With regard to the procedural law, despite the fact that the parties agreed for the arbitration to take place outside Saudi Arabia, the law of the seat could not be applied to the arbitration. The tribunal stated:

> [C]onsidering the jurisdictional immunity of foreign states, recognized by international law in a spirit of respect for the essential dignity of sovereign power, the tribunal is unable to hold that arbitral proceedings to which a sovereign state is a Party could be subject to the law of another state.[39]

As mentioned above, the parties to the arbitration agreement agreed to apply the principles of Islamic law, as taught by the Hanbali school. The tribunal, though, supported Aramco's argument and stood against the application of Saudi law; however, it did explain its opinion in a 'more polite way' than Aramco.[40] The tribunal stated that:

> [T]he regime of mining concessions, and, consequently, also of oil concessions, has remained embryonic in Moslem law and is not the same in the different schools. The principles of one school cannot be introduced into another, unless this is done by the act of authority. Hanbali law contains no precise rule about mining concessions and [is] *a fortiori* about oil concessions.[41]

This quotation simply reveals a lack of knowledge of Islamic law, which has rules to govern all kinds of contract. If, for instance, the Hanbali school is unable to govern a concession agreement, resorting to other schools through the method of qiyas can solve the dispute. As was mentioned in a previous chapter, using qiyas does not require any act of authority. It needs only adequate knowledge of the situation and accurate reasoning, without any resort to official authority, because it is the law of God, not of the state. The rules apply to the exploitation of hidden wealth such as gold and silver, can apply to oil and gas by means of analogical reasoning. The law applicable to this case under all conflict of laws theories can only be Saudi law. The tribunal denied the application of Saudi law in the dispute and claimed that Saudi law has no rules for governing oil concessions.

The concession agreement of 1933 was an agreement between a state and a private American party and so could not be subject to public international law. The tribunal quoted: 'Any contract which is not a contract between states in their capacity as subjects of international law, is based on the municipal law of some country.'[42] But if international law cannot be applied because of the nature of the dispute, and other municipal laws cannot be applied because a state cannot fall under a jurisdiction of another state, what is the applicable law? Even the general

39 Supra n. 28, Aramco award, p. 154.
40 Ibid., pp. 162–63.
41 Ibid.
42 See, in general, supra n. 28, Aramco award.

principles of law recognized by civilized nations cannot be applied in this case because, in the end, the tribunal would be imposing the municipal law of one state on to a sovereign state. Moreover, when the tribunal denied the application of Saudi law and applied British and Swiss practices, it implied that Saudi Arabia is not a civilized nation, which was discrimination not just against Saudi Arabia, but against Islamic law as a whole.[43]

The tribunal contradicted itself when denying the application of Saudi law. No other law could be really relevant other than Saudi law for the following reasons:

- the contract was concluded in Jeddah, in Saudi Arabia;
- it came into force after its ratification and publication in the Saudi official gazette;
- the characteristic performance of the contract took place in Saudi Arabia; and
- the concession of 1933 is a contract concerning immovable property situated in Saudi Arabia.

The tribunal's competence was to specify the rights and obligations of both parties under the concession agreement and to determine whether the Onassis contract did infringe Aramco's rights.[44] The tribunal determined that it could only decide on certain disputes, such as the five questions submitted by the parties, and could find whether the two contracts were compatible or in conflict. The tribunal was not authorized as an amiable compositeur; however, it was competent to find a method for reconciling or harmonizing the two agreements. Consequently, the tribunal rejected the suggestion that it had wider powers than those bestowed upon it by the parties' agreement. Despite the disagreement of one of the arbitrators, the tribunal concluded the case in Aramco's favour and stated in the award that the Onassis Agreement was neither a law of the state of Saudi Arabia nor a governmental regulation.[45] The general principles of law relied on by the tribunal were neither clear nor coherent and were not, logically, suitable for the situation. Although the arbitral award was not binding on Saudi Arabia, the Saudi Government abided by it, voluntarily announcing the death of the Onassis Agreement and of Satco.

