

GETTING THE DEAL THROUGH

# Arbitration

in 42 jurisdictions worldwide

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**GLOBAL ARBITRATION  
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# Bangladesh

Sharif Bhuiyan and Karishma Jahan

Dr Kamal Hossain & Associates

## Law and institutions

- 1** Is your country a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Since when has the Convention been in force? Were any declarations or notifications made under articles I, X and XI of the Convention? What other multilateral conventions relating to arbitration is your country a party to?

Bangladesh is a party to the New York Convention. The Arbitration Act 2001 provides for enforcement of foreign arbitral awards in accordance with the New York Convention.

Bangladesh is also a party to the ICSID Convention 1965 (Conventions on the Settlement of Investment Dispute between States and Nationals of Other States).

- 2** Do bilateral agreements relating to arbitration exist with other countries?

Bangladesh has entered into over 20 bilateral investment treaties (BITs) with other states, most of which contain specific dispute resolution provisions for the settlement of disputes between investors and Bangladesh. The countries with which BITs have been concluded, along with the date of signature and date of entry into force, are:

- Austria – 21 December 2000; 1 December 2001;
- Belgium–Luxembourg – 22 May 1981; 14 September 1987;
- China – 12 September 1996; 25 March 1997;
- France – 10 September 1985; 3 October 1986;
- Germany – 6 May 1981; 14 September 1986;
- Indonesia – 9 February 1998; 22 April 1999;
- Iran – 29 April 2001; 5 December 2002;
- Italy – 20 March 1990; 20 September 1994;
- Japan – 10 November 1998; 25 August 1999;
- Republic of Korea – 18 June 1986; 6 October 1988;
- Malaysia – 12 October 1994; 1 August 2003;
- Netherlands – 1 November 1994; 1 June 1996;
- Pakistan – 14 April 1995; 5 May 1997;
- Philippines – 8 September 1997; 22 July 1999;
- Poland – 8 July 1997; 19 November 1999;
- Romania – 13 March 1987; 31 October 1987;
- Switzerland – 14 October 2000; 3 September 2001;
- Thailand – 13 March 1988; 13 March 1988;
- Thailand – 9 July 2002; 12 January 2003;
- Turkey – 12 November 1987; 21 June 1990;
- United Kingdom – 19 June 1980;
- United States – 12 March 1986; 25 July 1989; and
- Uzbekistan – 18 July 2000; 24 January 2001.

- 3** What are the primary domestic sources of law relating to domestic and foreign arbitral proceedings, and recognition and enforcement of awards?

The Arbitration Act 2001 (the Act or the 2001 Act) governs domestic and international commercial arbitration in Bangladesh. Chapter X of the Act relates to the recognition and enforcement of foreign awards. The scope of application of the Act is generally limited to arbitration taking place in the territory of Bangladesh (section 3(1) of the Act).

- 4** Is your domestic arbitration law based on the UNCITRAL Model Law? What are the major differences between your domestic arbitration law and the UNCITRAL Model Law?

The Arbitration Act 2001 is based on the UNCITRAL Model Law. However, there are some differences between the provisions of the 2001 Act and the Model Law. These can be summarised as follows:

- section 11 of the 2001 Act deals with the number of arbitrators and provides that, unless otherwise agreed between the parties, the number shall not be even;
- the Model Law permits the parties to approach a court or authority for the appointment of a third arbitrator or sole arbitrator, as the case may be, in cases where the parties fail to reach an agreement. Under the 2001 Act this power, in the case of the domestic arbitration, is vested with the district judge and, in case of international commercial arbitration, is given to the chief justice or any judge of the Supreme Court designated by him;
- matters that are dealt with by the 2001 Act on which the Model Law is silent are:
  - award of interest by the tribunal (section 38(6));
  - costs of arbitration (section 38(7));
  - enforceability of an award in the same manner as if it were a decree of a court under section 44 in situations where the award is not challenged within the prescribed period or the challenge has been unsuccessful;
  - appeals in respect of certain matters (section 48);
  - fixing the amount of deposit as an advance for the cost of arbitration (section 49);
  - non-discharge of arbitration agreement by death of a party (section 51);
  - rights of a party to an arbitration agreement in relation to insolvency proceedings (section 52);
  - identification of court having exclusive jurisdiction over the arbitral proceedings (section 53); and
  - applicability of the Limitation Act 1908 to arbitrations as it applies to proceedings in court and related issues.

