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Mechanism of international settlement of arbitration in investment disputes

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Abstract

This could weaken its legal status, or rather establish a balance in a potential contract between a foreign investor who is a person governed by private law and a common law State. In this context, States will seek to create an investment climate by updating their legislation, keeping abreast of global developments and concluding agreements to encourage investment.

One of the guarantees sought by any investor is not to submit to its national jurisdiction any disputes that may arise in connection with its investment in that State since it is not impartial in the eyes of the investor. To this end, States have sought a solution to attract investment through another possible means of resolving disputes that may arise in connection with such investments, which constitute both a guarantee and an attraction for investors.

The solution was to arbitrate and submit disputes that might arise between the parties to an independent body chosen by the parties, the aspirations of States and investors as to the existence of such bodies has led to the conclusion of the ICSID Convention.

Introduction

At a time when countries are increasingly seeking to attract foreign investment, because of their direct and effective impact on economic development, countries are competing to provide the facilities and guarantees that investors aspire to encourage them to invest in these countries and to grant them the privileges they seek. The guarantees sought by investors are the settlement of disputes that may arise between them and the State or one of its organs through the arbitration system, because of the advantages it offers in adapting to the nature of the disputes and the ambitions of these investors.

This study provides a simplified overview of both the arbitration system and foreign investment and shows why the arbitration system is one of the best ways to resolve investment disputes. The dispute resolution system, related to these issues, outlined some practical issues in this area.

The study also examined some specialized courts and centers for the settlement of foreign investment disputes, both Arab and international, and the extent to which the arbitration system was a means of settling disputes submitted to these courts,

The importance of research

Countries, particularly developing countries, need to develop their economies, facilities, and infrastructure through foreign investment, as they need guarantees to facilitate its work and preserve its rights against sovereign States that can nationalize their investments or amend their national legislation. To this end, States have sought to find a solution to attract investments through a possible alternative means of resolving disputes that may arise in connection with such investments, which constitute both a guarantee and an attraction for investors. Independent of the choice of parties, the aspirations of both States and investors for the existence of such bodies have resulted in the conclusion of the ICSID Convention.

Research problem

The greatest effort in this research is to understand the concept of arbitration in general. Arbitration related to investment contract disputes, since this idea had never been seen by the researcher and has never been studied, read or developed.

Research plan

In this paper, we will discuss investment dispute arbitration by defining the meaning of arbitration in investment contract disputes by splitting the concept into two parts. The study deals with the first axis of arbitration in investment disputes,

The second aspect also concerns the specificity of the arbitration agreement with regard to investment disputes, arbitration in investment contract disputes.

Then, in the third axis, we deal with the arbitration in direct and indirect investment disputes and in the fourth axis, we study Jordan's case in investment arbitration law.

The study then addresses the specificity of arbitration in investment-related disputes according to two themes: the first part deals with arbitration in general as an alternative means of dispute resolution, the second part deals with the specificity of arbitration in investment-related disputes and its practical importance.

Given the importance of the fact that the research is practical and not purely theoretical, the study deals with the arbitration in investment disputes under Jordanian law, as well as investment law and arbitration law in two requests, briefly presents the relevant provisions of investment disputes.

The study then focused on the most important of these agreements, namely the agreement of the International Centre for the Settlement of Investment, the conditions for obtaining arbitration, then on the law applicable to arbitration proceedings, and then on a third article of the last law applicable to the subject matter of the dispute.

I - chapter

Arbitration in investment contract disputes

The definition of arbitration in investment contract disputes requires the division of the definition into two parts, the arbitration agreement and the investment contract. Therefore, the study required dividing the subject into two requirements. In a second request, it deals with the definition of the investment contract in order to reach the conclusion of the arbitration contract in disputes relating to investment contracts.

I -1 What is an arbitration agreement?

In this respect, the concept of an arbitration agreement includes the two known traditional forms: Arbitration clauses (Compromised):

It is an agreement concluded separately and independently of the initial contract between the parties, which provides for the first recourse to arbitration in the event of a dispute between them.

