

# IBA ARBITRATION COMMITTEE

## Subcommittee on Recognition and Enforcement of Arbitral Awards

### COUNTRY REPORT ON LOCAL REQUIREMENTS FOR THE EXTENSION OF AN ARBITRATION CLAUSE TO, AND ENFORCEMENT OF AN ARBITRAL AWARD AGAINST, A NON-SIGNATORY

**Rapporteur: Prof. Dr. Mohamed S. Abdel Wahab  
Zulficar & Partners Law Firm**

**September 2021**

*In completing this survey, we ask the respondents to consider the question of non-signatories in a broad manner. That is, please consider situations where (i) a party applies to a court to compel arbitration against a non-signatory, (ii) the arbitral tribunal extended the arbitration clause to a non-signatory, and the non-signatory, or another party to the arbitration, seeks to resist enforcement, or to set aside the award, on the basis that the arbitration clause should not have been extended to the non-signatory, and (iii) where the award creditor attempts to enforce the award against a non-signatory that was not a party to the arbitral proceedings and the award.*

Egypt		
I. General	(Yes/ No /NA)	Comments, if any.
I.1	Yes	<p>The Egyptian Arbitration Law No. 27 of 1994 (“EAL”) expressly provides in Article (12) thereof that the arbitration agreement must be in writing subject to penalty of nullity.</p> <p>The writing requirement is fulfilled when the arbitration agreement is contained in a document signed by both parties or contained in an exchange of letters, telegrams or other means of written communication (Article (12) of the EAL); and/or when the parties subject their legal</p>
		<p><b>Must international arbitration agreements be in writing under the law of the country for which you are reporting?</b></p>

		<p>relationship to the provisions of a model contract, an international convention or another document containing provisions related to arbitration (Article (6) of the EAL); and/or an incorporation into the contract by reference to a document containing an arbitration agreement insofar as the reference is explicit in considering the arbitration agreement part of the parties' contract (Article 10(3) of the EAL).</p>
<p>I.2</p>	<p><b>Please describe the basic requirements for a valid international arbitration agreement in the country for which you are reporting and cite the relevant legislative, regulatory, or jurisprudential basis for these requirements.</b></p> <p><b>[Please provide your response in the comments column and limit it to one paragraph.]</b></p>	<p>The requirements for a valid arbitration agreement consist in the following:</p> <ul style="list-style-type: none"> <li>• The parties (whether physical or juridical persons) must dispose of all their rights and have the capacity to enter into the arbitration agreement (Article (11) of the EAL) and their consent to arbitrate must not be tainted by any defects in consent, <i>i.e.</i> error, duress or misrepresentation;</li> <li>• The arbitration agreement must be in writing (Article (12) of the EAL);</li> <li>• The subject matter of the arbitration must be arbitrable (Article 11 of the EAL);</li> <li>• A <i>compromis</i> (submission agreement, concluded after the dispute has arisen) must indicate the issues subject to the dispute on penalty of nullity, whilst in a <i>clause compromissoire</i> (prior agreement to arbitrate),</li> </ul>

			<p>the subject of the dispute must be specified in the statement of claim (Article 10(2) of the EAL);</p> <ul style="list-style-type: none"> <li>• In case of incorporation by reference, the reference to the arbitration agreement must be explicit in order for it to form an integral part of the main contract (Article 10(3) of the EAL).</li> <li>• In administrative contracts, the arbitration agreement must be approved by the competent minister, or whoever assumes his/her authority with respect to public entities, subject to penalty of nullity, and delegation in this regard is prohibited (Article (1) of the EAL and State Council, Challenge No. 8256 of JY 56, Hearing session dated 5 March 2016). Moreover, as of December 2020, contracts including arbitration agreements concluded by ministries, public entities, state-owned companies and companies in which the state participates, must be reviewed first by a State Committee named the “High Committee for Arbitration and International Disputes” (Decree No. 2592 of 2020).</li> </ul>
I.3	<p><b>In the country for which you are reporting, do courts/arbitral tribunals generally decide the issue of the scope rationae personae of the arbitration clause (or, in other words, the issue of who are the parties to the arbitration agreement, including the issue of extending the arbitration agreement to a</b></p>	Yes	<p>The EAL does not define a “party” to an arbitration agreement, but it recognises the separability of the</p>

