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Settlement of Foreign Direct Investment (Fdi) Disputes Through Arbitration

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Abstract

This research delves into the complexities surrounding the settlement of Foreign Direct Investment (FDI) disputes through arbitration, addressing the lack of a uniform definition of investment, the role of arbitration in attracting and safeguarding foreign investments, and the implications of the Oman Commercial Arbitration Canter (OCAC). Through legal analysis and comparative assessments, the study aims to highlight the importance of arbitration in resolving FDI disputes, examining the criteria for defining investments, the impact on investors and host countries, and suggesting enhancements to the Omani Arbitration Law to bolster investor protection and streamline dispute resolution processes within Oman.

Keywords: *Foreign Direct Investment (FDI), Arbitration, Investment Disputes, Investor Rights, Comparative Assessments.*

Introduction

The research methodology emphasizing the benefits of arbitration and litigation in resolving direct investment disputes involves a qualitative approach, comprising legal analysis, comparative assessment, literature review, case studies, interviews/surveys, and data analysis. By examining legal principles, existing literature, real-world cases, and stakeholders' perspectives, the study aims to identify patterns and draw conclusions on the advantages and disadvantages of arbitration and litigation, providing recommendations tailored to parties' needs and preferences in choosing a dispute resolution method.

Previous Studies

- Al Hinai, "Definition of Investment in the Light of the ICSID Convention: The Tsalini Case", Journal of Jurisprudence and Legal Studies. The researcher focused on the international aspect more than the local one.

- In his research, the researcher focused on arbitration and the impact of investment in developing countries. While our research came up with a more specific study of the Omani case specifically.

- Qader, "A study on the jurisdiction of the International Center for Settlement of Investment Disputes pursuant to Article 25 of the Center," (MCL Dissertation, Ahmad Ibrahim Kulliyyah of Laws, 2017)The researcher focused on the impact of international arbitration, while in our research we link the international impact with the local reality.

Introduction To Arbitration

Arbitration is defined as an optional judicial institution that is voluntarily created by the litigants to resolve a dispute arising between them. Thus, arbitrators exercise the functions of judges, in that they investigate the case at hand and issue a binding judgement on both parties. Meanwhile, the aim of arbitration is to facilitate litigation by reducing its duration and respecting the will of all parties involved, in accordance with what they have agreed over the resolution of their dispute and by the easiest means possible. Therefore, arbitration is an exception to the general rule of dispute resolution and does not violate the public order. Thus, where there is an investment, there may be room for arbitration, but there can be no arbitration if

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no investment exists, given the absence of any definition of investment in international and domestic agreements. As a result, 16% of all cases were dismissed in 2019, due to a lack of jurisdiction (Al-Atin, 2009).

In addition, arbitration has advantages that will encourage foreign investors to come to a host state. For example (Al-Atin, 2009):

- Arbitration stimulates FDI by making the environment more attractive, because the investor will feel that there are rapid alternative means of resolving disputes, and these means protect the investor from being exploited.

- Investment host countries seek to attract investment for economic growth and the employment of national manpower. Therefore, arbitration is one of the most important international solutions to investment disputes. In addition, arbitration is an important factor for attracting FDI because many investors lack confidence in the general jurisdiction of the countries hosting their investments.

International Arbitration

It would appear to the researcher that there is no uniform definition of investment in the relevant institutions of control (such as the World Bank or the IMF) and arbitration (such as the International Center for Settlement of Investment Disputes or the Permanent Court of Arbitration), since the methods used to determine the existence of an investment vary, depending on whether the arbitration takes place under the International Center for Settlement of Investment Disputes (ICSID) Convention(World Bank, 2022) or is inferred from non-ICSID arbitration rules. Such complications have an unpredictable negative impact, which is sometimes shocking to investors. In the worst cases, they can lead to the exclusion of FDI. However, they appear to be protected by basic legal instruments. For the host states, the worst case is that some definitions of investment, when applied by arbitral tribunals, may be broad-based, causing them to cover assets that the host countries have not considered, with the result that they are covered as FDIs (.Ngobeni, 2021). Consequently, the state will have a greater responsibility than it intended to sign the investment contract with the investor, and there may be bigger financial losses in the event of any dispute between the investor and the host country.

