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James H Carter

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For further information please email
Adam.Sargent@lbresearch.com

Chapter 43

UNITED ARAB EMIRATES

Kaashif Basit[*]

I INTRODUCTION

Reference to arbitration has been prevalent, historically, in the Middle East since the early days of Islam. Both the Koran and the sunna (two of the main sources of shariah law) make reference to arbitration.[1] However, it has not been until recently that the UAE has recognised the importance of arbitration as a powerful dispute resolution alternative and revised its legislation to accommodate the practice of domestic and international arbitration.

In the past, foreign investors have been reluctant to seat their arbitration proceedings in the UAE. There has been a perception that, as a general rule, the practice of international commercial arbitration in the Middle East is still in its infancy and that the arbitration experience and training of most lawyers and judges in the region lags far behind the rest of the commercial world.[2] The UAE – and Dubai in particular – is now demonstrating to the international community that it has the necessary infrastructure and laws in place to successfully count itself as one of the key arbitration players, alongside London, Paris and Hong Kong. This has been the result of the UAE updating their laws, reforming dispute resolution practice and procedures and through the establishment of key regional arbitration centres. The UAE's accession to the New York Convention was also seen as a significant step in demonstrating the UAE's commitment to foreign investors and the international community. Under Federal Decree No. 43 of 2006, the UAE joined the New York Convention along with 16 other Middle-Eastern countries. The UAE's accession is considered an important move towards providing for a more

* Kaashif Basit is a partner at KBH Kaanuun.

1 Matthew Maroone and George Anthony Smith, Recent developments in Arbitration Law in the UAE, p2 (16 October 2009) available at www.wwhgd.com/news-article-71.html.

2 *Ibid.* at p3.

straightforward enforcement of foreign arbitral awards in other convention states.[3] In accordance with the New York Convention, arbitral awards issued in the UAE now enjoy automatic recognition in the other 142 Member States and will be recognised and enforced outside the UAE on a reciprocal basis.[4] Most recently, the UAE has seen the joint venture between the Dubai International Financial Centre ('the DIFC') and the London Court of International Arbitration ('the LCIA'), in February 2009, to create the DIFC–LCIA Arbitration Centre ('the DIFC–LCIA'). The DIFC–LCIA operates alongside the longer-established Dubai International Arbitration Centre ('the DIAC'), and the Abu Dhabi Commercial Conciliation and Arbitration Centre ('the ADCCAC'). All three offer their own procedural rules and regulations for the amicable settlement of disputes through arbitration. There are other regional arbitration centres, such as those in Sharjah and Ras Al Khaimah; however, reference to regional UAE arbitration centres for the purposes of this chapter will focus on DIAC and DIFC–LCIA, being the most tested rules and practices to date in the UAE.

There has been much discussion among practitioners in the UAE of the importance of having a properly worded arbitration clause in any commercial contract, where applicable, to ensure the required rules and legal seat of arbitration are clearly set out. At a time when both domestic and international organisations, and individuals, wish to avoid expensive litigation proceedings, it is extremely important to have a correctly worded and valid arbitration clause. The relatively recent conception of the UAE's arbitration centre means official publicised statistics are not yet available. However unofficial statistics, reported in the press, have been relied upon in this review and will be discussed in more detail.

II THE YEAR IN REVIEW

In UAE law there is no separate bespoke arbitration law; however, there have been recent moves towards reforming the arbitration 'laws' and practices of the UAE. On 2 February 2008, the UAE Ministry of Economy released a draft Federal Law on Arbitration and Enforcement of Arbitral Awards ('the Draft Arbitration Law'). Under UAE law, arbitration is currently dealt with under Articles 203 to 218 of the Civil Procedure Code (Law No. 11 of 1992, as amended by Law No. 30 of 2005 – 'the UAE Code'). The UAE Code is aimed principally at domestic arbitration not international arbitration.[5] Under the UAE Code, arbitration proceedings are subject to the intervention and supervision of the courts, which can undermine the authority of arbitrators. Pursuant to the UAE Code the courts have the power to dismiss an arbitrator, hear preliminary issues, grant interim measures and make evidentiary decisions on commission to approve, correct, enforce or

3 Hassan Arab, 'The Road ahead: the future of arbitration in the UAE', p80, *International Arbitration Newsletter* (March 2010).