	<p><b>non-signatory) on the basis of a specific applicable law or on the sole basis of a factual analysis of the case without reference to an applicable law?</b></p>	<p>arbitration agreement from the contract in which it is contained (Article (23) of the EAL), therefore, the general principles of contract law apply. The Court of Cassation held that an arbitration agreement is a contract to which the general principles of contract law apply. (Court of Cassation, Challenges Nos. 2698, 3100 and 3299 of JY 86, Hearing session dated 13 March 2018 and Challenge No. 3449 of JY 78, Hearing session dated 11 February 2020). Generally, arbitral tribunals and courts have jurisdiction to decide the issue of extension of the arbitration agreement to a non-signatory, and this is decided on the basis of the factual analysis of the case and legal principles governing extension of arbitration agreements that are recognised by Egyptian courts.</p>
<p>I.3a</p>	<p>If courts/arbitral tribunals generally decide the issue on the basis of a specific applicable law, what law do they apply to decide the issue?</p> <p>[For example, the applicable law could be:</p> <ul style="list-style-type: none"> <li>• The law of the seat of arbitration.</li> <li>• The governing law of the contract.</li> <li>• The law of the place where the award might ultimately be sought to be enforced.</li> <li>• Transnational norms/international law.</li> <li>• The law reached at through a conflict of laws analysis.]</li> </ul> <p>[Please provide your response in the comments column, provide any citation to relevant legislation or jurisprudence, and limit your response to one paragraph.]</p>	<p>When examining the facts of the case, arbitral tribunals generally apply the governing law of the contract and the procedural applicable rules, if the latter grant the arbitral tribunal the power to join a third party (as it is the case in Article (17.6) of the Arbitration Rules of the Cairo Regional Centre for International Commercial Arbitration). Egyptian courts are becoming more friendly in considering the extension of the arbitration agreement and usually defer to the arbitral tribunal's findings in this regard and upheld their determinations, unless there was not an arbitration</p>

			agreement in writing or that principles of Egyptian public policy militated against upholding the arbitral tribunal's determinations.
I.3b	<p>Does the legislation of your jurisdiction contain any directive in this respect?</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>The EAL does not expressly regulate the issue of extension of the arbitration agreement to a non-signatory, however, Egyptian courts and arbitral tribunals applying Egyptian law have addressed said issue under several universally recognised doctrines and have clarified and distilled some principles governing the extension of the arbitration agreement, which include doctrines of group of companies, group of contracts, assignment, universal succession, mergers and implied consent. Moreover, the Egyptian Court of Cassation held that an arbitral tribunal's refusal of a joinder request may constitute a violation of the fundamental principles of justice which pertain to Egyptian public policy that may result in the annulment of the arbitral award (Court of Cassation, Challenge No. 10132 of JY 78, Hearing session dated 11 May 2010).</p>
I.4	<p><b>Is the question of whether parties agree to arbitrate ultimately decided by arbitrators as opposed to courts in the country for which you are reporting? Please cite the relevant legislative, regulatory, or jurisprudential basis for your answer.</b></p> <p><b>[Please provide your response in the comments column and limit it to one paragraph.]</b></p>	<b>Yes</b>	<p>Generally, arbitrators decide on the issue of whether the parties agree to arbitrate and verify that the parties have satisfied the standard contractual requirements to enter into an arbitration agreement, such as consent, capacity and the existence of a legal relationship. Egyptian courts accord the</p>

