



The Invest In Med programme aims at developing sustainable trade relationships, investments and enterprise partnership between the two rims of the Mediterranean. Funded at 75% by the European Union over the 2008-2011 period, it is implemented by the MedAlliance consortium, which associates economic development organizations (ANIMA, leader of the programme), CCIs (ASCAME, EUROCHAMBRES), and business federations (BUSINESSMED). The members of these networks, as well as their special partners (UNIDO, GTZ, EPA Euroméditerranée, World Bank, etc.), gather a thousand of economic actors – mobilized through pilot initiatives centered on key Mediterranean promising niches. Each year, a hundred operations associate the 27 countries of the European Union and 9 Mediterranean partner countries: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria and Tunisia.

Study concerning the creation of a Mediterranean Arbitration Centre

Study N° 18 / July 2010

This study has been carried out in the frame of the ASCAME project for the creation of a Mediterranean Arbitration Centre, which has been developed by the Chamber of Commerce of Barcelona within the "Invest In Med" programme.

The project "Study concerning the creation of a Mediterranean Arbitration Centre" aims at providing reliable information regarding the present situation of national arbitration centres in all the countries that are members of ASCAME and at looking into possible gaps or missing services -in each country- which need to be addressed and which can potentially be provided by a Regional Mediterranean Arbitration Centre.

The project is managed by the Barcelona Chamber of Commerce on behalf of the ASCAME and the others MedAlliance Members with the collaboration of the Arbitration Commission of the ASCAME (Presided by the CCI Beirut and Mount-Lebanon).



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Authors

This study has been conducted by Samir Abillama Law Firm in accordance with the "Contract for Study: Mediterranean Arbitration Centre" signed on the 7th September 2009 between said Law Firm and the Barcelona Chamber of Commerce, on behalf of the ASCAME.

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Glossary

ASCAME: The Association of the Mediterranean Chambers of Commerce and Industry. The Association of the Mediterranean Chambers of Commerce and Industry was formed on 1 October 1982. The Constitutive General Assembly was held in Barcelona, hosted by the Barcelona Chamber of Commerce, Industry and Navigation. ASCAME is an Organization with a potential membership of 500 Chambers of Commerce, and other associated entities, from the 23 countries bordering the Mediterranean Sea.

ADR: Alternative dispute resolution is a term generally used to refer to informal dispute resolution processes in which the parties meet with a professional third party who helps them resolve their dispute in a way that is less formal and often more consensual than is done in the courts. While the most common forms of ADR are mediation and arbitration, there are many other forms: judicial settlement conferences, fact-finding, ombudsmen, special masters, etc. Though often voluntary, ADR is sometimes mandated by the courts, which require that disputants try mediation before they take their case to court.

Arbitration: The most traditional form of private dispute resolution. A binding procedure in which a neutral person or a several-member panel, called an arbitrator or arbitration panel, considers the facts and arguments presented by the parties and renders a decision.

Arbitral Award: An arbitration award or arbitral award is a determination on the merits by an arbitration tribunal in an arbitration procedure; it is analogous to a judgment in a court of law. It is referred to as an 'award' even where all of the claimant's claims fail (and thus no money needs to be paid by either party), or the award is of a non-monetary nature.

Arbitration Center: The arbitration center is the institution that provides administrative and monitoring services for arbitration proceedings.

Arbitration Clause: A clause in a contract providing for arbitration of disputes arising under the contract.

Civil Procedure: The methods, procedures, and practices used in civil cases.

Conciliation: Conciliation is an alternative dispute resolution process whereby the parties to a dispute (including future interest disputes) agree to utilize the

services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. He does this by lowering tensions, improving communications, interpreting issues, providing technical assistance, exploring potential solutions and bringing about a negotiated settlement.

International Arbitration: The established method for resolving disputes between parties to international commercial agreements. As with arbitration generally, it is a creature of contract, i.e., the parties' decision to submit any disputes to private adjudication by one or more arbitrators appointed in accordance with rules the parties themselves have agreed to adopt, usually by including a provision for the same in their contract. The practice of international arbitration has developed so as to allow parties from different legal and cultural backgrounds to resolve their disputes, generally without the formalities of their underlying legal systems.

International Organization of the Francophonie: Francophonie is an international organization of polities and governments with French as the mother or customary language, wherein a significant proportion of people are "francophone" (French speakers) or where there is a notable affiliation with the French language or culture. Formally known as the International Organization of the Francophonie, the organization comprises 56 member states and governments, 3 associate members, and 14 observers. The prerequisite for admission to the Francophonie is not the degree of French usage in the member countries, but a prevalent presence of French culture and language in the member country's identity, usually stemming from France's colonial ambitions with other nations in its history.

League of Arab States: The Arab League, officially called the League of Arab States, is a regional organization of Arab states in Southwest Asia, and North and Northeast Africa. It was formed in Cairo on March 22, 1945 with six members: Egypt, Iraq, Transjordan (renamed Jordan after 1946), Lebanon, Saudi Arabia, and Syria. The Arab League currently has 22 members and four observers. The main goal of the league is to "draw closer the relations between member States and co-ordinate collaboration between them to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries."

MedAlliance: Consortium that associates economic development organizations (ANIMA, leader of the programme), CCIs (ASCAME, EUROCHAMBRES), and

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business federations (BUSINESSMED). The members of these networks, as well as their special partners (UNIDO, GTZ, EPA Euroméditerranée, World Bank, etc.), gather a thousand of economic actors – mobilized through pilot initiatives centered on key Mediterranean promising niches. Each year, a hundred operations associate the 27 countries of the European Union and 9 Mediterranean partner countries: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria and Tunisia. (www.invest-in-med.eu).

Mediation: a process by which the parties, with the assistance of a neutral third party (the mediator), identify disputed issues, develop options, consider alternatives, and work to reach an agreement they can live with.

Natural persons: A human being, as opposed to a juridical person created by law.

The Euro-Mediterranean Partnership: The Euro-Mediterranean Partnership (or Barcelona Process) started in 1995 with the Barcelona Euro-Mediterranean Conference. The European Union stated the intention of this "partnership" is "to strengthen its relations with the countries in the Mashrig and Maghreb regions. The partnership laid the foundations for what came to be the Union for the Mediterranean, an institution building on, but not replacing, the EuroMed Partnership.

The Union for the Mediterranean: Officially known by the full name of Barcelona Process: Union for the Mediterranean (BP:UfM) and previously known as the "Mediterranean Union" is a community initiated on 13 July 2008 by French President Nicolas Sarkozy. It is a new formulation of the existing (since 1995) Euro-Mediterranean Partnership, also known as the *Barcelona Process*. The act unites all EU members with several non-EU countries that border the Mediterranean Sea. The headquarters of the Union for the Mediterranean are located in Barcelona, Spain.

The 1958 New York Convention: Done at New York, 10 June 1958; Entered into force, 7 June 1959, this Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

The 1961 European Convention: Done at Geneva on 21 April 1961 under the auspices of the Economic Commission for Europe of the United Nations This Convention shall apply to arbitration agreements concluded for the purpose of settling disputes arising from international trade between physical or legal persons having, when concluding the agreement, their habitual place of residence or their seat in different Contracting States as well as to arbitral procedures and awards based on agreements referred to above.

The 1965 Washington Convention: The Convention on the Settlement of Investment Disputes between States and Nationals of Other States (creating the International Centre for Settlement of Investment Disputes - ICSID) submitted to Governments by the Executive Directors of the International Bank for Reconstruction and Development (IBRD), signed in Washington on March 18, 1965 and entered into Force on October 14, 1966.

UNCITRAL: The United Nations Commission on International Trade Law was established by the General Assembly in 1966 (Resolution 2205(XXI) of 17 December 1966). In establishing the Commission, the General Assembly recognized that disparities in national laws governing international trade created obstacles to the flow of trade, and it regarded the Commission as the vehicle by which the United Nations could play a more active role in reducing or removing these obstacles. The General Assembly gave the Commission the general mandate to further the progressive harmonization and unification of the law of international trade. The Commission has since come to be the core legal body of the United Nations system in the field of international trade law. The Commission is composed of sixty member States elected by the General Assembly. Membership is structured so as to be representative of the world's various geographic regions and its principal economic and legal systems. Members of the Commission are elected for terms of six years, the terms of half the members expiring every three years.

UNCITRAL Model Law on International Commercial Arbitration: Adopted by the UNCITRAL in 1985 and revised in 2006, the Model Law is designed to assist States in reforming and modernizing their laws on arbitral procedure so as to take into account the particular features and needs of international commercial arbitration. It covers all stages of the arbitral process from the arbitration agreement, the composition and jurisdiction of the arbitral tribunal and the extent of court intervention through to the recognition and enforcement of the arbitral award. It reflects worldwide consensus on key aspects of international arbitration practice having been

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accepted by States of all regions and the different legal or economic systems of the world. Amendments to articles 1 (2), 7, and 35 (2), a new chapter IV A to replace article 17 and a new article 2 A were adopted by UNCITRAL on 7 July 2006. The revised version of article 7 is intended to modernise the form requirement of an arbitration agreement to better conform with international contract practices. The newly introduced chapter IV A establishes a more comprehensive legal regime dealing with interim measures in support of arbitration. As of 2006, the standard version of the Model Law is the amended version. The original 1985 text is also reproduced in view of the many national enactments based on this original version.

UNCITRAL Arbitration Rules: Adopted by UNCITRAL on 28 April 1976, the UNCITRAL Arbitration Rules provide a comprehensive set of procedural rules upon which parties may agree for the conduct of arbitral proceedings arising out of their commercial relationship and are widely used in ad hoc arbitrations as well as administered arbitrations. The Rules cover all aspects of the arbitral process, providing a model arbitration clause, setting out procedural rules regarding the appointment of arbitration and the conduct of arbitral proceedings and establishing rules in relation to the form, effect and interpretation of the award.

The United Nations Organization: The United Nations Organization (UNO) or simply United Nations (UN) is an international organization whose stated aims are facilitating cooperation in international law, international security, economic development, social progress, human rights, and the achieving of world peace. The UN was founded in 1945 after World War II to replace the League of Nations, to stop wars between countries, and to provide a platform for dialogue. It contains multiple subsidiary organizations to carry out its missions. There are currently 192 member states, including nearly every sovereign state in the world. From its offices around the world, the UN and its specialized agencies decide on substantive and administrative issues in regular meetings held throughout the year. The organization has six principal organs: the General Assembly (the main deliberative assembly); the Security Council (for deciding certain resolutions for peace and security); the Economic and Social Council (for assisting in promoting international economic and social cooperation and development); the Secretariat (for providing studies, information, and facilities needed by the UN); the International Court of Justice (the primary judicial organ); and the United Nations Trusteeship Council (which is currently inactive).

Preamble

The Association of the Mediterranean Chambers of Commerce and Industry "ASCAME", founded in 1982 as an initiative of the Barcelona Chamber of Commerce in conjunction with its different counterparts from different Mediterranean countries, has become an internationally active organization regrouping more than 200 Chambers of Commerce and other Associations from 23 Mediterranean Countries.

ASCAME has brilliantly proved its effectiveness by achieving the goals that have guided its formation and which are basically the following:

- The creation of a network of Chambers of Commerce and organizations working in the field of cooperation and economic exchange between countries in the Mediterranean region.
- Promotion of and search for synergies between these countries' economies.
- The creation of working ties between peer institutions aimed at encouraging international cooperation through joint performance of activities or studies.
- Assertion of the Mediterranean identity.
- Contribution to creating an area of peace, tolerance, security and prosperity.

It is in that same spirit of cooperation and integration among the Mediterranean countries and in view of the exponential commerce development, the huge investment projects and the International trade contracts, and bearing in mind that Arbitration has undoubtedly become vital for settling trade and investment disputes, ensuring a confidential and comfortable climate for all parties involved, that ASCAME has rightfully felt the urgent need for developing a Mediterranean Arbitration Centre in order to serve as an effective, reliable and suitable mean of settling disputes and conflicts between countries who are members of the ASCAME.

For that purpose, ASCAME formed an Arbitration Commission in June 2005 whose one of the main targets consists in establishing a Regional or Mediterranean Arbitration Centre for ASCAME member countries.

This Arbitration Commission presided by the Chamber of Commerce and Industry of Beirut and Mount-Lebanon, and with the collaboration of a Working Group especially formed to cooperate in the establishment of the Regional Arbitration Centre, developed a business plan for the setting up of the Centre.

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In that context, Abillama Law Firm, a Lebanese law firm founded by Former President of the Beirut Bar Association Samir Abillama, was appointed on September the 7th to conduct a study performing these tasks:

- ☐ Investigate the existence of national arbitration centres in all the countries that are members of ASCAME.
- ☐ Check which arbitration centre(s) in each country is/are the most active and examine their structure, their internal organization.
- ☐ Study the applicable arbitration laws in each country and the arbitration rules of the most prominent arbitration centres in each country.
- ☐ Look into possible gaps or missing services-in each country- which need to be addressed and which can potentially be provided by a Regional Mediterranean Arbitration Centre.
- ☐ Prepare and submit to ASCAME a Report which will incorporate all the collected data in a comprehensive and consistent approach.

It is to be noted that, as agreed between Abillama Law Firm and the Chamber of Barcelona, this study will cover all the countries which are members of the ASCAME and it will only cover the most active arbitration centres which are created within a National Chamber of Commerce, member of ASCAME.

In what follows, the study will first give a **brief description of the general historical and geo-political background** justifying the creation of a Mediterranean Arbitration Centre as well as the suitability of the **specific background, Lebanon, which is suggested to host said Centre.**

The Study will then address, country by country, the existing legal framework as well as the structure and rules provided for in the country's most active local arbitration centre(s), respecting as much as applicable the following outline:

A - Brief Description of the Country's Legal Framework

- ☐ National Arbitration Law
- ☐ International Conventions

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B - National Arbitration Centres within a Chamber of Commerce

- ☐ Structure
- ☐ Rules

It is to be noted that regarding the **International Conventions** related to the Country's Legal Framework, our description has covered the three most relevant International Conventions, being:

1 - The United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted in New York on 10 June 1958 and entered into force on 7 June 1959 - also known as **the 1958 New York Convention**

2 - The European Convention on International Commercial Arbitration signed in Geneva on 21 April 1961 under the auspices of the Economic Commission for Europe of the United Nations – also known as **the 1961 European Convention**

3 - The Convention on the Settlement of Investment Disputes between States and Nationals of Other States (creating the International Centre for Settlement of Investment Disputes - ICSID) submitted to Governments by the Executive Directors of the International Bank for Reconstruction and Development (IBRD), signed in Washington on March 18, 1965 and entered into Force on October 14, 1966 - also known as **the 1965 Washington Convention**.