- 5 What are the mandatory domestic arbitration law provisions on procedure from which parties may not deviate?

The parties have freedom to lay down the procedure to be followed by the arbitral tribunal for conducting the proceedings. However, there are procedures suggested by the 2001 Act that the parties would have to follow in the absence of any other agreement between them. For instance, section 29(1) requires the claimant to state the facts supporting the claim, the points at issue and the relief or remedy sought, and the respondent to state his defence in respect of these. Section 30(2) requires sufficient advance notice of hearing and of any meeting of the tribunal for the purposes of inspection of documents, goods or other property. Section 22(3) states that an arbitral award on agreed terms should be made in accordance with the requirements provided for in section 38 of the 2001 Act and should state that it is an arbitral award on agreed terms. Section 38 sets out the form and content of arbitral award and requires, inter alia, that the award be written, contain signatures of majority of the members of the arbitral tribunal and a valid reason for the omitted signature and states the date and place of arbitration.

A mandatory provision in section 41 sets out the precise point in time at which the arbitral tribunal gets terminated and states that the proceedings can be terminated by the final award or in the event of withdrawal of the claim by the claimant or by agreement of the parties or upon the finding of the tribunal that the continuation of the proceedings for any other reason(s) becomes unnecessary or impossible. Under section 40 the parties may request the tribunal, within a period of 14 days from the receipt of the award, unless otherwise agreed, to correct any computation, clerical, typographical or similar errors, give an interpretation of a specific point or part of the award or make additional award as to the claims omitted from the original award.

- 6 Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?

Section 36 of the Act provides that the tribunal will decide the dispute in accordance with the law chosen by the parties. The parties are therefore free to decide the substantive law to be applied to the merits of the dispute.

The Act allows the arbitral tribunal, in the absence of the parties' choice of applicable substantive law, the freedom to apply any rules of law as it objectively deems appropriate in the circumstances of the dispute (section 36(2)).

- 7 What are the most prominent arbitral institutions in your country?

For domestic arbitrations it is common for the parties to conduct them on an ad hoc basis without any institutional support. However for international commercial arbitrations, parties often use a diverse range of well-known international arbitration centres such as the ICC, LCIA or other similar institutions in other countries.

The Federation of Bangladesh Chambers of Commerce and Industry (FBCCI) has introduced the Bangladesh Council of Arbitration (BCA) for the resolution of commercial disputes.

#### Arbitration agreement

- 8 Are there any types of disputes that are not arbitrable?

Section 54 of the Act states that the Act is not applicable to the

Industrial Relations Ordinances 1968 (repealed and replaced by the Labour Act 2006) or to any other law making special provisions for arbitration. Apart from the above, the Act does not contain any express provisions on arbitrability or the types of disputes that can be arbitrated.

Section 10(1) of the 2001 Act obliges a court to refer the parties to arbitration if action brought before it is a matter that is covered by an arbitration agreement, provided such request is made not later than submitting to the court the first statement on the substance of the dispute. Pursuant to section 10(2), the court, if it is satisfied that an arbitration agreement exists, refers the parties to arbitration and stays the proceedings, unless it finds that the arbitration agreement is void, inoperative or incapable of determination by arbitration.

Decisions under the old Arbitration Act 1940 would have bearings on this issue. Under the old Act the court decided on the facts of each case whether sufficient cause had been made out or not for the dispute to be referred to arbitration and, in doing so, the court was not limited to the kind of causes referred to in the Arbitration Act. When the dispute required investigation into the charge of fraud, the court could refuse to refer the matter to arbitration. When the dispute between the parties raised difficult and complicated question of law that required a decision by the court, it could refuse to refer the dispute to arbitration. The court also considered the conduct of the applicant and considered such conduct to be sufficient cause for not making the reference. Moreover, undue delay could be sufficient cause for not ordering reference to arbitration.

- 9 What formal and other requirements exist for an arbitration agreement?

An arbitration agreement that would be recognised by the court includes written documents signed by the parties, exchange of letters, telex, telegrams, fax, e-mails or other means of telecommunication providing a record of the agreement or an exchange of statement of claim and defence in which existence of the agreement is alleged by one party and not denied by the other.

- 10 In what circumstances is an arbitration agreement no longer enforceable?

The arbitration agreement should contain all the ingredients of an usual agreement that would make it enforceable, ie, the wording of the agreement should be free from ambiguity and state the disputes to which the arbitration agreement would be applicable.