4 *Ibid*. at p80.

5 *Ibid.*

even nullify an award.[6] The much-anticipated Draft Arbitration Law, which is based on the UNCITRAL Model Law on International Commercial Arbitration, is expected to address issues such as a lack in the current UAE Code's applicability to effectively deal with international arbitration. The stated objectives of the Draft Arbitration Law are to 'provide for domestic and international arbitration within the State and for the efficient enforcement of arbitration awards within its territory'.[7]

There remains a great deal of uncertainty under the UAE Code, over recognition and enforcement of arbitration awards in the local courts; the fear is that such awards will be refused on trivial and unpredictable grounds. A particular low point for arbitration in Dubai was the Court of Cassation's decision in the 2004 case of *International Bechtel Co*.[8] The Court of Cassation, the UAE's highest civil court, annulled an arbitral award made two years earlier in Dubai in favour of the claimant, on the grounds that the arbitrator had failed to swear witnesses in the manner prescribed by UAE law for court hearings. Another issue that faces international arbitration is the enforcement of foreign awards within the UAE, even after the UAE's accession to the New York Convention. The issue here is that the current UAE Code contains a provision allowing the UAE courts the right to refuse to execute a foreign judgment if it violates 'moral code or public order'.[9] The true test as to whether the Draft Arbitration Law will quash issues found in the procedural and enforcement aspect of arbitration awards will appear after it is implemented and the reformed law put to the test. The Draft Arbitration Law has remained in 'draft' for over two years, however, and issues concerning the recognition and enforcement of arbitration awards in the UAE courts under the UAE Code continue to prove problematic for practitioners.

The Federal Court of First Instance in the Emirate of Fujairah in 2010 ratified an arbitral award for enforcement made by a sole arbitrator with a London seat under the London Maritime Association Arbitration Rules. The court, however, appears not to have debated in detail the merits. The decision was not subsequently challenged by the defendant and, as such, remains in place.

In January 2011, the Dubai Court of First Instance ordered the recognition and enforcement of a foreign arbitration award under the New York Convention with legal seat in London. Although details of the case are not public it is believed that enforcement of the award has been fully contested by the Dubai company against which it was sought. While the decision may yet be appealed against, should the court of first instance decision be upheld it will support the idea of the UAE as a jurisdiction that is actively in support of international arbitration.

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6 UAE Civil Procedure Code, Lederal Law No. (11) of 1992, Chapter 111, Articles 207, 208, 209, 214, 215, 216, 217.

7 Reza Mohtashami, 'Recent Arbitration Developments in the UAE', *Journal of International Arbitration*, at p632 (Kluwer Law International, 2008).

8 *International Bechtel Co. Ltd v. Department of Civil Aviation of the Government of Dubai*, 300 F. Supp. 2d 112[1] (DDC 2004).

9 The UAE Civil Procedure Code, Federal Law No. 11 of 1992, Chapter IV, Article 235.

The challenge has also been enforcing awards with seat in DIFC in the Dubai courts, as seen in the case of *Property Concepts FZE v. Lootah Network Real Estate & Commercial Brokerage*.[10] Although the process for ratification and recognition of a DIFC–LCIA award should be relatively straightforward, under the current procedure a new Dubai court claim form is required, and all available details of the assets against which enforcement is sought should be provided. The claim form must be signed before the Chief Justice of the Dubai Commercial Court. The documents must then be taken to the execution judge; however, at this stage the court will only accept the signature of a legal representative with rights of audience before the Dubai courts holding a power of attorney (or the individual or authorised signatory in person). In practice, and despite the Protocol of Enforcement, this involves considerable running around and numerous enquiries as to the correct procedure, which remains to be clarified.