Brief Description of the Mediterranean Background

The Mediterranean Region has had, by far, the most active and culturally diverse relationships in human history. This is primarily due to its "uniting element", the Mediterranean Sea.

The Greeks called it *Mesogeios* meaning "internal". The Romans who controlled it and secured it from pirates called it possessively *Mare Nostrum*, Latin for "Our Sea".

The Phoenician sailors and traders revealed the Alphabet to the world through it, and dotted its shores with their ports.

The Mediterranean hosted *Poseidon* - the Greek God of the Seas, transported Gibran Khalil Gibran to the New World and the Napoleon Code to the Arabs.

It holds many appellations in the Old Testament such as Hinder Sea or Sea of the Philistines. Its waves carried Christianity to the shores of Europe, and channeled the Oriental culture and knowledge of the Islamic Empire to the Old Continent.

The Mediterranean Region is known for being the cradle of civilizations, hosting and providing trade routes for numerous communities throughout the centuries.

Its basin is reputed for its diverse marine fauna and flora and for its special climatic conditions, all of which played a crucial role in making the Mediterranean a flourishing fishing zone and a "central superhighway of transport, trade and cultural exchange between diverse people".

Nevertheless, this strategic location and regional geography of the Mediterranean Sea made its possession a coveted prize and so proved to be reason enough and great frontiers for various wars and conflicts. It witnessed the clashes of many empires throughout the ages, from the origin and development of Mesopotamia to Egypt's Pharaohs, from the Persian expansionism to the Phoenicians' sea journeys, from the Greeks' campaigns and the Roman Empire to the Islamic Fateh and the Ottoman Empire.

The Twentieth Century also claims its part of the Region's history as a Region of conflicts. Despite the end of World War II and the dawn of the Decolonization Period, the always interactive region, which is the

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Mediterranean, remained busy with conflicts, disputes and litigations as these are natural consequences that accompany business relationships and international affairs.

With this in mind, the need for peaceful resolution of disputes becomes crucial every day, since the cooperation between the Mediterranean countries grows relentlessly and international business relationships extend at high speeds.

These circumstances and conditions of the Mediterranean Sea and the surrounding region are extremely important to the successful development of modern societies as well as regional trade which requires a safe, reliable and effective system of dispute resolution.

It is a fact that State Justice and Litigation have always been looked at suspiciously by international business operators and entities which usually prefer to refer their disputes to private dispute resolution mechanisms; and particularly to arbitration which has proved successful in that context.

The creation of a Mediterranean Arbitration Centre would not only cater to this need of private dispute settlement but would most importantly play a major role in strengthening the ties between the Mediterranean countries by offering services that take into consideration the different legal and cultural similarities as well as diversities.

This can only be achieved through the implementation of sound Rules and effective procedures within the Mediterranean Arbitration Centre.

Brief Description of the Lebanese Background

Giving that Lebanon, throughout its history, has held an important position in the Mediterranean region due to its geographic position as a crossroads linking the Mediterranean Basin with the Asian hinterland, its multicultural population and its reliance on trade and commerce, it was decided to institute the Mediterranean Arbitration Centre in Lebanon.

Lebanon is indeed regarded as a very suitable choice because of its many unique characteristics, ranging from its strategic location described above and its historical legal tradition, eloquently summarized in the Roman maxim "Berytus Nutrix Legum" (Beirut, Mother of Laws) to its modern legal background which is very supportive of arbitration and ADR procedures and also to the availability of multi-cultural professional skills.

All of the above will certainly allow for the successful creation of a Mediterranean Arbitration Centre which is truly regional and which would be able to provide services in total harmony with the various Mediterranean cultures involved.

In our final conclusions and suggestions, it will be highlighted that the physical location of this Centre – which is aimed to be a Regional Centre - will not, in any way, either compete with existing local arbitration institutions or preclude arbitration proceedings filed within the Centre to actually take place in any of the Mediterranean countries members of ASCAME.

The countries within the scope of the present study:

Albania, Algeria, Bulgaria, Croatia, Cyprus, Egypt, France, Greece, Italy, Jordan, Lebanon, Libya, Malta, Montenegro, Morocco, Serbia, Spain, Syria, Tunisia and Turkey.

ALBANIA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

In Albania, Domestic Arbitration is governed by the provisions of the **Albanian Civil Procedure Code (Law no. 8116, dated 22/03/1996, as amended - articles 400 to 438)** which are more or less in line with the **UNCITRAL** Arbitration Rules.

The Civil Procedure Code does not however address International Arbitration which is therefore governed by the ratified International Conventions only.

It is to be noted that there is a Draft Form for a New Law on Commercial Arbitration designed to govern all domestic and international commercial arbitration proceedings in Albania, which has been drafted with the assistance of the World Bank and which follows the UNCITRAL Model Law. This Draft Law is however still awaiting enactment.

Albania has also promulgated Law 9090 dated June 26 2003 'On Resolution of Disputes through Mediation' (the "Mediation Law"), which generally reflects the principles of the United Nations

Commission on International Trade Law (UNCITRAL).

International Conventions

The **1958 New York Convention** was ratified on 27 June 2001 and entered into force in Albania on 25 September 2001. Albania made no reservations.

The **1965 Washington Convention** was signed and ratified on 15 October 1991 and entered into force in Albania on 14 November 1991.

Albania has also ratified the **1961 European Convention on Arbitration on 27 June 2001** without any reservation.

B - National Arbitration Centres within a Chamber of Commerce

There is no arbitration centre within the Albanian Chamber of Commerce of TIRANA, member of ASCAME.

In fact, in Albania, there is only one arbitration and mediation institution which is **the Albanian Centre for Mediation and Commercial Arbitration**

(Medart), established in December 2002 under the Albanian Ministry of Justice and World Bank's Legal and Judicial Reform Project in Albania to promote, develop, and facilitate the practice of arbitration, mediation, and other forms of alternative dispute resolution mechanisms.

However, even this unique Centre appears to be inactive and there seems to be very few domestic arbitration proceedings in Albania as well as very few number of recognition and enforcement proceedings of foreign arbitral awards.

ALGERIA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Until recently, Arbitration in Algeria was governed by the Code of Civil Procedure Ordinance 66-154 of 8 June 1966, as amended by the Legislative Decree N° 93-09 of 25 April 1993.

The 1993 amendment had instituted for the first time, in Algeria, the concept of "international arbitration" by the insertion of a chapter IV called "Particular disposals to international commercial arbitration" in the Civil Procedure Code.

The Algerian arbitration law on international arbitration has been thoroughly changed by the **Law No 08-09 of February 25 2008**, which entered into force on February 25 2009, pertaining to the New Algerian Code of Civil and Administrative Procedure.

This new Algerian Arbitration Law is built into articles 1006 through 1061 of the Code and has taken into account the **UNCITRAL** (United Nations Commission for International Trade Law) Model Law, the 1961 European Convention on arbitration, new arbitration laws passed in various countries as well as recent principles established in international arbitration case law.

One of the major amendments introduced by the New Algerian arbitration law is to allow a foreign party to insert an arbitration clause into an Algerian State Contract, without running the risk of its being called into question because of the Algerian party's lack of capacity.

This provision should put an end to a major controversy concerning public tenders. Indeed in the past it was common for entities subject to public law to reject the inclusion of an arbitration clause in the contract to be signed by arguing that disputes relating to this type of contracts should be submitted to Algerian administrative courts.

International Conventions

The **1958 New York Convention** was ratified on 7 February 1989 and entered into force in Algeria on 8 May 1989.

Algeria made reservations a and b (- Algeria will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and - Algeria will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law.)

The **1965 Washington Convention** was signed on 14 April 1995, ratified on 21 February 1996, and entered into force in Algeria on 22 March 1996.

B - National Arbitration Centres within a Chamber of Commerce

There is a **Mediation and Arbitration Centre within the Algerian Chamber of Commerce and Industry** (Centre de médiation et d'arbitrage de la chambre algérienne de commerce et d'industrie – CACI) which was created in 2001 and became operational in April 2006.

In addition to administering arbitration proceedings, the Centre organizes arbitrators and mediators' training courses and insures the promotion of alternative dispute resolution with Algeria's companies and businesses.

Their recommended model arbitration clause is as follows:

"Any controversy or claim arising out of or related to this Agreement, the breach thereof or the transactions contemplated hereby shall be settled by arbitration by *(a single arbitrator or three arbitrators)* in conformity with the then prevailing rules of the *(Centre of Conciliation and Arbitration)* and judgment upon the award rendered by the arbitrator/s may be entered in any court having jurisdiction. Such arbitration shall be in Algeria.

The arbitrator/s shall be fluent in, and conduct the arbitration in the *(French language or English language or both)*"

BULGARIA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

In Bulgaria, Arbitration is governed by the **Law on International Commercial Arbitration** published in the State Gazette (SG) no. 60 of **05.08.1988** (amended on **02.11.1993**, on **26.05.1998**, on **17.04.2001**, on **29.04.2002** and recently on **20.07.2007**, in effect from **01.03.2008**).

The Bulgarian Arbitration Law complies with the United Nations Commission on International Trade Law (**UNCITRAL**) **1985 Model Law**.

It is to be noted that, according to the Code of Civil Procedure, not all disputes may be resolved through arbitration. Indeed, disputes regarding rights over real estate situated in the country, alimony, or individual labor disputes may only be heard by the courts.

In addition, under the Code of Private International Law of 2005, Bulgarian courts have exclusive competence over industrial property disputes regarding patents issued in Bulgaria.

Regarding arbitration clauses selecting a foreign court of arbitration, the Code of Civil Procedure mandates that these clauses would only be admissible if at least one of the parties has its seat or residence abroad. As a result, foreign-owned, Bulgarian-registered companies having a dispute with a Bulgarian entity can only have arbitration in Bulgaria.

International Conventions

The **1958 New York Convention** for Recognition and Enforcement of Foreign Arbitration Awards was signed on 17 December 1958, ratified on 10 October 1961 and entered into force in Bulgaria on 8 January 1962.

Bulgaria made reservations a and e (- Bulgaria will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and - With regard to awards made in the territory of non-contracting States, Bulgaria will apply the Convention only to the extent to which those States grant reciprocal treatment.).

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The **1965 Washington Convention** was signed on 21 March 2000, ratified on 13 April 2001 and entered into force in Bulgaria on 13 May 2001.

Bulgaria has also ratified the **1961 European Convention on Arbitration** in 1964, which is published in State Gazette No. 57 of 1964.

B - National Arbitration Centres within a Chamber of Commerce

The most experienced arbitration institution in Bulgaria is **the Arbitration Court (AC) of the Bulgarian Chamber of Commerce and Industry (BCCI)**.

Structure

The Arbitration Court has a Chairman who represents the Court in Bulgaria and abroad, reports on the activities of the Court and executes the decisions of the Presidium, two Deputy-Chairmen and four Members as well as a Secretariat in charge of organizing the files of the cases, running the correspondence of the AC and performing those proceedings which are entrusted to them according to the Rules.

The Arbitration Court has a list of arbitrators and non-Bulgarian citizens may be enlisted as arbitrators.

The Arbitration Court settles the disputes submitted to it by an arbitral tribunal which consists either of three arbitrators or of one. The arbitrators on any dispute sign an affidavit of impartiality and independence which is sent to the parties to the dispute.

Rules

The Rules of the Arbitration Court were adopted by the Management Board of the Bulgarian Chamber of Commerce and Industry under a resolution recorded in Minutes No. 1 of 31 March 1993 and came into force on 1 July 1993, abrogating all effective Rules existing up to that time. These Rules were amended by a resolution of the Executive Council of BCCI under No.47/3-2002 of 29.01.2002 coming into force on February 1, 2002, as well as subsequent amendments with Resolution No. 95/1-2008 of the Executive Council of BCCI from 15.01.2008, that become effective as of 01.02.2008.

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The Bulgarian Court of Arbitration's **recommended arbitration clause** is as follows:

"All disputes, arising from this contract or related to it, including those arising from or concerning its interpretation, invalidity, performance or termination, as well as the disputes for filling gaps in this contract or its adaptation to newly established facts, shall be referred for resolution to the Court of Arbitration at the Bulgarian Chamber of Commerce and Industry in compliance with its Rules for Litigations, based on arbitration agreements".

Clarifications:

1. Disputes on real estate rights or possession of immovable, alimony or labor relations rights are outside of the jurisdiction of the Court of Arbitration at BCCI.
2. The recommended arbitration clause shall apply both to domestic and to international commercial and civil contracts. As far as international commercial contracts are concerned, it is advisable for the parties to such contracts to agree in the arbitration clause on the substantive law applicable.

The Bulgarian Arbitration Court has also Rules for Conciliation which were adopted by the Executive Council of BCCI by Minutes No. 22/5-99 of 12.05.1999 and by decision of the Management Board of BCCI of 16.12.1998 in relation to art. 22, parag.1, item 8 of the Statute of BCCI. These Rules became effective as of 5 July 1999.

CROATIA

A - Brief Description of Legal framework

National Arbitration Law

The Law of Arbitration in Croatia is contained in the Croatian Arbitration Act (Official Gazette 88/2001) which came into force on 19 October 2001.

This Law aims to create a modern arbitration law which incorporates the principal features of the UNCITRAL 1985 Model Law and the 1958 New York Convention.

The New Law has replaced parts of the Croatian Civil Procedure Act, Conflicts of Law Act and Obligations Act which had previously regulated arbitration matters.