I – 2 Compromise of the arbitration clause

In one of the contracts, it is agreed to refer a future dispute or any dispute that may arise from this contract to an arbitral tribunal or arbitrator.

An arbitration contract can be defined as a "written agreement between two or more persons to decline jurisdiction in a dispute. What is expressly specified in the arbitration agreement and the granting of such jurisdiction to a person or entity (a body) to rule in this dispute is called an arbitral tribunal.

I -3 Investment contract:

The study of investment necessarily requires an understanding of the content, elements and dimensions: in an era where the world has become a "small village" dominated by interdependent international relations, it is necessary to know the meaning and concepts of the investment contract. International investments often address issues related to the cross-border movement of goods, services and capital, which necessarily means its multiple forms, diversity and continuous development.

This has led to the difficulty of developing a definition of a global barrier to investment, which has led to a divergence between jurisprudential and legal definitions and diversity.

Some legislation and lawyers have therefore attempted to address the definition of investments. One of the lawyers defined it on the economic basis of the investment is: "Direct savings to increase the economic base, then raise the overall economic level",

The Jordanian legislature has attempted to describe the investment by defining the project in question as "any economic, industrial, agricultural or service activity to which the provisions of this Law and the regulations and instructions resulting therefrom apply".

However, national case law and legislative attempts to determine the concept of investment have been flawed, leading to the conclusion of bilateral and collective international agreements to try to address this flaw.

Article 1, paragraph 1, of the Agreement on the Promotion and Protection of Mutual Investments, concluded between Jordan and France on 23 February 1978, defines the term investment for the purposes of that Agreement.

"Investment" means funds, rights and interests of any kind", Then, I listed some of these funds, rights and interests in paragraphs of e to name, but not limited to.

Article 1 of the Agreement on the Encouragement and Reciprocal Protection of Investments between Jordan and the Czech Republic provides: "The term "investment" shall mean any type of assets invested in economic activities by an investor originating from one of the Contracting Parties in the territory of the other Contracting Party, in accordance with the latter's laws and regulations."

The committee established by the International Union of Investment Law (IICA) defined: "capital movements from the investing country to the beneficiary country without direct regulation";

Some criticized this definition and proposed another definition "Capital movements from the investing country to the beneficiary country with the aim of creating or developing a project for the production of goods and services".

It seems that efforts, however laborious they may be, to determine the definition of an investment blocker, but they are unable to cope with the different forms of investment and their ever-changing forms.

However, we note that the previous definitions have unanimously agreed that elements of investment represented by capital can be valued in cash entering a country other than the State of nationality in order to establish a project in that State.

Accordingly, arbitration in investment contract disputes can be defined as: "a written agreement between two or more persons, which removes the jurisdiction of the judiciary in disputes arising from an investment contract between them.

This jurisdiction is vested in the authority (the tribunal) to settle this dispute, called the arbitral tribunal, provided that one of the parties is a State and the other party is a foreign investor.

"*Arbitration in private international relations, Dr. Samah Rashid, Knowledge Centre in Alexandria, p. 75.*

Diya, Linda Fadel, The Specificity of Arbitration in the Resolution of Investment Disputes under the 1965 Washington Treaty, Master's Thesis, Beirut Arab University 2008.
Article 2 of the Investment Act No 68/2003, published on page 3238 of the Official Gazette No 4606 of 16 June 2003.
Agreement on the Promotion and Protection of Mutual Investment between Jordan and France, website of the Jordanian Ministry of Industry and Trade.
The specificity of arbitration in the resolution of investment disputes, previous reference.

II - chapter

The specificity of the arbitration agreement in investment disputes

Arbitration is generally used to avoid ordinary court proceedings that require a relatively long time on the one hand and sometimes, benefit from rules other than those established by national law governing the contract.

In this section, we will discuss the importance of arbitration and its advantages as an alternative means of resolving disputes at first request.
Secondly, we discuss the specificity of arbitration in investment disputes.