The DIFC court has implemented new administrative procedures and a practice direction to clarify minor issues that arose during the course of the application, including once the award is ratified, an application is made requesting a letter from the DIFC court to the Dubai courts for enforcement of the award. We understand that there are further changes proposed to Law No. 12 that will mean that a court issuing an order for recognition and ratification of an award (e.g., the DIFC court) will make a formal application directly to the enforcing court (the Dubai courts) for enforcement, obviating the requirement to appoint specific legal representatives to commence enforcement proceedings and meaning that applicants will only pay the filing fee at one court. The amendments to the law are expected by the end of 2011.

The UAE has demonstrated efforts to encourage the settlement of disputes through methods of alternative dispute resolution ('ADR'), by Law No. 19 of 2009 establishing the Centre for Amicable Settlements of Disputes ('the ADR Law') on 15 September 2009. The ADR Law is expected to apply to civil and commercial cases and will operate as an affiliated body of the Dubai courts. The proposed ADR Law will not apply to cases involving the government or to disputes that are subject to the DIFC courts. The most significant aspect of the ADR Law is that it will be compulsory for parties to refer disputes to the centre instead of the matter immediately being referred to the Dubai courts. Disputes will only proceed to the Dubai courts if attempts to settle the matter through conciliation has failed and a settlement is not reached within one month.

An incentive to settle is provided to participants in the form of a refund of half of the upfront fees payable for registration of a dispute with the centre upon the parties reaching settlement. If settlement is reached, a settlement agreement must be signed by all the parties. Article 12 of the ADR Law provides that a settlement agreement signed under the auspices of the centre will be directly enforceable in the Dubai courts as a writ of execution.

While there is some uncertainty as to how the ADR Law will be implemented in practice, the general intention behind this development is welcomed. It is perhaps no coincidence that the new law comes at a time when the volume of disputes in Dubai and the region is expected to rise significantly following the global economic downturn

10 D-L9008, ARB 001/2010. KBH Kaanuun acted as the legal representatives of the claimant.

and the impact this has had on key local industries such as construction and financial services.

There are likely to be mixed views on the desirability of compulsory ADR and it will also be interesting to see how the centre, once established, will work alongside the already established centres. Many will welcome it as a simple and effective way of keeping disputes out of court, which will save time and costs for the parties, free up court time and achieve certainty for the parties. However, some may not welcome the compulsory nature of the process since many cases will not be suitable for ADR, in particular if, at the time the ADR hearing takes place, the case is not sufficiently developed for an informed conciliation process to take place or if the parties have already attempted unsuccessfully to settle their dispute.

Mandatory referral to ADR is rare in the context of commercial cases, although such initiatives have been introduced in jurisdictions ranging from Ontario in Canada to Greece, India, Indonesia and certain states in the US (notably Delaware and Illinois). These international developments are relatively new, and experiences vary as to their effectiveness.[11]

With such uncertainty as to the UAE's approach to international and domestic arbitration, under the UAE Code, many commercial contracts are now drafted subject to the arbitration rules of DIAC, the DIFC–LCIA and International Chamber of Commerce. DIAC revised and adapted its rules to meet with international standards and best practice. The new rules were issued by Decree No. (11) of 2007 and are considered to be among the most modern and developed set of international arbitration rules due to their inclusion of best arbitration practices.[12] The new rules allow for the arbitral tribunal to make any temporary and urgent awards during an arbitration hearing when so requested by the parties.

In August 2009, it was estimated that there were construction claims worth 18 billion dirham pending at DIAC.[13] According to a DIAC representative at that time, 80 per cent of the claims were construction disputes, with the rest involving real estate.[14] In figures released in 2010, a total of 292 cases were handled by DIAC in 2009 and 186 cases in 2010 (until June).[15] The increase in arbitration cases demonstrates a growing trend towards the preferred use of arbitration forums to settle disputes as opposed to lengthy and expensive civil court proceedings. Another reason, according to the Dubai

11 'Compulsory ADR to be introduced in Dubai', Middle East e-bulletin (October 2009) available at www.herbertsmith.com.