Therefore, the new law not only amended, but also unified provisions on arbitration into one single act. This has led to a structured and identifiable environment for arbitration and helped towards the development of this practice in Croatia.

The provisions of Croatian Arbitration Act apply to Domestic Arbitration, recognition and enforcement of arbitral awards, and competence and operation of the national courts in relation to domestic arbitration and other cases prescribed by the Arbitration Act.

Domestic arbitration is defined as any arbitration situated in the Republic of Croatia and therefore "International arbitration" is understood as arbitration with a foreign seat, and falls outside the scope of the Croatian Arbitration Act.

International Conventions

The **1958 New York Convention** for Recognition and Enforcement of Foreign Arbitration Awards entered into force in Croatia on 8 October 1991 after notification of succession, the Republic of Croatia being one of the legal successor States of the former Socialist Federal Republic of Yugoslavia

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Croatia made reservations a, b and f (- Croatia will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and – Croatia will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law and - Croatia will apply the Convention only to those arbitral awards which were adopted after the entry into effect of the Convention.)

The **1965 Washington Convention** was signed on 16 June 1997, ratified on 22 September 1998 and entered into force in Croatia on 22 October 1998.

Croatia has also ratified the **1961 European Convention** on International Commercial Arbitration on 26 July 1993 with no reservations.

B - National Arbitration Centres within a Chamber of Commerce

There is a **Permanent Arbitration Court at the Croatian Chamber of Economy**.

It was established at the Chamber in 1853. After an intermission, it restarted its activity in 1965 as a modern institution that settles corporate disputes. In the beginning, it dealt only with domestic legal entities. After Croatia had gained independence, the Court also assumed jurisdiction over international disputes involving both foreign legal entities and natural persons.

Before the enactment of the Arbitration Act in Croatia, *ad hoc* arbitration was not allowed in domestic disputes. The main institutional arbitration forum, the Permanent Arbitration Court, established within the Croatian Chamber of Economy, dealt with arbitration as well as with conciliation.

After the enactment of the new Arbitration Act, the Permanent Arbitration Court at the Croatian Chamber of Economy adopted on 9 December 2002 New Arbitration Rules ("the Zagreb Rules"), in addition to the 1992 existing Rules; and a separate Conciliation Centre was established in 2002 with new Rules of Conciliation.

As of 1994, the Court has been publishing the Croatian Arbitration Yearbook, a periodical in English, which has become the leading international arbitration publication in Croatia and the region. It has also been organizing an international arbitration conference in December, known as the Croatian Arbitration Days.

Their suggested arbitration model clause is as follows:

“All disputes arising out of this contract, including such relating to its breach, termination or invalidity, and any legal consequence thereof, shall be finally settled by arbitration in accordance with the Rules of International Arbitration of the Permanent Arbitration Court at the Croatian Chamber of Commerce as in force”

There are also some suggested appropriate supplementary provisions concerning the number of arbitrators, the substantive law applicable to the dispute, the language(s) to be used in the arbitral proceedings, the place of arbitration and the appointing authority.

The Conciliation Centre of the Croatian Chamber of Economy is an institution dedicated to organizing and carrying out conciliation proceedings in business disputes. Before it was established in July 2002, conciliation had been carried out by the Permanent Arbitration Court. The proceedings handled by the Centre allow the settlement of business disputes in a way that is satisfactory to all parties and that may create conditions for further business co-operation.

Through the Arbitration Court and the Conciliation Centre, the Croatian Chamber of Economy provides to entrepreneurs an integrated framework that allows fast and adequate settlement of business disputes outside a court of justice.

CYPRUS

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Domestic arbitration proceedings are governed by Chapter 4 of the Codified Laws of Cyprus, based on the UK Arbitration Act of 1950.

International arbitration proceedings are governed by Law 101 of 29 May 1987 which adopts, save some minimal amendments, the UNCITRAL Model Law.

This Law has not replaced Cap. 4 but runs parallel thereto as it is applicable only to international commercial arbitration. The law clearly defines the words "international arbitration" as arbitration between two parties who have their place of business in different states.

Also, the word "commercial" is defined as referring to matters "arising from relationships of a commercial nature" allowing for a wide interpretation.

Moreover, while Domestic Arbitration Law allows for extensive intervention by the courts in all stages, the 1987 Law minimizes the court's intervention power by providing for instances where this may happen.

International Conventions

The **1958 New York Convention** was ratified on 29 December 1980 and entered into force in Cyprus on 29 March 1981. It was incorporated in Law 101/87 which repeats the main provisions of the Convention.

Cyprus made reservations a and b (- Cyprus will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and - Cyprus will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law.)

The **1965 Washington Convention** was signed on 9 March 1966, ratified on 25 November 1966, and entered into force in Cyprus on 25 December 1966.

B - National Arbitration Centres within a Chamber of Commerce

The CCCI is the federation of the local Chambers of Commerce and Industry (CCIs) which operate in Nicosia, Limassol, Famagusta, Larnaca and Paphos. The local CCIs have a geographical coverage of their respective districts. The Nicosia CCI covers also the districts of Kyrenia and Morphou.

Arbitration Service of the Cyprus Chamber of Commerce and Industry – Nicosia

The Cyprus Chamber of Commerce and Industry (CCCI) is a private law organization founded in 1927 as a union of Cypriot businessmen whose interests it promotes. Since 1963 it is a federation of Chambers of Commerce and Industry operating throughout the country. The CCCI itself administers arbitrations. It also appoints arbitrators and administers arbitration as the Cyprus National Committee of the International Chamber of Commerce (ICC).

The CCCI administers dispute resolution both in its own capacity, and in the capacity of the National Committee of the ICC, mostly **under the ICC Rules of Arbitration and Conciliation**. Some proceedings in which at least one party is Cypriot are administered by the Chamber in its own capacity under the Rules laid down by the Cypriot International Commercial Arbitration Law of 1987, based on the UNCITRAL Model Law. The Chamber does, however, encourage resort to the proceedings governed by the ICC Rules, in particular by recommending a standard arbitration clause stipulating that in case of a conflict between the ICC and the domestic Rules, the former should prevail.

Their suggested arbitration model clause is as follows:

"All differences of any nature that may arise in relation to this contract between the contracting parties, shall be referred to arbitration by a single Arbitrator in accordance with the provisions of the Arbitration Law of Cyprus, Cap 4. The Arbitrator will be proposed by the Arbitration Service of the Cyprus Chamber of Commerce and Industry and must be approved by the contracting parties.

In case of disagreement between the contracting parties on the proposed Arbitrator, the Arbitrator will be appointed in accordance with the provisions of the Arbitration Law of Cyprus, Cap 4."

EGYPT

A - Brief Description of the Country's Legal Framework

National Arbitration Law

In Egypt, Commercial Arbitration, whether domestic or international, is regulated by the Egyptian Arbitration Law "EAL" No 27 of 1994 as amended by Law No 9 of 1997.

The Egyptian Arbitration Law is largely inspired by the UNCITRAL Model Law, subject to some differences that are necessary to adapt to the prevailing Egyptian dispute resolution culture and legal traditions.

The most notable principles of the EAL that are not present in or subject to different rules under the UNCITRAL Model Law are the following:

- (a) The broad application of the EAL, covering both domestic and international arbitrations;
- (b) The possible extra-territorial application of the EAL to arbitrations conducted abroad if the parties have agreed to such application;
- (c) The number of arbitrators under the EAL should be odd;
- (d) Under the EAL, ruling on a challenge made against an arbitrator is vested with the competent court and not the arbitral tribunal;
- (e) Under the EAL, the arbitral tribunal does not have the powers to order interim or provisional measures unless the parties have agreed to grant the tribunal such powers; and
- (f) Under the EAL, an award may be set aside or annulled if the tribunal has excluded the law chosen by the parties to govern the merits of the dispute.

Arbitration is widely used as the market's preferred option of dispute resolution on both domestic and international levels.

International Conventions

The **1958 New York Convention** was ratified on 9 March 1959 and entered into force in Egypt on 7 June 1959.

Egypt made no reservations.

The **1965 Washington Convention** was signed on 9 March 1966, ratified on, 3 May 1972 and entered into force in 2 June 1972.

B - National Arbitration Centres within a Chamber of Commerce

The Federation of Egyptian Chambers of Commerce (**FEDCOC**) seems to provide arbitration services for disputes between Egyptian companies.

The FEDCOC distinguishes between two cases:

- The case when the dispute is between two companies/organizations within the same governorate, the parties may proceed with arbitration at the Chamber of Commerce of that governorate
- The case when the dispute is between two companies/organizations from two different governorates or two different countries, the parties may proceed with arbitration at the Federation

The Arbitration Center of the FEDCOC is headed by a director general according to whom the Rules the Center applies are as per the ministerial decree with the executive regulations for arbitration as per Law 8 for 2002 for the Chambers of Commerce (we could not have access to those Rules).

It is worth mentioning that although not affiliated with a national chamber of commerce, the only truly active arbitration center in Egypt remains the Cairo Regional Centre for International Commercial Arbitration (**CRCICA**), a non-profit organization which was established in 1979 and became a permanent organization in 1983.

CRCICA applies the UNCITRAL Rules and offers a wide range of services ranging from administering domestic and local arbitrations as well as other ADR techniques, selecting arbitrators and mediators to the promotion of the same through the conduct of seminars, conferences and publication of researches.

FRANCE

A - Brief Description of the Country's Legal Framework

National Arbitration Law

In France, arbitration agreements are governed by provisions contained both in the French Civil Code (Articles 2059 to 2061) and in the French Code of Civil Procedure which contains a chapter on arbitration (Articles 1442 to 1507), including a specific section on international arbitration.

The distinction between Domestic and International Arbitration is explicitly recognized by the CCP, which contains two specific sections on international arbitration (starting at Article 1492) and enforcement of foreign or international arbitral awards (starting at Article 1498).

The CCP also contains a specific definition of international arbitration according to which arbitration is "international" when it involves the interests of international trade (Article 1492).

Generally, the rules governing international arbitration are significantly more flexible than in domestic arbitration. This is the case not only for the arbitration agreement, but also with respect to the procedure itself, where considerable discretion is granted to the arbitrators and the parties.

If the international arbitration proceedings are governed by French law, most of the rules governing domestic arbitration may apply; however, this will be the case only if the parties have made no arrangements to the contrary (Article 1495 of the CCP). Some rules will, in any event, remain specific to international arbitration, such as the procedure for challenging awards.

France has not adopted the provisions of the UNCITRAL Model Law of 1985. Nevertheless, there are no significant differences between French international arbitration law and the Model Law, apart from the manner in which international arbitration is defined (the Model Law places more emphasis on the location in different States of the place of business of the parties to the agreement, the seat of the arbitration or the place of performance of the contract).

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Although the Model Law is not applicable, the French courts occasionally take account of commonly accepted principles that are articulated in it.

The general approach in determining whether or not a dispute is “arbitrable” is to assess whether individual entities are entitled to submit their dispute to arbitration (this is referred to as subjective “arbitrability”) and whether the subject matter of the dispute is “arbitrable” (this is referred to as objective “arbitrability”).

Subjective arbitrability mainly concerns public entities, which are generally prohibited from referring their disputes to arbitration. However, this prohibition does not apply in matters of international arbitration. Specific provisions address this issue in the context of domestic arbitration.

Whether or not a dispute is objectively “arbitrable” is an issue that is governed by the French Civil Code, which provides that one is entitled to agree to arbitration in relation to rights that can be disposed of (Article 2059 of the French Civil Code). More specifically, it is explicitly provided that disputes relating to civil status, the capacity of individuals or divorce cannot be submitted to arbitration (Article 2060). Article 2060 also provides more generally that arbitration is prohibited in all matters that concern public policy. This prohibition is not, however, as broad as it may appear. In international arbitration, the mere fact that a public policy rule applies to the matter does not deprive the arbitral tribunal of jurisdiction. An arbitral tribunal cannot make a ruling on a matter of public policy itself (e.g. render an insolvency judgment or give clearance for a transaction under competition rules); however, it can apply rules of law that are a matter of public policy, if this is required by the resolution of the dispute (e.g. an award can be made for restitution and compensatory damages owed by a party to a contract which is null and void pursuant to insolvency, antitrust or patents regulations).

International Conventions

The **1958 New York Convention** was signed on 25 November 1958, ratified on 26 June 1959 and entered into force in France on 24 September 1959.

France made reservation a (France will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State)

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The **1965 Washington Convention** was signed on 22 December 1965, ratified on 21 August 1967, and entered into force in France on 20 September 1967.

The **1961 European Convention** on International Commercial Arbitration was ratified on 16 December 1966 without reservations.

B - National Arbitration Centres within a Chamber of Commerce

In France, there are numerous arbitration institutions and services, many of which are not created within chambers of commerce. The most important and active centres affiliated with Chambers of Commerce which are members of ASCAME are the following:

1- The Paris Mediation and Arbitration Centre

The **Paris Mediation and Arbitration Centre** (Centre de médiation et d'arbitrage de Paris – CMAP) was created in 1995 within the **Paris Chamber of Commerce and Industry**.

It is one of the main arbitration centres in France and a major European centre of management and resolution of commercial disputes.

The Centre offers mediation, arbitration and expertise; it assures innovative solutions and effective resolutions of disputes.

The Centre adopted arbitration regulations in 2005 which shall bound the parties or by signing an arbitration agreement designating the centre for the organization of the arbitration, either by voluntary adherence to the regulation or when designation of the centre by the courts

The CMAP recommend the following model Clauses:

☐ Mediation and Arbitration

All disputes arising out of or in connection with the validity, interpretation, performance, non-performance or termination of this Contract shall be submitted to the CMAP (Centre for Mediation and Arbitration of Paris, Paris Chamber of Commerce and Industry - 39, avenue Franklin D. Roosevelt, 75008 Paris) Rules of Mediation and, in the event that no settlement is thereby reached, to the Paris Mediation and Arbitration Centre (CMAP) Rules of Arbitration, to which the parties undertake to adhere.

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☐ Mediation Only

All disputes arising out of or in connection with the validity, interpretation, performance, non-performance or termination of this Contract shall be submitted to mediation under the CMAP (Centre for Mediation and Arbitration of Paris, Paris Chamber of Commerce and Industry - 39, avenue Franklin D. Roosevelt, 75008 Paris) Rules of Mediation to which the parties undertake to adhere.

