

World & Arbitration & Mediation Report



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Covering Dispute Resolution in the United States and Around the World

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HIGHLIGHTS

The **Hague Conference on Private International Law** recently adopted the final text of the **Convention on Choice-of-Court Agreements**. The Convention provides for the enforcement of an agreement made by the parties to an international commercial contract to designate a particular court as having exclusive jurisdiction to hear disputes arising from that contract. The Convention seeks to provide the same effectiveness and predictability for the enforcement of choice-of-court agreements that the New York Arbitration Convention provides for the enforcement of international arbitral awards. It also endeavors to establish rules for the enforcement of foreign judicial decisions that arise out of contracts containing choice-of-court agreements. (Story begins on page 368.)

In *TMR Energy Ltd. v. State Property Fund of Ukraine*, the D.C. Circuit upheld the enforcement of an arbitral award on the basis that the due process requirement of **minimum contacts** does not apply to an **agent of a foreign state**. The foreign state, the court concluded, was not a “person” within the meaning of the Fifth Amendment. (Story begins on page 370.)

The **Second Circuit** has ruled that a **U.S. parent company** that did not sign its foreign subsidiary’s contract has the right to have the question of whether it is **obligated**

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to arbitrate decided by a U.S. court under U.S. law. (Story begins on page 371)

The **National Arbitration Forum (NAF) Case Summaries** address a variety of important issues in arbitration law, including: the scope of an arbitration agreement in inter-related transactions; the basis for the vacatur of awards; the effect of a broad arbitration

agreement; the definition of an “irrational” award; the immunity of arbitrators; and the use of severance in the context of employment arbitration. (The *Summaries* begin on page 373.)

Professor **Welber Barral** of the Federal University of Santa Catarina in Brazil and **WAMR** editor for Latin American Arbitration writes a *Perspectives* article on “Recent Developments in Commercial Arbitration in MERCOSUR.” According to Professor Barral, “Mercosur faces the challenge of defining a stable legal system that can bring predictability to regional trade and investment while allowing [for] its integration in the world economy.” (The *Perspectives* section begins on page 377.)

Finally, the issue concludes with a *National Report* on **arbitration in Turkey**. The report was written by **Muge Onal**, currently a lawyer with White & Case in Washington, D.C. (The *National Reports* begins on page 389.)

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