In addition, from a legal perspective, the concept of investment is assumed to consist of specific characteristics of the process on the investor side. This explains investment within important economic operations but excludes simple financial or commercial operations. Therefore, the basic elements of investment must be clear to both parties. Consequently, investment may be defined as "any contribution in cash or in kind that allows participation in economic or political projects and extends the term to medium or long term with the aim of achieving profits in the future" (. Farah and RMT Hattab, 2022).

The latest studies on the definition of investment from the 'Oxide Agreement' refer to the 'Salini' issue, out of which emerged the 'Salini criteria'. In contrast, ICSID jurisprudence and bilateral investment agreements indicate that states and investors are considered worthy of protection by the ICSID Convention, given the absence of clarity over the definition of investment in the Oxide Agreement. In dealing with the cases submitted to it, the judges of the ICSID Center have taken either one of two directions: (Al Hinai, 2022).

- The issue of investment is determined according to objective criteria: "the investor's assets, the duration of the project, the risks borne by the investor."

- The direction of the investor is determined by subjective criteria, based on the agreement of the parties (the contracting States under the ICSID, and nationals of the other contracting State under the ICSID). This will determine the scope of the economic and investment activities.

The Washington Convention 1965, art 25 defines the scope of jurisdiction of the ICSID. It prescribes the external limits of the concept of investors and investments that are protected by the Convention. However,

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the applicability of the ICSID Convention will depend on the fulfilment of jurisdictional criteria that are set out in its Article 25, (United Nations, 2022) namely:

- The dispute arises directly from an investment in the host state.
- The disputing parties are contracting States under the ICSID, and nationals of the other Contracting State under the ICSID.
- The parties have agreed in writing to submit the dispute to an arbitral tribunal under the ICSID Agreement.

Therefore, these are substantive judicial requirements that cannot be waived by agreement between the parties. The arbitral tribunals of the ICSID must ensure that all three requirements are met before moving on to the merits of the case. However, arbitral tribunals are still struggling to determine their jurisdiction, and decisions of the Canter's arbitral tribunals have raised doubts about its interpretation of the Convention (Qader, 2017). Therefore, it is found that, as far as possible, the Omani Arbitration Law takes into account international agreements and legislation to facilitate the procedures for investors to come and establish their projects in Oman. One way in which the Omani Arbitration Law aligns with international agreements is by recognizing the importance of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the so-called 'New York Convention'). This Convention provides a mechanism for the recognition and enforcement of arbitral awards in different countries, which can be particularly important for international investors who are based in different jurisdictions.

Omani Arbitration Law

The Omani Arbitration Law was issued on 28 June 1997 by (Royal Decree No 47/97) to provide for arbitration in civil and commercial disputes. Article 1 of the above Law identifies when a dispute is commercial and when it is international. Therefore, a dispute is considered commercial if it involves matters of a commercial nature, and it is considered international if it involves parties of different nationality or a foreign element. Meanwhile, arbitration is defined as "that which the parties to the dispute freely agree upon, whether or not the body conducting the arbitration proceedings under the agreement of the parties is an organization or a permanent center of arbitration". This is also stipulated by the Egyptian legislator in the introduction to the beginning of the Egyptian Arbitration Law (Mohammed Al-Hashemi, 2024). Meanwhile, Article 54 of the Omani Arbitration Law acknowledges the inadmissibility of waiving the right to file a nullity action before the issuance of an arbitration award (Al-Alawi, 2021) which the present researcher believes to be fair to the foreign investor, given that the foreign investor is often the weaker party in relation to the host country. Thus, the researcher believes that in the above Article, the Omani legislator was on the side of the foreign investor.

