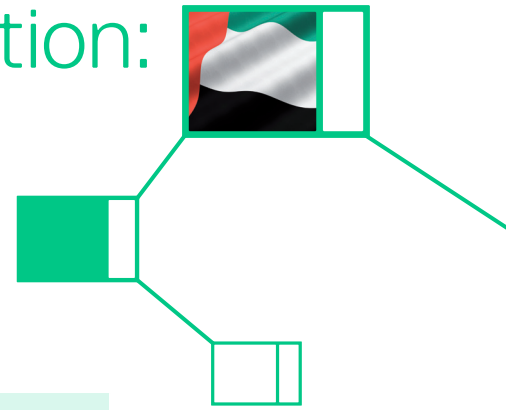


# International Dispute Resolution: A Reality Check

## Dubai



### Litigation

#### Local Courts

The local court structure comprises the Court of First Instance, the Court of Appeal and the Supreme Court. All local court proceedings are conducted in Arabic and have to be handled by local, Emirati advocates.

#### Advantages

- Cost certainty - Local advocates tend to charge a percentage fee based on the amount in dispute (typically around 7%)
- Right to appeal
- The system is familiar to local companies

#### Disadvantages

- The process is lengthy and administratively burdensome, especially if translations are required
- The local courts do not have areas of specialization
- Often results in unsatisfactory legal decisions
- The process can be confusing for international companies
- With regard to enforcement, there is no international treaty between Dubai and many European countries making the chances of a successful enforcement slim and a process which can take up to several years
- Cost recovery for the successful party is minimal

#### Dubai World Tribunal

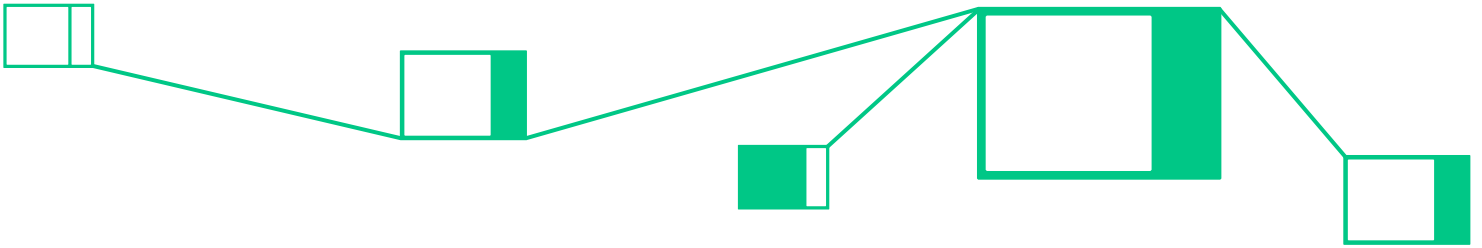
A separate tribunal was set up in order to deal with any matter which involves a dispute whereby parties (a party) are within the Dubai World group of companies. The Dubai World Tribunal has adopted the rules of the Dubai International Finance Centre (DIFC), save for a number of discrete amendments.

#### Advantages

- Quicker process
- Right to appeal to the Appeal Courts but no further stages of appeal thereafter
- A more familiar process for international companies
- Greater prospects of cost recovery

#### Disadvantages

- Expensive
- Only used for contracts and entities within the DIFC and so the nature of the disputes tends to be limited to financial disputes and commercial matters in relation to DIFC companies, although DIFC Court jurisdiction has now been extended to non-DIFC entities who make specific provision for DIFC jurisdiction in their contracts



## Arbitration

The most common rules are the Dubai International Arbitration Centre (DIAC) Rules and the DIFC Rules. To adopt the DIFC Rules, companies do not need to be in the DIFC or in the financial services sector. The DIAC has historically been very slow and administratively cumbersome. The DIFC arbitration centre has a better reputation but fewer cases because it has taken time for companies to include the DIFC Rules in their contracts.

### Advantages

- Flexibility of procedure
- Confidentiality
- Industry expertise
- In theory there are limited rights of appeal and of court intervention generally
- Enforcement pursuant to the New York Convention is possible
- The DIAC is now starting to accept class actions, particularly in disputes brought by purchasers against developers/financiers of projects
- Good prospects of cost recovery

### Disadvantages

- Expensive
- Enforcement can be a lengthy process. All arbitral decisions, be it domestic or international, need to be ratified by either the local courts or the DIFC courts before any enforcement can take place

## Mediation

The DIAC has rules for the conciliation of disputes, however, these are rarely incorporated in commercial contracts. Usually amicable settlement (i.e. discussions between the parties) is a pre-cursor to any arbitration proceedings.

### Advantages

- The process can be undertaken quickly
- The mediator is independent
- Confidentiality
- A commercial solution can be reached rather than a legal solution
- Any party can withdraw at any time

### Disadvantages

- Both parties need to “buy in” to the process
- It usually involves both parties reaching a compromise
- It is questionable whether mediation is proportionate in terms of time and cost for complex, substantial disputes

## Key Contact



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