A party may lose its right to arbitrate if it submits to the jurisdiction of the court. Termination of the underlying contract generally does not affect the validity of the arbitration agreement which is considered severable. The court, when determining whether the entire contract, including the arbitration clause, has been rescinded, will take into account the facts of the particular case. Only in limited circumstances the court may hold that the arbitration agreement is invalid, eg, where fraud has been committed.

- 11 In which instances can third parties or non-signatories be bound by an arbitration agreement?

The Act does not contain any provision as to whether third parties or non-signatories can be bound by an arbitration agreement.

**12** Do courts and arbitral tribunals in your jurisdiction extend an arbitration agreement to non-signatory parent or subsidiary companies of a signatory company, provided that the non-signatory was somehow involved in the conclusion, performance or termination of the contract in dispute, under the so-called 'group of companies' doctrine?

The 'group of companies' doctrine is not recognised in the Act nor has this issue been decided by authoritative courts.

**13** What are the requirements for a valid multiparty arbitration agreement?

There is no express provision in the Act relating to multiparty arbitrations. A multiparty arbitration agreement is valid so long as the drafting is clear, the intention of all the parties to be bound by the arbitration agreement is evident and it satisfies the requirements of an arbitration agreement.

#### Constitution of arbitral tribunal

**14** Are there any restrictions as to who may act as an arbitrator?

There are no restrictions on who may be appointed as an arbitrator. A person of any nationality may be an arbitrator, unless otherwise agreed by the parties (section 12(2)). The Act provides that in the event of default, the courts can appoint an arbitrator, but must give due regard to any agreement of the parties as to the qualifications required of the arbitrator and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator (section 12(9)). In the case of appointment of a sole arbitrator or third arbitrator in an international commercial arbitration, the chief justice or the judge of the Supreme Court designated by the chief justice, may appoint an arbitrator of a nationality other than the nationalities of the parties, where the parties belong to different nationalities (section 12(10)).

**15** Failing prior agreement of the parties, what is the default mechanism for the appointment of arbitrators?

A court intervenes in the selection of arbitrators if the parties fail to select arbitrators or if the arbitrators selected by the parties fail to select the chairman of the tribunal. In appointing arbitrators, the court would have to give due regard to: (i) any qualifications required of the arbitrator under the agreement between the parties, and (ii) such considerations as are likely to secure an independent and impartial arbitrator. The court's decision in respect of the appointment is final. This power in the case of the domestic arbitration is vested with the district judge and in case of international commercial arbitration is given to the chief justice or any judge of the Supreme Court designated by him.

**16** On what grounds and how can an arbitrator be challenged and replaced?

The grounds for challenging appointment of an arbitrator are provided for in section 13 of the Act, which states that such appointment can be set aside if circumstances exist that give rise to justifiable doubts as to the arbitrator's independence or impartiality, or if he or she does not possess the qualifications agreed to by the parties. Section 14 sets out the challenge procedure. A party is duty bound to put the objection on record. Parties are free to agree on a challenge procedure. In absence of an agreement, the arbitral tribunal can itself decide on the challenge to its independence and impartiality. Any party aggrieved by the decision of the arbitral tribunal can appeal to the High Court Division. The Act requires the arbitral tribunal to wait until the challenge procedure is finally

disposed of and sets a stringent time limit of three months within which the High Court must decide the appeal (section 14(6)). If a challenge to the arbitral proceedings fails, the tribunal continues the proceedings and renders an award.

Section 15 sets out the circumstances which result in the termination of the mandate of the arbitrator. These are: (i) withdrawal from the office by an arbitrator; (ii) death of arbitrator; (iii) agreement of all the parties on the termination of the mandate of the arbitrator; and (iv) inability of the arbitrator to perform his functions. Section 16 provides the procedure for substitution of an arbitrator whose mandate has been terminated.

If an arbitrator has incurred disqualifications referred to above and fails to withdraw himself from his office and all the parties fail to agree on his termination, then on the application by any party, the chief justice or a judge of the Supreme Court (in case of international commercial arbitration) or district judge (for all other arbitration) may terminate the said arbitrator.

**17** What is the relationship between parties and arbitrators?

Arbitrators, including party-appointed arbitrators, are to act independently and impartially.

#### Jurisdiction

**18** What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an existing arbitration agreement, and what time limits exist for jurisdictional objections?

