



ARBITRATING DISPUTES IN [REDACTED]

SURVEY OF THE *INVESTING ACROSS BORDERS* PROJECT WORLD BANK GROUP

March 2009

CONTACT:

Please complete and return the survey no later than three weeks from the date of receipt. Thank you for your contribution to the World Bank Group's work. For questions, or to submit a completed survey, please contact:

[REDACTED], or

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The *Investing Across Borders* (IAB) project is being undertaken independently by the World Bank Group. None of your responses will be attributed directly to you or your organization without your express consent below. Please identify the individual responsible for your organization's participation in this survey whom we could contact with any follow-up questions of clarification, etc.

Respondent information	
Title (Mr., Ms., etc.)	[REDACTED]
Name	[REDACTED] (first/given) [REDACTED] (last/family)
Your position	[REDACTED]
Firm/Organization	[REDACTED]
Mailing address	[REDACTED] (street and number) [REDACTED] (zip/postal code) [REDACTED] (city) [REDACTED] (country)
Phone	[REDACTED] (alternate phone)
Fax	[REDACTED]
E-mail	[REDACTED] (alternate e-mail)
Website	[REDACTED]
Can we publish your name, organization and website on our website and report in order to identify you as a respondent?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, please provide your full name as you would like to see it appear in our publication.	[REDACTED] (full name)
What is your specialization?	[REDACTED]
How many foreign investors, new or already operating in your country, has your firm/organization advised on matters covered by this survey over the past 12 months? (Please provide an approximate number.)	# of foreign clients [REDACTED]
Comments:	[REDACTED]

The goal of this survey is to measure the ease of resolving disputes by commercial arbitration for GlobiCo and the ease of enforcement of domestic and foreign arbitration awards in your jurisdiction (Tables A, B and C). Table D asks whether special rules apply when one of the parties to the arbitration is the state or a state entity. Table E asks about the availability of mediation or conciliation services to settle commercial disputes. Tables F and G ask general questions about trends and reforms in arbitration and mediation in your country.

Arbitration Experience				
Indicate the extent of your knowledge and experience in:	None	Little	Sufficient	Extensive
(a) domestic commercial arbitration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) international commercial arbitration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) commercial litigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate whether your experience is any of the following. Click all that apply.				
<input type="checkbox"/>	party in arbitration proceedings			
<input type="checkbox"/>	legal counsel in arbitration proceedings or in court actions related to arbitrations			
<input type="checkbox"/>	representative of an arbitration institution			
<input type="checkbox"/>	professor/instructor of dispute resolution (including arbitration or litigation)			
<input type="checkbox"/>	legal counsel in litigation proceedings			
<input type="checkbox"/>	other (please specify)			
Additional comments: <input type="text"/>				

Survey Instructions:

- Complete as many sections of the survey as you and your organization feel qualified to fill out. Use the “Comments” box at the end of each table to (1) describe any differences between what the law provides and how arbitrations actually work in practice in your country, or (2) to provide clarifications or suggestions.
- Note that we use a standardized questionnaire in all countries to allow us to compare responses. This might mean that some of the questions are not always directly applicable or appropriate for your country. Again, please use the “Comments” box to note such questions that you are unable to complete for this reason.
- If you lack sufficient information to answer a question, you may respond “N/A”. That response will mean that more investigation is required to produce a definitive answer.
- A “Glossary” at the end of the survey provides definitions for the main technical terms used in this survey. Please briefly familiarize yourself with the definitions captured by this Glossary in order to facilitate your filling out the survey.
- At the end of each table we present an “overview question” in which we ask for your overall opinion with respect to the topic treated in that table.
- The survey is based on a case study of a hypothetical foreign-owned company called GlobiCo. Please read this short case study in detail, and follow specific instructions at the beginning of each section, as these will affect certain answers to the survey questions.

GlobiCo Case Study

A multinational company called **GlobiParent** enters your country to manufacture electric household appliances (e.g., refrigerators, electric or microwave ovens, etc.). GlobiParent has established a subsidiary incorporated in your country under the name **GlobiCo**. GlobiCo's investment project is located in the outskirts of your country's **largest business city** - [REDACTED].

Assumptions about the companies:

- **GlobiParent** is a privately held company formed under the laws of a **foreign** country, with its principal place of business in that foreign country.
- **GlobiCo** is **locally** incorporated in your country as a limited liability company (LLC), or an equivalent of this legal form applicable to your country. **GlobiCo** is wholly owned and controlled by its parent company, GlobiParent. **GlobiCo** plans to sell its manufactured products locally as well as to export it.
- The types of commercial contracts that **GlobiCo** could therefore potentially enter into include sale and purchase agreements, leasing agreements, distributor agreements etc., with both domestic and international commercial entities. **GlobiCo** will also have to enter into commercial contracts with various **state entities** (e.g., providers of utilities services).

