

A Focus on Dispute Resolution

Mohamed Al Marzouqi - Deputy Managing Partner - Litigation / Legislative Drafting
m.almarzouqi@tamimi.com - Abu Dhabi

Thomas R. Snider - Partner, Head of Arbitration - Arbitration / Construction & Infrastructure
t.snider@tamimi.com - Dubai International Financial Centre



In this month's special feature of Law Update, we focus on dispute resolution. In our current economic environment, we are seeing parties resorting to courts, arbitral tribunals, and other dispute resolution mechanisms at a steady, if not accelerated, pace.

This edition contains articles on several notable developments and issues of interest in the context of dispute resolution regionally and globally.

Regarding the UAE Federal Law No. 6 of 2018 (the 'UAE Federal Arbitration Law'), adding to our article titled ['The UAE Federal Arbitration Law on its First Anniversary'](#) issued in the June-July 2019 edition of Law Update, we discuss the new regime established by the UAE Federal Arbitration Law against the background of the challenges faced in selecting arbitrators as well as recusing them: see ['Challenges and Recusal of Arbitrators under the UAE Arbitration Law'](#). The Abu Dhabi Global Market Arbitration Centre recently issued its Arbitration Guidelines (the 'Guidelines'). The Guidelines offer a set of innovative, best practice procedures that parties may utilise in ad hoc or institutional arbitral proceedings, in whole or in part, at any stage, and in any seat. In an article titled ['The ADGMAC Arbitration Guidelines: An Overview'](#), we provide an overview of the key aspects of the Guidelines.

We also look to Bahrain and Oman. In [‘The Legal Landscape for Commercial Agencies in Bahrain’](#), we discuss a local agent’s right to seek statutory compensation for the termination of agency under Bahraini law, the method employed by the local courts in the calculation of such compensation, and the potential issues that may arise when such claims are brought in arbitral proceedings seated in Bahrain. In [‘Executing Foreign Judgments in the Sultanate of Oman’](#), our experts offer a summary of the legal framework regarding the recognition and enforcement of foreign judgments in Oman.

In [‘Resolving Pharmaceutical Disputes through Arbitration’](#), our team focuses on the pharmaceutical industry. The article outlines the current landscape and nature of pharma-related disputes as well as setting out the advantages that arbitration offers as a dispute resolution mechanism with a view to achieving an efficient resolution of disputes.

Globally, the opening of the United Nations Convention on International Settlement Agreements Resulting from Mediation (known as the ‘Singapore Convention’) for signature was a milestone event that occurred in August 2019. The Singapore Convention establishes a framework for the cross-border recognition and enforcement of settlement agreements. In [‘Mediation in the Middle East: Before and After the Singapore Convention’](#), we look at the prospects of mediation as a means of resolution of commercial disputes in the Middle East in the wake of the recently signed Singapore Convention.

In India, the Arbitration and Conciliation (Amendment) Act, 2019 (the ‘Amendment’) was enacted earlier this year amending the Arbitration and Conciliation Act, 1996. In this edition, we also comment on the success of the Amendment in [‘Made in India? Should Parties be Choosing India as their Seat of Arbitration?’](#).

More generally, and in light of their regular usage in the region, we provide a snapshot of the objective and value of multi-tier dispute resolution clauses in an article entitled [‘A Practical Approach on the Multi-tiered Dispute Resolution Clauses’](#). The article also offers insight into the factors that must be kept in mind when drafting such clauses.

This Law Update edition also benefits from notes on five important judgments. Specifically with respect to the UAE, in [‘Dubai Court of Cassation Rules on the Effect of the Failure to Administer an Oath in Arbitral Proceedings’](#), we discuss the recent ruling of the Dubai Court of Cassation which sets out an arbitration-friendly principle relating to the administration of oaths whilst confirming the strict grounds on which parties may request to set aside an arbitral award.

In [‘Dubai Court Clarifies the Competent Authority to Rule on Interim and Conservatory Measures’](#), we discuss a recent Dubai Court of Appeal decision, wherein the Court ruled that the competent authority to rule on interim measures is the arbitral tribunal and the Chief Justice of the Court of Appeal and not the summary judge.

In [‘DIFC Court of First Instance Enforces Residential Ijara Mosufa Agreement for the First Time’](#), we record the first decision of the DIFC Courts on an Ijara Agreement.

In [‘Judgment and Commentary: Corporate Offshore Lending based on Security Agency Structure and Corporate Guarantee’](#), we discuss a recent decision by the Dubai Courts in which Dubai Law No. (14) of 2008 (the ‘Dubai Mortgage Law’) was deemed, for the first time, applicable to cases where the lender was an offshore bank and where the mortgagee and the lender were two separate entities. This decision provides some clarity to the wording of the Dubai Mortgage Law.

Finally, in a note titled [‘The Qatari Courts’ Approach To Awarding Interest’](#), we discuss a 2018 decision by the Qatari Court of Cassation in which the court found that an arbitral award that included an award of interest was valid and not contrary to public policy in Qatar. This decision is noteworthy because it marks a clear shift in the Qatari courts’ approach to awards of interest which are now deemed incompatible with Shari’a law. This decision has had the effect of strengthening the pro-arbitration image of the country.

We trust that you will find this special feature useful and thought provoking. Please contact us for any queries relating to these articles or general dispute resolution related inquiries.