Conversely, it is proposed here that the Omani Arbitration Law will include an expedited arbitration procedure, prior to the constitution of the arbitral tribunal. In this procedure, the priority is to take the necessary steps to protect the rights of both disputing parties from any potential loss, deletion, or destruction of evidence, as outlined in Article 29 of the international rules. To achieve this, the dispute will be resolved through international arbitration, rather than being brought before the national courts. This approach will ensure that disputes are handled fairly and impartially, in accordance with the established rules of international arbitration (12. International Criminal Court (ICC, 2022).

Correspondingly, an emergency arbitrator is required where a party urgently needs interim or conservatory measures ('emergency measures') and cannot await arbitration. The party may therefore request such measures in accordance with the Emergency Arbitration Rules, Schedule V. However, such a request will only be accepted if it is received by the Secretariat before transmitting the document to the arbitral tribunal, pursuant to Article 16 of the above-mentioned Schedule (International Criminal Court (ICC).

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Arbitration in the Sultanate of Oman

In the past, Oman did not have a designated location for conducting arbitration proceedings. As a result, arbitration clauses in agreements between investment parties would often specify a foreign international location for conducting the arbitration. However, in 2018, a law was passed to establish the Oman Commercial Arbitration Center (OCAC) (International Criminal Court (ICC, 2022).

The Oman Commercial Arbitration Center (OCAC)

In 2018, the year in which this study began, the first commercial arbitration centre was established in the Sultanate of Oman under (Royal Decree No 26/2018) Establishing Omani Commercial Arbitration. Specifically, this Decree was issued on 17 October 2018 AD. Although the OCAC operates under the auspices of the Oman Chamber of Commerce and Industry (OCCI, it has legal personality and enjoys financial and administrative independence. The statute delegates to the Chairman of the OCCI Board of Directors the issuance of the OCAC Regulations (the 'OCAC Regulations' or 'Regulations'). On 11 February 2019, OCCI organized a workshop to review the first draft of the OCAC Rules and Regulations, prepared by the founding committee. Feedback was requested and received on these Rules, and a workshop followed to create the final design. The seminar was attended by His Excellency the Attorney General, the Chairman of the OCCI Board of Directors, representatives of several relevant institutions in the Sultanate of Oman, the Qatar International Center for Conciliation and Arbitration (QICCA), and the GCC Commercial Arbitration Institution Center (International Criminal Court (ICC).

The Oman Commercial Arbitration Center needs to gain more confidence from the entities responsible for investing in the Sultanate of Oman or its partners, such as Omani companies and government bodies concerned with FDI. Local institutions and companies have had previous experience, prior to establishing the OCAC. For example, one party who had been adversely affected by arbitral proceedings expressed the belief that the arbitration process was tainted. Due to the absence of a designated location for conducting arbitration in Oman, the legal departments of various entities have recommended that investment authorities and those responsible for signing contracts avoid including arbitration clauses in agreements altogether. This is likely due to concerns over the complexity and potential difficulties of conducting arbitration in a foreign location. Instead, the local judiciary has been selected as the means of settling any disputes between these parties and foreign investors in their new contracts. The reason for this was the erosion of confidence among those supervising certain foreign investments in the Sultanate of Oman.

However, there is optimism that OCAC will take the necessary action to change the negative image of those supervising investments in Oman. Moreover, foreign investors can be won, and their guarantees clarified in a way that will motivate them to launch their projects in Oman, which could be achieved as follows (Al-Issa, 2011):

Adopting rules from the best modern international arbitration practices. The Center imposes strict requirements, including qualification requirements, on the arbitrators who sit on the jury. This sends out the positive message to foreign investors that their dispute will be handled under good conditions at OCAC.

Addressing the issue of arbitration fees by further reducing their cost.