The survey contains two types of questions:

- Legal questions, which measure the quality of laws and regulations applicable to foreign-owned companies in your own country. These survey questions explore whether your country's laws and regulations grant certain investor rights, allow or prohibit particular actions, etc. Responses to these survey questions should be based on the provisions of the laws, regulations and judicial precedents, if applicable. We would be grateful if you could provide citations, where applicable.
- Procedural questions, which measure the duration and difficulty of arbitration related procedures (e.g., court procedures in connection with enforcement of arbitration awards). Responses to these survey questions should be based on your practical experience.

Arbitrating disputes survey:

Definitions

For purposes of this survey:

- **“Commercial”** has the meaning ascribed to it in the 1985 UNCITRAL Model Law on International Commercial Arbitration.¹
- A **“domestic arbitration”** is an arbitration in your state in which the only parties are nationals of your state (or with places of business in your state, as applicable under your national law). A **“domestic award”** is an award in such an arbitration.
- An **“international arbitration”** is an arbitration, whether in your country or another country, between nationals of your state and nationals of a different state (or parties whose place of business is outside of your state). An **“international award”** is an arbitration award in such an arbitration.
- A **“foreign award”** is an arbitration award rendered outside of your state in arbitration proceedings conducted outside of your state.

¹ A note to the text of the Model Law states: “The term ‘commercial’ should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.”

- “Your national law” includes statutes, regulations and rules established by court decisions in your country, as well as any mandatory regulatory or administrative requirements. If your country is a federation of states (or similar entities), “your national law” also includes the law of the state in which your country’s largest business city is located, to the extent such state law may be applicable.

Table A. Your country’s laws on arbitration and arbitration agreements

1 Does your national law recognize arbitration as a means of dispute resolution between private parties involved in commercial transactions?	Yes	No	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please skip to Table C.3.			
2 Has your country enacted a specific statute on commercial arbitration ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, please indicate the relevant statute or statutes and the year or years when they were adopted: <input type="text"/>			
Please list the website(s) where the statute(s) can be consulted: <input type="text"/>			
2.1 Does that statute apply to domestic arbitrations in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.2 Does that statute apply to international arbitrations, the seat of which is in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.3 Is that arbitration statute based on the language of the UNCITRAL Model Law on International Commercial Arbitration?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please describe any significant ways in which your national arbitration statute differs in substance from the UNCITRAL Model Law. Note significant omissions from or additions to the principal provisions of the Model Law: <input type="text"/>			
3 Are there other civil codes, statutes or legislative provisions governing commercial arbitration in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, please indicate the relevant laws and the years when they were adopted: <input type="text"/>			
Please indicate the website(s) where the statute(s) can be consulted: <input type="text"/>			
Please provide the definition of domestic arbitration under your national law: <input type="text"/>			
Please provide the definition of international arbitration under your national law: <input type="text"/>			
4 Are the following types of disputes arbitrable under your country’s national law?	Yes	No	N/A
(a) Disputes involving rights over immovable property located within your country:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Any intra-company disputes(e.g., disputes over decisions made by the executive bodies of a corporation):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Disputes involving shareholder arrangements:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Disputes involving patents/trade marks (excluding administrative actions):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Securities transactions:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please list any additional commercial matters not listed above which are not arbitrable under your national law: <input type="text"/>			
5 Under your national law, is an arbitration agreement severable from the main contract? (In other words, if the main contract is deemed invalid, is the underlying arbitration agreement valid?).	Yes	No	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Can an arbitration agreement be incorporated by reference ? (In other words, if the arbitration agreement is set out in a separate document and only referred to in the main agreement, is the arbitration agreement still valid?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Can the following methods of concluding an agreement constitute a binding arbitration agreement:	Yes	No	N/A

(a) by electronic communication, including email:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) by fax:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) by oral agreement:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) by conduct e.g., performance on the part of one party:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overview question: In your opinion, has your country developed sound and workable laws to govern arbitrations in your country? Please explain your answer.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments and clarifications: <input type="text"/>			

Table B. The process of arbitration in your country

In your answers to the questions in Table B that follows, please provide separate answers with respect to the domestic and the international arbitrations referred in the definitions above.

8A In a domestic arbitration taking place in your country, may the parties freely choose arbitrators to resolve their dispute without regard to:	Yes	No	N/A
(a) the arbitrator(s') nationality:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) the arbitrator(s') gender:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) the arbitrator(s') professional qualifications:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) whether the arbitrator(s) speak(s) the language of your country:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No to any of the above, please list all applicable requirements and restrictions on the arbitrators: <input type="text"/>			
8B In an international arbitration taking place in your country, may the parties freely choose arbitrators to resolve their dispute without regard to:	Yes	No	N/A
(e) the arbitrator(s') nationality:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) the arbitrator(s') gender:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) the arbitrator(s') professional qualifications:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(h) whether the arbitrator(s) speak(s) the language of your country:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No to any of the above, please list all applicable requirements and restrictions on the arbitrators: <input type="text"/>			
9 May the parties freely choose the method of appointing arbitrators to resolve their dispute e.g., by subscribing to arbitration institutional rules?	Yes	No	N/A
A In a domestic arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
B In an international arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
10 May the parties freely choose the number of arbitrators to resolve their dispute?	Yes	No	N/A
A In a domestic arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
B In an international arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
11 Does your national law expressly provide that all arbitrators in arbitrations must be	Yes	No	N/A