☐ Arbitration Only

All disputes arising out of or in connection with the validity, interpretation, performance, non-performance or termination of this Contract shall be submitted to arbitration under the CMAP (Centre for Mediation and Arbitration of Paris, Paris Chamber of Commerce and Industry - 39, avenue Franklin D. Roosevelt, 75008 Paris) Rules of Arbitration to which the parties undertake to adhere.

2- The Franco-Arab Centre of Mediation and Arbitration

The Franco-Arab Centre of Mediation and Arbitration is created within the Franco-Arab Chamber of Commerce. The Centre handles arbitration, mediation and expertise in accordance with the Rules adopted by the Centre.

3- The Euro-Mediterranean Institution of Arbitration "E.M.A."

This Institution of arbitration was established as a result of a partnership between the legal and the economical sector in the Alpes Maritimes. Seeing the efficiency of arbitration, the Bar of Nice, Grasse and the Chamber of Commerce and Industry of Nice and the Cote d'Azur established in 1991 the Euro-Mediterranean Institution of Arbitration "E.M.A." for the purpose of organization, administration and promotion of an arbitral system.

GREECE

A - Brief Description of the Country's Legal Framework

National Arbitration Law

The Greek Code of Civil Procedures (GCCP) governs the enforcement of domestic arbitration agreements, as well as of international non-commercial arbitration agreements while the Greek Law No 2735/1999 on International Commercial Arbitration (GLICA), which is based on the UNCITRAL 1985 Model Law, governs international commercial arbitration taking place in Greece.

Arbitration is considered 'domestic' or 'international' according to the subject matter of the dispute. The term 'international arbitration' is defined in the same manner as in the Model Law.

The GLICA does not regulate every possible issue that may arise in the context of an international commercial arbitration. The gaps of the Greek legal framework for international commercial arbitration are to be supplemented with the Greek conflict of laws rules, and with analogous application of the relevant provisions of the GCCP regarding arbitration.

All private disputes may be submitted to arbitration except for those in which the subject matter concerns private legal rights that cannot be freely disposed by the parties (GCCP, article 867, section 1). Thus, family law matters such as divorce, relations between parents and their children, and adoption are excluded. Likewise, insolvency and antitrust issues (with the exception of claims founded on unfair competition) cannot be submitted to arbitration. In addition, Article 867, section 2 of the GCCP expressly excludes labour disputes.

The parties can agree to refer future disputes to arbitration, but in that case the agreement must be in writing and refer to a specific legal relationship from which disputes may originate. An agreement to submit to arbitration may also be made before a court during the hearing of a case. One or several persons or even an entire court may be appointed as arbitrators.

A list of arbitrators drawn up by the multi-member court of first instance is kept at each single-member court of first instance.

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The arbitration award is not open to review. It may however be annulled in whole or in part by a court judgment only for one of the eight restrictive reasons legally provided for.

Furthermore, Article 902 of the GCCP provides that Standing Arbitration Entities may be established at Chambers of Commerce and the like, such as Stock and Commodity Exchanges and Professional Associations via orders issued on proposal of the Minister for Justice as well as the minister responsible for supervision of the concerned Chamber, Exchange or Association.

International Conventions

The **1958 New York Convention** was ratified on 16 July 1962 and entered into force in Greece on 14 October 1962.

Greece made reservations a and b (- Greece will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and - Greece will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law.)

The **1965 Washington Convention** was signed on 16 March 1966, ratified on 21 April 1969, and entered into force in Greece on 21 May 1969.

B - National Arbitration Centres within a Chamber of Commerce

The major arbitral body in Greece is **the Permanent Arbitration Institution at the Athens Chamber of Commerce and Industry (ACCI)**. The Permanent Arbitration institution and Rules of the Athens chamber of Commerce and Industry have been established in accordance with Article 902 of the Code of Civil Procedure, which defines the guiding lines for permanent arbitration institutions, by virtue of Presidential Decree No.31 of 12th January 1979.

Any commercial dispute may be referred, by an agreement in writing, to the permanent arbitration institution, whether the parties are merchants or not, and without any restriction as to their nationality or domicile. This arbitration covers all transactions of domestic and international trade, including the private law transactions in which the State or a State Agency is a party.

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The abovementioned decree comprises all the details of arbitral proceedings, by incorporating in one text, not only the special features that are proper to the institution but also the general arbitration provisions of the Code of Civil Procedure. The proceedings set up by the Decree are applicable only if the parties do not reach an agreement on such questions, or if they remain inactive, or if they adopt a negative attitude.

This Institution is responsible for the following:

- ☐ The management of all issues of arbitration by the A.C.C.I. as stipulated in Presidential Decree 31 of 12 January 1979 which provides for the ACCI Arbitration Rules.
- ☐ The mediation for the resolution of commercial disputes and the drafting of settlement minutes or contracts conducted during the proceedings.
- ☐ The conduct of sampling and assessment activities according to existing laws and regulations and the compilation of lists of licensed samplers and assessors.

The following arbitration clause is suggested:

"Any dispute that may arise from this contract, referring to its validity, its constructions, or any of its parts or stages, shall be settled in conformity with the provisions of Presidential Decree No. 31 of 12th January 1979 establishing a permanent arbitration institution at the Athens Chamber of Commerce and Industry for the settlement of commercial disputes as it may have been modified, when the dispute is referred to arbitration. The award shall not be subject to the recourse of Article 32 of the Decree."

It is to be noted in addition that the GLICA (in the case of international commercial arbitration proceedings) and the GCCP (in all other cases) provide for Rules governing arbitration.

ITALY

A - Brief Description of Legal Framework

National Arbitration Law

In Italy, the Rules governing arbitration are to be found in the text of the Italian Code of civil procedure (C.P.C.), at Section VIII, articles 806 – 840.

The core of the Code dates back to 1940, but the articles concerning arbitration have been amended repeatedly over the last decades

The 2006 reform has repealed the distinction effective since 1994 between domestic and international arbitration. Remnants of that distinction can only be found in the provision of article 830, according to which whenever the dispute arises from a subjectively international contract, the Court of Appeal requested to annul an arbitral award may directly decide the merits of the case only if so required by all the parties.

In Italy, “International Arbitration” is distinguished from “Foreign Arbitration”, more precisely, from arbitral awards rendered abroad. Articles 839 and 840 of the CPC regulate recognition and enforcement of such awards.

Since 1993, the Italian legislator has been growingly inspired by the UNCITRAL Model Law. However, as aforesaid, the latter bifurcated approach to domestic and international arbitration was abolished in 2006.

An arbitral tribunal cannot issue either payment injunctions or orders and measures for urgent relief, which are a prerogative of state courts. Moreover, disputes involving public matters such as criminal and family law matters or claims on inalienable rights are considered non-arbitrable.

Those disputes cannot be referred to mediation either, however special mediation proceedings are provided to resolve certain family disputes.

It is to be noted that recourse to arbitration is steadily growing in Italy, particularly for contractual disputes arising out of share purchase agreement, joint-ventures and project finance agreements.

The parties may agree their own arrangements for the arbitration proceedings. In so doing, they have a choice between adopting the

Study concerning the creation of a Mediterranean Arbitration Centre

institutional rules of a particular arbitration body normally published by the relevant body or providing their own rules for the arbitration proceeding.

The parties may establish the rules of procedure in the submission to arbitration or in the arbitration clause or in a separate document, as long as this is done before the start of the arbitration proceedings (article 816 the Code). Besides, in the absence of any agreement between the parties, the arbitrator(s) may choose how to regulate the arbitration

International Conventions

The **1958 New York Convention** was ratified on 31 January 1969 and entered into force in Italy on 1 May 1969. Italy made no reservations.

The **1965 Washington Convention** was signed on 18 November 1965, ratified on 29 March 1971, and entered into force in Italy on 28 April 1971.

Italy has also ratified the **1961 European Convention** on International Arbitration on 3 August 1970 without any reservations.

B - National Arbitration Centres within a Chamber of Commerce

In Italy, the system is represented by Union Camere, the Union of the Italian Chambers of Commerce, Industry and Handicraft, a public law organization, "promoting, carrying out and managing (...) activities and services of interest" for the whole Chambers Network.

The Union provides arbitration and mediation services.

The recognition of arbitration in Italy goes back to the reform law of chambers of commerce, Law 580/1993 which entitled and encouraged Italian chambers of commerce to set up arbitration and ADR services to deal with disputes both between businesses and between businesses and consumers. Therefore, almost 69 arbitration chambers were established within the chambers of commerce of Italy, each chamber of arbitration is administered by its own Rules and has its own Structure.

There are numerous Arbitration Institutions in Italy amongst which the Italian Association for Arbitration, the Milan Arbitration Chamber instituted by the Milan Chamber of Commerce, the Rome Arbitration Chamber instituted by the Rome Chamber of Commerce that now also provides mediation services as well as all Italian sportive federations.

Study concerning the creation of a Mediterranean Arbitration Centre

As for the Arbitration Centres within Chambers of Commerce which are members of ASCAME, they are the following:

- i. The Chamber of Arbitration of the Chamber of Commerce of Ancona
- ii. The Chamber of Arbitration of the Chamber of Commerce of Cagliari
- iii. The Chamber of Arbitration and Conciliation of the Chamber of Commerce of Catania
- iv. The Chamber of Arbitration of the Chamber of Commerce of Chieti
- v. The Italian Chamber of Arbitration of the Chamber of Commerce of Genova.
- vi. The Service of Conciliation at the Chamber of Commerce of Imperia.
- vii. The Chamber of Conciliation of the Chamber of Commerce of La spezia.
- viii. The Chamber of Arbitration of the Chamber of Commerce Latina.
- ix. The Chamber of Arbitration of the Chamber of Commerce of Messina.
- x. The Chamber of Arbitration of the Chamber of Commerce of Napoli.
- xi. The Mediation Service at the Chamber of Commerce of Oristano.
- xii. The Chamber of Arbitration of the Chamber of Commerce of Palermo.
- xiii. The Chamber of Arbitration of the Chamber of Commerce of Pescara.
- xiv. The Service of Conciliation of the Chamber of Commerce of Ragusa.
- xv. The Chamber of Arbitration of the Chamber of Commerce of Ravenna.
- xvi. The Chamber of Conciliation of the Chamber of Commerce of Rimini.
- xvii. The Chamber of Arbitration of the Chamber of Commerce of Roma.
- xviii. The Conciliation Service at the Chamber of Commerce of Salerno.
- xix. The Chamber of Arbitration of the Chamber of Commerce of Sassari.
- xx. The Conciliation Service at the Chamber of Commerce of Savona.
- xxi. The Arbitration Service at the Chamber of Commerce of Trieste.
- xxii. The Chamber of Arbitration of the Chamber of Commerce of Venice.
- xxiii. The Service of Conciliation at the Chamber of Commerce of Vibo Valentia.

JORDAN

A - Brief Description of the Country's Legal Framework

National Arbitration Law

In Jordan, the first formal Statute to regulate arbitration was the Arbitration Law of 1953 and its amendments, which was annulled by the current Arbitration Law of 2001.

The Law of 2001 is mainly derived from the Egyptian Arbitration Act number 27 of 1994, which in its turn was based on the UNCITRAL Model Law of 1985 on International Commercial Arbitration.

The scope of application of this Law includes "every conventional arbitration conducted in the Kingdom of Jordan and related to a civil or commercial dispute between parties of public or private law whatever the legal relationship to which the dispute is connected, whether contractual or not."

Moreover, the provisions of this law "shall apply to every arbitration existing at the time of its entry into force or commences thereafter even if it is based on an arbitration agreement prior to the entry into force of this law, provided that all previous procedures taken in accordance with any prior law shall remain valid."

In Jordan, arbitration is mainly voluntary and private. It is based on the consent of the parties to be bound by the decision of an arbitrator or a panel of arbitrators of their choosing, who in turn abide by the rules of arbitration that the parties have decided to adhere to. This autonomy is expressed in article 24 of the Arbitration Law which provides that "the two arbitrating parties are free to agree on the procedures to be followed by the arbitral tribunal, including their right to subject such procedures to the rules applied at any arbitral institute or Centre in the Kingdom or abroad; failing such agreement, the arbitral tribunal may, subject to the provisions of this law, select the rules of arbitral proceedings it deems appropriate".

Therefore, there are no mandatory rules governing international proceedings sited in Jordan, as long as those do not contravene public policy and morality in Jordan.

Study concerning the creation of a Mediterranean Arbitration Centre

The only mandatory rules concerning both local and international arbitration are related to insurance contracts. An arbitration clause concerning an insurance contract must be embodied in a special agreement independent of the general conditions printed in the insurance policy.

International Conventions

The **1958 New York Convention** was signed on 10 June 1958, ratified on 15 November 1979 and entered into force in Jordan on 13 February 1980. Jordan made no reservations.

The **1965 Washington Convention** was signed on 14 July 1972, ratified on 30 October 1972, and entered into force in Jordan on 29 November 1972.

B - National Arbitration Centres within a Chamber of Commerce

There is no arbitration Centre within the Jordan Chamber of Industry, member of ASCAME.

Furthermore, there are no institutional arbitration Centres *per say*.

However, there are several Centres which serve as law offices rather than institutional arbitration Centres. Those Centres include one or more partners who are well known for their arbitration and legal skills and the personal profile of the partners is the most important factor in the Centre.

LEBANON

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Lebanon's arbitration law can be found in its New Code of Civil Procedure of 1985 (NCCP Book 2, Chapter 1, articles 762 to 821) - inspired by France's Code of Civil Procedure of 1981 – as well as in **Law No 440 dated 29 July 2002** which has amended some of the arbitration provisions in the NCCP .

Lebanon's Arbitration Legislation is for the most part inspired by France's Code of Civil Procedure of 1981 and does not follow the UNCITRAL Model Law.

The NCCP provides the legal framework for both domestic arbitration (Articles 762–808) and international arbitration (Articles 809–826).