Comments on the Case

The relationship between the Government of Saudi Arabia and Aramco was based on mutual understanding of each other's needs. The Saudi Government understood the American thirst for oil and facilitated Aramco's operations in the Saudi deserts. Aramco understood the Saudi Government's need for cash and arranged for loans, constructions and the employment and training of Saudi nationals. If Aramco had

43 Ibid.
44 Ibid., p. 202.
45 Ibid., p. 220.

given preferential treatment to Satco, it would have at least reduced the amount of loans it gave to the Government, bearing in mind the financial difficulties that Saudi Arabia faced during the early 1950s.[46] However, Onassis had a long history of legal troubles with the US Government, which may be the reason behind Aramco's rejection, giving the impression that if someone else other than Onassis had made the agreement with the Saudi Arabian Government, Aramco would not have opposed applying Royal Decree No. 5737. The FBI investigated Onassis several times since 1943 for charges ranging from fraud to the possession of fascist ideas. Moreover, in 1953 Onassis was charged, along with some other individuals and companies, with conspiracy to defraud the United States Government in multi-million-dollar deals to buy surplus US ships after the war. The US Government found him to be in violation of the law forbidding the sale of US ships to aliens.[47] In the following year, Onassis was charged for another related fraud against the US Government. He was charged with violating the shipping law citizenship provision, which requires that all ships displaying the American flag be owned by United States citizens. Onassis pleaded guilty and agreed to pay seven million dollars to the Government of the United States.[48]

The arbitrators chose the Swiss Sauser-Hall as a referee. Georges Sauser-Hall was a professor of international law at Geneva and Neuchatel Universities; he was also a Member of the Permanent Court of Arbitration and the Institute of International Law. He engaged in many cases of international arbitration, such as the dispute between Albania and Italy in 1951, but there was still considerable doubt as to his knowledge of Islamic law and the Arabic language – the official language of the contracts and one of the languages of the hearings. One of the main points of controversy in this case was the interpretation of article 1 of the concession agreement of 1933; for example, whether the Arabic word '*moutlaq*' is a synonym of 'exclusive' in English, and whether '*moua'malat*' has the same meaning as 'treat'. An arbitrator would need a good grasp of both languages in order to reach the correct interpretation of the texts, and the tribunal failed to achieve this.

Saudi Arabia claimed that the wording of the 1933 concession agreement did not give Aramco an exclusive right for transport. This opinion was supported by one of the arbitrators, Mr Hassan, who quoted:

> Signing the Award, I state that I am in disagreement particularly with the interpretation contained therein of Article 1 of the Aramco Concession Agreement of 1933. That article is the key to the solution of the present dispute

46 See, generally, supra n. 19, Holden and Johns. The situation was even worse before the 50/50 profit-sharing agreement.

47 'Time Clock', *Time Magazine* (15 February 1954).

48 Federal Bureau of Investigation United States, *Published Materials under the Freedom of Information Act 2000*. Available online at <http://foia.fbi.gov/foiaindex/aonassis.htm> [accessed 9 April 2009].

> and to the answers to be given to the questions submitted to the tribunal. In my opinion, article 1, when read in its proper context, covers an Oil Concession with its various technical ramifications. The word "transport" which occurs in the nomenclature of Aramco's exclusive rights can only cover transport which pertains to operations to be performed in the exclusive are of the Concession.[49]

Mr Hassan added:

> Maritime transport is a vast worldwide operation which is independent from the industrial enterprise of the concessionary company and cannot therefore be mentioned casually. The rights granted to Aramco in article 1 are recited in technological order. They correspond to the logical sequences of the successive operations of the enterprise which move with clockwork regularity from one stage to another. Had the parties intended the "transport" to mean transportation by sea, that word should have been the last in the enumeration of the exclusive rights granted to Aramco. This is because transport by sea is the final act in the process covered by the enterprise. Moreover, had the Parties envisaged transport by sea in the 1933 Concession Agreement, they would have mentioned this *expressis verbis*, as such a right cannot be granted to Aramco by implication.[50]

The tribunal cited the award of *Petroleum Development Ltd v. Sheikh of Abu Dhabi* as a precedent to support the rejection of the application of the principle of restrictive interpretation of the contractual obligation of a government toward a private individual.[51] The latter case cannot be treated as such, however, because it has a different nature. Unlike Saudi Arabia, Abu Dhabi was not a sovereign state at that time – it was under British protection to the extent that the British Government acted on its behalf in the *Buraimi* arbitration with Saudi Arabia.[52]

Lack of experience played an important role in Saudi Arabia losing this case, from the submission of the case to arbitration outside Saudi Arabia to the voluntary enforcement of the award. The case was between a sovereign state and a private party; thus, if the dispute had occurred nowadays, it would have been governed by ICSID arbitration rules and Saudi Arabia would have got a better deal. Saudi Arabia should not have involved Onassis in the dispute because Satco was, in theory, a Saudi company. It should have granted complete protection as a Saudi company. Saudi Arabia was in the stage of creating or modernizing its legal system, though, so such mistakes were common. Despite the fact that the award was not in favour of Saudi Arabia, Saudi Arabia did benefited from the lesson when building its legal regime. The award encouraged Saudi Arabia to be more cautious when dealing with foreign parties in any contract, especially when the oil

49 Supra n. 28, Aramco award, pp. 228–29.
50 Ibid.
51 Ibid., p. 194.
52 See, in general, supra n. 1, Kelly.

industry is involved, and not to put its national sovereignty at dispute again. This trend is evident from the Saudi reservation relating to the ICSID Convention.