12 Hassan Arab, 'The road ahead: the future of arbitration in the UAE', p80, *International Arbitration Newsletter* (March 2010).

13 Elsa Baxter, 'Dubai construction claims total $4.9bn' (15 August 2009), www.constructionweekonline.com/article-6144-dubai-construction-claims-total-49bn/.

14 *Ibid.*

15 Dubai International Arbitration Centre, 'Bi-Annual Statistics 2010', www.diac.ae/idias/resource/photo/diac_biannual.pdf.

Chamber of Commerce and Industry, is the wider use of arbitration clauses in corporate contracts, specifying any disputes have to be heard under DIAC Rules.[16]

In comparison, there have been around 15 arbitration cases in the DIFC–LCIA, the matters being both domestic and international, coming from countries such as the UAE, Malaysia, Oman, Norway, the Cayman Islands, Kuwait, Hong Kong and the British Virgin Islands. The current disputes being heard in Dubai, subject to DIFC–LCIA rules, concern, *inter alia*, commodities, construction, engineering, energy and consultancy services, with the amounts in dispute in the cases ranging from $50,000 to over $100 million.[17]

Another forum available for the settlement of disputes in the UAE is the DIFC, which in 2008 enacted a new DIFC Arbitration Law, DIFC Law No. 1 of 2008 ('the 2008 Law'), which repealed Arbitration Law No. 8 of 2004. The 2008 Law provides a legislative platform for comprehensive dispute resolution and has much in common with the Draft Arbitration Law, both being based on UNCITRAL Model Law. Other similarities include the application of the 2008 Law to both civil and commercial arbitrations, whether international or domestic, and includes provisions regarding enforcement and grounds for refusing recognition or enforcement. A major change to the 2008 Law is the elimination of jurisdiction limitations – parties are now allowed to seat their arbitration in the DIFC regardless of whether they have any connection with the DIFC.

A relatively recently decided case has been the first to consider the 2008 Law, since it came into force on 1 September 2008: *Amarjeet Singh Dhir*[18] and *Five Rivers Properties and Renaissance Holding and Developers*,[19] two connected cases that were heard together at the DIFC court. The sale and purchase agreements made between the parties contained an arbitration clause that provided for arbitration under DIFC–LCIA rules. Neither party nor the dispute were connected to the DIFC; however, the applicants contended that the seat of arbitration was the DIFC. In his grounds of decision given on 8 July 2009, the then deputy Chief Justice, Michael Hwang, held that the seat of arbitration was not the DIFC, and the applicants' assertion that by choosing DIFC–LCIA rules the parties intended their arbitration to be governed by the 2008 Law was not upheld. Justice Hwang said 'choosing the procedural rules of a particular arbitration institution does not *ipso facto* necessitate a choice of the procedural law of the country in which the institution is located'.[20] The decision is an important reminder to practitioners of the need to correctly indentify the intended seat of arbitration.

The 2008 Law has also simplified the process for recognition of an award by the DIFC courts and in turn enforcing an award inside or outside of the DIFC. Pursuant

16 *Ibid*.

17 Information as provided by Remy Gerbay, Registrar of DIFC–LCIA as of 26 April 2010.

18 CFI 011/2009 *Amarjeet Singh Dhir v. Waterfront Property Investment Limited and Linarus FZE*.

19 CFI 012/2009 *Five Rivers Properties LLC and Renaissance Holding and Developers FZE v. Waterfront Property Limited and Linarus FZE*.