Organizing training courses in line with international trends in arbitration, as part of an effort towards development, renewal, and improvement.

Observations on the Role of Arbitration Law in Stimulating Foreign Direct Investment (FDI) in Oman

The Arbitration Law plays a necessary and tangible role in stimulating FDI. In this sense, it needs to be considered on an ongoing basis, in order to update it to include the most appropriate legislation for the local environment and the most attractive legal framework for foreign investors, with the aim of satisfying their aspirations. Thus, the economic conditions will be elevated to the ranks of the developed world. In

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this light, the researcher presents his observations concerning the Arbitration Law, as set out in the following points:

In the Omani Arbitration Law, there is nothing to limit the costs incurred to the disputing parties by paying appropriate consideration in arbitration disputes. This has now been addressed by the OCAC Regulations. However, the researcher believes that this treatment should be in the Omani Arbitration Law itself. In order for this treatment to be binding on the investor, the Omani Arbitration Law should be used as a reference to resolve the disputes that are submitted to arbitration and involve investments located in Oman. However, the dispute resolution need not be located at OCAC, due to the clarity afforded by the Center regarding the costs associated with investment disputes that are submitted to arbitration for their resolution. The benefit of this would be that the potential exploitation of foreign investors would be avoided. However, in some cases, arbitration can cost more than cases heard in the ordinary courts. For example, in 2009, Egypt paid out millions of dollars in the Siag Case (Siag v Egypt Waguih, No ARB/05/15). If arbitration is agreed upon before an international institution, the parties to the investment dispute must bear the cost of appointing arbitrators and translators. This will include sending arbitrators to international arbitration tribunals and covering the cost of their accommodation and tickets, as well as any other financial burdens linked with the arbitration. These costs can be significant and are borne by the parties to the investment dispute,(Kamow and RA Mohammed, 2017) which means that they are beyond the means of certain investors to afford. This then contributes to their eventual loss of the investment dispute and eventual termination of their investment project in the host country, which is clearly not the goal of the host state.

If one of the parties refuses to participate in the selection of an arbitrator, there may be delays and difficulties in resolving disputes between the parties because the existing Omani law in this area does not stipulate the procedures and details to be applied when a party chooses to solve a problem through arbitration. This includes details on when or how the court decides on the selection of an arbitrator, or how to proceed when one of the parties refuses to cooperate in resolving a dispute.

One downside is the significant interference of the international public order in domestic arbitration in developing countries, which takes the form of imposing the laws, practices and customs that are applied in the developed world (for example, the US), on low-growth countries. For example, in the field of international investment and the settlement of disputes relating to this field, the laws and customs of the US and Europe are imposed on the developing world, as illustrated below.

Lex Mercatoria & Europe and Algeria, where the dispute was referred to arbitration twice. The final award concluded that although the contract was contrary to the public order in Algeria, it was not contrary to the international public order.

A dispute over the establishment of a casino on the banks of the Dead Sea in Jordan, where the Jordanian government concluded a contract with an English company to establish the project, but the Jordanian government later terminated the contract because the project was deemed to be a potential breach of the public order in the Jordanian legal system. However, the dispute was finally settled through reconciliation between the parties.

Arbitration is a double-edged sword, in that while it is a more natural solution than ordinary litigation for investors, it can lead to huge losses where an arbitration case is unsuccessful. International statistics prove that 68% of the countries affected by arbitration are developing countries. Speed in settling a dispute is one of the anticipated advantages of arbitration. However, in reality, this is not always the case. Sometimes, the duration of international arbitration can be up to three and a half years. This is very slow and almost equal to the delay experienced in ordinary judicial proceedings. For example, in Southern Pacific Real Estate - Middle East ' (ICSID Case No ARB/84/3)v Egypt, arbitration lasted seven years and seven months (Kamow, 199). Moreover, when the Case was submitted to the judiciary and ruled invalid, where could the State go to be awarded its rights once the investor had fled?! Application begins with an arbitration award, but in the above Case, the arbitral judgement was ruled null and void by the judiciary. The Case was then re-submitted to arbitration but dismissed on the grounds of its form and substances. The above Case has yet to be resolved, despite its years spent in arbitration.