			<p>ultimate weight to the parties' consent to arbitration as determined by arbitral tribunals. In this regard, Article (22) of the EAL acknowledges the principle of competence-competence granting the arbitral tribunal the authority to decide over any jurisdiction-related claims, including the existence, validity and scope of the arbitration agreement. However, Egyptian courts can intervene to address jurisdiction related-matters, only when requested by a party to do so and provided that the other party does not object to such intervention, as the court cannot declare the inadmissibility of a claim pertaining to an arbitration agreement <i>ex officio</i> (Article (13) of the EAL).</p>
<p>I.5</p>	<p><b>Is there anything in the <u>legislation</u> of the country for which you are reporting that (i) could preclude the extension of an arbitration clause to non-signatories, or (ii) could permit the extension of an arbitration clause to non-signatories?</b></p> <p><b>[Note that the answer to this question is designed to provide the reader with a quick yes or no answer, plus to flag the key legal criteria. The series of questions in Section II provide the reader with a more detailed discussion of relevant legal theories, jurisprudence, and examples.]</b></p>	<p><b>Yes</b></p>	

I.5a	<p>If your answer to question <u>I.5</u> is yes, please cite and describe the applicable rules contained in any relevant legislation or regulations.</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>There is no specific legislation addressing the issue of extension of the arbitration agreement to a non-signatory, however general principles of contract law shall apply (consent, capacity and existence of a legal relationship). Also, the writing requirement of the arbitration agreement shall be fulfilled (Article (12) of the EAL) and there shall not be any violation to Egyptian public policy (Article 53(2) of the EAL) to permit the extension of the arbitration agreement, otherwise the arbitral award will be annulled based on the aforementioned grounds.</p>
I.6	<p><b>Is there anything in the <u>jurisprudence</u> of the country for which you are reporting that (i) could preclude the extension of an arbitration clause to non-signatories, or (ii) could permit the extension of an arbitration clause to non-signatories?</b></p> <p><b>[Note that the answer to this question is designed to provide the reader with a quick yes or no answer, plus to flag the key legal criteria. The series of questions in Section II provide the reader with a more detailed discussion of the relevant legal theories, jurisprudence, and examples.]</b></p>	Yes	
I.6a	<p>If your answer to question <u>I.6</u> is yes, please cite and describe the applicable tests or rules applied by the courts of the country for which you are reporting.</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>The Egyptian Court of Cassation held that the arbitration agreement is a contract to which the general principles of contract law apply and that it cannot exist without the consent of the parties but that it can extend to third parties and to other contracts connected to the principal contract on the basis of several doctrines and principles including the following doctrines: group of companies, group of contracts, universal succession, mergers, or</p>

			assignment (Court of Cassation, Challenges Nos. 2698, 3100 and 3299 of JY 86, Hearing session dated 13 March 2018). It is also worth noting that the Court of Cassation considers that the refusal of a joinder request by an arbitral tribunal may constitute a violation of the fundamental principles of justice which pertain to Egyptian public policy and may result in the annulment of the arbitral award (Court of Cassation, Challenge No. 10132 of JY 78, Hearing session dated 11 May 2010). Moreover, the Court of Cassation has addressed the procedural and formal aspects of joining a third party to the arbitration proceedings by stating that a party may request to join a non-signatory, provided that the arbitration agreement may be extended and that one of the parties submits to the arbitral tribunal such request in the form of a joinder or intervention request. (Court of Cassation, Challenge No. 7595 of JY 81, Hearing session dated 13 February 2014).
<b>II. Specific Legal Theories Concerning Non-Signatories</b>		<b>(Yes/ No /NA)</b>	<b>Additional comments, if any.</b>
II.1	<b>Can the assignment or assumption of a contract containing an international arbitration agreement commit the non-signatory assignee to international arbitration in the country for which you are reporting? Or is the legislation and jurisprudence in the country for which you are reporting silent on the issue?</b>	<b>Yes</b>	
II.1.a	If your answer to question <u>II.1</u> is yes, please:		Prior to the enactment of the EAL, the Egyptian Court of Cassation ruled that