In addition, Articles 188, 1037 and 1039 of the Lebanese Code of Obligations and Contracts (COC), and Article 4 of the Lebanese Code of Commerce address the issue of arbitrability.

As a general rule, arbitration is accepted for most kinds of disputes arising out of civil, administrative or commercial contracts, whether internal or international, unless the law clearly provides to the contrary.

Examples of disputes that may not be referred to arbitration include disputes relating to public order offences, personal capacity, bankruptcy, criminal offences and – to some extent – employee compensation and social security issues.

Courts have also tended to deny the rights of parties to submit disputes relating to the termination of commercial agency agreements to arbitration, although this issue is the subject of vigorous legal debate.

It is clear, however, as a result of Law No. 440/2002, that arbitration proceedings may now be brought by or against public bodies including local authorities, public entities and public institutions provided that such bodies have obtained the prior consent of the Council of Ministers before signing the relevant arbitration agreement or the contract in which the arbitration clause is inserted.

International Conventions

The **1958 New York Convention** was ratified on 11 August 1998 and entered into force in Lebanon on 15 September 1998.

Lebanon made reservation a (Lebanon will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State)

The **1965 Washington Convention** was signed and ratified on 26 March 2003, and entered into force in Lebanon on 25 April 2003.

B - National Arbitration Centres within a Chamber of Commerce

1- The Lebanese Arbitration Centre within the Beirut Chamber of Commerce and Industry (BCCI)

The Lebanese Arbitration Centre is the most active institution which provides administration and monitoring services for arbitration proceedings in Lebanon , and it has been active in that field since its establishment in 1995.

Structure

The composition, functions and internal regulations of the Lebanese Arbitration Center of the BCCI are provided for in its published Statutes as well as the Internal Rules of the Court of Arbitration.

The Lebanese Arbitration Centre is composed as follows:

- ☐ The Board of Trustees composed of the heads of all of the abovementioned entities (Chambers of Commerce, associations and syndicates).
- ☐ The Higher Council of Arbitration which role is to organize events aiming to develop, promote and spread the knowledge and the practice of arbitration.
- ☐ The Legal Consultative Committee composed by distinguished Lebanese Lawyers and ex-judges active in the field of arbitration.
- ☐ The Court of Arbitration which role is to administer the arbitration process, ensuring the proper application of the LAC Rules.

- ☐ The Court is assisted by the Secretariat General which closely follows all arbitration cases conducted under the LAC Rules.

Rules

The Lebanese Arbitration Centre offers its different services to the business community, to all business enterprises whether or not they are members of the Chamber of Commerce, Industry and Agriculture, to all private and public institutions, and to the Government.

The Lebanese Arbitration Centre has adopted two different sets of rules; the Optional Conciliation Rules and the Arbitration Rules.

It is important to note that if one of the parties refuses or fails to take part in the arbitration process, the arbitration will proceed notwithstanding such refusal or failure, provided that the Court of Arbitration is satisfied of the *prima facie* existence of an agreement to arbitrate between the parties.

The Centre oversees the arbitration process and, among other things, is responsible for:

- ☐ Appointing arbitrators or confirming, as the case may be, arbitrators nominated by the parties;
- ☐ Deciding upon challenges of arbitrators;
- ☐ Fixing and extending time limits;
- ☐ Scrutinizing and approving all arbitral awards;
- ☐ Fixing the arbitrators' fees taking into consideration the amount in dispute and on the basis of a published scale attached to the LAC Rules.

No award shall be signed until it has been approved by the Court as to its form. Before signing an award, whether partial or definitive, the arbitrator shall submit it in draft form to the Court of Arbitration for scrutiny. The Court may lay down modifications as to the form of the award and, without affecting the arbitrator's liberty of decision, may also draw his attention to points of substance.

Scrutiny is a fundamental characteristic of institutional arbitration ensuring that arbitral awards are of the highest possible standards and thus less susceptible to annulment in the national courts than they might otherwise be.

The award is considered as a final and binding decision; it can receive immediately the exequatur of the judicial authorities.

It should be noted that by submitting the dispute to arbitration by the LAC, the parties shall be deemed to have undertaken to carry out the resulting award without delay and to have waived their right to any form of appeal insofar as such waiver can validly be made.

Furthermore, although arbitral awards may be challenged before the Court of Appeal by way of "recourse in annulment" (in conformity with article 800 of the Lebanese Code of Civil Procedure), the grounds of challenge available against arbitral awards are limited.

The Lebanese Arbitration Centre recommended model clause is as follows:

"All disputes arising in connection with the present contract shall be finally settled under the Rules of Conciliation and Arbitration at the Beirut Chamber of Commerce and Industry by one or more arbitrators appointed in accordance with the said rules. The contracting parties declare accepting the provisions of the said rules and undertake to abide by them".

2- The Arbitration Centre within the Tripoli Chamber of Commerce and Industry

The Tripoli Arbitration Centre was created on 9 November 2002 within the Chamber of Commerce and Industry of Tripoli and North Lebanon, member of the ASCAME.

The services offered by the Centre are the following: conciliation, technical expertise and arbitration in accordance with the Centre's Rules.

The Court of Arbitration, composed of five or seven members known for their expertise, knowledge and morality, controls the validity and legality of the arbitration proceedings conducted under its umbrella.

LIBYA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Libya's 1953 Code of Civil Procedure sets out procedural rules for all arbitrations, domestic or international (articles 739 to 771).

Under the Libyan Code of Civil Procedure, disputes relating to a private contract may be referred to arbitration.

In addition, the Administrative Contracts Regulation of 1980 declares that disputes involving a foreign company or organization and concerning Libyan State contracts or public entities may be settled by arbitration.

Examples of what are considered State contracts: public works agreements, public import agreements, sale contracts, transport contracts, contracts of maintenance and employment for public services projects, administrative contracts relating to public services including tourism etc...

In fact, disputes relating to these public contracts usually come under the jurisdiction of national courts, and are only exceptionally, where one of the parties is not Libyan, subject to resolution by arbitration. If the parties to such contracts have chosen arbitration, the national courts should respect that choice.

On the other hand, arbitration is not possible in labor disputes between employees and employers relating to social security, accidents or illness.

As for the petroleum industry in particular, parties have the right to choose arbitration to resolve disputes. There are rules governing the appointment of arbitrators and the Arbitrations involving disputes concerning Libyan petroleum interests are subject to Libyan law and must take place in Libya, but the principles of international arbitration law also apply (provided they do not contradict Libyan law).

Foreign awards may be enforced in Libya provided there is reciprocity between the countries involved.

International Conventions

Libya is not a party to the 1958 New York Convention or to the 1965 Washington Convention.

B - National Arbitration Centres within a Chamber of Commerce

Based on the importance of arbitration and with reference to Law no. 101 of 1973 concerning the reorganization of the Chambers of Commerce, Industry and Agriculture on modern scientific basis, the **Misurata Chamber of Commerce and Industry** established the **Board of Conciliation and Arbitration** in order to settle commercial disputes which are brought to it in agreement with the concerned parties in and out of the country.

In addition, there is the **Union of the Libyan Chambers of Commerce, Industry and Agriculture**, established on 15/4/1976 with a legal corporate personality, seated in the city of Tripoli and including the following chambers: Tripoli, Benghazi, Misurata, Derna, Alzawya, Tubruq.

This Union is responsible for the settlement of any dispute arising between the Chambers. Furthermore, the Union handles arbitration between merchants according to the request of those concerned provided that the disputing parties do not belong to the same Chamber. Moreover, the Union is responsible for arbitration and settlement of disputes in which there is a foreign party according to the agreement of the concerned parties.

There is as well the **Libyan Centre for Mediation and Arbitration in Tripoli** which was created in 2004 and which has been active in promoting a new Libyan Legislation for Arbitration.

Finally, there is also a **Board of Conciliation and Arbitration within the Chamber of Commerce and Industry of Benghazi**.

MALTA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

The sources of Arbitration law in Malta are the **1998 Malta Arbitration Act** (Chapter 387 of the Laws of Malta) and the **2004 Arbitration Rules** which incorporates the UNCITRAL Model Law, the Geneva Protocol on Arbitration Clauses, the Geneva Convention on the Execution of Foreign Arbitral Awards, the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

In domestic arbitration, all arbitration proceedings must commence with a Notice of Arbitration and failure to observe this mandatory procedure leads to the nullity and unenforceability of the procedures and any resulting award. The arbitral award, once registered constitutes an executive title and may be enforced in Malta as if it were a judgment of the courts.

Given the growing importance of arbitration as a means of dispute resolution, it has become the mandatory form of dispute resolution for certain types of disputes relating to vehicle collision, water and electricity bills as well as matters that are regulated by the Condominium Act.

However, it is not possible for parties to refer to an arbitrator any matter relating to personal civil status including those relating to personal separation and annulment of marriage.

Questions relating to the division of property between spouses may be referred to arbitration subject to the approval by the competent court of the arbitration agreement and of the arbitrator to be appointed.

Other matters such as criminal proceedings may obviously not be referred to arbitration as a matter of public policy.

Mediation is also available as a means of dispute resolution, and in some cases is mandatory, such as for instance in marital separation proceedings.

It is regulated by the **Mediation Act** (Chapter 474 of the Laws of Malta) which sets up the Malta

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Mediation Centre as the responsible authority to provide a forum for mediation to take place.

There is also the **1995 Ombudsman Act** (Chapter 385 of the Laws of Malta) which provides for the appointment of an Ombudsman who is vested with the power to investigate the administrative actions taken by or on behalf of the Government and other authorities, and for the purposes connected therewith.

International Conventions

The **1958 New York Convention** for Recognition and Enforcement of Foreign Arbitration Awards was ratified on 22 June 2000 and entered into force in Malta on 20 September 2000.

Malta made reservations a and f (- Malta will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and - Malta will apply the Convention only to those arbitral awards which were adopted after the entry into effect of the Convention.)

The **1965 Washington Convention** was signed on 24 April 2002, ratified on 3 November 2003 and entered into force in Malta on 3 December 2003.

B - National Arbitration Centres within a Chamber of Commerce

There is no arbitration Centre within the Chamber of Commerce of Valletta, member of the ASCAME.

However, there is the **Malta Arbitration Centre** which has gained increasing importance and popularity in Malta since its creation in 1998.

This Centre is administered by a Board of Governors which is appointed by the President of Malta but is however independent of the Government.

The Malta Arbitration Centre has adopted the above-mentioned 2004 Arbitration Rules as their own Rules applicable to disputes referred to the Centre.

MONTENEGRO

A - Brief Description of Legal framework

National Arbitration Law

There is no available or accessible information concerning Arbitration Law in Montenegro.

International Conventions

The **1958 New York Convention** entered into force in Montenegro on 3 June 2006 and was also ratified on 23 October 2006 after notification of succession following its independence from the State Union of Serbia and Montenegro.

Montenegro made reservations a, b and f (- Montenegro will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and – Montenegro will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law and - Montenegro will apply the Convention only to those arbitral awards which were adopted after the entry into effect of the Convention.)

Montenegro has not ratified the **1965 Washington Convention**.

Montenegro has ratified the **1961 European Convention** on 12 March 2001, at a time when it was still part of the Union State of Serbia and Montenegro.

B - National Arbitration Centres within a Chamber of Commerce

The Chamber of Economy of Montenegro, member of the ASCAME, seems to have created an **Arbitration Board aimed at consumer dispute resolution**. However, there is no indication of whether this Arbitration Board has been activated or is indeed currently active.

MOROCCO

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Arbitration is not a new institution within the Moroccan Private Judicial Law. The Dahir making provisions for the Civil Procedure dated on August 12, 1913 evoked the arbitration issue.

This issue has also been evoked in the Code of Civil Procedure enacted on September 28, 1974 and this in 21 sections (sections 306 to 327), which only address internal arbitration without special mention for international arbitration. The same provisions apply to both cases.

However, a new law was passed by the Moroccan Parliament on 6 December 2007 (Law n° 08-05) which repealed the provisions of the code of civil procedure of 1974 related to arbitration and enforced a new framework governing conventional arbitration and mediation. The new law is based on proven methods: the Model Law of the UNCITRAL (but by adopting a methodological approach and different wording), the French Civil Code and the civil procedure code, as well as the experience of the ICC.

The New Law brings important amendments to arbitration provisions. It adopts a dualist system, providing for specific rules governing arbitration depending on whether it is domestic or international.

Articles 306 to 327-39 regulate national arbitration. Article 308 of the new law limits the possibility of recourse to arbitration to disputes within the competency of commercial courts as well as financial disputes related to the State and Local Public Entities.

Other disputes are excluded from the field of application of arbitration. This is the case for disputes concerning the status and capacity of persons, disputes arising from unilateral acts of the State, of local bodies or any other institutions with public powers as well as disputes concerning the performance of a fiscal law.

On the other hand, articles 327-39 to 327-69 of the New Law govern international arbitration.

Study concerning the creation of a Mediterranean Arbitration Centre

Even though Morocco is a member of the New York Convention of 1958 concerning the recognition of international awards, none of the articles of the code of civil procedure regulated international arbitration. Therefore, Article 327-40 of the new law states that arbitration is considered international when it involves interests related to international trade and when at least one party has its residence or headquarter abroad.

Compared to national arbitration, international arbitration presents certain particularities:

- ☐ The international arbitral award may be issued in Morocco or abroad.
- ☐ The parties may determine the national law applicable to the procedure and under which the dispute shall be resolved.

International Conventions

The **1958 New York Convention** was ratified on 11 August 1998 and entered into force in Morocco on 15 September 1998.

Morocco made reservation a (Morocco will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State)

The **1965 Washington Convention** was signed on 11 October 1965, ratified on 11 May 1967, and entered into force in Morocco on 10 June 1967.

B - National Arbitration Centres within a Chamber of Commerce

1 - The Rabat International Mediation and Arbitration Centre (CIMAR)

The CIMAR was founded by the Rabat Chamber of Commerce, Industry and Services, member of the ASCAME, in partnership with the Ministry of Trade and Industry and the Ministry of Justice in Rabat, on 28 April 1999, however the Centre actually began its activity in 2001.

Structure

The CIMAR is an independent agency working at both the national and international level.