II - 1 Arbitration as an alternative means of conflict resolution

The most important thing that distinguishes arbitration from ordinary courts is the simplicity of the proceedings, in order to avoid lengthy proceedings required by the judiciary - such as court jurisdiction, time limits, dates and other judicial proceedings - the parties must conclude an arbitration agreement in order to avoid the application of these rules,
The parties to the arbitration also have the advantage of choosing arbitrators: each party chooses an arbitrator who appoints them or chooses them for an appointment. The third arbitrator is chosen either by the arbitrators chosen in accordance with the arbitration agreement, contrary to the practice if the dispute is referred to the courts for review.

Arbitration is also distinct from the judiciary in terms of confidentiality, it was customary at the international level to be only a secret arbitration of the parties and this may please the parties, especially if it is a category of merchants who wish to protect their reputation against anything that might affect them, unlike the ordinary

judicial system. Its sessions and judgments are in principle public, which can often disturb the parties to the conflict. As such, the parties
to a contract often favor arbitration over the judiciary to resolve and resolve disputes that may arise between them.

II - 2 The specificity and practical importance of arbitration in investment disputes

In addition to what is characterized by arbitration as a means of dispute resolution in general, it is characterized by great importance and specificity in the field of investment disputes. As countries tend to attract foreign investment to improve their economic level and develop their resources, disputes or disputes concerning such investments may arise because investment contracts are concluded between two parties belonging to a different legal system.

The State, for its part, belongs to the common law

The foreign investor, in turn, belongs to private law, in addition to the difference between the law of the host country and the law of the investing State. The nodal balance can also be disrupted by State intervention as a public authority in the form of new legislation or administrative decisions making the investor a weak party exposed to the loss of his or her rights from a personal point of view.

Therefore, the need to find a more effective and impartial way to resolve investment disputes from the investor's perspective in order to protect the investor and a necessary guarantee in the event of an investment dispute,

This affects the decision of investors to invest in that country, which has led countries, particularly developing countries, to create an attractive investment climate for foreign investment by adopting legislation and concluding agreements governing arbitration in the event of investment disputes. So we see countries rushing to adopt modern legislation and sign international and bilateral agreements to encourage investment and keep pace with global economic changes to encourage foreign investors to invest in their countries.

States have recognized the importance of arbitration in investment disputes. The 1965 Washington Treaty is established, and the International Centre for Settlement of Investment Disputes is established.

Mohammed Nabil, Arbitration as an alternative solution for conflict resolution, an article published in Qatar Law Forums.

Al-Jazi , Dr. Omar Mashhour, Arbitration in Investment Contract Disputes, Research published in the Journal of the Order of Bars, booklets nine and ten September and October 2002.

III - chapter

Distinguish between an arbitration agreement for investment disputes and arbitration in disputes arising from international commercial contracts

There may be confusion as to the difference between arbitration resulting from disputes relating to investment contracts and other international commercial contracts. This study should therefore briefly highlight the most important differences between them.

The most important feature of arbitration in investment contract disputes is the specificity of the parties to the arbitration agreement, as it is stipulated that the parties to the agreement are of a special nature, namely that one of the parties is a Contracting State under the ICSID Convention on the one hand and the other. An investor of one of the nationals of another Contracting State under this Agreement, which shall be considered later under the terms of the arbitration of the International Centre for Settlement of Investment Disputes.

The State may, therefore, be the subject of arbitration against a private person governed by foreign private law, which constituted a qualitative leap in terms of general international law and the principle of State sovereignty. It, therefore, echoed in general international law in that the right of asylum - in conflict with a State-linked to an investment - was granted to a person. This law gives him the right to have direct access to the Centre without interference from his State, provided that his State is a party to the Convention.

In addition, arbitrations relating to investment disputes are subject to the jurisdiction of the International Centre for Settlement of Investment Disputes if its conditions are met. With regard to international commercial contracts, the parties are private law persons from different countries, such as the international commercial contract related to the purchase of goods between a Jordanian company and another American company, for example.