	<ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>	<p>arbitration agreements may, in principle, be assigned with the contract containing the arbitration clause, whereby the Court refused to bind the assignee by the arbitration agreement owing to the invalidity of the assignment (Court of Cassation, Challenge No. 289 of JY 30, Hearing session dated 11 January 1966). This was later confirmed by the Cairo Court of Appeal which held that the arbitration agreement is ancillary to the assigned rights and is thus binding on the assignee (Cairo Court of Appeal challenges Nos. 1294 and 23037 of JY 117, Hearing session dated 2002). More recently, the Court of Cassation recognised the possibility of extension of the arbitration agreement on the basis of assignment when its conditions are met Court of Cassation, Challenges Nos. 2698, 3100 and 3299 of JY 86, Hearing session dated 13 March 2018). Accordingly, when the rights and obligations under a contract containing an arbitration agreement are validly assigned, the transfer of the arbitration agreement is effective and binds the assignee, who would be considered a party to the arbitration agreement by substituting the assignor.</p>
II.1.b	<p>If your answer to question <u>II.1</u> is no, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul>	

II.2	<p><b>Can incorporation by reference (i.e., where a contract incorporates an arbitration clause contained in a separate document) commit a non-signatory party to international arbitration in the country for which you are reporting? Or is the legislation and jurisprudence in the country for which you are reporting silent on the issue?</b></p>	Yes	
II.2.a	<p>If your answer to question <u>II.2</u> is yes, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>Article 10(3) of the EAL expressly stipulates that in case an arbitration agreement is incorporated by reference, such reference must be unequivocally explicit in order for the arbitration agreement to form an integral part of the main contract.</p>
II.2.b	<p>If your answer to question <u>II.2</u> is no, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		
II.3	<p><b>Can an arbitration clause commit a non-signatory third-party beneficiary of a contract to international arbitration in the country in which you are reporting? Or is the legislation and jurisprudence in the country for which you are reporting silent on the issue?</b></p>	Yes	
II.3.a	<p>If your answer to question <u>II.3</u> is yes, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>As a matter of principle, and as is the case with assignment and universal succession, it is acceptable to commit a non-signatory third party beneficiary to arbitration proceedings as he/she would be considered a party to the arbitration agreement by substituting the promisee. In light of the above, an arbitral tribunal may extend the arbitration</p>

			<p>agreement to the third party beneficiary. This would be supported by (1) the characterisation of the arbitration clause as an accessory or security interest that is automatically transferrable with the relating rights, obligations and/or claims; and (2) the need to facilitate access to justice and to avert disadvantaging the other contracting party and/or the “new party”, provided that it is not manifest that the parties to the arbitration agreement never had the intention to extend the arbitration agreement to this “new party” and that the original arbitration agreement is in itself an <i>intuitu personae</i> contract that may not be transferred to others.</p>
II.3.b	<p>If your answer to question <a href="#">II.3</a> is no, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		
II.4	<p><b>Can a theory of agency (i.e., where an agreement containing an arbitration clause has been entered into by a person who expressly or impliedly did so as a representative of a non-signatory) commit a non-signatory party to international arbitration in the country for which you are reporting? Or is the legislation and jurisprudence in the country for which you are reporting silent on the issue?</b></p>	Yes	
II.4.a	<p>If your answer to question <a href="#">II.4</a> is yes, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which</li> </ul>		<p>At the outset, it may not be possible for an agent to invoke an arbitration agreement vis-à-vis the principal unless their</p>