The Legal Impacts of the Aramco Award 1958 on Arbitration in Saudi Arabia

The Council of Ministers Resolution No. 58 of 1963

The Aramco award affected many different areas of law and legal practice, especially international arbitration and economic policy. The direct regulatory response to the award was the Council of Ministers Resolution No. 58 of 1963, which was supplemented by the Ministry of Commerce Circular of 1979 and which imposed some restrictions on the acceptance of arbitration clauses and agreements.

The Council of Ministers Resolution No. 58 of 1963 concerns arbitration when the Government of Saudi Arabia or any governmental entity is party to a dispute. Prior to 1963, the Government frequently provided for arbitration as a means of settling disputes between itself and private parties; however, owing to the disappointing outcomes of the Aramco award of 1958, Resolution No. 58 prohibited resorting to arbitration to settle disputes between the Saudi Government (including its ministries, departments or agencies) and individuals, companies or private organizations.[53] The regulation did not distinguish between foreign and local entities. The Resolution provides the following:

- No government agency shall conclude a contract with any individual, company or private organization that includes a clause subjecting the government agency to any foreign court of law or any judicial body.
- Except in concessions granted by the Government,[54] no government agency shall accept arbitration as a means of settling disputes that may arise between it and any individual, company or private organization.
- The most important principle of private international law is the principle of application of the law of the place of performance; government agencies may therefore not choose any foreign law to govern their relationship with any individual, company or private organization.
- The above provisions shall apply to contracts concluded after the issuance of this resolution.[55]

53 The Resolution is incorporated in article 3 of the Arbitration Act of 1983.

54 The exceptions here are technical disputes and disputes arising out of concession agreements that have been exempted for their important interest to the country.

55 See the Ministerial Resolution No. 58 dated 17/01/1383 (1963).

Ministry of Commerce Circular No. 31/1/331/91 of 1979

The Ministry of Commerce Circular No. 31/1/331/91 of 1979 confirmed the Council of Ministers Resolution No. 58 of 1963 in prohibiting or restricting recourse to international arbitration. The Circular stated that a clause providing for arbitration (outside the kingdom) included in the articles of association of Saudi companies would be considered absolutely void. Articles of association containing such clauses would neither be approved nor registered.[56] As a result, reference can be made to domestic arbitration in the articles of association of a joint company formed by foreign and local businessmen for the purpose of carrying out investment operations in Saudi Arabia. This restriction includes all forms of joint companies, whether they are formed by foreign investors and a private party or by a foreign investor and the Government of Saudi Arabia.[57]

Other Impacts: The Establishment of OPEC

Following awards involving the sovereignty, such as the Aramco award, the Saudi Minister of Oil and Mineral Affairs of that time, Abdullah Al Tirigi (sometimes spelled 'Al-Tariki') was deeply inspired by the revolutionary ideas of Juan Pablo Pérez Alfonso, the then Venezuelan Oil Minister and Frank Hendryx, who was a former Aramco employee employed by the Minister.[58] The Venezuelan Minister came up with the idea of forming OPEC to enhance national sovereignty over natural resources and profit-sharing with the foreign concessionaires. Hendryx put forward the proposition that all petroleum agreements should be periodically re-negotiated when they no longer suit one of the parties, or when conditions change to such a degree that the agreement becomes out of date.[59] According to Hendryx:

> An oil producing nation by the law of civilized nations may clearly, in a proper case, modify or eliminate provisions of an existing petroleum concession which have become substantially contrary to the best interests of its citizens. Financial

56 Ministry of Commerce, Companies Department Circular No. 31/1/331/91 dated 22/02/1399 H. (1979).

57 Y. Al-Samman, 'The Settlement of Foreign Investment Disputes by Means of Domestic Arbitration in Saudi Arabia', *Arab Law Quarterly*, 9 (1994), pp. 217–20.