independent and impartial?			
A In a domestic arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain answer and indicate the relevant statute and articles: <input type="text"/>			
B In an international arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain answer and indicate the relevant statute and articles: <input type="text"/>			
12 May each party, if it chooses to do so, retain a foreign lawyer, not licensed to practice in your country, to represent it in an arbitration proceeding?	Yes	No	N/A
A In a domestic arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
B In an international arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
13 Under your national law, are arbitrators expressly bound to preserve confidentiality of arbitration proceedings?	Yes	No	N/A
A In a domestic arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B In an international arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14 Is online arbitration (or what is sometimes known as electronic Alternative Dispute Resolution) an available method of dispute resolution in your country for arbitrations?	Yes	No	N/A
A In a domestic arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B In an international arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, please list some of the online arbitration centers that administer such arbitrations (indicate whether for domestic and/or international disputes): <input type="text"/>			
If Yes, please list some of the types of dispute that are resolved through online arbitration: <input type="text"/>			
Comments and clarifications: <input type="text"/>			
15 Are parties to an arbitration free to choose any arbitration institution, even one that is outside of your country , to administer their arbitration?	Yes	No	N/A
A In a domestic arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
B In an international arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
16 Are there any other differences between domestic and international arbitrations in your country that are not captured by the questions above?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments and clarifications: <input type="text"/>			

Assumptions for Questions 17-21 and the following Tables C.1 and C.2:

Please answer Questions 17-21, as well as Tables C.1 and C.2, keeping in mind the following two hypothetical situations, both involving GlobiCo. The two hypothetical situations are:

Domestic transaction – we assume that **GlobiCo**, a 100% foreign owned and controlled company, engages in a transaction with a locally owned **Supplier**, organized and operating in **your country**. Supplier breaches a commercial contract and GlobiCo suffers damages in the amount of **\$US 100,000**. The subject matter of the dispute does **not** have any international element. GlobiCo initiates an arbitration against Supplier pursuant to the arbitration agreement in their contract.

International transaction – we assume that **GlobiCo**, a 100% foreign owned and controlled company, engages in a transaction with **Distributor**, organized and operating in a **foreign country**. Distributor breaches a contract to purchase a quantity of merchandise from GlobiCo which caused GlobiCo to suffer damages in the amount of **\$US 100,000**. GlobiCo initiates an arbitration against Distributor pursuant to the arbitration agreement in their contract.

17 Under your national laws, can GlobiCo, a locally incorporated but 100% foreign owned and controlled company, initiate:	Yes	No	N/A	
A. A domestic arbitration with Supplier ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If No, please explain: <input type="text"/>				
B. An international arbitration with Supplier ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If No, please explain: <input type="text"/>				
18 Are there any arbitration institutions administering commercial arbitrations in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, please indicate the following regarding arbitration institutions in your country:				
(a) The name of each arbitration institution:	<input type="text"/>			
(b) Give their websites, if available:	<input type="text"/>			
(c) If more than one institution, which one is the most commonly used?	<input type="text"/>			
(d) State the rules of arbitration typically used by that institution (e.g., UNCITRAL Rules, rules developed by the institution):	<input type="text"/>			
(e) Which of these arbitration institutions administer international arbitrations (such as that between GlobiCo and Distributor above)?	<input type="text"/>			
Additional assumptions for Question 19-21 only:				
Please keep in mind the two hypothetical situations above and assume in each case that an arbitration has been held before three arbitrators in your country's most commonly used arbitration institution ; assume that in the arbitration each party requested and the arbitrators issued orders compelling the production of documents by the other party; and assume that neither party nor the arbitrators requested the assistance of a court in relation to the arbitration.				
19 How long, typically, would you estimate the period to be from the filing of the request for arbitration to the constitution of the arbitration tribunal ?	Under 30 days	30-180 days	181 days-1 year	over 1 year
A. In a domestic arbitration?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B. In an international arbitration?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20 How long, typically, would you estimate the period to be from the first hearing of the arbitration tribunal on the merits to the rendering of the arbitration award?		Under 30 days	30-180 days	181 days-1 year	over 1 year	
A. In a domestic arbitration in your country?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
B. In an international arbitration taking place in your country?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21 Please estimate the number of commercial arbitrations carried out in your country within the past 12 months:	0-5	6-20	21-100	101-1000	Over 1000	N/A
A Domestic arbitrations:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B International arbitrations:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments and clarifications: <input type="text"/>						
Overview question: In your opinion, is the quality of the arbitration procedures and institutions in your country sufficient to provide for fair and efficient arbitrations in your country?				Yes	No	N/A
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments and clarifications: <input type="text"/>						