20 Philip Punwar, 'Marking its territory', *The Brief* (January 2010), pp8–9.

to Article 42(1) of the DIFC Court Law, an award once ratified by a DIFC court is enforceable within the DIFC. Additional steps are required in order that DIFC awards are recognised and enforced in the UAE; these steps have been set out in the 2009 memorandum of understanding between Dubai courts and the DIFC courts and the related protocol of enforcement, the intention being to ultimately simplify the process of enforcement of DIFC awards in the Dubai courts. The much-publicised relationship between the DIFC and Dubai courts will undoubtedly encourage foreign investors and quash any reservations they may have regarding enforcing a DIFC award in the Dubai courts. Whether the 2008 Law will prove less problematic from an enforcement perspective is yet to be tested; at present there are no cases, nor have there been any cases, referred to the Dubai courts in relation to the enforcement of a DIFC award. As with much of the recent legislation, only time will tell.

i Investor–state disputes

Investor–state disputes have become the focus of growing attention in the Arab world. In November 2009 Dubai World, the Dubai state trading entity and holding company for property giant Nakheel, announced it was unable to meet repayment of its estimated $60 billion debt.[21] In response to the Dubai World financial crisis, a special tribunal was set up in December 2009 to handle debt claims arising out of the reorganisation and restructuring of Dubai World and any of its subsidiaries. The tribunal will initially be composed of three senior international judges from the DIFC courts, Sir Anthony Evans (a former High Court judge of England and Wales and former Chief Justice of the DIFC courts), Michael Hwang (Chief Justice of the DIFC Courts and a former judicial commissioner of the Supreme Court of Singapore) and Justice Sir John Chadwick (judge of the DIFC courts and a former judge of the Court of Appeal of England and Wales), who is a world-renowned bankruptcy and insolvency specialist.[22]

The judges are empowered, if necessary, to supervise the financial reorganisation of Dubai World and its subsidiaries and will be authorised to adjudicate in disputes relating to restructuring of the debt of Dubai World and any of its subsidiaries.

On 5 April 2010, the first claim was filed at the tribunal, against Limitless, a real estate development company unit of and business of Dubai World, known for its connection to the building of the World and the Palm Islands projects in Dubai. The claim, brought by a former employee of Limitless, is seeking 95,000 dirham as monies due for end-of-service payment and owed holiday pay. The former employee's claim points to a larger trend of employee disputes that has arisen after the affects of the financial crisis.[23] Although the claim comes from an employee, not a lender or trade creditor, the case will still prove to be a test for the tribunal and it is expected that ultimately, as awareness of

21 Stephen McCormish and Dr Sam Luttrell, *Enforcement of Contractual Rights in Dubai*, p1 (2 December 2009), available at www.aar.com.au/pubs/ldr/cuarbdec09.htm.

22 'Special Tribunal set up for Dubai World Disputes', (14 December 2009) www.clydeco.com/knowledge/articles/special-tribunal-established-for-dubai-world-disputes.cfm.

23 Bradley Hope, 'Lone Case in Dubai Tribunal', *The National* (10 May 2010), www.thenational.ae/apps/pbcs.dll/article?AID=/20100510/BUSINESS/705109909&SearchID=73393763912781.

the tribunal grows, it will only be a matter of time until the tribunal's potential is put to the test. To date, the tribunal has proved resilient to meet this challenge.

In June 2010 the tribunal faced the first application for enforcement of an arbitration award (under DIAC Rules and Dubai seat) (*Vinod Dang v. Jumeirah Islands LLC*).[24] Ratification and enforcement of the award was challenged by the respondent on the basis that the award did not include terms of reference as was a mandatory requirement under UAE law and on a proper translation (from Arabic) and construction of the relevant provisions of UAE law the only requirement was that the arbitration agreement must be referred to or set out in the award, which had been done in the present case. The tribunal, applying the powers it had been granted under Decree No. 57 of 2009 (as amended), ruled in favour of the applicant to recognise and ratify the arbitral award and ordered the respondent to pay interest and the applicant's costs of the application.

The tribunal has issued a Practice Direction that clearly sets out that the tribunal will respect arbitration clauses in contracts. There is a second case that is currently pending before the tribunal for ratification and enforcement of an award (*Simon James Arrol v. Jumeirah Heights LLC*)[25] in which the sole ground of challenge by the respondent is that the arbitration argument has not been set out in the award. A hearing in this case is expected shortly.