58 Hendryx was legal adviser to the Saudi Arabian Directorate General of Petroleum and Mineral Affairs. The Directorate General was replaced by the Ministry of Petroleum and Mineral Wealth in 1960.

59 See, generally, S. Duguid, 'A Biographical Approach to the Study of Social Change in the Middle East: Abdullah Tariki as a New Man', *International Journal of Middle East Studies*, 1/3 (1970), p. 195.

> interest must certainly be included in the classification of matters of vital interest to a nation's citizens.[60]

The Change in the Governmental Attitude toward Arbitration: 1970s until Now

Reasons for the Change

In the aftermath of the first oil boom, Saudi Arabia accumulated enormous financial surpluses that made it the strongest of the OPEC group.[61] The financial ability characterized Saudi Arabia as a major capital-exporting country exporting to the world, especially to the United States and Europe.[62] The main objective behind the statutory reform was to attract foreign investment. Saudi Arabia at that time did not lack financial capital, but it was in need of technology and expertise. In the late 1970s, Saudi Arabia started to transform its economy from overwhelming dependence on oil to a diversified industrial economy, with the ultimate aim of setting up a hydrocarbon-based petrochemical industry.[63] The flow of foreign investment would not have met the kingdom's economic needs without regulatory flexibility and sufficient protection of foreign investment. One of the fundamental requirements of any foreign investor is the existence of a fair and impartial dispute settlement mechanism, wherein the investor is not the weak party in the dispute.

The shift started when Saudi Arabia agreed to settle certain differences and claims relating to the Agreement on Guaranteed Private Investment and guarantees of Saudi public sector contracts and investments with the United States in 1975.[64] Saudi Arabia started a comprehensive reform, as a legal incentive to foreign investment, by joining the ICSID Convention in 1979–1980, issuing the Arbitration Act of 1983 and implementing a regulation in 1985, ratifying the New York Convention on the enforcement and recognition of foreign arbitral awards of 1958. It also contributed to the establishment of the GCC Commercial Arbitration

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60 L. Kissam and E. Leach, 'Sovereign Expropriation of Property and Abrogation of Concession Contracts', *Fordham Law Review*, 28 (1959–1960), pp. 177–200.

61 That also led to so-called petrodollar recycling, as a result of having quite a small population and/or underdeveloped infrastructure and the availability of extra financial resources even with intensive development plans.

62 F. El Sheikh, *The Legal Regime of Foreign Private Investment in the Sudan and Saudi Arabia: A Case Study of Developing Countries* (2nd edn., Cambridge University Press, 2003), p. 11.

63 Ibid.

64 The Overseas Private Investment Corporation (OPIC) no longer provides coverage in Saudi Arabia. In 1995, OPIC removed Saudi Arabia from its list of countries approved for OPIC coverage because of Saudi Arabia's failure to take steps to comply with 'internationally recognized labour standards'. See the US Department of State website at <http://www.state.gov/e/eeb/ifd/2005/43038.htm> [accessed 1 May 2009].

Centre, giving effect to some regional arbitration-related conventions and adopting a number of bilateral investment agreements.[65]

Saudi Arabia Joins the ICSID Convention

The International Centre for the Settlement of Investment Disputes is an autonomous international organization with close links to the World Bank. All of the members of the ICSID Convention are also members of the World Bank. According to the ICSID Convention, which came into force on 14 October 1966, the Centre provides facilities for the conciliation and arbitration of disputes between member countries and investors who qualify as nationals of other member countries. Recourse to ICSID services is entirely voluntary. However, a party to a dispute cannot withdraw its consent unilaterally, and member states are required to enforce ICSID arbitral awards.[66] The acceptance of ICSID jurisdiction was seen as an important instrument in giving investors the confidence to continue with existing investments as well as a tool for attracting further investments.[67] Saudi Arabia signed the Convention in September 1979 and it entered into force in June 1980.[68]

Pursuant to article 25(4) of the Convention, any contracting state may notify ICSID of the class or classes of dispute that it may or may not be willing to submit to ICSID arbitration. Accordingly, Saudi Arabia, in its ratification instrument, reserved the right not to submit to ICSID questions pertaining to oil and to acts of sovereignty, whether by way of conciliation or arbitration.[69] Investment arbitration in Saudi Arabia is to be governed by ICSID rules in contrast to commercial arbitration, which is governed by the Arbitration Act of 1983 or other rules provided that they are recognized by Saudi authorities. *Ed. Züblin AG v. Kingdom of Saudi Arabia* is the first case in which the Saudi Government was party to ICSID arbitration. The construction of university facilities was the subject matter of the dispute. On 28 January 2003, the Secretary General registered a request for the constitution of the arbitration panel. However, a settlement was reached by the parties and the proceeding discontinued at the request of the claimant in accordance with article 44 of the Arbitration Rules.[70] This case is an example of the dispute settlement approach of the Government of Saudi Arabia, which

65 Saudi Arabia has ratified 17 investment promotion and protection agreements other than the agreements formed under the GCC and the Arab League.