Table C.1 Role of the courts—assisting and facilitating arbitrations in your country

When answering the following Table C.1, please refer to the two hypothetical situations above and keep in mind that **the seat of arbitration is your largest business city.**

22 Have the courts in your country stated a “pro-arbitration policy”, i.e., a general policy in favor of enforcing arbitration agreements and arbitration awards, in applying your national law of arbitration:	Yes	No	N/A
A. In domestic arbitrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. In international arbitrations taking place in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please give citations for any such statements: <input type="text"/>			
23 If the parties have expressly agreed (i.e., in writing) that the arbitration tribunal can rule on its own jurisdiction, will that be upheld by your national courts?	Yes	No	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If No, under what circumstances can a court examine an arbitration tribunal’s jurisdiction: <input type="text"/>			
24 If a party brings an action in a court of your country with respect to a dispute that the parties have previously agreed (in a valid arbitration agreement or other writing) must be arbitrated (either in your country or elsewhere) how frequently would the courts in your country decline to hear the case and refer the parties to arbitration:	Rarely	Usually	In all or nearly all cases
A. In domestic arbitrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. In international arbitrations taking place in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments and clarifications: [REDACTED]			
25 Does your national law provide for domestic courts to assist the arbitration process by ordering the production of documents or the appearance of witnesses:	Yes	No	N/A
A. In domestic arbitrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. In international arbitrations taking place in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25.1 Are requests for such court assistance generally granted?	Yes	No	N/A
A. In domestic arbitrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. In international arbitrations taking place in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, specify the requirements for both domestic and international arbitrations: [REDACTED]			
26 If the courts' authority to assist in the taking of evidence derives from a law other than the national arbitration statute (e.g., a Code of Civil Procedure), what is that other law?	[REDACTED]		
27 Does your national law provide for your courts to assist the arbitrators or parties by granting interim relief to prevent immediate and irreparable injury (e.g., preliminary injunctions, the sequestration of property) while the arbitration is pending or before the arbitration has commenced:	Yes	No	N/A
A. In domestic arbitrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. In international arbitrations taking place in your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27.1 If an immediate need can be shown, how often do courts grant such requests for assistance?	Rarely	Usually	In all or nearly all cases
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27.2 If the courts' authority to grant interim relief derives from a law other than the national arbitration statute (e.g., a Code of Civil Procedure), what is that other law?	[REDACTED]		
Overview question: In your experience, do the courts in your country provide the assistance that may be needed to ensure that arbitrations in your country proceed efficiently and fairly, and in accordance with the agreement of the parties?	Rarely	Usually	In all or nearly all cases
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments and clarifications: [REDACTED]			

Table C.2 Role of the courts--confirmation, enforcement and setting aside (vacating, annulling) of arbitration awards made in your country

For purposes of this Table C.2, we base our questions on additional assumptions, both involving GlobiCo. In each situation, we assume that an arbitration has taken place and **an award has been made in your country**. The two hypothetical situations are:

- A. **A domestic award in favor of GlobiCo - GlobiCo** (which was organized in, and operates in, your country) has obtained an award in local currency equivalent in value to **\$US 100,000** against **Supplier**, a domestic company organized and operating in your country. GlobiCo intends to attach Supplier's assets located in your largest business city. We assume that GlobiCo, which was organized in and operated in your country, was able to meet any additional requirements under your national law to engage in a domestic arbitration.
- B. **An international award in favor of a foreign party - Distributor**, a company organized and operating in a foreign country, has obtained an award of **\$US 100,000** against **GlobiCo**. The award was rendered in your

country and Distributor intends to attach GlobiCo's assets located in your largest business city.

28 Given the amount of the arbitration award (\$US100, 000) and location of Supplier's assets (your largest business city), what court in your country has jurisdiction to enforce GlobiCo's award? If there is more than one, specify the court most likely to be used in cases like those described above. Please provide the name of that court both in English and local language.	[] (English)		
	[] (local language)		
28.1 Is this a higher level court or a specialized court (not a general court of first instance)?	Yes	No	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28.2 May a judgment of that court enforcing the award be appealed to a higher court or courts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28.3 May a judgment of that court denying enforcement of the award be appealed to a higher court or courts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes to either 28.2 or 28.3, please name the court or courts of appeal:	[] (English)		
	[] (local language)		
29A In the case of a domestic award , if Supplier brings an action in court to set aside (vacate or annul) the award against it, is the court authorized to review that award on the merits ?	Yes	No	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, please explain: []			
29B In the case of an international award , if GlobiCo brings an action in court to set aside (vacate or annul) the award made in favor of Distributor, is the court authorized to review that award on the merits?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, please explain: []			
30A Under your national law, may the domestic award rendered in favor of GlobiCo be denied confirmation or enforcement, or be set aside, annulled or vacated, by a court in your country on any of the following grounds? ²	Yes	No	
(1) Invalidity of the underlying arbitration agreement, or lack of capacity of a party to make the agreement:	<input type="checkbox"/>	<input type="checkbox"/>	
(2) Lack of a fair hearing:	<input type="checkbox"/>	<input type="checkbox"/>	
(3) Award deals with matters outside the scope of the arbitration agreement:	<input type="checkbox"/>	<input type="checkbox"/>	
(4) Arbitration procedures not in accordance with the parties' agreement or the governing arbitration law:	<input type="checkbox"/>	<input type="checkbox"/>	
(5) Subject matter of the dispute not subject to arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	
(6) Enforcement of the award would be contrary to your country's public policy/ ordre public:	<input type="checkbox"/>	<input type="checkbox"/>	
(7) Error of law:	<input type="checkbox"/>	<input type="checkbox"/>	
(8) Award not supported by substantial evidence:	<input type="checkbox"/>	<input type="checkbox"/>	
(9) Other ground or grounds:	<input type="checkbox"/>	<input type="checkbox"/>	
Explain the other ground or grounds: []			

