



مجموعة المستشارين القانونيين بدبي
DUBAI CORPORATE
COUNSEL GROUP

Global body urges arbitration to resolve local disputes

ICA and Dubai Corporate Counsel Group outline alternatives to litigation

A high-powered meeting of lawyers came together in Dubai and urged companies to consider arbitration, rather than litigation, as a well-tested and effective method of resolving commercial disputes.

The International Court of Arbitration (ICA), a body of the International Chamber of Commerce (ICC), co-hosted the event entitled 'Managing International Commercial Disputes – The Role of Corporate Counsel' with the Dubai Corporate Counsel Group.

International arbitration experts offered advice to corporate lawyers from the Middle East, Europe and the United States. Topics covered included options available when considering arbitration, choosing the best lawyer, costs involved and the enforcement of awards.

Addressing the gathering, the Secretary-General of the ICA, Mr. Jason Fry outlined the advantages of arbitration as a dispute resolution mechanism. "Arbitration can be a time and cost effective process to resolve international and domestic business disputes. In the case of ICC arbitration time periods are monitored by the ICC Court to make sure cases move forward. It's a flexible system. Arbitrations take place in any country and any language, with arbitrators of any nationality."

"All cases are administered by the ICC Court Secretariat in Paris. The Secretariat has a significant amount of experience and can work with parties and the arbitral tribunal to maximize efficiency." However, Mr. Fry also counseled lawyers to consider how the process is managed and to avoid procedures which seek to emulate the court process. The ICC has published guidelines on techniques for managing time and cost in

arbitration proceedings which he invited corporate counsel to read and apply.

In relation to the fees of arbitrators, a matter of concern to corporate counsel, Mr. Fry said, "the scale system for fixing costs in ICC arbitration allows predictability for the parties. The fees of the arbitrators are fixed by the ICA and not the arbitrators themselves, which allows the ICA to assess the performance of the tribunal with respect to the time taken to render an award and the complexity of the case."

In addition, arbitration is a private matter between the parties and foreign arbitral awards can be enforced under the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, to which 144 nations are party.

Justin Connor, General Counsel, Meraas Capital, told the audience that active engagement of corporate counsel in the arbitration process is critical to its success, but noted that obstacles persist: "In-house lawyers must be engaged from the beginning throughout the process to protect their company's interests. I hope that we see more and closer involvement of corporate counsel in the arbitration process. Everyone wants to know will we see a major boom in arbitration in Dubai this year? My view is that we will see some increase, however I do not foresee a major boom in arbitration in the Middle East. We still live in a region with a strong tradition of closely-held ownership of most major local companies, which still generally prefer to resolve disputes using approaches other than formal mechanisms such as arbitration and litigation."

Majdoleen Aboudi, a lawyer with a leading multinational company, said "Going forward, arbitration is always a better choice and often consumes less time than litigation in many local courts. Specifically in the UAE there are still some open questions regarding courts' enforcement of arbitral awards."

Having received over 16,000 cases since its founding in 1923, the ICA is regarded as the most trusted system of commercial arbitration in the world. With members in 90 countries, the ICA prides itself on its reputation for fast, flexible dispute resolution services. In 2008 the ICAs case load rose by 64 cases from 599 in 2007 to 663 in 2008 - its case load from the UAE also doubled in that time from 21 parties in 2007 to 41 in 2008. The ICA is currently administering over 1350 cases worldwide.