In addition, the competence of the International Centre for Settlement of Investment Disputes (ICSID) cannot be regulated by courts related to international trade, but by the arbitration proceedings relating to these contracts, which makes it possible to separate the other parties whose provisions are governed by the WTO Agreement and the Model Contract.

IV - chapter

General trends in the settlement of investment disputes

Domestic arbitration aims to criticize the national judiciary, the most important of which are the doubts expressed by investors about the State's interference in its influence and influence on the justice of arbitration, as well as the State's concern to make sudden legislative changes, so that the opinion tends to favour international arbitration by arbitrators chosen by the parties to the dispute. Persons with extensive experience, impartiality and independence, as well as the assurance that international arbitration gives at its sessions in a foreign country and the appearance of Contracting States before the Arbitration Board on an equal footing.

The question arises as to what type of arbitration between a State and nationals of another State? Some authors have argued that this arbitration is an international arbitration, but that it is counterproductive, since international arbitration is limited to arbitration between persons governed by international law.

This is not sufficient to give arbitration an international character, as confirmed by article 37 of the Convention on the Peaceful Settlement of International Disputes, which states that "the object of international arbitration is the settlement of disputes between States by judges of their choice and on the basis of respect for the law and the use of arbitration". On the other hand, if domestic arbitration has an international element, it is not enough to say that we are in international arbitration, although the dispute is subject to the rules of private international law.
It can be said that the arbitration clause in contractual relations has the legal nature of the contract it contains. If two countries have a sovereign economic development agreement, for example, as in the case of the Algerian-French agreement for the development of hydrocarbons in 1981, the arbitration conducted under these contracts is international arbitration.
However, since some contracts concluded between a State and nationals of another State are agreements of a particular legal nature, the arbitration clause contained in such contracts is of the same particular nature that combines the two traditional types of the arbitration without bias. Therefore, we note that the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (1965) prefers the rules governing this type of arbitration, without any reference to the nature of the arbitration and whether or not it is an international arbitration.

It should be noted that the presence of the international personality of States parties to the arbitration entails certain legal consequences that are absent in the case of arbitration between private individuals.

Some of these conclusions relate to applicable law, both substantive and procedural, including the application of the arbitral award against the State. And the problems that arise, which we do not encounter in the implementation of similar decisions before individuals.

The specificity of arbitration in the resolution of investment-related disputes under the 1965 Washington Convention, e.g.

International Joint Arbitration, Page 202

The practice of commercial activities by the State and its contracts with foreign private persons have also reduced the principle of judicial immunity of the State or the principle of non-suit by the State, which prevented foreign courts and to impose its jurisdiction in legal proceedings to which States are parties,

Now, under certain conditions, these courts may initiate certain arbitral proceedings, such as the appointment of one or three arbitrators, or the recording of the award in the archives of a foreign court so that it can be enforced by force of law.

It should also be noted that, in the case of direct investment arbitration, the dispute need not necessarily be limited to the company's incorporation or capital increase phase. The Fundamental Law of Investment Companies stipulates that any dispute between the founders and the shareholders must be submitted to arbitration for settlement in accordance with the provisions of Arbitration Law 27/1994 or in accordance with the Centre's rules, which the Company may provide in its arbitration contracts with third parties to settle its disputes with them.

This was a brief overview of the optional means available to resolve the dispute that may arise when investing directly in an investment company subject to the provisions of the Investment Act No. 8 of 1997.

Arbitration in investment disputes

Direct and indirect

It is well known that investment can be a direct investment from the participation of capital - regardless of the nationality of its owner - in the incorporation of companies in its various legal forms, whether they are joint-stock companies, limited liability companies or share recommendations, or were solidarity companies or a simple recommendation (people's companies). Each of these shares or contributions is considered as a direct investment, called an investment on the primary market or stock market for shares issued by these companies for the first time, either when the company is created or when the capital is increased.
However, capital can take another form of investment to contribute to companies if it is used to buy shares, bonds or interests in one of the existing companies, whether they are corporations or corporations, depending on their share of shares, referred to as the secondary market or stock market) or to buy shares of them, to purchase shares of joint ventures or joint ventures,