² The grounds listed in subparagraphs (1) through (6) are intended as summary statements of grounds listed in Article V of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. It is possible, however, that your national law provides other grounds, such as those in subparagraphs (7) or (8), on which your country's courts may deny recognition and enforcement of awards made in your country, or may set such awards aside.

30B Are the grounds for denying confirmation and enforcement or setting aside the same in the case of Distributor's international award against GlobiCo?		Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
If No, please explain: <input type="text"/>			
31A In your experience, what is the likelihood that your courts would enforce a domestic arbitration award such as the one described above, if no objection to enforcement were filed (an award against Supplier)?	Rarely	Usually	In all or nearly all cases
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If "Rarely", please explain: <input type="text"/>			
31B In your experience, what is the likelihood that your courts would enforce an international award such as the one described above (an award against GlobiCo)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If "Rarely", please explain: <input type="text"/>			
32 Time Please complete the following columns relating to number of days on average necessary to enforce a domestic and international arbitration award in your country. Bear in mind that GlobiCo seeks enforcement of an award in the amount of \$US 100,000 in the competent court in your country's largest business city, (and conversely, Distributor seeks enforcement of an award of US 100,000 against GlobiCo in the same court). Assume that the parties to the proceedings do not use any strategies to delay proceedings, and comply with court deadlines for submission of documentation and pleadings.			
Proceeding	Number of days	Competent court	Any difference with enforcing international awards
(a) From the filing of an application for enforcement to the date of a hearing for such an application in the first instance court (including payment of any necessary fees/levies in connection with the application)?	<input type="text"/>	<input type="text"/>	<input type="text"/>
(b) From the date of the first hearing to the first instance court decision, if no objection to enforcement has been filed?	<input type="text"/>	<input type="text"/>	<input type="text"/>
(c) From the first instance court decision to the decision of the final court of appeal (assuming that all avenues of appeal were pursued). In the second column, please list all relevant courts of appeal?	<input type="text"/>	<input type="text"/>	<input type="text"/>
(d) From the final court decision granting enforcement to GlobiCo obtaining a writ of execution attaching Supplier's assets (e.g. bank account)?	<input type="text"/>	<input type="text"/>	<input type="text"/>
Additional comments on the length of proceedings: <input type="text"/>			
Overview question: Do the courts in your country generally recognize and enforce arbitration awards made in your country? Please state any difference between the enforcement of domestic or international awards.	Rarely	Usually	In all or nearly all cases
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments and clarifications: <input type="text"/>			

Table C.3 The role of the courts--recognition and enforcement of foreign arbitration awards ³

For purposes of Table C.3, assume that **Distributor**, a company organized and operating in a foreign country, after an arbitration hearing in that **foreign country**, has received an arbitration award against **GlobiCo**. Distributor has been awarded damages of **\$US 100,000**. Assume that GlobiCo has assets in the largest business city of your country (i.e., Distributor will seek enforcement in that city).

Assume that the foreign country where the award was rendered has ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

(See: <http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html>)

33 Has your country ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?	Yes	No
	<input type="checkbox"/>	<input type="checkbox"/>
34 Under your national law, are foreign arbitration awards, such as the one described above, entitled, as a general rule, to recognition and enforcement by the courts of your country?	<input type="checkbox"/>	<input type="checkbox"/>
If No, skip to Table D below.		
35 Given the amount of the arbitration award (\$US 100,000) and location of GlobiCo's assets (your largest business city), what court in your country has jurisdiction to enforce Distributor's award? If there is more than one court, specify the one most likely to be used in most cases. Please provide the name of that court both in English and local language.	<input type="text"/> (English) <input type="text"/> (local language)	
35.1 Is this a higher level court or a specialized court (not a general court of first instance)?	Yes	No
	<input type="checkbox"/>	<input type="checkbox"/>
35.2 May a judgment of that court enforcing the award or denying enforcement be appealed to a higher court or courts?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, please name the court or courts of appeal:	<input type="text"/> (English) <input type="text"/> (local language)	
36 Under your national law on which of the following grounds may an arbitration award rendered in another country be denied recognition or enforcement by your country's courts? ⁴	Yes	No
(1) Invalidity of the underlying arbitration agreement, or lack of capacity of a party to make the agreement:	<input type="checkbox"/>	<input type="checkbox"/>
(2) Lack of a fair hearing:	<input type="checkbox"/>	<input type="checkbox"/>
(3) Award deals with matters outside the scope of the arbitration agreement:	<input type="checkbox"/>	<input type="checkbox"/>
(4) Arbitral procedures not in accordance with the parties' agreement or the governing arbitral law:	<input type="checkbox"/>	<input type="checkbox"/>