If a party commences court proceedings despite an existing arbitration agreement, the other party can apply for a stay of the proceedings under section 10 of the Act. Such an application must be filed before filing the defence. Section 10(2) provides that a court shall refer the parties to arbitration and stay proceedings, unless the court finds that the arbitration agreement is void, inoperative or the matter is incapable of determination by arbitration.

**19** What is the procedure for disputes over jurisdiction of the arbitral tribunal once arbitral proceedings have been initiated and what time limits exist for jurisdictional objections?

Unless otherwise agreed by the parties, the arbitral tribunal may rule on its own jurisdiction including determination of the following questions:

- whether there exists a valid arbitration agreement;
- whether the arbitral tribunal is properly constituted;
- whether the arbitration agreement is against public policy;
- whether the arbitration agreement is incapable of being performed; and
- what matters have been submitted to arbitration in accordance with the arbitration agreement.

Section 20 of the Arbitration Act 2001 states that the High Court Division may, on the application of any of the parties to the arbitration agreement, after serving notice upon all other parties, determine any question as to jurisdiction of the arbitral tribunal if it is satisfied that the determination of the question is likely to save substantial cost, the application was submitted without any delay and there is good reason why the matter should be decided by the court. The application will have to state the reasons on which the matter should be decided by the High Court Division. However, even if such an application is pending before the court, unless otherwise agreed by the parties, the arbitral tribunal is expected to continue the arbitration proceedings and render an award.

**Arbitral proceedings**

**20** Failing prior agreement of the parties, what is the default mechanism for the place of arbitration and the language of the arbitral proceedings?

Failing prior agreement of the parties, the tribunal has the discretion to decide the place of arbitration and the language of the proceedings under section 25 of the Act.

**21** How are arbitral proceedings initiated?

Usually arbitral proceedings are initiated by a notice of arbitration or a notice for the appointment of arbitrators (section 27).

**22** Is a hearing required and what rules apply?

Unless otherwise agreed between the parties, the tribunal decides whether to hold oral hearings for the presentation of evidence or argument or whether the proceedings should be conducted on the basis of documents and other materials (section 30(1)).

The tribunal is required to hold oral hearings, at an appropriate stage of the proceedings, either on a request by a party, or of its own motion, unless the parties have agreed that no oral hearing shall be held.

Section 30(2) requires sufficient advance notice of any hearing and of any meeting of the tribunal for the purposes of inspection of documents, goods or other property.

**23** By what rules is the arbitral tribunal bound in establishing the facts of the case? What types of evidence are admitted and how is the taking of evidence conducted?

According to section 24 of the Act an arbitral tribunal is not bound to follow the principles of the Evidence Act 1872. However, any disputed question of fact should nonetheless be decided on the basis of evidence.

**24** In what instances can the arbitral tribunal request assistance from a court and in what instances may courts intervene?

Under the Act, the involvement of courts has been kept to a minimum level essential for effective operation of the tribunal's work. The court's power to intervene is restricted as follows; it can:

- refer parties to arbitration where there is an arbitration agreement (section 10(2));
- appoint arbitrators on parties' failure to approve arbitrators or on failure of the two appointed arbitrators to appoint the third arbitrator (section 12);
- hear an appeal against the decision of the arbitral tribunal challenging arbitrator (section 14(4));
- decide on termination of mandate of the arbitrator in the event of his inability to perform his functions or failing to act without undue delay (section 15(2));
- (in the case of the High Court Division) decide jurisdiction of the arbitral tribunal (section 20);
- enforce interim measures taken by the arbitral tribunal (section 21(4));
- issue summons upon the application of the arbitral tribunal (section 33);
- set aside awards (section 42);
- enforce a foreign arbitral award (section 45);
- (in the case of the High Court Division) hear appeals against an order of a district judge and additional district judge (section 48);

- refusing to set aside an arbitral tribunal;
- refusing to enforce an arbitral award under section 44;
- refusing to recognise or enforce any foreign arbitral award under section 45;
- resolve dispute as to arbitrator's remuneration or costs (section 50);
- direct determination of any question in connection with insolvency proceeding by arbitration under certain circumstances (section 52); and
- (in the case of the Supreme Court) make rules in certain cases (section 58).

**25** Is confidentiality ensured?

The parties can agree to keep the arbitration proceedings confidential including the award.