In all these forms of capital contribution, participation or participation is not a direct investment to establish the company or increase its capital as in the first type, but rather to purchase shares in existing companies and in accordance with the provisions of the Capital Market Act and the rules governing their exchange. In both types of investments, disputes may arise between different ministries, governmental or non-governmental organizations or other legal or natural persons who may deal with the investor in investment matters of these companies, and in light of the above, as an indication, it is appropriate to divide this research into two parts of the following two elements:

1. Arbitration in direct investment disputes.

2: Arbitration in disputes relating to indirect investments related to securities trading.

IV -1 Settlement of Arab investment disputes and the investing state:

It is necessary to refer to the provisions of each of the agreements in force between the States of the parties that invest in arbitration as a means of settling disputes between the investor and the host country, which are limited by the time and place of this study.

It should be noted that most of these agreements contain provisions allowing the dispute to be referred to arbitration, whether it is a dispute between the Contracting States concerning the interpretation of the Convention itself or a dispute between an investor who is a national of one Contracting State and the State hosting his investment,

Therefore, in the event of a dispute, it is first necessary to determine whether there is an agreement between the investing State and the other State in which it invests and, if there is an agreement, to resort to arbitration to resolve the dispute.

In accordance with the rules and procedures and in the cases provided for in the Convention, provided that the use of arbitration in the Convention is not optional, the investor has the right to have recourse to the national courts of the receiving State for investment.

However, if recourse to arbitration is mandatory, the investor should follow the procedures provided for in the Convention with regard to the composition of the arbitral tribunal(s), the procedures for conducting the arbitral proceedings before it, the issuance of the arbitral award, the extent of its appeal or not, and the enforcement procedures.

With regard to the settlement of investment disputes pursuant to the Agreement on the Settlement of Disputes between International Investors and Citizens of Other Countries in Washington, known as the ICSID Agreement.

Having been prepared by the World Bank and submitted to the Board of Governors of the Bank on 18/3/1965 and entered into force on 14/10/1966, ratified by twenty countries, in accordance with Article 68 thereof,

This is the basis for the establishment of an International Bank for Settlement of Investment Disputes (ICSID) of the World Bank, the purpose of which is to provide the means to settle investment disputes between Contracting States and nationals of other Contracting States through conciliation and arbitration in accordance with the provisions of this Convention (Article 1).

The Centre shall have a Management and Secretariat Board and a list of members of the Conciliation Committees and Arbitration Tribunals (arts. 3 to 16). There are also other agreements worth mentioning in this regard:

- Convention of the Americas on International Commercial Arbitration (Panama - January 30, 1975)
- European Convention on International Commercial Arbitration (Geneva - 21 April 1961).
- The Arab Convention on Commercial Arbitration (Amman, 14 April 1987).

The full texts, ratifications and a brief description of these agreements are available on the global legal website (Juris International http://www.jurisint.org).

IV-2 Recent international trends in international commercial arbitration.

In 1985, the United Nations Commission on International Trade Law (UNCITRAL) prepared a model law on international commercial arbitration and invited States to transpose it into their national legislation and recommended that transport - subject and form - should be as identical as possible in order to achieve global legislative

uniformity in this aspect of the trade. As is well known, this is the purpose of the United Nations and a number of states have responded to this call and transmitted a limited number of them, including the Model Law in its entirety and meaning, while others have used its provisions to amend its legislation so that this model is universally recognized by lawyers and businessmen. To this end, States transferred the substantive provisions of the Model Law to their laws and undertook to divide the doors and disseminate the texts, but had to make some minor changes to its wording to adapt it to national legislative traditions, while maintaining the universal wording of the foreign investor and its counsel.