It is governed by a Board of Directors and an executive office which role and mission are to promote and strengthen the practice of arbitration and mediation as means of resolving legal commercial and social disputes in

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Morocco. It organizes institutional arbitration in accordance with trade law, rules and practices and it provides administrative facilities necessary for arbitrators.

Rules

Their Rules are based on the **UNCITRAL Arbitration Rules**

Their recommended arbitration clause is as follows:

"Any dispute or difference arising under this contract will be resolved by arbitration in accordance with the Rules of the International Mediation and Arbitration Centre of Rabat in force, to which the parties declare their adherence."

2 - The Atlantic Court of International Arbitration (CAAI)

On 7 July 2005, the Atlantic Court of International Arbitration was created within the Chamber of Commerce, Industry & Services of Agadir, member of the ASCAME.

It was created pursuant to a Partnership Agreement signed between the President of the Chamber of Commerce and Industry of Agadir and the Presidents of the Chambers of Commerce and Industry of Las Palmas and of Tenerife.

Structure

The Standing Committee of the Court (Comité permanent) is the managing body within the CAAI. It regroups 8 members: 4 representing the Chamber of Commerce of Agadir, 2 representing the Chamber of Commerce of Las Palmas and 2 representing the Chamber of Commerce of Santa Cruz de Tenerife.

The status of the CAAI defines the attributions and responsibilities of the Standing Committee.

Rules

The Court is responsible for managing arbitration and conciliation procedures in accordance with the Arbitration and Conciliation Rules of the CAAI.

3- The Mediation and Arbitration Centre of Khourigba.

The Mediation and Arbitration Centre of Khourigba was formed within the Chamber of Commerce, Industry and Services of Khourigba, member of the ASCAME.

The Centre aims to establish an institutional arbitration system according to commercial rules and practices, to ensure speedy resolution of disputes, to provide administrative facilities necessary for mediators and arbitrators and to settle commercial disputes relating to investment and international trade.

SERBIA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

The Law on Arbitration (Official Gazette of the Republic of Serbia No 46/2006) governs both domestic and international arbitration proceedings. The Arbitration Act entered into force on June 10, 2006 and is based on the UNCITRAL Model Law, and there are no significant differences between the governing law and the Model Law.

Provided that at least one of the parties is a foreigner, the parties are free to choose the law applicable to the merits of the dispute but in the absence of such choice, the Serbian Law on International Private Law will be applicable to all relations with international element.

The Serbian Law on Arbitration provides that its provisions are mandatory in arbitration proceedings taking place on the territory of the Republic of Serbia.

All property disputes concerning rights which the parties are free to dispose of can be brought before the arbitration court.

However, National Courts have exclusive jurisdiction over disputes concerning ownership and possession as well as rights concerning immovable property located in Serbia.

International Conventions

The **1958 New York Convention** for Recognition and Enforcement of Foreign Arbitration Awards was ratified on 12 March 2001 after notification of succession, the Republic of Serbia being one of the legal successor States of the former Socialist Federal Republic of Yugoslavia.

Serbia made reservations a, b and f (-Serbia will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and – Serbia will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law and - Serbia will apply the Convention only to those arbitral awards which were adopted after the entry into effect of the Convention.)

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The **1965 Washington Convention** was signed and ratified on 9 May 2007 then entered into force in Serbia on 8 June 2007.

Serbia has ratified the **1961 European Convention** on 12 March 2001, at a time when it was still part of the Union State of Serbia and Montenegro

B - National Arbitration Centres within a Chamber of Commerce

The Foreign Trade Court of Arbitration:

The Foreign Trade Court of Arbitration, seated in Belgrade, was established in 1947 within the Chamber of Commerce of Serbia, member of the ASCAME.

It is a permanent arbitration body that provides conciliation and arbitration services for all kinds of disputes arising out of international business relations when the parties have agreed upon or accepted its jurisdiction.

Structure

The Foreign Trade Court of Arbitration is managed by the Chairman, two Vice-Chairmen, the Board and the Extended Board.

The **Chairman** of the Court of Arbitration appoints an arbitrator if the parties, or the party-appointed arbitrators fail to do so.

The **Board** consists of the Chairman, two Vice-Chairmen and the Secretary of the Court of Arbitration. It makes a prima facie determination on the existence of the arbitration agreement, the challenge of an arbitrator, the ultimate appointment of an arbitrator in case of a party challenge with regard to his impartiality and independence, and examines arbitral awards as regards their form and compliance with the arbitration practice in a particular field.

The **Extended Board** consists of the Chairman, two Vice Chairmen, the Secretary and nine members from among the ranks of arbitrators. It controls the application of the Rules and follows and examines the practice of resolution of disputes.

Rules

The Rules of the Foreign Trade Court of Arbitration, (Official Gazette of the Republic of Serbia No. 52/07 of June 8, 2007), contain modern provisions which ensure speedy and efficient conduct of the proceedings.

Their recommended arbitration clause is as follows:

"The parties agree that any dispute arising out of or in connection with the present contract shall be finally settled by the Foreign Trade Court of Arbitration attached to the Serbian Chamber of Commerce by application of its Rules."

SPAIN

A - Brief Description of the Country's Legal Framework

National Arbitration Law

International and Domestic arbitrations in Spain are governed by the **Spanish Arbitration Act 60/2003 of 23 December 2003** which adopts the UNCITRAL model law with slight modifications concerning in particular the definition of international arbitration, the number of arbitrators, the authorization of institutional arbitration, the presence of particular provisions for multi-party arbitration as well as for confidentiality of the arbitration proceedings unless the parties agree otherwise.

Article 2 of the Act regulates the object of arbitration on the basis of the criterion of freely disposable estate. However, matters subject to free disposition are not exactly defined in Spanish Law and it is not clear how the courts will interpret "free disposition". It is enough for the parties to establish that the arbitrability of a dispute coincides with the disposability of its object.

The 2003 Act governs both domestic and international arbitration proceedings when the place of arbitration is in the Spanish territory.

In general, the Arbitration Act has adopted "the mono system"; providing the same regime for both international and domestic arbitrations, with only few specific rules applying differently.

In particular, in international arbitration, the arbitrators will settle the dispute in accordance with such rules of law as chosen by the parties, in the absence of which, the arbitrators shall apply the law they consider appropriate whereas in domestic arbitration, the arbitrators must follow the Spanish rules of conflicts-of-law.

Also, in domestic arbitration, the arbitrators need to be practicing lawyers. This restriction is not applicable if the arbitration is to be settled in equity (ex aequo et bono) or is international.

Arbitration is considered international under the 2003 Act:

- ☐ If at the time of the conclusion of the arbitration agreement, the parties had their place of residence in different States or,

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- ☐ If the place of arbitration, determined in accordance with the arbitration agreement, the place of performance of a substantial part of the obligations of the legal relationship from which the dispute arises, or the place to which the dispute is most closely connected, is situated outside the State in which the parties have their domiciles or,
- ☐ If the dispute arises from a legal relationship concerning interests of international commerce.

International Conventions

The **1958 New York Convention** was ratified on 12 May 1977 and entered into force in Spain on 10 August 1977. Spain made no reservations.

The **1965 Washington Convention** was signed on 21 March 1994, ratified on 18 August 1994, and entered into force in Spain on 17 September 1994.

Spain also ratified the **1961 European Convention** on Arbitration in 12 May 1975 with no reservations.

B - National Arbitration Centres within a Chamber of Commerce

1- The Barcelona Consolat de Mar at the Chamber of Commerce, Industry and Navigation of Barcelona

The Barcelona Consolat de Mar is the Conflict Settlement Centre of the Barcelona Official Chamber of Commerce, Industry and Navigation, which scope of activities arises from the functions that are attributed by the Rules of Arbitration of the Consolat de Mar and by the law of the Chambers of Commerce both in Spain as a whole and in Catalonia.

More specifically, article 11 of the Catalan Act 14/2002, of 27 June, concerning the Official Chambers of Commerce, Industry and Navigation and the General Council of Chambers provides that, among others, the Chambers have the following functions:

“Perform business arbitration, mediation and conciliation functions, in Spain and abroad, and use any other alternative system for settling conflicts, in accordance with current legislation”.

Structure

Its decision-making body is the **Council of Twenty**. This Council is composed of 20 people, appointed for a 4-year period by the Plenary Session of the Barcelona Official Chamber of Commerce, Industry and Navigation. The Council of Twenty meets at regular intervals and is chaired by the President of the Barcelona Official Chamber of Commerce, Industry and Navigation.

Rules

With respect to the conflict resolution systems administered and organized by the Consolat de Mar, a series of general and special provisions are taken into account, including Arbitration Rules as well as specific Rules providing for the possibility of referring disputes to a neutral third party who is an expert in the facilitation of negotiation and alternative dispute resolution systems and whose intervention must be and must remain neutral, independent, objective and impartial.

Their recommended Arbitration clause is as follows:

“For the resolution of any disagreement(s) arising from this agreement or legal act, the parties submit themselves to the Regulations for the Agreed Resolution of Disputes of the Consulate of the Sea of the Official Barcelona Chamber of Commerce, Industry and Shipping.

If they are not able to resolve the disagreement(s) in accordance with said Regulations within 60 days of acceptance by the Consulate of the Sea of the Application for the Agreed Resolution of Disputes, or by the expiry of another deadline agreed between the parties, said disagreement(s) shall be submitted to the institutional arbitration of the Consulate of the Sea of the Official Barcelona Chamber of Commerce, Industry and Navigation, which shall be charged with the appointment of the arbiter and the administration of the arbitration. The parties expressly agree that if the arbitration is legal in nature, the arbiter need not necessarily be a lawyer”.

2- The Court of Arbitration at the Chamber of Commerce, Industry and Navigation of Bilbao

Since the Bilbao Chamber of Commerce, Industry and Navigation was established in 1886, it has been resolving conflicts through arbitration. This function has been strengthened by the establishment of the Court of

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Arbitration within the Chamber, which has been given the power to administer arbitrations.

Structure

The Court is composed of a **Higher Council**, a **Permanent Committee**, a **Permanent Consensual Dispute Resolution Committee** and a **Secretariat**.

The Bylaws of the Court provides for the composition, function and mission of the bodies of the Court .

Rules

Arbitration proceedings within the Court of Arbitration of Bilbao are regulated by the provisions of the Arbitration Regulations that entered into force on 26 March 2004.

The Court also offers another procedure with specific rules for resolving disputes called "consensual dispute resolution methods" involving mediation as their best technique. Those specific Rules entered into force on 26 October 2005.

Their recommended arbitration clause is as follows:

"The parties agree that any conflict or dispute arising from this legal relationship shall be definitively resolved before the court of arbitration of the Bilbao chamber of commerce, industry and shipping to which the administration of the arbitration proceedings and the appointment of the Arbitrator(s) is entrusted, pursuant to its Regulations and Bylaws."

3- The Court of Arbitration of the Official Chamber of Commerce and Industry of Madrid

The Court of Arbitration of the Official Chamber of Commerce and Industry of Madrid is one of the leading arbitration institutions in Spain having a long experience in managing domestic and international arbitration.

The Court is responsible of managing any activity related to domestic and international arbitration cases submitted to it in accordance with its Statute which provides for the composition, organization and functions of the Court.

Structure

The Madrid Court of Arbitration is composed as follows:

- ☐ The Plenary of the Court (the "Plenary") will have a maximum of 13 members including permanent members (the President of the Court and the President, Managing Director and Secretary General of the Official Chamber of Commerce and Industry of Madrid). The rest of the members will be appointed by the Plenary of the Chamber for renewable terms of four years from amongst leading personalities in the business and legal world.
- ☐ The President of the Court will be appointed by the Plenary of the Chamber for terms of office of four years, with the possibility of being reelected.
- ☐ The Secretary General of the Chamber will act as Secretary General of the Court.

The Court may function in Plenary or in permanent or temporary Committees to study or implement decisions in certain matters.

Rules

The Madrid Court of Arbitration has recently adopted new Rules for Arbitration which came into force on 1 January 2009.

Those Rules regulate the main issues applicable to the arbitration proceedings administered by the Madrid Court of Arbitration and have introduced substantial reforms.

In particular and regarding the scope of the arbitration clause and the existence of parallel proceedings, the Rules include relevant provisions covering the possibility to (i) include third parties if the arbitral tribunal so decides, after hearing all the parties involved in the arbitration (ii) join arbitral proceedings.

It is also worth mentioning that an English language version of the Rules has been issued for the first time, which increases the possibility of administering disputes between non-Spanish-speaking parties in addition to a providing for the possibility for the parties to agree on submitting their respective communications and statements solely in digital form, which implies that the Madrid Court of Arbitration would have to implement a reliable and technically efficient IT system.

Their Standard Arbitration Agreement is as follows:

"Any dispute arising out of or relating to this contract, including any matter regarding its existence, validity or termination, shall be definitively settled by arbitration [in law/ex aequo et bono], administered by the Court of Arbitration of the Official Chamber of Commerce and Industry of Madrid, in accordance with its Arbitration Rules in force at the time the request for arbitration is filed. The arbitral tribunal appointed for such purpose will be formed by [three / a sole] arbitrator[s] and the language to be used in the arbitration will be [Spanish / other]. The place of arbitration will be [city + country]."

4- The Court of Arbitration of the Official Chamber of Commerce, Industry and Navigation of Seville

Arbitration proceedings administered by the Arbitration Court of Seville are governed by the Regulations adopted on 1 July 2004 which specify the conditions of the competence of the Court to administer national and international arbitration cases.

Moreover, the Court is also competent to administer conciliation proceedings in accordance with the provisions of the abovementioned Regulations.

5- The Valencia Court of Arbitration within the Valencia Official Chamber of Commerce, Industry and Navigation.

Constituted in 1989, the Valencia Court of Arbitration works on promoting arbitration culture in the civil and business society and on fostering arbitration as a true alternative and complementary institution to legal action.

Structure

The Court is governed as regards its acts and procedures by its Statutes and by its Regulations.

Rules

The Rules governing arbitration conducted under the umbrella of the Valencia Court of Arbitration are provided for in its Regulations.