The subsequent economic fallout, will inevitably see a rise in investment treaty arbitrations with many foreign investors with exposure in Dubai investigating how they can now enforce their contractual rights against the troubled state entity.

Foreign investors may seek to commence investor–state arbitration under one of the UAE's 11 bilateral investment treaties ('BITs'). The vast number of BITs in force worldwide and their subsequent interlocking nature have made investor–state arbitration possible. By signing a BIT, the foreign investing party is afforded substantial protection for their investment under international law. Thus depending on the terms of the BIT, an investor may have the option of enforcing an arbitral award in Dubai and against Dubai-owned assets elsewhere under the New York Convention or Washington Convention.[26]

The UAE is a signatory to the Washington Convention 1965, which established the International Centre for Settlement of Investment Disputes ('ICSID'). The ICSID Convention provides a comprehensive set of rules for the settlement of investment disputes, including several provisions that are clearly favourable to foreign investors. There is now greater awareness on the part of both foreign investors and governments about the investor–state dispute resolution process.

There have been a number of reported cases bought before ICSID arbitral tribunals against Arab states. Specifically in relation to the UAE, one of the most widely

24 Claim No. DWT/0003/2010 and DWT/0010/2010. KBH Kaanuun acted as the legal representative of the claimant.

25 Claim No. DWT/0016/2011. KBH Kaanuun acts as legal representative of the claimant.

26 Stephen McCormish and Dr Sam Luttrell, *Enforcement of Contractual Rights in Dubai*, p1 (2 December 2009) available at www.aar.com.au/pubs/ldr/cuarbdec09.htm.

reported cases is the *Soufraki* case,[27] where a claim was bought against the UAE under the Italy–UAE BIT. The claimant's rights under the BIT and its right to submit a claim the ICSID were raised by the defence, but the claim was eventually rejected by the ICSID in its entirety for lack of jurisdiction.

Cases such as *Soufraki* have contributed greatly to the development of case law on the determination of complex issues such as nationality under international law. In the *Soufraki* case it was decided that the claimant had not proven that he held the Italian nationality necessary to claim under one of Italy's investment treaties.[28] Pursuant to figures published in 2008 by the United Nations Conference of Trade and Development relating to the latest developments in investor–state dispute settlements, there are two known investment treaty claims filed with the ICSID by defendants against the UAE as of December 2007; the figures remained unchanged for December 2008.[29]

Another notable trend developing is that for the first time in known investment treaty case history, an Arab company has initiated arbitration against another Arab state. The case, *Desert Line Projects LLC v. Republic of Yemen*,[30] involved an Omani company, Desert Line, which relied on the BIT between itself and Yemen. Since the *Desert Line* case, a case involving an investor from the UAE against another Arab state was recently registered by ICSID, in the matter of *MTN (Dubai) Limited and MTN Yemen for Mobile Telephones v. Republic of Yemen*.[31] The significance of such Arab v. Arab investment disputes demonstrates that actions pursuant to BITs is no longer dominated by investors from western states. It shows that Arab investors have realised that they too can take advantage of these treaties to protect their investments abroad. It is also for these reasons that a greater understanding in the UAE is required by those wishing to rely on BITs in order that parties are fully aware of their responsibilities and liabilities under a BIT.

Alternatively investors may bring litigation proceedings in Dubai and UAE federal courts, and consider enforcing the judgment in Dubai and against Dubai-owned assets in other Gulf states under the Riyadh Convention on Judicial Cooperation 1983.

III OUTLOOK AND CONCLUSIONS

The UAE has adopted a progressive approach to reforming and developing its practices and laws to successfully deal with international and domestic arbitration. The realisation that arbitration is both an effective and cost-saving dispute resolution alternative is evident from the UAE's push towards amending its federal law on arbitration and enforcement. The UAE's recent revision of DIAC's rules and the joint venture between the DIFC and

27 *Soufraki v. United Arab Emirates*, ICSID Case No. ARB/02/07.