³ It is generally recognized that courts in a given country have the power to recognize, enforce or set aside arbitration awards made in the country where the court sits. The courts of one nation have no power, however, to set aside or vacate an award made in another country. With respect to such an award a foreign award the court may not vacate the award, but may only refuse to recognize or enforce the award in its own country (on various grounds stated in its national arbitration law). If the award is refused recognition or enforcement in one country, it is possible that the award may nevertheless be enforceable elsewhere. In this Table C.3.2 we address only the recognition or enforcement by your courts of awards made in arbitrations held in other countries.

⁴ The grounds listed in question 39 (1) through (7) are intended as summary statements of grounds listed in Article V of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. It is possible, however, that your national law provides other grounds, such as those in subparagraphs (8) or (9), on which your country's courts may deny recognition and enforcement of awards made in another country.

(5) Award set aside by a court in the country where the award was made:	<input type="checkbox"/>	<input type="checkbox"/>	
(6) Subject matter of the dispute not subject to arbitration:	<input type="checkbox"/>	<input type="checkbox"/>	
(7) Enforcement of the award would be contrary to your country's public policy:	<input type="checkbox"/>	<input type="checkbox"/>	
(8) Error of law:	<input type="checkbox"/>	<input type="checkbox"/>	
(9) Award not supported by substantial evidence:	<input type="checkbox"/>	<input type="checkbox"/>	
(10) Other ground or grounds:	<input type="checkbox"/>	<input type="checkbox"/>	
Explain the other ground or grounds: <input type="text"/>			
37 In your experience, what is the likelihood that your courts would enforce a foreign award such as the one described above, if no objection to enforcement were filed?	Rarely	Usually	In all or nearly all cases
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38 Time			
Please complete the following columns relating to number of days on average necessary to enforce a foreign arbitration award in your country. Bear in mind that Distributor seeks enforcement of a foreign award in the amount of \$US 100,000 in the competent court in your country's largest business city. Assume that the parties to the proceedings do not use any strategies to delay proceedings, and comply with court deadlines for submission of documentation and pleadings.			
Proceeding	Number of days	Competent court	
(a) From the filing of Distributor's application for enforcement to the date of a hearing for such an application in the first instance court (including payment of any necessary fees/levies in connection with the application)?	<input type="text"/>	<input type="text"/>	
(b) From the date of the first hearing to the first instance court decision, if no objection to enforcement has been filed?	<input type="text"/>	<input type="text"/>	
(c) From the first instance court decision to the decision of the final court of appeal (assuming that all avenues of appeal were pursued). In the second column, please list all relevant courts of appeal?	<input type="text"/>	<input type="text"/>	
(d) From the final court award granting enforcement to Distributor obtaining a writ of execution attaching the GlobiCo's assets (e.g. bank account)?	<input type="text"/>	<input type="text"/>	
Additional comments on the length of proceedings: <input type="text"/>			
Overview question: In practice, do the courts in your country generally recognize and enforce arbitration awards made in other countries?	Rarely	Usually	In all or nearly all cases
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments and clarifications: <input type="text"/>			

Table D. Arbitration with the state and state entities

The following Table D asks about resolving disputes through commercial arbitration between foreign owned companies (such as GlobiCo) on one side, and the host state and state entities on the other side, typically arbitrations involving alleged breaches of contracts. **State entities** include state constituent parts e.g., ministries, corporate entities owned by the state, etc. The questions are **not** intended to deal with disputes arising out of international investment treaties (e.g., Bilateral Investment Treaties).

39 Under your national law, are the state and state entities allowed to enter into arbitration with foreign owned companies in connection with the	Yes	No	Comments
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>