The Court also proposes model arbitration clauses for standard arbitration agreement in order to settle contractual disputes and inter-company disputes and testamentary model clause for testamentary arbitration to be included in any testamentary form.

SYRIA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Arbitration in Syria is governed by the New Law on Arbitration No 4 of 25 March 2008, enacted on 1 May 2008 and based on the Egyptian Arbitration Act and the UNCITRAL Model Law.

Article 64 of the New Arbitration Act repealed the previous regulations on arbitration contained in the Syrian Code of Civil Procedure of 28/9/1953 (Article 506-534) which had stipulated the rules and basis for voluntary arbitration in Syria.

The provisions of the New Syrian Act is applicable to any arbitration conducted in Syria; it is also applicable to any international commercial arbitration conducted abroad if the two parties agree to subject it to the provisions of the Act.

Arbitral agreements may only be concluded by individuals or legal entities having capacity to dispose of their rights under the applicable law.

Arbitration agreements are not permitted in matters where compromise is not allowed or in matters contrary to public order or related to nationality or personal status, except where it concerns the financial effects resulting from such matters.

International Conventions

The **1958 New York Convention** was ratified on 9 March 1959 and entered into force in Syria on 7 June 1959. Syria made no reservations.

The **1965 Washington Convention** was signed on 25 May 2005, ratified on 25 January 2006, and entered into force in Syria on 24 February 2006.

B - National Arbitration Centres within a Chamber of Commerce

To date, there are no arbitration Centres or establishments in Syria as per the international conventional standards to settle commercial disputes. This leads individuals and corporations to form private arbitration courts "Ad Hoc", which are prevalent and accepted in Syria for dispute resolution.

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There is an Arbitration Committee within the Chamber of Commerce and Industry of Aleppo, however, this committee does not play the role of an arbitration Centre but merely provides certain assistance and required information concerning arbitration.

TUNISIA

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Arbitration in Tunisia is governed by the Tunisian Arbitration Code, which was brought into effect by Law 93-42 of 26 April 1993 and which is largely inspired by the UNCITRAL Model Law as well as the New York Convention

The Tunisian Arbitration Code governs both domestic and international arbitration, however when the Code defines a dispute as "international", only some of its articles are applicable to the arbitration agreement and the rules of procedure.

It is to be noted that article 7 of this Code states that certain matters cannot be referred to arbitration. This is the case for matters regarding public order, disputes related to nationality and disputes concerning personal status, except for the financial aspects in relation thereto.

In addition, disputes involving the State, Public Administrative Authorities and Local Communities cannot be referred to arbitration, with the exception of the disputes arising from international economic, commercial or financial relationship, regulated by chapter three of the Code.

The Code specifies that an arbitration agreement must be in writing, and must detail the subject matter of the dispute to be settled and the names of the chosen arbitrators. When there is no arbitration agreement, the defendant must formally concede to arbitration before the chosen tribunal, or submit to arbitration in the defence, for arbitration to proceed.

In an ad hoc arbitration, the arbitral tribunal will normally determine the procedure to be followed, unless the parties agree otherwise or have specified their own rules of arbitration. An institutional arbitration will follow the rules of the institution. In either case, the fundamental principles of Tunisian civil and commercial procedure (such as the right of defence) must be respected.

International Conventions

The **1958 New York Convention** was ratified on 17 July 1967 and entered into force in Tunisia on 15 October 1967.

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Tunisia made reservations a and b (- Tunisia will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and - Tunisia will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law.)

The **1965 Washington Convention** was signed on 5 May 1965, ratified on 22 June 1966, and entered into force in Tunisia on 14 October 1966.

B - National Arbitration Centres within a Chamber of Commerce

There are no arbitration centers within any of the **Tunis Chambers of Commerce**, members of ASCAME. However, these Chambers provide arbitration services managed by arbitration or conciliation commissions.

Moreover, the leading commercial arbitration body in Tunis which is the **Tunis Center for Conciliation and Arbitration** (Centre de Conciliation et d'Arbitrage de Tunis – CCAT) was created on 23 June 1996 at the initiative of the Tunisian Union of Industry and Commerce, Chambers of commerce and other professional associations active in the arbitration field and the CCAT works closely with a large number of chambers of commerce and industry in Tunis, including the Tunis Chamber of Commerce, member of the ASCAME.

Structure

The CCAT is governed by a Board of Directors that appoints a "Scientific Council" of five to twenty members. This Council plays the role of an arbitral tribunal in charge of supervising and regulating arbitration procedures administered by the Center, and the compliance by arbitral tribunals. In addition to the Council, the CCAT includes a Management Committee and an Executive Committee.

Rules

The CCAT applies its Rules whenever it is appointed by an agreement to conduct arbitration, conciliation or mediation proceedings. Those Rules specify the structure of the Center, its composition and the conditions of the procedure of arbitration or mediation/conciliation applicable within the Center.

Their recommended Model Arbitration Clause

"Any dispute arising out of or relating to the present contract shall be settled by arbitration in conformity with the provisions of Tunis Center of Conciliation and Arbitration Rules in force, to which the parties have adhered. Consequently, the parties agree:

- ☐ To submit their dispute to an arbitral tribunal composed of (a sole arbitrator) (three arbitrators) appointed in conformity with Center Rules.
- ☐ That the language of arbitration is (...)
- ☐ That the dispute is settled in accordance with (the law) (the rules of equity)

Their recommended Model Mediation Clause

The parties agree to submit any litigation relating to the present contract to a mediator or a conciliator appointed by the President of Tunis Center for Conciliation and Arbitration, and in accordance with the rules of the Center.

TURKEY

A - Brief Description of the Country's Legal Framework

National Arbitration Law

Turkey has a dual arbitration system: domestic and international.

Domestic arbitration is governed by the Code of Civil Procedure of 1927 (the CCP), adapted from the Neuchatel Civil Code of Procedure of 1925.

International commercial arbitration is governed by the Turkish International Arbitration Law No.4686 (the IAL), which was enacted on 21 June 2001 and came into effect on 5 July 2001 and which is inspired by the UNCITRAL Model Law as well as the Swiss Arbitration Law.

This new Law sets forth the rules applicable to arbitration proceedings taking place in Turkey but concerning disputes arising from contracts containing a "foreign element" as well as to arbitration proceedings taking place outside or within Turkey when this Law is chosen as applicable by the concerned parties or arbitrators.

The definition of "foreign element" is very broad and so is therefore the scope of Law No. 4686. Indeed, besides the standard factors assessed for the determination of the existence of a foreign element, such as the residence of the parties or the place of performance, the existence of foreign element is also determined with an economic approach. This aspect is very important for foreign investors that establish a Turkish company because contracts entered into between foreign-owned companies established in Turkey and Turkish public or private sector entities will benefit from the application of the IAL.

Most commercial disputes can be settled through arbitration, to the exception of disputes relating to "in rem" rights over property as well as disputes that are not at the free disposal of the parties (matters arising, for example, from family law or bankruptcy law).

International Conventions

The **1958 New York Convention** was ratified on 2 July 1992 and entered into force in Turkey on 30 September 1992.

Turkey made reservations a and b (- Turkey will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State and - Turkey will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law.)

The **1965 Washington Convention** was signed on 24 June 1987, ratified on 3 March 1989, and entered into force in Turkey on 2 April 1989.

The **1961 European Convention** was ratified by Turkey on 24 January 1992 without any reservations.

B - National Arbitration Centres within a Chamber of Commerce

The most active arbitration centers in Turkey are the Istanbul Arbitration Center and the Arbitration Council within the Union of Chambers Commodity Exchanges of Turkey.

1- The Arbitration Service within the Istanbul Chamber of Commerce (ITO).

The Istanbul Chamber of Commerce has adopted modernized Arbitration Rules and issued the ITO Regulation Pertaining to Arbitration, Conciliation and Expert Witnesses.

It is to be noted that parties are entitled to initiate arbitration proceedings with the ICOC on the condition that at least one of the parties is a member of:

- ☐ the ICOC;
- ☐ the Istanbul Chamber of Industry;
- ☐ the Istanbul Commodity Exchange; or
- ☐ the Istanbul and Marmara Region Maritime Chamber of Commerce.

In cases where the above condition is not fulfilled, the rendering of such services is subject to the authorization of the ICOC's board of directors.

2- The Arbitration Council within the Union of Chambers Commodity Exchanges of Turkey (UCCET).

The Arbitration Council was created within the UCCET in Ankara to ensure the settlement of commercial and industrial disputes whether occurring among Turkish individuals or legal entities or between Turkish and Foreign individuals or legal entities or even among foreign individuals or legal entities.

The Arbitration Council does not settle the disputes itself but administer and control the proceedings conducted, within the framework of the UCCET Arbitration Rules, by independent and competent arbitral tribunals.

Structure

The Arbitration Council consists of seven members, two of which are consultant members. Consultant members are proposed by the Chairman of the Board of Directors and are chosen by the Board of Directors of the Union among a minimum of four jurist candidates who have knowledge and experience in arbitration law. The other members are chosen amongst candidates recommended by each of the Councils of the Union and by the Union Board of Directors.

Rules

The UCCET has prepared and put into force the Arbitration Rules in order to regulate and manage the procedures of the settlement by arbitration of the disputes.

Furthermore, the Arbitration Council proposes a detailed Model Arbitration Agreement to be adopted by the parties applying for the UCCET arbitration.

However, the Council mentions that in order to make use of its arbitration process, it is necessary and sufficient for the businessmen and industrialists to include a clause in their contracts stating that disputes arising from the application of the contract shall be settled by arbitration and in accordance with the provisions of the UCCET Arbitration Rules.

Conclusion

As highlighted in our Introduction, the Mediterranean Region is an area of strategic importance, an area that connects countries from three main continents and an area sustaining major trading exchanges.

The economic and commercial importance of that Region as well as the actual trade exchange occurring between countries of that Region are certainly leading to a large number of commercial disputes within the ASCAME region.

Taking into consideration that most of those regional commercial disputes are often referred to “well-known” international arbitration institutions, as opposed to national arbitration centres in the Mediterranean Area, it seems necessary to create appropriate ADR and arbitration services, tailored to the specific needs of users of such mechanisms in the Mediterranean countries.

In that line, the purpose of the present study was to examine the arbitration status and culture in the countries members of ASCAME in order to better prepare for the establishment of a Regional Mediterranean Arbitration Centre which would serve those countries in the best way possible.

This study which does not pretend to be exhaustive gives however a very clear indication as to the status of alternative dispute mechanisms, particularly arbitration, as well as the role played by national arbitration centres in all the countries which are members of ASCAME.

On one hand, looking at the applicable Arbitration Laws and Rules in each country, it appears that most countries members of the ASCAME have a modern arbitration framework which will contribute to the good reception and success of a Regional Arbitration Centre by and in those countries.

Indeed, the vast majority of the countries members of ASCAME has arbitration legislations adopting the United Nations Commission for International Trade Law – 1985 Model Law on International Commercial Arbitration (UNCITRAL Model Law) or at least inspired by the latter.

This is in fact the case for Algeria, Bulgaria, Croatia, Cyprus, Egypt, Greece, Jordan, Malta, Serbia, Spain, Syria, Turkey and Tunisia.

Italy’s arbitration Law, in its major part, is inspired by the UNCITRAL Model Law, except for some variations pursuant to the 2006 amendments.

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Albania has currently a Draft Law on arbitration also based on the UNCITRAL Model Law.

Morocco's new arbitration law is inspired by both the UNCITRAL Model Law and the French Law.

France and Lebanon have modern arbitration legislations as well which, although not based on the UNCITRAL Model Law, do not however have significant differences with the latter.

In addition, looking at the most important international Conventions, it appears that there is an excellent general reception of arbitration-related international instruments.

Indeed, except for Libya, all other countries members of the ASCAME have ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and except for Libya and Montenegro, all other countries members of the ASCAME have ratified the 1965 Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

On the other hand, looking at the National Arbitration Centres in each country was a little more complicated for a number of reasons:

- ☐ First, the actual contact with those arbitration centres was not always easy
- ☐ Second, the information related to those centres was not always available and/or accurate
- ☐ Third, in some countries, the most active arbitration centre(s) was/were not necessarily affiliated with a Chamber of Commerce and thus was/were not covered by the present study
- ☐ However, notwithstanding the difficulties encountered, we were able to collect sufficient data to cover all countries and to give a clear and comprehensive overview concerning the various and more or less important role played by the national arbitration centres present in each country.

Most countries covered by the present study seem to have active arbitration centres, however it was noticed that many countries have private arbitration centres, not affiliated with any Chamber of Commerce and most importantly

that the vast majority of the studied arbitration centres seem to mostly or even exclusively administer domestic arbitration cases, as opposed to international or regional arbitration cases.

Finally, looking at the overall arbitration background and standing in this Mediterranean Region, it appears that there are still some deficiencies and some missing services which will certainly benefit a great deal from the establishment of a Regional Mediterranean Arbitration Centre which will have the definite and significant advantage of being organized and supervised by a well-established regional organization such as the ASCAME.

As a result of the present study and based on the findings that can be drawn up thereof, several suggestions can be put forward as detailed thereafter.

The establishment of a Regional Mediterranean Arbitration Centre seems crucial to provide more credibility and authority to the ADR mechanisms in the Mediterranean Region, particularly in some countries where confidence in such mechanisms is still to be gained.

This Study suggests that the Mediterranean Arbitration Centre would have a triple role, one that would complement the role of existing national arbitration Centres in the Mediterranean Region, another that would satisfy an existing need for some missing services in this Region and yet another which would give added value to that particular Region.

1 - The complementary roles of the Mediterranean Arbitration Centre and the national arbitration centres:

The Regional Mediterranean Arbitration Centre could provide support and assistance to the existing national arbitration centres, for example by creating a network comprising all the national arbitration centres affiliated with chambers of commerce members of ASCAME which purpose would be to:

- ☐ Cooperate in the encouragement of the recourse to arbitration and ADR in domestic as well as regional or international transactions in each country.
- ☐ Promote the inclusion of arbitration clauses referring to the relevant national arbitration centre in domestic contracts and to the Regional Mediterranean Centre in international or regional contracts concluded by Governments of ASCAME member's countries.