28 Allen & Overy, *Investment Treaty Arbitration: Protecting and Promoting Foreign Investments*, p(2010), available at www.allenovery.com/AOWeb/binaries/51290.pdf.

29 IIA Monitor No. 1 (2008): International investment agreements, available at www.unctad.org/en/docs/iteiia20083_en.pdf.

30 ICSID Case No. ARB/05/17.

31 ICSID Case No. ARB/09/7; Dany Khayat, 'Investor–state disputes on the rise in the Arab world', p39, *Arbitration Newsletter* (March 2010).

LCIA also demonstrates its determination to make practical changes to the country's current arbitration practice. The recent reforms should not only be viewed as a reaction to the current economic climate. The long-term goal of the UAE is for continued economic growth and social development and a legal system that can competently deal with both international and domestic arbitration cases, which will ultimately appeal to foreign and local investors. The Draft Arbitration Law fulfils many of the desired criteria and the UAE's drive towards reform is commendable. Commentators hint that this is not in line with the UNCITRAL model hoped for, with some even going so far as to state that the latest draft has taken a further step backwards. With a rise in the number of arbitration cases being heard in the UAE, a common arbitration law is needed now more than ever. However, at present, some two years since the Draft Arbitration Law was first released, it has not yet been confirmed when or if it will actually become law. It is anticipated that the recognition and enforcement procedure will be made easier through the memorandum of understanding and enforcement protocol between Dubai courts and DIFC courts, signed in 2009. Undoubtedly, the desired goal is a working relationship; the realities of the relationship are yet to be tested, however.

There has been much international focus on the UAE in recent months. However, the UAE has responded constructively with the establishment of the Dubai World tribunal, which should instil some confidence in international and local investors that the systems in place can deal with potential claims efficiently and fairly. Recent trends in the rise of investor–state disputes will undoubtedly see an increase in investor–state arbitration cases. To ensure that Arab countries take advantage of the protective measures, a greater understanding of BITs and the potential liabilities under such treaties, as well as the available forums for the settlement of disputes is required. The UAE is on the cusp of being recognised as an international arbitration centre; however, much will be dependent on the pending Draft Arbitration Law, along with the success of arbitration centres such as DIAC and the DIFC–LCIA. There has been substantial progress on the arbitration front in the UAE; however, there is still some way to go. For the newly established arbitration centres and for the UAE government and legislative ministries, it will be an exciting and testing time over the next year or two. The current developments have created high hopes for the future, with greater transparency, fairness and consistency in arbitration proceedings in the region. Only time will tell as to whether expectations are met.

Appendix 1

ABOUT THE AUTHORS

KAASHIF BASIT

KBH Kaanuun

Kaashif Basit has a broad-based contentious and non-contentious practice with particular focus on the media, financial services and real estate sectors. He has a strong commercial and DFSA-centred regulatory focus with a range of US, Far Eastern, subcontinent, European and UAE financial institutions and insurance companies as clients.

Mr Basit particularly specialises in commercial dispute resolution, international commercial arbitration, ADR and insolvency. He has particular expertise in relation to southern Asia and has advised a number of Indian blue-chip corporations as well as acting for multinational – particularly UAE – companies doing business in India. The litigation and arbitration practice has covered issues as diverse as explosions at petrochemical plants, oil production-sharing contracts, aircraft leases, insurance coverage, cross-border partnerships, joint venture and shareholder (including institutional and offshore investor) matters. He has been involved in a number of the early litigation and arbitration cases in the DIFC, including undertaking the advocacy on behalf of the appellant in the first ever appeal before the DIFC Court of Appeal. Mr Basit also advises and manages cases in conjunction with UAE Advocates, particularly property-related, in the UAE courts. He has represented parties in regulatory investigations by the DFSA, as well as the restructuring of regulated and non-regulated entities in the DIFC.

KBH KAANUUN

DIFC, Gate Village 7, Level 2
PO Box 506546
Dubai
United Arab Emirates
Tel: +971 4 709 6700
Fax: +971 4 709 6711
k@kbh.ae
www.kbh.ae