66 See, in general, the International Centre for the Settlement of Investment Disputes (ICSID) website at <http://www.worldbank.org/icsid> [accessed 26 April 2009].

67 J. Lew, L. Mistelis and S. Kroll, *Comparative International Commercial Arbitration* (1st edn., Kluwer Law International, 2003), p. 22.

68 See the Council of Ministers Resolution No. 372 of 15/03/1394 H. (1974). See also Royal Decree No. M/8 of 22/02/1394 H. (1974).

69 G. Delaume, 'ICSID Arbitration and the Courts', *American Journal of International Law*, 77/4 (1983), pp. 784–96.

70 See the list of the concluded cases of the ICSID, Case No. (ARB/03/1). Available online at <http://www.worldbank.org/icsid/cases/conclude.htm> [accessed 25 April 2009].

performs its obligation under any contract adequately and in good faith. In the case of a dispute, the Government prefers to settle it amicably and in private, which was one of the reasons behind the length of the proceedings in the Aramco case.[71]

The Arbitration Act of 1983

Regardless of the impractical provisions in the Code of Commercial Courts of 1931, article 183 of the Labour Law of 1969[72] and article 3 of the Chamber of Commerce and Industry Regulation of 1980,[73] Saudi Arabia lacked comprehensive arbitration regulation. The Arbitration Act of 1983 repealed the related provisions in the Code of Commercial Courts of 1931. The Implementing Regulation of 1985 was brought about to answer all the related questions that had not been covered by the Act and to describe various aspects of arbitration proceedings. In many ways it is a codification of the Hanbali law of arbitration. The Act provides a framework for commercial arbitration in a flexible way that makes arbitration a real alternative dispute resolution mechanism, as will be seen in the next chapter.

Conventions on the Recognition and Enforcement of Foreign Arbitral Awards

The New York Convention 1958

The United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, known as the New York Convention, requires signatories to enforce arbitral awards issued by other member nations. Saudi Arabia ratified the Convention on 18 July 1994 to become the 94th party to the Convention.[74] The main purpose of the Convention is to facilitate the enforcement and recognition of arbitral awards made in the territory of a state other than the state wherein the recognition and enforcement of such awards are sought.[75] The main feature of this Convention is article 5.2, which gives the member states two grounds to refuse the enforcement of any foreign arbitral award. Article 5.2 (a) states that a member

71 See supra n. 28, Aramco award. It is also the reason for the very small number of disputes against the Saudi Government, bearing in mind the intensive constructions and governmental contracts during the 1970s and 1980s.

72 See Royal Decree No. (M/21) of 06/09/1389 H. (1969). Article 183 provides for arbitration as an alternative to the Committee for the Settlement of Labour Disputes.

73 Royal Decree No. (M/6) dated 60/04/1400 H. (1980). According to article 5 of Chambers of Commerce and Industry Regulation, the Chambers of Commerce and Industry are competent to resolve business disputes by arbitration if the parties agree to it.

74 See the United Nations Commission on International Trade Law (UNCITRAL) at <http://www.uncitral.org> [accessed 30 April 2008].

75 Article 1 of the United Nations Convention on the Enforcement and Recognition of Foreign Arbitral Awards (New York Convention) (10 June 1958).

state can refuse the enforcement of a foreign arbitral award if the subject matter of the dispute is not capable of settlement by arbitration under its municipal law. Article 5.2 (b) gives the member state the right not to enforce foreign arbitral awards that are contrary to public policy.[76] The defence of public policy can be used intensively and there are many aspects of public policy in Saudi Arabia that can set aside any foreign arbitral award. Accordingly, it has been argued that Saudi Arabia joined the New York Convention without being obliged to enforce foreign arbitral awards and that the scope of article 5 (b) of the Convention should be restricted.[77] Saudi judges do not set aside foreign arbitral awards on the grounds of being 'foreign' or having been issued by a non-Muslim arbitrator, as many foreign practitioners claim. In cases where an award is rejected, it is usually because it is not suitable to be enforced domestically. Arbitrators should therefore bear in mind the public policy of the place of enforcement of any award.