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- ☐ Provide mutual assistance in relation with facilities or administrative services in support of arbitration and mediation procedures taking place in one of the Mediterranean member's countries as well as in proposing individuals of suitable professional experience and integrity to serve as arbitrators or mediators.
- ☐ Exchange information and publications related to internal and international commercial and investment arbitration and other methods of dispute settlement in each country
- ☐ Organize joint events, conferences, seminars, discussion panels and workshops aiming to educate and inform the business community on alternative resolution of disputes and raising awareness amongst the potential beneficiaries of such mechanisms.

2 - The missing and additional services that the Mediterranean Arbitration Centre could provide:

In addition to its support role to national arbitration centres, the Mediterranean Centre would have the opportunity to provide additional services which are currently missing or unsatisfactory in the Region.

In particular, in view of its privileged structure and organization under the official umbrella of the ASCAME, this Centre would probably be able to:

- ☐ Work with the various ministries and governmental entities of each country for the promotion of arbitration and other ADR mechanisms either by way of discussing and/or making suggestions which would facilitate the implementation of new and modern arbitration/ ADR laws and regulations where those are still missing or incomplete or by helping in keeping the national arbitration and ADR legislations modern and updated or even in suggesting and/or providing training local judges and officials of local governments who are all keys to the good reception of alternative dispute resolution in the country
- ☐ Create efficient and trustworthy programs for training specialists in the field of ADR and arbitration
- ☐ Provide a unique and effective administration of regional arbitration cases ensuring that those proceedings meet the particular needs of the regional business community and of the national governments, in relation with duration and costs of the procedure, neutrality and

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independence of arbitrators or mediators in addition to authority and credibility.

3 - The added value the Mediterranean Arbitration Centre could offer:

Not only would the role of the Regional Arbitration Centre be complementary and supportive to the role of the national arbitration institutions in all of the ASCAME countries but also it would contribute to the further expansion and development of the arbitration culture in the Mediterranean region as well as to the strengthening of the economic and political inter-Mediterranean relationships and ultimately help the overall economy of those countries.

Indeed, there is no doubt that the availability of functioning and efficient commercial arbitration and mediation systems in the Mediterranean countries would help each and every one of those countries to attract foreign trade and investment.

In conclusion, the present study has confirmed that the arbitration institutions existing within the Mediterranean Region are not effectively utilized and that, for the major part, those National Arbitration Centres do not feature noticeably in the global arbitral market.

The present study has therefore unquestionably underlined the pressing need for the creation of a well thought regional arbitration institution which would be up to the challenge of providing appropriate dispute resolution services to the Mediterranean Region.

The success of any Arbitration Centre is largely dependent upon the confidence of the users of the alternative dispute resolution mechanism, whether be it arbitration or conciliation/mediation; the confidence in the dispute resolution process itself but most importantly in the legal regulatory framework as well as the dispute resolution mechanism provider.

The Mediterranean Arbitration Centre would certainly be the Institution most fit to offer the Mediterranean arbitration and ADR users the confidence, credibility, efficiency and flexibility they seek for the resolution of their commercial and investment regional disputes.

It is important finally to note that the choice of Lebanon as host for the Mediterranean Arbitration Centre is to be encouraged, as Lebanon certainly has numerous strong points and offers many benefits.

Lebanon's geographical position between the European and Arab Countries of the Mediterranean Region has undoubtedly vested it with its multicultural and multi-lingual heritage which allows it to fulfill the mission of coordinating and dealing with multinational business relations with a high sense of experience and respect for differences.

Indeed, Lebanon has along the ages, been a center for intercultural and international exchanges and interactions. It's historical relationship with the influential European empires and kingdoms, such as France and Italy, has allowed the Lebanese people to acquire many aspects of the European knowledge, traditions and popular usages, which reflected on its society's language and vocabulary, architecture and arts, literature and education and even its fashion and cuisine. As a matter of fact, most Lebanese are bilingual since their early childhood and most educational institutions teach French and English at early stages, and all public ministries as well as the entire private sector provides its services in all said three languages.

Furthermore, Lebanon's leading and active role amongst the international community is well recognized, a fact that ensures an efficient and reliable networking, especially reinforced by the Global Lebanese Diaspora, as more than 10 millions Lebanese are spread around the five continents.

Being a founding and contributing member of the United Nations Organization, actually holding a seat in its Security Council, as well as being a founding member of the League of Arab States, Lebanon has secured its place at the forefront of international venues and events. Lebanon is also an active member of the International Organization of *La Francophonie*, successfully hosting in the foregoing year of 2009, the *Games of La Francophonie*.

Most particularly, Lebanon's Capital Beirut, has distinguished itself by its dazzling multi-faced cultural expression. Indeed, Beirut has risen to become the venue of peaceful dialogue between religions and especially between Islam and Christianity. Beirut has mixed its ancient and archeological face with its new and modern skyscraping one. Beirut is also renowned for being the fashion capital of the Arab world, where the best designers and luxurious brands have chosen to show their creations and attract the most glamour clientele. The Capital has also proven to be a cultural center, as dozens of prime concerts and art exhibitions take place during the year,

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noting that Beirut was in the forthcoming year of 2009, nominated by the UNESCO as the *World Book Capital*.

Most importantly, Lebanon, being a democratic and liberal country, is distinguished for having a modernized and efficient legal system, due to its prominent and dynamic supporting institutions among which is the Beirut Bar Association and the Beirut Chamber of Commerce and Industry and its Arbitration Center, whose highly skilled and internationally oriented legal professionals always insure the most active presence of Lebanon on the international scene.

The lawyers, arbitrators and jurists are well known for their high professionalism and thorough and solid academics, as the Lebanese law schools are among the best in the world, following the Romano-Germanic law tradition, which allows their graduates to integrate any foreign environment and practice in the different regions of the modernized world. It is also important to note that Lebanon has a fully developed communication infrastructure with the latest IT & internet technologies providing the local professionals all necessary technical support.

In conclusion, the projected Center is guaranteed to be extremely well equipped and manned with very efficient, competent and devoted experts and professionals.

As for the ASCAME members, lawyers, jurists and all those who wish to collaborate or have resort to the Center, they will surely enjoy working with the Lebanon-based Center, as they will directly recognize during their stay a part of their own identity and culture, discovering a country that welcomes them with the best services and comfort they could expect to feel just like being at home.

Bibliography

Online Resources

- 1- International Comparative legal guide series, International arbitration, litigation and dispute resolution.
[Http: //www.iclg.co.uk//](http://www.iclg.co.uk/).
- 2- Juris International, General Collections, Arbitration and Mediation Centres.
[Http: //www.jurisint.org//](http://www.jurisint.org/).
- 3- HG org, worldwide legal directories, Arbitration and Mediation.
[Http: //www.hg.org//](http://www.hg.org/).
- 4- Legifrance, le service public de la diffusion du droit.
[Http: //www.legifrance.gouv.fr//](http://www.legifrance.gouv.fr/).
- 5- Chambre Algérienne de Commerce et d'Industrie.
[Http: //www.caci.com.dz//](http://www.caci.com.dz/).
- 6- Chambre de Commerce et d'Industrie de Bourgas.
[Http: //bccibg.org//](http://bccibg.org/).
- 7- Croatian Chamber of Economy.
[Http: //www.hgk.hr//](http://www.hgk.hr/).
- 8- Cyprus Chamber of Commerce and Industry.
[Http: //www.ccci.org.cy//](http://www.ccci.org.cy/).
- 9- Chambre de Commerce et d'Industrie de Paris.
[Http : //www.ccip.fr//](http://www.ccip.fr/).
- 10- Chambre de Commerce
Franco-arabe.
[Http: //www.ccfranco-arabe.org//](http://www.ccfranco-arabe.org/)

Study concerning the creation of a Mediterranean Arbitration Centre

- 11- Institut Euro Méditerranéen d'arbitrage.
Http: [//www.arbitrage-euromed.com//](http://www.arbitrage-euromed.com//)
- 12- Athens Chamber of Commerce and Industry.
Http: [//www.acci.gr//](http://www.acci.gr//).
- 13- Union Italiana delle Camere di Commercio.
Http: [//www.unioncamere.it//](http://www.unioncamere.it//)
- 14- Jordan Chamber of Industry.
Http: [//www.jci.org.jo//](http://www.jci.org.jo//)
- 15- Chambre de Commerce d'industrie et de services Agadir, Centre d'arbitrage.
Http: [//www.ccis-agadir.com//](http://www.ccis-agadir.com//)
- 16- Serbia Chamber of Commerce, Foreign Trade Court Of Arbitration.
Http: [//www.pks.rs/en//](http://www.pks.rs/en//)
- 17- Centre de Conciliation et d'Arbitrage de Tunis, Arbitration and Conciliation.
Http: [//www.CCAT.org.tn//](http://www.CCAT.org.tn//)
- 18- Istanbul Chamber of Commerce, Tahkim Tüketici Koruma, İngilizce tahkim yönetmeligi.
Http: [//www.ito.org.or//](http://www.ito.org.or//)
- 19- The Arbitration Council within the Union of Chambers Commodity Exchanges of Turkey.
Http: [//www.tobb.org.tr//](http://www.tobb.org.tr//)

Publications

- 1- Spain's new arbitration act, Translation of the new Spanish arbitration act (Ley 60/2003 de 23 de diciembre; de Arbitraje). David J.A. Cairns & Alejandro López Ortiz, B. Cremades & Asociados, Madrid.
- 2- Rules of the Valencia Arbitration and Mediation Court, Cámara de Comercio, Industria y Navegación de Valencia, artes graficas Vicent.
- 3- The new Syrian arbitration Act, Internal Translation by Sayed & Sayed, Attorneys at law.
- 4- The new Turkish International arbitration Law, what and how it will affect foreign investment and International Dept Banking Confidence in future Turkish Projects, Mehtap Yildirim-Ozturk of Cakmak Ortak Auukat Burosu, Ingilizce Tahkim Yonetmeligi.
- 5- The Code of Civil Procedure of the Republic of Albania, Albanian Law on Arbitration.
- 6- Particular disposals to International Commercial Arbitration. Algerian Code of civil Procedure, Book 8, article 442-458.
- 7- Algerian Law N° 08-09, Livre V, Modes alternatifs de règlement des litiges, Journal Officiel de la République Algérienne N° 21.
- 8- Bulgarian Law on International Commercial Arbitration. State Gazette (SG) N°60 of 05.08.1988, last amendment (SG) N°59 of 20/07/2007.
- 9- Croatian Arbitration Act, provisional translation of the Croatian Law on arbitration published in Off. Gaz. 88/2001 of October 11, 2001 prepared by Dr. Alan Uzelac.
- 10- The Cyprus International Commercial Arbitration, N° 101 of 1987, English translation prepared by the service for the Revision and Consolidation of the Cyprus Legislation and issued by the Ministry of Justice.
- 11- Egyptian Law N°27/1994 promulgating the law concerning arbitration in civil and commercial matters, Official Gazette N°16 bis 21st of April 1994.
- 12- Egyptian Law N°9 /1997, arbitration and administrative contracts litigations, the Lebanese Revue of Arbitration N°8.

Study concerning the creation of a Mediterranean Arbitration Centre

- 13- Articles 1442 to 1507, Book IV, Arbitration French Code of Civil procedure.
- 14- Articles 2059 to 2061, Title XVI, Arbitration agreement, French Civil Code.
- 15- Italian Legislative decree of 2 February 2006 N°40 chapter II: Modification of the Code of Civil procedure regarding arbitration, Professor Piero Bernardini, Yearbook Commercial arbitration, vol. XXXI (2006).
- 16- Synoptic chart of the modifications of the Code of Civil Procedure on arbitration as amended by legislative decree of 2 February 2006 N°40, documentation and studies Centre for ADR Chamber of National and International Arbitration of Milan.
- 17- Law N°31 of 2001, Jordan Arbitration law, Law and arbitration centre, Dr. Hamzeh Haddad.
- 18- Articles 762 to 821, chapter 1, Book2 "Arbitration provisions" Lebanese New Code of Civil procedure.
- 19- Lebanese Law N°440 dated 29 July 2002, amendment of some of the arbitration provisions in the New Code of Civil Procedure.
- 20- Rules of conciliation and arbitration of the Lebanese arbitration center of the Beirut Chamber of Commerce and Industry, Beirut Chamber of Commercial and Industry.
- 21- Articles 739 to 771, procedural rules for domestic and international arbitration, Libyan Code of Civil procedure.
- 22- The 1998 Malta arbitration act, chapter 387 of the Laws of Malta.
- 23- The 2004 Malta arbitration rules, arrangement of rules, Subsidiary legislation 387.07.
- 24- Chapitre XV, Des Arbitrages, Loi Marocaine du 12 Août 1993, Code de procédure Civile.
- 25- Articles 306 à 327, chapitre VIII, De l'Arbitrage; Loi Marocaine du 28 septembre 1974, Code de procédure Civile.

Study concerning the creation of a Mediterranean Arbitration Centre

- 26- Loi N°08-05 abrogeant et remplaçant le chapitre VIII du titre V du code procédure Civile, Bulletin officiel Marocain, N°5584,25 Kaada 1428 (6-12-2007)
- 27- 2006 Serbian arbitration act, Official Gazette of the Republic of Serbia N°46/2006.
- 28- The rules of the Foreign trade court of arbitration at the Serbian Chamber of Commerce, Official Gazette of the Republic of Serbia N°52/07 June 8, 2007.

Communications and Correspondence

- 1- Greece, Athen Chamber of Commerce and Industry.
Directorate of International Commercial relations, department of arbitration.
Letter; February 9, 2010.
- 2- Turkey, Istanbul Chamber of Commerce.
Department of Presidency and General Secretariat.
Letter, February 25 2010.
- 3- Spain, Barcelona Chamber of Commerce, Association of the Mediterranean Chambers of Commerce and Industry, General Secretariat.
E-mail, January 27 2010.
- 4- Egypt, the Federation of Chambers of Commerce
Secretary General, Dr Alaa Ezz
E-mail, April 6 2010.