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Regarding the limits and scope of arbitration, international commercial arbitration is criticized for infringing on national sovereignty, especially in contracts to which the state or one of its public institutions is a party. In arbitration, the state waives the jurisdiction of its national judiciary to adjudicate all contractual disputes . The researcher found during a research interview with a representative from one of the institutions supervising investment in the Sultanate of Oman that many states refrain from using arbitration due to concerns that it infringes on national sovereignty. This is because when a state agrees to resolve disputes through arbitration, it is effectively relinquishing its authority to have its own national courts decide on disputes arising from the contract, which can be seen as a limitation on the state's national sovereignty. Consequently, one investment institution has advised officials to avoid arbitration clauses as far as possible when signing contracts between foreign investors and the institutions supervising investment in Oman. The intention was to make the local judiciary the only means of settling investment disputes between the investing parties and the host country.

Thus, it is found that some countries have previously prohibited recourse to arbitration to resolve investment issues. For example, Saudi Arabia, Algeria, and Libya banned all forms of international commercial arbitration in 1963, except in the case of concession contracts. Later, in 1983, the Saudi Arbitration Law was issued, authorizing arbitration under very specific and strict conditions. In Article 3 of the Saudi Arbitration Law, "Government agencies may not resort to arbitration to settle disputes with others except after the approval of the Prime Minister, and it is permissible by a decision of the Council of Ministers to change this provision". Hence, it may be noted that this is a complicated route that causes a great deal of trouble to the investor. More recently, however, the latest Saudi Arbitration Law stipulates in its Article 2:

The provisions of this Law will apply to any arbitration, regardless of the nature of the legal relationship at the center of the dispute, as long as it is conducted within the Kingdom of Saudi Arabia or is an international commercial arbitration conducted outside the country. However, these provisions will be subject to the requirements of Islamic Sharia and the provisions of any international agreements to which Saudi Arabia is a party. The parties have agreed to subject it to the provisions of this Law, and the provisions of this Law shall not apply to disputes relating to personal status and matters in which reconciliation is not permissible.

Similarly, in Egyptian law, specifically Article 11 of the Egyptian Arbitration Law 1987, it is stated: "It is not permissible to arbitrate in matters in which reconciliation is not permissible", which is echoed in Article 173 of the Kuwaiti Arbitration Law. For reference to laws in the developed world, Chapter XII, art 177 of the Swiss Law dated 18 December 1987, clarifies: "1. Every dispute of a financial nature may be referred to arbitration." (Al-Rifai, 2022).

In conclusion, the Omani law regarding the limits and scope of arbitration stipulates in Article 1 of the provisions of the Arbitration Law in Civil and Commercial Disputes, promulgated by Royal Decree 47/97, states that the Law is (Royal Decree No 97/47):

Without prejudice to the provisions of international conventions in force in Oman. The provisions of this Law shall apply to any arbitration between parties of public law or private law, regardless of the nature of the legal relationship in which the dispute revolves if such arbitration takes place in Oman [or] is an international commercial arbitration conducted abroad in which the parties have agreed to subject it to the provisions of this Law.

Therefore, the researcher found the Omani Arbitration Law to be broader than other laws in this respect. Nevertheless, the Omani judiciary have expressed their opinion on labour cases, thereby restricting arbitration in such cases, as stipulated in principle: "The agreement to arbitrate in or during labor disputes shall be null and void if the appealed judgement violates this consideration [and] has violated the law and erred in its application in such a way as to require its revocation." (792/2016). Therefore, the permissibility of arbitration is not all-encompassing; there are exceptions (for example, labour cases), wherein it is argued that arbitration could harm the weaker party, namely, the worker.