following (please provide references in the “Comments” box):				
(a) Concession agreements:	<input type="checkbox"/>	<input type="checkbox"/>		
(b) Infrastructure contracts (e.g., construction contracts) :	<input type="checkbox"/>	<input type="checkbox"/>		
(c) Contracts dealing with natural resources (e.g., contracts dealing with water rights, mining, oil and gas, etc.):	<input type="checkbox"/>	<input type="checkbox"/>		
(d) Other types of contracts/transactions (please list all that apply in the “Comments” column):	<input type="checkbox"/>	<input type="checkbox"/>		
Additional comments (optional):				
40 In an arbitration between a foreign owned company (such as GlobiCo) and your state or a state entity, can the parties freely choose the following:	Yes	No	Comments	
(a) The seat of arbitration (i.e., seat outside of your country):	<input type="checkbox"/>	<input type="checkbox"/>		
(b) Institutional arbitration (and the institution) or <i>ad hoc</i> arbitration:	<input type="checkbox"/>	<input type="checkbox"/>		
(c) The nationality of the arbitrator(s) (i.e., foreign nationals):	<input type="checkbox"/>	<input type="checkbox"/>		
(d) The number of arbitrator(s):	<input type="checkbox"/>	<input type="checkbox"/>		
(e) Use of foreign counsel:	<input type="checkbox"/>	<input type="checkbox"/>		
(f) The applicable procedural rules (i.e., international rules):	<input type="checkbox"/>	<input type="checkbox"/>		
(g) Any other restrictions (please specify in the “Comments” box):	<input type="checkbox"/>	<input type="checkbox"/>		
Additional comments (optional):				
41 How often does the state (or state entities) include arbitration clauses in their contracts with foreign companies?	Rarely	Occasionally	Usually	Always or nearly always
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42 Has your country ratified the ICSID Convention?		Yes	No	N/A
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43 When arbitration clauses are used in state contracts, do they typically or frequently call for any of the following (click all that apply):		Yes	No	N/A
(a) International arbitration institution rules e.g., ICSID or ICC:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) <i>Ad hoc</i> arbitration e.g., UNCITRAL		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Arbitration conducted in your country under your country’s arbitration laws		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Another type of arbitration or dispute resolution machinery (please specify)				
Comments and clarifications:				
44 In arbitrations involving a state or state entity, can your court(s) review the arbitration award on its merits in connection with recognition and enforcement proceedings?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45 Is there a public authority designated to handle administrative, logistical and other issues related to investors’ disputes with the state or a state entity (e.g., specific agency, office of the Prime Minister, etc.)?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please indicate the name of the designated authority:				
Please state the laws/codes related to arbitration with the state/state entity:				
Please provide websites where we can find these laws:				
Overview question: Are the state and state entities granted any advantages over foreign owned companies, such as GlobiCo, when entering into commercial arbitrations with such companies?	Yes	No	N/A	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Comments and clarifications:

Table E. Mediation and conciliation

Note: For purposes of this survey we use the terms “mediation” and “conciliation” interchangeably to refer to the process in which a neutral third party assists, or attempts to assist, the parties to reach an agreed settlement of their dispute.

46 In your experience, how frequently do private parties in your country agree to attempt to settle their commercial disputes through mediation or conciliation?	Rarely	Frequently	Usually	Always or nearly always
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47 Has your country adopted a specific statute on commercial mediation or conciliation of commercial disputes?	Yes	No	N/A	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If No, please skip to Table F.				
If Yes, please indicate the applicable law(s) and the years when they were adopted : <input type="text"/>				
Please indicate website(s) where the laws can be consulted, if available: <input type="text"/>				
47.1 Is that statute based on the language of the UNCITRAL Model Law on International Commercial Conciliation?	Yes	No	N/A	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Please describe any significant ways in which your country’s statute differs from the UNCITRAL Model Law: <input type="text"/>				
47.2 Does that law apply to domestic disputes , i.e., disputes solely between nationals of your country?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
47.3 Does that law apply to international disputes , i.e., disputes between nationals of different countries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
48 Is there an institution (or institutions) in your country that administers the mediation or conciliation of commercial disputes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, please indicate the name of the institution or institutions (e.g., center for arbitration and mediation with the national chamber of commerce, independent organization): <input type="text"/>				
Please provide any websites of the institution(s), if available: <input type="text"/>				
49 Have any of the courts in your country adopted mandatory procedures for mediating commercial disputes (e.g., for screening cases and referring to mediation those that appear susceptible of settlement by mediation, or by establishing “multi-door court houses” that enable parties to choose between litigation and mediation of their disputes)?	Yes	No	N/A	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, please describe: <input type="text"/>				
Please give any websites that describe such procedures in your country: <input type="text"/>				
Overview question: Are laws and procedures in place to support the mediation or conciliation of a substantial number of commercial disputes in your country?	Yes	No	N/A	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Comments and clarifications: <input type="text"/>				

Table F. Trends

50 Are there noteworthy trends in your country in the use of arbitration or mediation to resolve domestic or international commercial disputes?	Yes	No
	<input type="checkbox"/>	<input type="checkbox"/>
Please explain your answer: <input type="text"/>		

51 What are the sources of information about international and domestic commercial arbitration and mediation in your country (e.g., published court decisions, journals, arbitration awards)?	
Websites where the applicable information on international and domestic commercial arbitration can be found:	
Comments and clarifications:	

Table G. Obstacles and reforms

Please rate the extent to which the quality of the legal framework for arbitration and mediation, including its implementation, is an obstacle in your country:					
No problem	Minor obstacle	Moderate obstacle	Major obstacle	Very severe obstacle	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If you were to advise your government in this area, what legal, regulatory, institutional or administrative improvements would you recommend and why? What reforms would you most strongly recommend?					
Answer:					
Are you aware of any upcoming legal reforms in this area?				Yes	No
				<input type="checkbox"/>	<input type="checkbox"/>
If Yes, please briefly describe: the expected date of the reform, the goal of the reform, and its major characteristics (the solutions it provides to achieve its intended goals):					

Thank you very much for participating in this project and completing the survey. We greatly appreciate your contribution.