	<p>parties are ultimately bound, and the circumstances under which they are likely to be bound.</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>contract provides for arbitration. However, Egyptian law recognises and regulates “commission agents”, who act in their own name but for the account and benefit of the principal. In such case of commission agency, it is submitted that the <i>bona fide</i> contracting party may invoke arbitration vis-à-vis both the agent and/or the principal.</p> <p>Furthermore, based on the doctrine of apparent authority, acts undertaken by an apparent agent without having the mandate to carry out those acts would bind the principal, provided that the third party dealing with the principal was acting in good faith and reasonably believed that the apparent agent was acting within the scope of an agency mandate. This doctrine has been confirmed by a judgement of the Court of Cassation in Challenge No. 826 of JY 54, Hearing session dated 16 February 1986.</p>
II.4.b	<p>If your answer to question <u>II.4</u> is no, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		
II.5	<p><b>Can a theory of estoppel, good faith, or abuse of right (i.e., where a party benefitting from, and acting in accordance with, a contract containing an arbitration clause is estopped from claiming that it is not bound by certain provisions of the contract) commit a non-signatory party to international arbitration in the country for which you are reporting? Or is the legislation</b></p>	Yes	

	<p><b>and jurisprudence in the country for which you are reporting silent on the issue?</b></p>	
<p>II.5.a</p>	<p>If your answer to question <u>II.5</u> is yes, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>	<p>Despite the absence of a specific clear legal provision, the principle of estoppel is well recognised by Egyptian jurisprudence, being a variant of the duty of good faith and also being a general principle of law derived from the fundamental tenets of Islamic Shari’a, where a person cannot benefit from its own wrongdoing (Court of Cassation, Challenge No. 171 of JY 20, Hearing session dated 17 April 1952; Challenge No. 76 of JY 73, Hearing session dated 13 March 2007; and Cairo Court of Appeal, Challenge No. 57 of JY 128, Hearing session dated 4 April 2012; Challenges Nos. 35, 41, 44 and 45 of JY 129, Hearing session dated 5 February 2013). Most recently, on 27 October 2020, the Court of Cassation upheld the principle of estoppel, but not in relation to the issue of extension of the arbitration agreement, and referred to the universal maxim derived from Roman Law “<i>non concedit venire contra factum proprium</i>” but also the Court went further by setting the criterion for application of the principle of estoppel which is a general principle, non-exclusive to arbitration, and which entails the following two conditions: (1) existence of a statement, an act, or an omission made by a party which contradicts the same party’s previous conduct; and (2) said contradiction could harm the</p>

			other party whom relied on the validity of the first party's previous conduct (Court of Cassation, Challenge No. 18309 of JY 89, Hearing session dated 27 October 2020). Estoppel, being a principle well-recognised by Egyptian courts, may be applied for the extension of the arbitration agreement if its conditions are met, but also because it is a principle interconnected with other doctrines already recognised and applied by Egyptian courts and arbitral tribunals for the extension of the arbitration agreement, such as implied consent, alter ego, pierce of the corporate veil, or group of companies.
II.5.b	<p>If your answer to question <u>II.5</u> is no, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country's jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		
II.6	<p><b>Can “implied consent” (i.e., where a party’s active participation in the negotiation, execution, performance and/or termination of a contract containing an arbitration clause provides evidence for its intent to consent to arbitration) commit a non-signatory party to international arbitration in the country for which you are reporting? Or is the legislation and jurisprudence in the country for which you are reporting silent on the issue?</b></p>	Yes	
II.6.a	<p>If your answer to question <u>II.6</u> is yes, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country's jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul>		The Egyptian Court of Cassation addressed “implied consent” in the context of a group of companies and held that the extension of the arbitration agreement to a third party (non-signatory) is subject to

	<p>[Please provide your response in the comments column and limit it to one paragraph.]</p>	<p>the company's active contribution in the performance of the contract creating a confusion regarding the "party" vested with the contractual obligations (Court of Cassation, Challenge No. 4729 of JY 72, Hearing session dated 22 June 2004). In the same vein, an arbitral tribunal ruled that a "party" extends to every person that considers itself, or have been considered by the parties to the dispute, to be bound by the obligation (CRCICA Arbitration Case No. 726 of 2010, award dated 24 February 2013). Moreover, ratification by a third party of a contract and an associated arbitration agreement could be perceived as a manifestation of implied consent. However, if such ratification is a legal requirement, as is the case with respect to arbitration in administrative contracts under Article (1) of the EAL, implied consent would not be applicable. This has been demonstrated in the <i>Pyramids Plateau Case</i>, where the judgment of the Paris Court of Appeal was upheld by the French Court of Cassation, which refused to extend the arbitration agreement to the Egyptian State, on the basis that the Egyptian government's intention to be bound by the arbitration agreement was not implied, given the legal requirement that the Minister had to grant the approval to the contract entered into by the state entity (French Court of Cassation, Civ. 1ere, 6 January 1987).</p>
--	---	---