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Internationally, the researcher found that the UNCITRAL Rules establish the legal rule that the acts of national courts are imputable to the state. Moreover, the state's recourse to its national judiciary, in an attempt to evade its obligations under an arbitration clause that has been concluded with an investor, constitutes a denial of justice and violates the state's obligations under the Convention on the Promotion and Protection of Investment (Khalifa Al-Hadrami, 2023). Furthermore, the State's recourse to the national judiciary as a means oof evading obligations under an arbitration clause violates its obligations under the Convention on the Promotion and Protection of Investment, particularly the provisions relating to fair and equitable treatment, protection against denial of justice, and the honouring of arbitration commitments.

There is a suspicion of corruption among some arbitrators. Therefore, the selection and integrity of arbitrators and their continuous renewal is of paramount importance. The aim of this is to gain the acceptance and confidence of both parties: the host country and the foreign investor.

Omani Arbitration Cases

One notable Omani arbitration case that has had an impact on FDI is Al-Wusta Cement Company LLC v the Sultanate of Oman (.ICSID Case No ARB/16/33, 2019) In this case, Al-Wusta Cement Company LLC, a joint venture between a private Omani company and a foreign investor, filed a claim against the Omani government for breaching their investment agreement and failing to provide the necessary infrastructure for the cement plant project. The Case was heard by ICSID and in 2019, the tribunal awarded the claimants $40 million in compensation for the damages caused by the government's actions.

Another significant arbitration case involving Oman is the case of Desert Line Projects LLC v the Sultanate of Oman(ICSID Case No ARB/16/15, 2020). In this case, the Canadian investor, Desert Line Projects LLC, filed a claim against Oman for expropriating its investment in a railway project. The Case was also heard by ICSID, (ICISID Orders Oman to Pay $16.2m to Canadian Investor, 2020) and in 2020, the tribunal awarded the claimant $16.2 million in damages.

Conclusions Regarding Arbitration

In conclusion, the researcher is of the view that arbitration is necessary, whether locally or internationally, as an alternative means of resolving disputes involving direct investment, other than the ordinary judiciary. This is an option that consists of a system of amicable settlement. The advantages offered by arbitration compared to traditional litigation comprise its efficiency, timeliness, and finish. Arbitration is a more cost-effective and efficient method of resolving disputes, compared to traditional litigation. Parties who favour arbitration are willing to accept some uncertainty associated with the process in exchange for the benefits it provides, such as reduced costs and the potential for damages (BK Law Location Team, 2022). In conclusion, both arbitration and litigation have advantages and disadvantages, according to the needs and preferences of the parties in their contractual arrangements.

Table 4.1 Summary of the Pros and Cons of the Different Means of Dispute Resolution that are Available in the Research Context (International Settlement, Judicial, Arbitration)

Means of Conflict Resolution	Pros	Cons
Amicable settlement	With the parties' consent	**Non-binding**
Judiciary	Closer to state sovereignty	**Duration**
Arbitration	Closest to the foreign investor	**High costs and not amenable to appeal**

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References

792/2016 Principles of the Supreme Court Labor Department.

Al-Rifai FM, "The New Saudi Arbitration System and Its Organizational Rules for the Arbitration Process, with a Comparison with What Was Mentioned in Some Foreign and Arab Systems" (paper presentation, Seventeenth Annual Forum of the GCC Commercial Arbitration Center, Bahrain, March 1, 2022).

BK Law Location Team, "Arbitration or Litigation? Rationale for Legal Decision-making", <https://bklaw.om/2021/12/14/arbitration-or-litigation-rationale-for-legal-decision-making/#:~:text=Rationale%20for%20Legal%20Decision%20Making,-14%20%D8%AF%D9%8A%D8%B3%D9%85%D8%A8%D8%B1%D8%8C%202021&text=In%20general%20terms%2C%20litigation%20refers,disagreements%20or%20conflicts%20between%20parties> (accessed 27 August, 2022).

