage of this method is its simplicity, low cost, and absence of binding legal procedures, as well as maintaining business reputation and confidentiality. The impact on the parties is minimal, and successful negotiation enhances understanding and cooperation between them.

The characteristic of this method is that the disputing parties meet to discuss and reach an agreement to resolve the disagreements without the presence of a third party to assist or make a ruling. The negotiation process is not bound by any legal principles or regulatory frameworks governing dispute resolution. Vietnamese law has also recognized negotiation as a method for resolving trade disputes.

If negotiation is successful, the two parties find common ground and reach an agreement that reflects the wishes of both parties; this agreement will be recognized by law as a contract between the parties. Both parties have obligations to fulfill their rights and duties toward each other.





RESOLVING INTERNATIONAL TRADE DISPUTES THROUGH MEDIATION:

Mediation is a method of resolving international trade disputes where the two parties negotiate with each other with the assistance of a third party, the mediator. This method has many similarities to negotiation, with the key difference being that there is a mediator present to facilitate the process. Additionally, the mediator participates in the mediation process but does not have the authority to judge or make a final ruling as an arbitrator. The mediator is only responsible for assisting the two parties in conducting the mediation according to the appropriate process.

Mediation is voluntary and may extend depending on the desires of the parties. The initiation or conclusion of mediation is entirely up to the will of the parties. When participating in the mediation process, success is based on the parties' agreement to resolve the dispute, ensuring the relationship between the parties afterward.



RESOLVING INTERNATIONAL TRADE DISPUTES THROUGH ARBITRATION:

According to Clause 1, Article 3 of the Commercial Arbitration Law 2010, this method is defined as follows:

Commercial arbitration is a method of resolving disputes agreed upon by the parties and conducted in accordance with the provisions of this Law. The disputes here must arise from commercial activities, in which at least one party is engaged in commercial activity, or other disputes between the parties that the law stipulates can be resolved by arbitration.

The disputes that the arbitration authority has the power to resolve include:

- Disputes arising from commercial activities between the parties.
- At least one party is engaged in commercial activity.
- The law stipulates that it must be resolved by arbitration, or if the two parties have an arbitration agreement.

If the parties have an arbitration agreement, and one party files a lawsuit in court, the court must refuse to accept the case, except in cases where the agreement is invalid or cannot be executed.

The implementation of dispute resolution through commercial arbitration requires certain conditions to be met, such as being agreed upon by both parties before or after the dispute arises. The arbitration agreement must be in the form of a contractual clause or a separate form but must be in writing.

Resolving disputes through arbitration is simple and flexible according to the parties' agreement, allowing for a swift resolution process. The arbitral award is final, binding on the parties, and there is no right to appeal in this case.

However, there are some exceptions where an arbitral award may be annulled by a competent court. Dispute resolution through arbitration is not limited territorially, as parties may agree on arbitration to resolve their disputes.

RESOLVING INTERNATIONAL TRADE DISPUTES THROUGH COURTS:

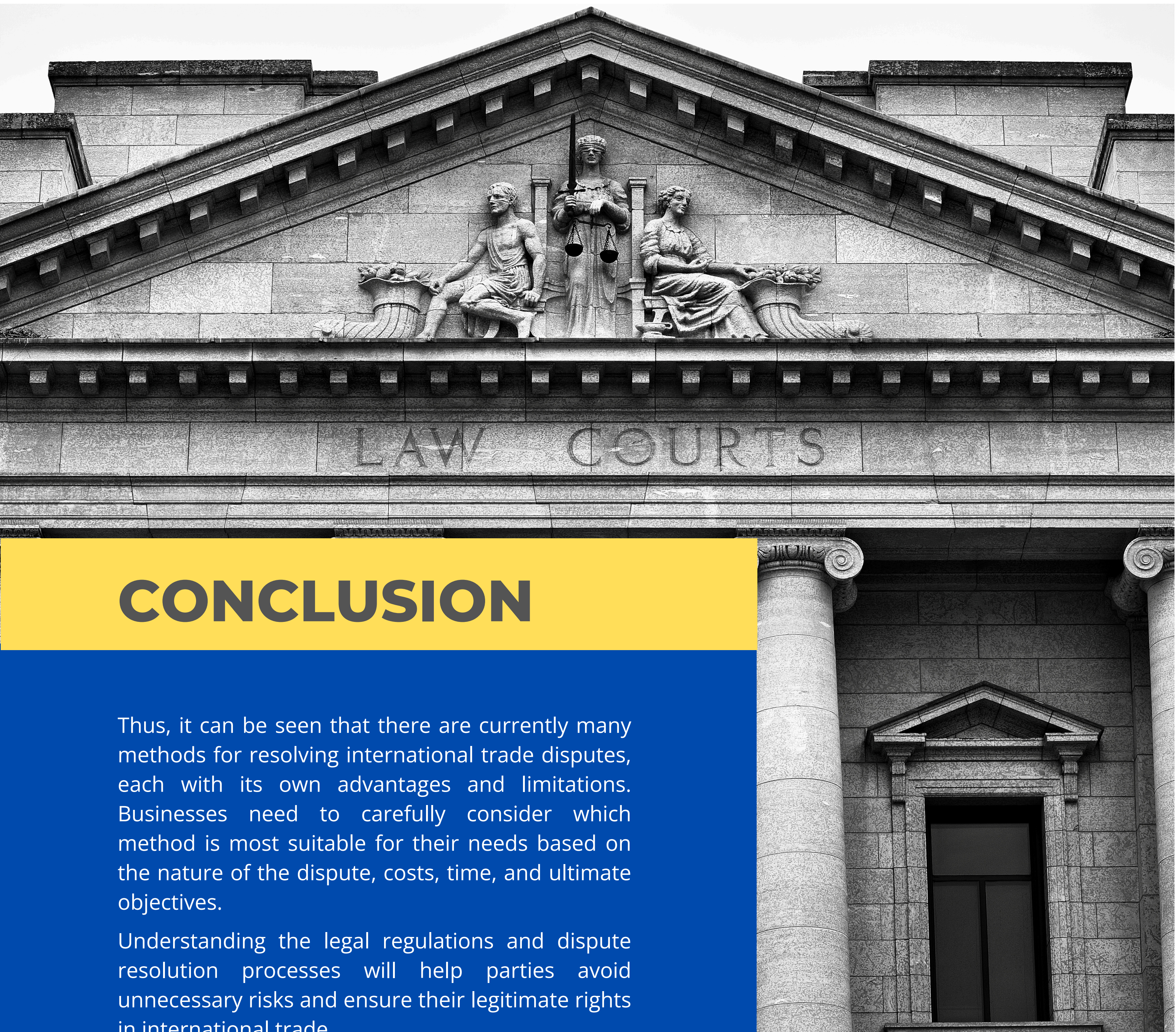
The court is an agency representing the state to resolve disputes, and thus the court's ruling is enforced by the coercive power of the state.

During the dispute resolution process, the court must adhere to specific principles and procedures as stipulated by law, specifically detailed in Article 683 of the Civil Code 2015.

This is the form of resolution with the highest degree of coercion, conducted through the activities of judicial bodies. The judgments and decisions of the court are enforced according to the law. During the resolution of a case, the court may issue a decision to apply urgent provisional measures to ensure the enforcement of judgments, such as seizing disputed assets or freezing bank accounts.

Parties may file appeals or request retrials if they find the court's decision unsatisfactory. Resolving disputes through the court system is often more complex, time-consuming, and costly, and it does not maintain the same level of confidentiality as negotiation.





CONCLUSION

Thus, it can be seen that there are currently many methods for resolving international trade disputes, each with its own advantages and limitations. Businesses need to carefully consider which method is most suitable for their needs based on the nature of the dispute, costs, time, and ultimate objectives.

Understanding the legal regulations and dispute resolution processes will help parties avoid unnecessary risks and ensure their legitimate rights in international trade.