II.6.b	<p>If your answer to question <u>II.6</u> is no, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		
II.7	<p><b>Can piercing the corporate veil or the alter ego doctrine (i.e., where, typically due to misuse or abuse of rights or fraud, the separate legal form of a non-signatory that uses its dominating authority over a signatory is disregarded so that both are treated as a single entity) commit a non-signatory party to international arbitration in the country for which you are reporting? Or is the legislation and jurisprudence in the country for which you are reporting silent on the issue?</b></p>	Yes	
II.7.a	<p>If your answer to question <u>II.7</u> is yes, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>In practice, many tribunals have extended the arbitration agreement to non-signatories based on the universally well-established alter ego doctrine. For example, in an arbitration seated in Cairo under the auspices of the Cairo Regional Centre of International Commercial Arbitration, the arbitral tribunal extended the arbitration agreement to the chairman of the respondent’s board of directors and treated them as a single entity. The arbitral tribunal gave due consideration to the circumstances surrounding the negotiation and performance of the contract emphasising on the essential role played by the chairman, who was aware of the arbitration clause contained in the contract (Partial Award in CRCICA Case No. 120 of 1998, dated 23</p>

			June 2000).
II.7.b	<p>If your answer to question <u>II.7</u> is no, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		
II.8	<p><b>In the country for which you are reporting, are there any other legal theories that can be used to commit a non-signatory to international arbitration?</b></p>	Yes	
II.8.a	<p>If your answer to question <u>II.8</u> is yes, please:</p> <ul style="list-style-type: none"> <li>• Cite and describe the applicable rules contained in any relevant legislation or regulations.</li> <li>• Provide examples from your country’s jurisprudence highlighting which parties are ultimately bound, and the circumstances under which they are likely to be bound.</li> </ul> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>The Egyptian Court of Cassation ruled that an arbitration agreement cannot exist without the consent of the parties but that it can extend to third parties and to other contracts connected to the principal contract on the basis of several doctrines and principles including but not limited to the following: group of companies, group of contracts, universal succession, mergers or assignment (Court of Cassation, Challenges Nos. 2698, 3100 and 3299 of JY 86, Hearing session dated 13 March 2018).</p> <p>In this respect, it is worth mentioning that the doctrine of group of companies forms part of Egyptian law and applies to extend the arbitration agreement to non-signatories. The Egyptian Court of Cassation ruled that the arbitration agreement included in a contract does not automatically extend to a company that forms part of a larger group of companies, such that the company must</p>

			<p>have actively contributed in the performance of the contract causing a confusion between the intents of the two companies (Court of Cassation, Challenge No. 4729 of JY 72, Hearing session dated 22 June 2004). Moreover, arbitral tribunals have found on the same grounds that a parent company was bound by the arbitration agreement concluded by its subsidiary (CRCICA Case No. 109 of 1998, award dated 11 March 1999; CRCICA Case No. 631 of 2009, award dated 5 May 2010; CRCICA Case No. 652 of 2009, award dated 14 June 2010; and CRCICA Case No. 654 of 2009, award dated 19 January 2011). As to the group of contracts' doctrine, an arbitration agreement may extend to other contracts arising out of the principal contract and connected or concluded in relation thereto (Court of Cassation, Challenge No. 1640 of 54, Hearing session dated 14 February 1988). For example, an arbitration clause extends to memoranda of understanding concluded in relation to the main contract containing the arbitration clause (Cairo Court of Appeal, Challenge No. 37 of JY 122, Hearing session dated 29 March 2006).</p>
<b>III. Enforcement of an Arbitral Award against a Non-Signatory</b>		<b>(Yes/ No /NA)</b>	<b>Additional comments, if any.</b>
<b>III.1</b>	<b>Have there been court cases in the country for which you are reporting where a party has objected to the enforcement of an award, on the basis that the arbitral tribunal extended the arbitration clause to one or more non-</b>	<b>Yes</b>	