It should be noted that international arbitration does not contravene the international rules set out in the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, because,

in the eyes of this Convention, internationalism has the particular meaning of "foreign", i.e. the attribution of an arbitral award in a State other than the one in which it was made. In international law, the law has another meaning defined in article 3) of the law. Respect for the will of the parties to the arbitration to allow them the freedom to organize it as they wish, this freedom is the pillar of the arbitration system if it loses its identity. The more freedom the legislation gives the parties to the arbitration, the more confidence they have in it and the greater the confidence in the judgment that ends. The law is based on this "inherent" principle, leaving the parties free to agree on how to appoint and appoint arbitrators and to choose the rules that apply to the proceedings,

Those that apply to the subject matter of the dispute, the place of arbitration, the language in which it is used and the law applicable to all these freedoms.

The independence of the arbitral tribunal, which is one of the fundamentalist (original) principles underlying advanced arbitration systems;

This independence must be considered as a judicial agreement chosen by the parties specifically to settle the dispute between them.

The expression of this independence in the law is the competence of the arbitral tribunal to hear claims for the restitution of its members and its competence to rule on defenses related to its lack of jurisdiction and prohibiting the appeal of its judgments in the manner prescribed by the Code of Civil and Commercial Procedure.

However, if such independence is necessary in itself, it should not constitute a breach between the two judges. It is essential that the arbitral tribunal request the assistance of the State,

Such as taking interim and preventive measures and trying those who are behind witnesses

It is necessary for a judicial authority to make reference whenever an order involves obstructing the conduct of arbitration proceedings in order to remove the obstacle and restore the proceedings. Judgment.

The speed in completing the procedures for the delivery of the arbitral award, and this speed of the characteristics of the arbitration system, which made it a favorite among traders and businessmen and the duty of the street to maintain by removing formal obstacles and shortening the dates of the procedure, and the economy in allowing appeals from the arbitral tribunal's decisions, and this is reflected in the law in many places, where the arbitral tribunal continues the proceedings despite the appeal of its decisions and where the proceedings choose reasonable dates, not immersed or excessive in the palace.

V - chapter

A case study in Jordan

Investment Arbitration Act

The general law of arbitration, which I did not find in my research, governs its rules in national legislation. These are the Jordanian Arbitration Act, which governs the arbitration agreement and conditions of validity, as well as the provisions relating to the arbitral tribunal and the acceptance and response of arbitrators.

It also dealt with the organization of arbitration proceedings, the arbitral award, its invalidity, the validity of arbitral awards and other matters related to arbitration, but did not deal with arbitration in investment disputes through specific provisions. Investment.

V-1 Investment law

Investment laws in most, if not all, countries seek to attract foreign investment, aspire to market their country to foreign investors, striving to give investors - through these laws - guarantees and incentives to invest in that country,

Thus, the Jordanian legislator has proceeded in the same way, in order to create an investment climate that reassures the investor in making his investment decision and ensures the guarantor of the investor's rights on the one hand, and the realization of the public interest on the other hand, which creates a kind of balance between interests and their harmony.

Jordan's Investment Act, which governs all matters relating to investments in the Kingdom, provides for the settlement of disputes arising from such investments as a provision of its article 20, which stipulates:

"In the implementation of the provisions of this Act, Arab and international agreements relating to investment, protection and settlement of disputes relating thereto, to which the Kingdom is a party or is bound, shall be observed."

Consequently, the provisions of Arab and international investment agreements are the first to be applied in the event of a conflict between a provision of arbitration law and a provision of those agreements, such as, for example, the following

1. Convention on the International Centre for Settlement of Investment Disputes (Washington), 1965.

2- Agreement on the Settlement of Investment Disputes in Arab Countries

3. Agreement on the Promotion and Protection of Mutual Investments between the Government of the Hashemite Kingdom of Jordan and the Government of the French Republic.

4. Agreement on the Encouragement and Reciprocal Protection of Investments between Jordan and the Czech Republic

5. Agreement on Investment Promotion and Protection between Jordan and Bahrain.

Jordan has concluded a number of bilateral investment promotion and protection agreements, which deal with investment disputes between them and confirm arbitration. Most of them have referred the examination of these disputes to the International Centre for Settlement of Investment Disputes (ICSID).