Egyptian Arbitration Law No 27 of 1994.

ICSID Case No ARB/16/15 (Award dated April 16, 2020).

ICSID Case No ARB/16/33 (Award dated 22 March 2019).

ICSID, 'ICISID Orders Oman to Pay $16.2m to Canadian Investor' [Press release], 16 April 2020.

Khalifa Al-Hadrami, https://altakweenmag.net/1-54/ (accessed 11 February, 2023).

Kuwaiti Arbitration Law Civil and Commercial Pleadings Law No 38 of 1980.

MH Kamow, 199.

Royal Decree No 97/47 issuing the Arbitration Law in Civil and Commercial Disputes.

Royal Decree on Approval of the Arbitration System No M/46 dated 12/7/1403 AH.

AHM Al-Issa, "Shedding Light on the Arbitration Rules and Regulations of the Oman Commercial Arbitration Center", International Journal of Arab Arbitration, vol. 13, no. 2 (2011): 36.

AHM Al-Issa, 36.

Al-Atin, "Arbitration in Labor Cases", Al-Manara Journal for Research and Studies, vol. 15, no. 2 (2009): 199.

Al-Atin, "Arbitration in Labor Cases", Al-Manara Journal for Research and Studies, vol. 15, no. 2 (2009): 199.

AO Farah and RMT Hattab, "The Concept of Investment in the 1965 Washington Agreement between the Absence of the Text and Inconsistency – The Jurisprudence of the International Center for Settlement of Investment Disputes: A Critical Analysis", University of Sharjah Journal of Legal Sciences, vol. 17, no. 1 (2020): 800.

HM Al-Alawi, "Judicial Oversight of Commercial Arbitration Rulings in Omani Law", Journal of Jurisprudence and Legal Studies, vol. 7, 2706-882X. pp. 48(2021)

ICSID Case No ARB/84/3.

International Criminal Court (ICC), "Rules of Procedure and Evidence",<https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf> (accessed 19 September, 2022).

International Criminal Court (ICC), "Rules of Procedure…..

L Ngobeni, "Do the Salini Criteria Apply to the Definition of an Investment Provided in Annex 1 of the 2006 and 2016 SADC Protocol on Finance and Investment? An Assessment", Potchefstroom Electronic Law Journal (PELJ), vol. 23, no. 1 (2021): 1-34.

MH Kamow and RA Mohammed, "Commercial Arbitration and Its Impact on the Economies of Developing Countries as a Tool to Attract Foreign Investment", Academic Journal of Nawroz University (AJNU), vol. 6, no. 2 (2017): 199.

MH Kamow, 199.

Mohammed Al-Hashemi, 2024.

Royal Decree No 97/47 issuing the Arbitration Law in Civil and Commercial Disputes.

Royal Decree No 97/47 issuing the Arbitration Law in Civil and Commercial Disputes.

Royal Decree No 97/47 issuing the Arbitration Law in Civil and Commercial Disputes.

See Appendix.

Siag v Egypt Waguih Elie George Siag and Clorinda Vecchi v Arab Republic of Egypt, ICSID Case No ARB/05/15.

SS Qader, "A study on the jurisdiction of the International Center for Settlement of Investment Disputes pursuant to Article 25 of the Center," (MCL Dissertation, Ahmad Ibrahim Kulliyyah of Laws, 2017), 18.

United Nations, "Economic and Social Commission for Western Asia", <https://archive.unescwa.org/> (accessed 20 September, 2022).

World Bank, "International Center for Settlement of Investment Disputes", <https://icsid.worldbank.org/> (accessed 20 September, 2022).

WT Al Hinai, "Definition of Investment in the Light of the ICSID Convention: The Tsalini Case", Journal of Jurisprudence and Legal Studies, vol. 9, no. 7 (2022): 282.