	<b>signatories?</b>		
III.1.a	<p>If your answer to III.1 is <u>yes</u>, please explain which provision(s) of the New York Convention, or any other bilateral or multilateral convention on the enforcement of arbitral awards, was (were) relied upon as the basis for the application/objection.</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>The Court of Cassation held that an arbitration agreement, whether being a <i>clause compromissoire</i> or a <i>compromis</i>, is a contract to which the general principles of contract law apply and it cannot exist without the consent of the parties. The Court added that consent consist in the offer by one party to resort to arbitration and the acceptance by the other (i.e. “<i>meeting of minds / consensus ad idem</i>”), for it to produce its legal effects. In this respect, the Court relied on Article (12) of the EAL and Article II (2) of the New York Convention (1958) stating that an arbitration agreement must be in writing and signed by the parties, such that the parties’ will to resort to arbitration for resolving their dispute must be unequivocal and clear, as an arbitral award cannot be subject to any appeal (Court of Cassation, Challenges Nos. 2698, 3100 and 3299 of JY 86, Hearing session dated 13 March 2018).</p>
III.1.b	<p>If your answer to III.1 is <u>yes</u>, please explain whether set-aside/enforcement was finally granted or refused, and the court’s reasons for reaching this result.</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		<p>The Court of Cassation has set aside the arbitral award. The Court concluded that an arbitration agreement can be extended to third parties and to other contracts connected to the principal contract on the basis of several doctrines and principles, such as group of companies, group of contracts, universal succession, mergers, and assignment, and in the case at hand none of these</p>

			<p>principles of extension of the arbitration agreement apply, such that party who was joined to the arbitration proceedings was a TV presenter who was not a party to the contract in dispute between the broadcasting channel and the production company, as he had only signed the contract as a witness and had not consented or agreed, expressly or implicitly, to the arbitration clause included therein or to the extension thereof. Furthermore, the Court added that in the contract he had signed as a party thereto, he had chosen state courts for resolution of any dispute that may arise and not arbitration (Court of Cassation, Challenges Nos. 2698, 3100 and 3299 of JY 86, Hearing session dated 13 March 2018).</p>
III.2	<p><b>Have there been court cases in the country for which you are reporting in which the enforcement of an award was requested against a non-signatory third party (a company/individual/state that was a non-signatory to the arbitration agreement and not a party to the arbitral proceedings/award)?</b></p> <p><b>[Please provide your response in the comments column and limit it to one paragraph.]</b></p>	NA	
III.2a	<p>If the answer to III.2 is <u>yes</u>, please explain on what legal basis the enforcement was requested.</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		
III.2b	<p>If the answer to III.2 is <u>yes</u>, please explain whether the enforcement was finally granted/refused and the court's reasons for reaching this result.</p> <p>[Please provide your response in the comments column and limit it to one paragraph.]</p>		

<b>IV. Miscellaneous</b>		<b>(Yes/ No /NA)</b>	<b>Additional comments, if any.</b>
IV.1	<p><b>Is there anything else that a party considering the issue of the extension of an arbitration clause to a non-signatory should take into account with respect to the country for which you are reporting?</b></p> <p><b>[Please provide your response in the comments column and limit it to one paragraph.]</b></p>	NA	
IV.2	<p><b>Is there anything else that a party considering trying to enforce a foreign arbitral award against a non-signatory should take into account with respect to the country for which you are reporting?</b></p> <p><b>[Please provide your response in the comments column and limit it to one paragraph.]</b></p>	NA	

\* \* \*