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Settlement of commercial disputes

Enforcement of settlement agreements

Compilation of comments by Governments

Note by the Secretariat

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* Reissued for technical reasons on 8 December 2015.



I. Introduction

1. At its forty-seventh session, in 2014, the Commission agreed that the Working Group should consider at its sixty-second session the issue of enforcement of settlement agreements resulting from international commercial conciliation and should report to the Commission at its forty-eighth session, in 2015, on the feasibility and possible form of work in that area. The Commission invited delegations to provide information to the Secretariat in respect of that subject matter.¹ For the preparation of possible future work on the matter, and to facilitate the collection of information by delegations, the Secretariat circulated to States a questionnaire, reproduced in section II of document A/CN.9/846. The replies received by the Secretariat before the commencement of the forty-eighth session of the Commission have been reproduced in document A/CN.9/846 and its addenda. Replies received after that date have been reproduced in document A/CN.9/WG.II/WP.191 and in this note.

II. Compilation of comments

1. Saudi Arabia

[Original: Arabic]
[Date: 30 September 2015]

Question 1: Information regarding the legislative framework

At present, there is no Law that regulates commercial mediation/conciliation judgements in the Kingdom. The organization, rules and procedures of the Reconciliation Center — operating in the Kingdom — do not make any reference to the enforcement of international commercial agreements resulting from mediation/conciliation procedures. There is, however, an arbitration/conciliation law that stipulates procedures for enforcement of judgements and agreements, as follows.

After ascertaining the procedural validity — subject matter and territorial jurisdiction — of the judgements and agreements to be enforced in the Kingdom, after ascertaining the formal procedures to be followed regarding the judgements and agreements resulting from arbitration and conciliation in Saudi laws, after ascertaining that these judgements and agreements do not contravene a judgement or decision rendered by a tribunal, commission or body having the competence to decide on the subject of dispute in the Kingdom, and after ascertaining that these judgements and agreements do not contain anything that contravenes the tenets of Islamic Law and public order in the Kingdom (if possible, the judgement or agreement may be split and the part not containing a contravention be enforced), the competent tribunal or its appointee shall issue an order enforcing the international commercial judgements and agreements resulting from mediation/conciliation procedures. The request is submitted to the tribunal together with the following: the original of the agreed document or a certified copy thereof; a true copy thereof; an

¹ *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17 (A/69/17)*, para. 129.

Arabic translation thereof, certified by an accredited body (if written in a foreign language); and proof of its submission to the competent tribunal within 15 days of its issuance.

The Law in the Kingdom makes no distinction regarding the enforcement of international commercial settlement agreements, since they are adjudicated expeditiously in all cases. Therefore, the requirements are the same in regular and expeditious cases.

The Saudi laws do not provide for treating an international commercial settlement agreement as a final award rendered by an arbitral tribunal. They do, however, treat settlement/conciliation agreements — after all procedures and requirements stipulated in Saudi laws have been applied — as awards rendered by an arbitral tribunal, which leads to the same result as regards enforcement.

Question 2: Grounds for refusing enforcement of a commercial settlement agreement

The judicial system in the Kingdom does not reject local or international commercial settlement agreements, but encourages them in fulfilment of the Holy Koran verse (“And reconciliation Is better”). It does, however, highlight the need for the procedural validity — as stipulated in the Saudi laws — of the functioning of these agreements to ensure their enforcement.

Question 3: Validity of international commercial settlement agreements

The laws in the Kingdom specify all criteria to be applied to ensure that local or international commercial agreement resulting from mediation/conciliation procedures are enforceable. This is done by virtue of the Arbitration Law established by Royal Decree No. m/34 dated 24/5/1433 H [15 April 2012] and the Enforcement Law established by Royal Decree No. m/53 dated 13/8/1433 H [2 July 2012]. There are no bases in Saudi laws for challenging the validity of a settlement agreement resulting from mediation/conciliation other than what is mentioned in the Arbitration Law.