Given the importance of the International Centre for Settlement of Investment Disputes (ICSID), this study requires a brief review in an independent document, as it is the main international body for investment dispute arbitration.

V-2 Arbitration in accordance with the ICSID Agreement

The International Centre for the Settlement of Investment Disputes (ICSID) Agreement governed the provisions governing ICSID arbitration.

In the first request, we discuss the arbitration conditions of the International Centre for Settlement of Investment Disputes (ICSID).

In the last third, we will deal with the law applicable to the subject matter of the dispute in two sections, one in the event of agreement on the applicable law and a second in the event of non-agreement on the applicable law.

According to Article 8 of the Contracting Parties, "each Contracting Party undertakes to submit to the International Centre for Settlement of Investment Disputes between its Contracting Party and a national or company of the other Contracting Party".

Any dispute between an investor of one contracting party and the other contracting party concerning an investment in the territory of the other contracting party shall be the subject of negotiations between the parties to the dispute. It is not possible to settle a dispute between an investor of one of the contracting parties and the other contracting party within six months. Other countries proposed for signature in Washington DC If, on 18 March 1965, each of the contracting parties is a party or (b) an arbitrator or international arbitral tribunal established for this purpose under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), the parties to the dispute may agree in writing to amend these Rules. Final and binding on both parties to the conflict.)

Written on 8 February 2000, it states in its seventh article: "Settlement of disputes between the investor and the host country. Disputes between an investor belonging to one of the Contracting Parties and the other Contracting Party with respect to its investment which have not been settled amicably within six months of the date of written notification, the dispute shall be submitted to the investor for selection with a view to settling it by one of the following methods: (a) either under the arbitration rules established by the United Nations Commission on International Trade Law of 1976 and its amendments, or under any other arbitration rules established by the Commission; With regard to arbitration in accordance with the provisions of the special chapter on dispute settlement of the Unified Agreement on Investment in Arab Capitals in the Arab States of 1980. C. The International Centre for Settlement of Investment Disputes, established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, was signed in Washington on 18 March 1965; the local judicial authorities of the other Contracting Party hosting the investment are required to do so. If the investor chooses to file the complaint with one of the above-mentioned parties, he or she is unable to file it with another party. "

Jordan signed it on 14 July 1972 and ratified it on 30 October of the same year and entered into force on 29 November of the same year.

ICSID Arbitration Conditions

Article 25 of the ICSID Agreement provides: "The jurisdiction of the Centre shall extend to any dispute arising directly from an investment between a Contracting State (or a constituent part thereof designated by that State for the Centre or a designated body thereof) and Citizens of another Contracting State, the parties to the dispute shall agree in writing to submit it to the Centre. When the parties give their consent, no one withdraws it by will. "

This article confirms the existence of two conditions concerning the persons who are parties to the dispute and submitted to arbitration before the Centre:

1. One of the parties is a Contracting State or one of its subsidiary bodies designated by the Centre.
2. The other Party is a national or nationals of another Contracting State.

The fact that the other party is a national of another Contracting State requires the other party to have the nationality of the other Contracting State on both dates:

1. Date on which the parties agreed to submit the dispute to arbitration
2. The date on which the Request for Arbitration is registered with the Centre through its Secretary-General.

This article also considers that the consent of the parties to the dispute is a condition for submission to the Centre's jurisdiction and stipulates that the consent must be in writing and that, consequently, the consent of the parties to refer the matter to arbitration before the Centre constitutes the basis of its jurisdiction, this means that the Centre cannot examine a dispute in which the parties have not agreed to use the Centre and that, once the parties accept this asylum, they can no longer revoke it. In the dispute Alco V. In Jamaica, the Court held that a Contracting State may not withdraw or withdraw its consent to arbitration before the International Centre for the Settlement of Investment Disputes if such arbitration had been agreed in the investment contract itself and if its article stipulated that it must be legal and arise directly from an investment.

