
From: Sultan Bin Sulayem <[REDACTED]>
Sent: Sunday, December 4, 2011 8:29 AM
To: Jeffrey Epstein
Subject: The DIFC Court "Goes global

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LEGAL ALERT

DECEMBER 2011

The DIFC Court "Goes Global"

A recent development in Dubai's court system has expanded the scope of the DIFC Courts' jurisdiction so that it is now available as an "opt in" jurisdiction to all parties worldwide. This is a potentially significant development, which could have a considerable impact on companies and individuals who are considering appropriate dispute resolution mechanisms for contracts and disputes in the Middle East.

This development could lead companies to select the DIFC Courts to resolve their disputes regardless of where they are in the world. We envisage that this change will in particular have a significant impact on financial institutions operating in the MENA region, among others, and as such we believe that this is a development that all businesses, whether currently operational in the Middle East or planning to expand into the region, should be aware of.

What has happened?

We await publication of the legislation, but the DIFC Court has announced that a decree has been promulgated which extends the scope of the jurisdiction of the Courts of the Dubai International Financial Centre ("DIFC") so that parties anywhere in the world can agree to refer their disputes to the DIFC Courts, regardless of whether there is any connection between the subject matter of their dispute and the DIFC. In other words, two or more contracting parties that have no connection whatsoever with the DIFC can now choose to have their disputes resolved before the DIFC Courts.

Why is this significant?

This is a potentially game-changing event for dispute resolution in the Middle East region because:

1. The DIFC Court is a state-of-the-art common law court whose procedures are based on the English civil procedure rules (with the ability to grant summary judgment), and whose judges comprise very experienced former judges from the senior courts of (for example) England, Singapore and New Zealand;
2. Judgments rendered by the DIFC Courts can be enforced in the onshore Dubai courts as Dubai court judgments and this has happened on numerous occasions;
3. In contrast to many offshore courts, parties in the DIFC Court can be awarded the bulk of their legal and expert costs and expenses;
4. Dubai is signatory to two conventions providing for the recognition and enforcement of court judgments in many countries in the MENA Region. These are:

- * the 1983 Convention on Judicial Co-operation between States of the Arab League (the "Riyadh Convention"), to which all of the Gulf Cooperation Council ("GCC") countries, as well as Iraq, Palestine, Sudan, Mauretania, Somalia, Tunisia, Jordan, Morocco, Libya, Algeria, Yemen and Syria are signatory[1]; and
- * the 1995 Protocol on the Enforcement of Judgments Letters Rogatory, and Judicial Notices issued by the Courts of the Member States of the Arab Gulf Co-operation Council (the "GCC Protocol"), to which all of the GCC countries are signatory.

Why should this interest you?

If your company conducts business in the above countries we encourage you to speak with us to discuss the significance and implications of this new legislation on your business and in particular, on your existing dispute resolution policies. We believe that this development may be particularly important for:

- * financial institutions with a presence in the MENA region, as the judges in the DIFC Courts have experience of handling complex cross-border financial disputes, and the power to grant summary judgment;
- * parties contracting with regional financial institutions;
- * businesses with a presence in the UAE and in the wider MENA region, which will need to review their standard and bespoke contracts in light of this development; and
- * clients with an existing business, or planning to do business, in the Kingdom of Saudi Arabia since this development may present an alternative option for dispute resolution in contracts involving the Kingdom of Saudi Arabia.

How can we help?

The DLA Piper dispute resolution team in Dubai is one of the leading dispute practices in the region. The Dubai team has considerable experience with DIFC laws and the DIFC courts and is well-equipped to provide you with valuable advice in relation to the implications of this new legislation on your business and, in particular, your existing dispute resolution policies. In this regard, we can:

- * come and present to you on this new development, and on dispute resolution options in the region more generally;
- * conduct a review and analysis of your standard contracts and existing dispute resolution policies;
- * draft such a policy and/or standard contract and/or bespoke dispute resolution clause where none exists; and
- * advise on options and strategies for opting into the DIFC courts' jurisdiction for both existing and future contracts.

We strongly encourage you to contact us and discuss how you can take full advantage of this new development in dispute resolution in the Middle East.

For further information, please contact:

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Partner

[1] We have not seen the domestic implementing legislation for each of these countries at the time of publication.

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