

# My Space



**KARTEEKKA TYAGGI** is a Dubai based corporate and commercial lawyer with international experience of having worked in jurisdictions around the globe. Karteekka has worked with leading law firms in India before moving to UAE, where she worked with various corporate houses. She advises clients on International business and risk strategy, claims management, cross-border investments, acquisitions, joint ventures and commercial & regulatory issues.

## Arbitration in the UAE

**W**ith the recent changes in the world economy, which has resulted in a number of commercial disputes, more and more businesses and individuals involved in the dispute have been resorting to arbitration for their dispute resolution and UAE is no different in this sense.

When it comes to arbitration and its acceptability and enforceability in the UAE legal system, although, UAE does not really have a formal arbitration law; UAE is a signatory to a number of international conventions including the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (signed on 19 November 2006). In addition to the conventions, UAE is also in the process of finalizing and formalizing the draft Federal Arbitration Law.

At present, arbitration in UAE is governed by the Articles 203 to 218 of Federal Law No. 11 of 1992, the UAE Civil Procedure Code (CPC). The various articles including those from 235 to 238 and 239 to 243, lay down general guidelines and framework for arbitration in the UAE, , formalities of arbitration agreement, the constitution of arbitral tribunal, procedural requirements for enforcement of awards and grounds for challenging an arbitration award. These articles, however, are brief and provide minimal guidance for arbitration

proceedings. In addition to the CPC, there also exists the DIFC Law No. 1 of 2008, which governs arbitration proceedings in the Dubai International Financial Centre ("DIFC") through its DIFC-LCIA Arbitration centre.

With regard to domestic institutions, currently, there are five such institutions and centers which administer arbitration under their own rules; they are:

- The Dubai International Arbitration Centre ("DIAC") which administers arbitrations under the DIAC Arbitration Rules 2007;
- The DIFC-LCIA Arbitration Centre which administers arbitration under the DIFC-LCIA Arbitration Rules 2008;
- The Abu Dhabi Conciliation and Arbitration Centre ("ADCCAC") which administers rules under the Procedural Regulation of Abu Dhabi Commercial Conciliation and Arbitration Centre;
- The Sharjah International Commercial Arbitration Centre; and
- Ras Al-Khaimah Commercial and Arbitration Center

The draft law, which is based on the UNCITRAL Model Law, will repeal and replace the sections of the CPC relating to arbitration. Some of the key provisions of the draft law are:

- The draft law applies to arbitrations within the UAE as well as those taking place internationally where the parties agree to subject the arbitration to the UAE law.
- It limits the arbitration to certain kinds of disputes and provides that such matters as can be resolved through "reconciliation", should not be submitted to arbitration.
- As per the draft law, all arbitrations will be conducted in Arabic unless the parties agreed otherwise.
- The draft law provides that arbitration awards are presumed to be confidential subject to the consent of the parties.
- Another noteworthy provision provides that no order may be issued to enforce an award without verifying that it is not in conflict with a ruling on subject of dispute passed by any UAE court of law.
- The law also allows the parties to agree to a requirement that an arbitrator be of a certain nationality, although otherwise there are no nationality requirements. It further provides that in international arbitrations, none of the arbitrators can be of the same nationality.

Once finalised, the draft federal law will certainly provide another step forward in making the UAE as one of the world's most preferred commercial hubs.