**Interim measures**

**26** What interim measures may be ordered by courts before and after arbitration proceedings have been initiated?

The court may make interim orders in respect of the following matters:

- to appoint a guardian for minors or the insane to conduct arbitral proceedings on their behalf;
- to take interim custody of or sell or take other protective measures in respect of goods or property, which are subject matter of the arbitration agreement;
- to restrain any party from transferring property which is subject to arbitration and to pass an order of injunction on transfer of such property;
- to empower any person to seize, preserve, inspect, take photograph, collect specimen, examine, take evidence of any goods or property included in the arbitration agreement and for that purpose to enter into land or building in possession of any party;
- to issue ad interim injunction;
- to appoint receiver; and
- to take any other interim protective measures that may appear reasonable or appropriate to the court.

**27** What interim measures may the arbitral tribunal order after it is constituted? In which instances can security for costs be ordered by an arbitral tribunal?

Arbitral tribunals can pass, upon an application made by any of the parties, an interim award that is enforceable like a final award. Under section 21 of the Act, the arbitral tribunal may, at the request of a party, order a party to take any interim measure of protection as the arbitral tribunal considers necessary in respect of the dispute and such an award is not appealable. As a matter of practical exigency, along the lines of modern international arbitral practices, the Act also provides that the arbitral tribunal may require a party, usually the requesting party, to provide requisite security in connection with interim measures ordered by the arbitral tribunal.

The interim measures covered by section 21 are not exhaustive and may include preservation, custody, sale, protection of goods, protection of trade secrets, maintenance of machineries, works and continuation of certain works. A tribunal may also grant specific performance of part of a contract or injunction. The interim orders must, however, be in respect of the subject matter of the dispute and the parties to the arbitration agreement.

**Awards**

**28** Failing party agreement, is it sufficient if decisions by the arbitral tribunal are made by a majority of all its members or is a unanimous vote required? What are the consequences if an arbitrator refuses to take part in a vote or sign the award?

Section 38 sets out the form and content of arbitral award and requires, inter alia, the award to be written, signed by the majority of the members of the arbitral tribunal, contain a valid reason for any omitted signature and state the date and place of arbitration. Signed copies of the arbitral award must be delivered to each party.

**29** What form and content requirements exist for an award? Does the award have to be rendered within a certain time limit?

An arbitral award need not state any reasons if the parties agree that reasons are not to be given (section 38(2)). The arbitral award shall state its date and the place of arbitration and the award shall be deemed to have been made at that place (section 38(3)). Unless otherwise agreed by the parties, if the arbitral award is for the payment of money, the arbitral tribunal may include in the sum for which the award is made, interest at such rate as it deems reasonable, on the whole or any part of money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the award is made.

**30** For what time limits is the date of the award decisive and for which is the date of delivery of the award decisive?

Under the Act each arbitration award must contain the date of the award and the date so stated in the award is the relevant date.

**31** What types of awards are possible and what types of relief may the arbitral tribunal grant?

An arbitral tribunal can issue interim award, final award and award on agreed terms. An arbitral tribunal can grant such relief as it deems appropriate, including pecuniary and declaratory relief, specific performance and award of costs.

**32** By what other means than an award can proceedings be terminated?

Under section 22 of the Act, the arbitral tribunal may encourage settlement of the dispute otherwise than by arbitration and by agreement of all the parties, the arbitral tribunal may use mediation, conciliation or any other procedures at anytime during the arbitral proceedings. If, during the arbitral proceedings, parties settle the dispute, the arbitral tribunal shall, if requested by the parties, record the settlement in the form of an arbitral award on agreed terms in accordance with section 38 of the Act.

The arbitral tribunal shall also terminate the arbitral proceedings where:

- the claimant withdraws his claim, unless the respondent objects and the arbitral tribunal recognises a legitimate interest on its part in obtaining a final settlement of the dispute;
- the parties agree on the termination of the proceedings; or
- the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible (section 41(2)).

**33** How are the costs of the arbitral proceedings allocated in awards? What costs are recoverable?

Section 38(7) of the Act provides that unless otherwise agreed by the parties, the costs of arbitration shall be fixed by the arbitral tribunal. The arbitral tribunal shall specify (i) the party entitled to costs; (ii) the party who shall pay the costs; (iii) the amount of costs or method of determining that amount; and (iv) the manner in which the costs shall be paid.