Would you prefer to have had the survey in another language?	No, English was fine		Yes, somewhat prefer		Yes, strongly prefer	
	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
If “Yes,” in what language?	Arabic	French	Portuguese	Russian	Spanish	Other
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How long did it take you to fill out this survey?					# of minutes	
					<input type="checkbox"/>	
How can we improve this survey?						

Glossary of terms

- **Ad hoc arbitrations** = Arbitrations that are **not** conducted under the auspices or supervision of an arbitration institution. Instead, parties simply agree to arbitrate, without designating any institution to administer their arbitration. The parties will sometimes select a preexisting set of procedural rules designed to govern *ad hoc* arbitrations, for example, the UNCITRAL has published such rules.
- **Alternative Dispute Resolution** = The procedure for settling disputes by means other than court litigation. These methods include among others mediation, conciliation and arbitration.
- **Arbitrability** = Whether the claim is capable of being resolved by arbitration. Certain categories of claims are considered in different countries as being incapable of resolution by arbitration. Such claims are deemed “non – arbitrable” because of their perceived public importance.
- **Arbitration** = A means by which disputes can be definitively resolved, pursuant to the parties’ agreement, by independent, non-governmental decision-makers.
- **Arbitration Agreement** = An agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship.

- **Calendar days** = As opposed to business days, calendar days include every day of the week (working and non-working days). For example, one week has 7 calendar days but fewer business days. This survey measures all time in calendar days.
- **Concession agreement** = A right granted by the government to a private company. It specifies the rules under which the company can operate locally.
- **Confirmation of an arbitration award** = The parties may apply to court for an order “confirming” the arbitration award. The court will normally confirm the award unless it has grounds for refusal or denial of enforcement.
- **Enforcement** of an arbitration award is the conversion of the award into a court judgment with all the sanctions that a court judgment entails, such as the right to have the debtor’s assets seized.
- **Etc.** = “so on”, “so forth”, “other such things”.
- **e.g.** = “for example”, “for instance”.
- **i.e.** = “that is”.
- **ICC** = International Chamber of Commerce.
- **ICSID** = International Center for the Settlement of Investment Disputes.
- **ICC Amicable Dispute Resolution (ADR) Rules** = These “ADR” rules permit the parties to settle their disputes or differences amicably with the assistance of a third party, the Neutral, within an institutional framework. The Rules do not include arbitration, but only proceedings which do not result in a decision or award of the Neutral which can be enforced at law.
- **ICSID Convention** = The Convention on the Settlement of Investment Disputes between States and Nationals of Other States, which entered into force in October 1966 and was established by ICSID.
- **Institutional arbitrations** = Arbitrations undertaken within a particular organization providing institutional arbitration services. Some of the best-known international arbitration institutions are the International Chamber of Commerce (ICC), the American Arbitration Association (AAA), and the London Court of International Arbitration (LCIA).
- **New York Convention** = 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which entered into force in June 1959. The Convention requires national courts to recognize and enforce foreign arbitral awards, subject to specified exceptions; requires national courts to recognize the validity of arbitration agreements, subject to specific exceptions; and requires national courts to refer parties to arbitration when they have entered into a valid agreement to arbitrate that is subject to the Convention.
- **Seat of arbitration** = The location of the arbitration forum. The seat of arbitration has a number of significant effects upon the arbitration, including the potential of national court interference with arbitration proceedings, national court’s assistance with arbitration proceedings, the law applicable to the arbitration agreement if the parties have not agreed otherwise, and national court’s enforcement of arbitration awards.
- **Setting aside of an arbitration award** = The parties may commence an action to legally nullify the award so that it cannot be enforced locally, and in general will only be enforceable outside the seat of arbitration with great difficulty.
- **Severable** = The severability or separability doctrine provides that an arbitration agreement, even though included in and related closely to an underlying commercial contract, is a separate and autonomous agreement.
- **Subsidiary** = A business that is owned by a parent company and managed under its direction.
- **Time in practice** = Time required to complete a procedure given the experience of the survey respondent, as opposed to the timeframe given in the laws and regulations.
- **UNCITRAL** = United Nations Commission on International Trade Law
- **UNCITRAL Model Law on International Commercial Arbitration** = This was adopted by the UNCITRAL in June 1985, and amended in 2006. This “Model Law” aims at resolving disparities in different national laws dealing with international commercial arbitration. It is not binding, but states may incorporate it into their domestic legislation.
- **Vacating of an arbitration award** = This is similar to an action that the parties commence to set aside an arbitration award.