The Convention of the Arab League of Nations on the Enforcement of Judgments of 1952

Although this Convention was replaced by the Riyadh Convention for Judicial Cooperation of 1983, it might be useful to give a brief outline about the Convention. The Convention of the Arab League of Nations on the Enforcement of Judgments of 14 September 1952 was ratified by Saudi Arabia on 18 July 1954. Saudi Arabia was the first country to ratify the Convention. The Council of Ministers Resolution No. 50 dated June 25/12/1379 H. (1960) gives *Diwan Almazalim* the competence to examine the petitions for the enforcement of Arab League judgments. Prior to the enactment of the previous resolution, Arab League arbitral awards were not to be tried *de novo* except in the circumstances stated below. The Council of Ministers Resolution was complemented by Royal Decree No. (M/51), which expanded the jurisdiction of *Diwan Almazalim* to cover the enforcement of all foreign arbitral awards and judgments. The royal decree abolished the discrimination between arbitral awards issued in a member state to the Arab League and non-Arab arbitral awards.[78] The Convention provides for the direct enforcement of any court decision issued in any court in any member state of the Convention. The Convention left the competent authority with a limited scope for judicial review for the reason that most Arab countries have their laws based on the same principles.[79] With

76 Ibid., article 5.2.

77 K. Roy, 'The New York Convention and Saudi Arabia: Can a Country Use the Public Policy Defence to refuse Enforcement of Non-Domestic Arbitral Awards?' *Fordham International Law Journal*, 18 (1994–1995), pp. 920–26.

78 See, generally, A. Alfahal, *Qada' Almazalim Fe Almamlakah Al Arabiya Al Saudiya* (1st edn., Dar Alnawabig, 1994).

79 See article 1 of the Basic Law of Saudi Arabia, which states that Shari'a rules are the only source of legislation in Saudi Arabia, See also article 2 of the Egyptian Constitution, as amended in 1980, which states that Islamic jurisprudence is the principal source of legislation; article 2 of the Constitution of Kuwait of 1962, which states that

regard to arbitration, the competent authority in Saudi Arabia is *Diwan Almazalim*. According to article 3 of the Convention, the competent authority does not have to review the arbitral award; however, it does have the right to refuse the enforcement in the following cases:

- if the subject matter of the dispute is not arbitrable under the law of the state where the enforcement is sought;
- if the arbitral tribunal exceeds its jurisdiction;
- if the award is issued under a non-valid arbitration clause or agreement;
- if the award is issued *in absentia*;
- if the award is not final in the country where it is rendered; and
- if the award is contrary to public policy or to the law of the country wherein the enforcement is sought.[80]

The Gulf Cooperation Council (GCC) Commercial Arbitration Centre

The GCC Commercial Arbitration Centre was established as an independent, non-profitable organization by the leaders of the GCC states in December 1993 during the 14th GCC Summit in Riyadh, Saudi Arabia, with its headquarters situated in Bahrain.[81] The arbitration rules of the Centre were issued in November 1994 and the Centre was fully functional by March 1995. The Centre is the most active arbitration centre in the GCC area owing to its understanding of the legal systems of its member states. Moreover, arbitration through the Centre is considered the most advantageous foreign solution for parties with regard to enforcement in Saudi Arabia.[82] In relation to the enforcement of the Centre's awards, article 36 of the rules of procedure of the Centre provides:

> [A]n award passed by the Tribunal pursuant to these Rules shall be binding and final. It shall be enforceable in the GCC member States once an order is issued for the enforcement thereof by the relevant judicial authority.[83]

The rules set the grounds of setting aside an arbitral award in article 36, which are:

Shari′a shall be a main source of legislation; and article 3 of the Constitution of Yemen of 1994, which provides that Islamic Shari′a is the source of all legislation.

80 The Convention of the Arab League of Nations on the Enforcement of Judgements of 14 September 1952.

81 GCC stands for Gulf Cooperation Council, which is a 1981 agreement among the six Arab countries of the Gulf region – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates – aimed at coordinating and integrating their economic policies.

82 See, in general, the GCC Commercial Arbitration Centre website at <http://www.gcac.biz/en> [accessed 30 April 2009].

83 Arbitral rules of procedure adopted by the GCC Commercial Cooperation Committee in November 1994 in Riyadh, Saudi Arabia.