‘Arbitration costs’ includes reasonable costs relating to the fees and expenses of the arbitrators and witnesses, legal fees and expenses, any administration fees of the institution supervising the arbitration and any other expenses incurred in connection with the arbitral proceedings and the arbitral award.

**34** May interest be awarded for principal claims and for costs and at what rate?

The arbitral award may include interest in respect of the sum for which the award is made at such rate as the tribunal deems reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the award is made. Subject to what is specified in the award, interest on the sum directed to be paid by the arbitral award, at the rate of 2 per cent per annum more than the current Bangladesh Bank rate, is payable for the period between the date of award and the date of payment (section 38(6)).

**Proceedings subsequent to issuance of award**

**35** Does the arbitral tribunal have the power to correct or interpret an award on its own or at the parties’ initiative? What time limits apply?

Parties may request the arbitral tribunal, within 14 days of receipt of the arbitral award, unless another period of time has been agreed upon by the parties, to: (i) correct any computation error, any clerical or typographical error or any other error of a similar nature occurring in the award; (ii) modify a divisible part of the award that has not been sent to the tribunal or, if sent, does not affect the arbitral award on the matters sent to the tribunal; and (iii) make an additional arbitral award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

A party with notice to the other party, may request the arbitral tribunal to give an interpretation of a part or a specific point of the arbitral award.

If the arbitral tribunal considers the request made to be justified, it shall make the correction, or give the interpretation as the case may be, within 14 days of receipt of the request or, where the parties agree upon a longer period of time, within that agreed longer period of time.

**36** How and on what grounds can awards be challenged and set aside?

Section 43 of the Act provides the grounds for setting aside arbitral awards. Fraud, corruption or conflict with public policy of Bangladesh, violation of principles of natural justice, acting beyond the terms of the submission and deciding on matters which are legally not arbitrable are the grounds on which an award can be set aside.

A party may also apply to set aside an arbitral award if it furnishes proof that (i) a party to the arbitration agreement was under some incapacity; (ii) the arbitration agreement is not valid under the law to which the parties have subjected it; (iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or

was otherwise unable due to some reasonable cause to present his case; or (iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decision on matters beyond the scope of the submission to the arbitrators.

**37** What requirements exist for recognition and enforcement of domestic and foreign awards, what grounds exist for refusing recognition and enforcement, and what is the procedure?

An arbitral award is taken to be final and binding on both parties and on any persons claiming through or under them. It is enforceable under the Code of Civil Procedure in the same manner as if it were a decree of the court.

Bangladesh is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Chapter X of the Act sets out provisions dealing with recognition and enforcement of foreign arbitral awards. Section 45 of the Act provides that, notwithstanding anything contained in any other law for the time being in force, subject to section 46, a foreign arbitral award shall be treated as binding for all purposes on the persons between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in Bangladesh. Section 45(1)(b) also provides that, on an application made by a party to the award, a foreign arbitral award is enforceable by execution by the court under the Code of Civil Procedure, in the same manner as if it were a decree of the court. Application for the execution has to be accompanied by original arbitral award or an authenticated copy of the award, original or authenticated agreement for arbitration and evidence proving that the award is a foreign award.

Grounds for refusing recognition or execution of foreign arbitral awards are set out in section 46 of the Act and include, among others, incapacity of any party, invalidity of the arbitration agreement, inadequate notice of arbitration to the party against whom award is invoked, subject matter of the dispute not capable of being settled by arbitration and award being in conflict with public policy of Bangladesh. These are exactly the same as those provided for in article V of the New York Convention. Finally, section 47 of the Act provides that to fulfil the objects of chapter 9, the government may make notifications in the Official Gazette declaring a state as a specified state.

**38** What costs are incurred in enforcing awards?

Enforcement costs include cost of legal proceedings for enforcement.

#### Other

**39** What dominant features of your judicial system might exert an influence on an arbitrator from your country?

US-style discovery is not common in Bangladesh.

**40** What particularities exist in your jurisdiction that a foreign practitioner should be aware of?

Arbitrators are subject to the usual immigration rules and procedures.

## Dr Kamal Hossain & Associates

**Sharif Bhuiyan**  
**Karishma Jahan**

**sbhuiyan@khossain.com**  
**kjahan@khossain.com**

Chamber Building (2nd Floor)  
122-124 Motijheel C/A  
Dhaka 1000  
Bangladesh

Tel: +88 02 955 2946 / 956 4954 / 956 0655  
Fax: +88 02 956 4953  
www.khossain.com