

New arbitration centre opens in Riyadh

The Saudi Centre for Commercial Arbitration has opened in Riyadh, Saudi Arabia, and aims to be the leading regional centre for alternative dispute resolution by 2030.

Background

The Saudi Arabian Arbitration Law was established by Royal Decree No M/34, dated 24/5/1433H (corresponding to 16 April 2012G) and overhauled the regulatory framework for arbitration in the Kingdom. At the time, the Arbitration Law was welcomed as providing a potential alternative to conventional court proceedings, which can prove time-consuming and costly. However, Saudi Arabia lacked an effective institutional framework under which the new Arbitration Law could be implemented.

The SCCA

The Saudi Centre for Commercial Arbitration (SCCA) was legally established by Council of Ministers decree number 2057 dated 14/6/1435H (corresponding to 15 March 2014G). The SCCA is now physically established in a modern facility at the Council of Saudi Chambers building in Riyadh. In addition, the SCCA has now published Arbitration Rules, which will enable it to facilitate and administer arbitration in Saudi Arabia.

The Arbitration Rules adopt the UNCITRAL Arbitration Rules as their basis. In particular they set out:

- the procedure by which arbitral proceedings are commenced
- the rules by which the tribunal is appointed and how the arbitrators can be challenged and replaced
- the detailed procedures by which the arbitration will be managed, including the conduct of proceedings, exchange of information, the use of experts and the possibility of interim measures
- the rules regarding the making of the arbitral award
- the fees and costs of the SCCA.

The SCCA has also published and adopted Mediation Rules, which provide a framework for the resolution of commercial disputes prior to seeking a binding arbitral or court award.

Key notes

- The Saudi Centre for Commercial Arbitration has opened in Riyadh and is "open for business".
- It has published Arbitration Rules and a range of related materials, within the framework of the Arbitration Law.
- Recent experience of enforcement proceedings is that the Enforcement Court is ready to enforce foreign and arbitral awards.
- It is hoped that these developments will make arbitration a more viable option for Saudi and foreign counterparties.

Enforcement

Historically, a key concern for parties contracting in Saudi Arabia was whether or not a foreign or domestic arbitral award would be enforced in the Kingdom. This was particularly relevant to foreign arbitral awards, as such awards needed to be brought before the Board of Grievances for recognition and enforcement. The Board of Grievances would often review the merits of the case, leading to protracted litigation proceedings.

The Enforcement Law issued by Royal Decree No M/53 dated 13/8/1433H (corresponding to 3 July 2012G) made the enforcement of awards, including foreign arbitral awards, the responsibility of the Enforcement Court. Although an Enforcement Judge still needs to follow and respect Shari'a law (Articles 2/1 and 9/1 of the Enforcement Law Implementing Regulations), he does not have the power to re-open the case and the decision of the Enforcement Court can only be appealed in relation to "enforcement disputes".

Enforcement in general has developed in Saudi Arabia since the enactment of the Enforcement Law. Recent experience of the Enforcement Court indicates that the

process of enforcing domestic and foreign arbitral awards has become more straightforward and an increasing number of domestic and foreign arbitral awards are being enforced in Saudi Arabia. In a recently reported case, a UAE-based company was able to enforce a London arbitral award for US\$18.5 million in the Saudi Enforcement Court. We understand that the process took only three months. It is expected that the Enforcement Court's recent practice in enforcing arbitral awards will greatly assist the take-up of the SCCA.

Conclusion

The Saudi National Transformation Plan that was published earlier this year makes it an express government objective to open three arbitration centres in the Kingdom by 2020. With the opening of the SCCA in Riyadh, it is clear that

great strides have been taken to introduce measures in Saudi Arabia that are prevalent in modern arbitration-friendly jurisdictions. Not only does this provide a dispute resolution forum that may be more attractive to local counterparties than conventional court proceedings, it will also help to inspire further confidence amongst foreign investors in the Kingdom.

We also note that the Arbitration Law's Implementing Regulations are expected in due course and this will undoubtedly lead to further developments in this area of law.

More information about the SCCA can be found at www.sadr.org.

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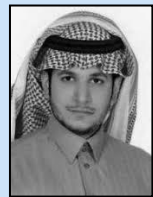
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