V-3 The law is applicable to arbitration proceedings

Article 44 of the Convention provides: "All arbitral proceedings shall be conducted in accordance with the provisions of this section, unless the parties agree otherwise, in accordance with the rules in force on the date of the agreement of the parties to the arbitration. If a procedural question arises, that is not provided for in this article by law, such as in arbitration or in any other regulation adopted by the parties, The Court will decide as it deems appropriate. "

The provisions of the preceding article indicate that the provisions of the Convention on Arbitral Procedure are applicable to arbitration, unless the parties agree otherwise, this means that the provisions stipulated in the Convention and governing the arbitration procedure are complementary and may agree on what is contrary to them. To clarify this idea, it would like to give the following example in this respect:

TRANS TELECOM has contracted with the Government of the Hashemite Kingdom of Jordan to improve and develop the telecommunications infrastructure,
France was a party to the International Centre for Dispute Settlement and Jordan had acceded to this agreement before the contract.
The parties, the Government of the Hashemite Kingdom of Jordan and the French telecommunications company, have agreed to refer any dispute that may arise between them to the International Centre for Settlement of Investment Disputes.
The provisions of Egyptian law shall apply to arbitration proceedings.

Kugan, Lama Ahmed, Arbitration on Investment Contracts between the State and the Foreign Investor in accordance with the International Center for Settlement of Investment Disputes in Washington, Zain Publications, Beirut-Lebanon, 2008, p. 22.

In accordance with the provisions of Article 25/2 / A and B of the ICSID Convention.

Arbitration in Investment Contracts between the State and the Foreign Investor in accordance with the International Center for Settlement of Investment Disputes in Washington, prev. ref.., P. 50.

In this case, an investment agreement was signed between Alco Corporation of America and the Government of Jamaica,
The company agreed to set up an aluminum plant in Jamaica to grant the company a concession for bauxite mining and grant it some tax benefits and exemptions.
However, the Government of Jamaica passed a law abolishing all exemptions and privileges in bauxite mining and informed the Secretary General of the Center that it excludes disputes relating to this subject from the jurisdiction of the Center.

Arbitration in Investment Contracts between the State and the Foreign Investor in accordance with the International Center for Settlement of Investment Disputes in Washington, prev. ref., P. 130

Thus, the law applicable to the proceedings is the law of the will of each contractor. In the absence of an agreement (Non-Liquate), the provisions of the agreement are applicable to the procedures.
The law is applicable to the subject matter of the dispute
Article 42 of the Convention provides: "The Court shall decide the dispute in accordance with the rules of law agreed by the parties.
In the absence of such an agreement, the Court shall apply the law of the Contracting State party to the dispute (including its conflict of laws rules) and the applicable rules of international law. "
It is clear from the text of the article that the law applicable to the subject matter of the dispute is the law of the parties. The satisfaction we have discussed is that the rules for determining the applicable law, whether procedural or subject matter, are optional, but in the event of disagreement on the law applicable to the subject matter of the dispute, the Arbitral Tribunal applies. This may be due to the difficulty of establishing objective rules for the resolution of all disputes under the Convention, while such rules governing procedural matters may apply in all cases. A dispute may arise between the parties.

Conclusion

Through this research, the researcher has successfully defined arbitration in investment contract and privacy disputes. It also dealt with the provisions governing investment dispute arbitration in Jordanian law, highlighting Jordanian arbitration and investment law, as well as certain agreements governing arbitration, the most important being the International Centre Convention. Settlement of investment disputes.

The researcher indicated that the agreements governing the settlement of investment disputes to which Jordan is a party must be taken into account in article 20 of the Investment Act, a principle that has become an international reality, as the legislator has considered it essential to mention this text, which may suggest that the arbitration of investment contract disputes is private. Take into account the agreements to which Jordan was a party without any other problems.

The study also pointed out that arbitration procedures relating to disputes relating to investment contracts are subject to ICSID if the conditions are met. Jordanian law represented by arbitration and investment law is in conformity with international agreements in this field, the most important of which is the ICSID contract.

On the other hand, the study concluded that the definition of the investment contract with the definition of a preventive mosque is almost impossible.

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