

# SPECIAL TRIBUNAL RELATED TO DUBAI WORLD

60 DAY REPORT REGARDING OPERATIONAL ESTABLISHMENT

اللجنة القضائية الخاصة بالفصل في المنازعات  
المتعلقة بتسوية الوضع المالي لمؤسسة  
دبي العالمية والشركات التابعة لها

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SPECIAL TRIBUNAL RELATED TO  
DUBAI WORLD

# Report on Establishment of the Special Tribunal to Decide Disputes Related to the Settlement of the Financial Position of Dubai World and its Subsidiaries

## Introduction

On December 13, 2009 the Prime Minister of the UAE and Ruler of Dubai, HH Sheikh Mohammed Bin Rashid Al Maktoum, established a tribunal to handle various matters pertaining to the settlement of the financial position of Dubai World and its subsidiaries (the 'Tribunal'). The Tribunal was established in the Dubai International Financial Centre (DIFC). The Tribunal is entitled to hear and decide, inter alia, any demand to dissolve or liquidate Dubai World and/or its subsidiaries (the 'Dubai World Group').

The first hearing of the Tribunal took place on December 14, 2009 and the opening remarks made by the Chairman of the Tribunal are available at [www.dubaiworldtribunal.ae](http://www.dubaiworldtribunal.ae). In addition, Decree No. 57 of 2009 (the 'Decree'), which established the Tribunal, and which sets out a clear, transparent and effective legal framework incorporating international best practices in restructuring, is available on that website.

## The Decree

Dubai World is a decree corporation, meaning it was established through a decree of the Ruler of Dubai. It has been posited that Dubai World has a unique legal status and does not have the ability to seek protection under the provisions of the UAE Commercial Code that govern bankruptcy and insolvency.

Because of the seeming absence of a reorganisation law applicable to Dubai World Group, the Government of Dubai developed the Decree, which provides a legal framework for the restructuring of the obligations of the Dubai World Group. We understand that the Government's intention was to develop a law that would permit a restructuring of the obligations of the Dubai World Group in accordance with international best practices following a fair, equitable and transparent legal process.

The Decree establishes the three-judge Tribunal, which is empowered to supervise the financial reorganisation of the Dubai World Group. In addition, the Decree establishes a transparent legal code, based on internationally accepted standards, to govern the reorganisation of the Dubai World Group.

## Tribunal Members

The Tribunal is composed of:

**Sir Anthony Evans**, Chief Justice of the DIFC Courts. Sir Anthony has been appointed as the Chairman of the Tribunal. He is a former High Court Judge of England and Wales. He has also been in charge of the Commercial list in the UK and was a Lord Justice of Appeal. Full details are set out at schedule 1.

**Michael Hwang SC**, Deputy Chief Justice of the DIFC Courts. Michael has been appointed as a member of the Tribunal. He is a former Judicial Commissioner of the Supreme Court of Singapore. He has also been Senior Counsel of the Supreme Court of Singapore, a member of the American Law Institute, a Visiting Professor to the National University of Singapore and a Commissioner of the United Nations Compensation Commission (UNCC) based in Geneva. He has since 2008 been the President of the Law Society of Singapore and is a Trustee of the Dubai International Arbitration Centre. Full details are set out at schedule 1.

**Justice Sir John Chadwick**, Judge of the DIFC Courts. Sir John has been appointed as a member of the Tribunal. He is a former Lord Justice of Appeal in the UK and has held other senior judicial appointments as a judge of the High Court of England and Wales (Chancery Division), and a Judge of the Courts of Appeal of Jersey and Guernsey. He is also President of the Court of Appeal in the Cayman Islands. Full details are set out at schedule 1.

In addition, the Decree permits the Chairman of the Tribunal to recommend to the Ruler of Dubai additional judges to be included in the Tribunal. These additional appointments would seek to further broaden the experience base and international stature of the Tribunal.

The Registrar and Deputy Registrar of the DIFC Courts have the same capacity within the Tribunal.

## **Tribunal Powers**

The Tribunal has jurisdiction to hear and decide any demand or claim submitted against:

(i) the Dubai World Group, including hearing and deciding any demand to dissolve or liquidate the Dubai World Group; and (ii) any person related to the settlement of the financial obligations of the Dubai World Group, including the Chairman and members of the Board of Directors, as well as all the employees and workers of the Dubai World Group.

In addition, the Tribunal has power to issue any interim and interlocutory orders and decisions, including injunctions preventing any person from undertaking an act or requiring a person to perform an act, or other order as the Tribunal considers appropriate.

Decisions and orders of the Tribunal are to be issued by the unanimous or majority votes of its members and in the name of the HH The Ruler of Dubai.

## **Proceedings open to the public**

The Tribunal will be holding its hearings in the DIFC and, as a general rule, all proceedings before the Tribunal will be open to the public.

## **Operational Activities for the set up of the tribunal**

The purpose of this report is to provide a 60 day update regarding the operational matters that have been undertaken to ready the Tribunal to receive and handle all claims that may be brought before it.

It is an overriding objective of the Tribunal to handle all matters in a just, transparent, efficient and accessible manner. The progress made to date is a reflection of the commitment of all involved to ensure that the Tribunal operates to the highest international standards of justice and efficiency.

On December 14, 2009, the Registrar and members of the Tribunal agreed the various matters that would need to be undertaken in order for the Tribunal to become functionally operational. These included allocating premises,

staffing, developing the necessary IT systems, seeking funding, establishing operating processes and procedures and developing rules for the operation of the Tribunal (based on those of the DIFC Courts).

These requirements were sent to the Government of Dubai and the DIFC pursuant to Article 8 of the Decree, which provides that “The Government and the DIFC shall provide the necessary administrative and financial support to the Tribunal for it to discharge its duties under this Decree”. These requirements were immediately acknowledged and acted upon. At schedule 2 are the names of some of those who have been instrumental in the operational establishment of the Tribunal, and to whom the Tribunal is grateful.

Set out below is the progress made so far in the operational establishment of the Tribunal.

### **Funding for the Tribunal**

An initial budget for the Tribunal was developed and approved by the Government of Dubai. In addition, financial matrices for the operation of the Tribunal have been established and approved by the Tribunal and Government: The matrices provide financial and operational independence for the Tribunal from Government.

Two bank accounts for the Tribunal have been established, one operational and one an escrow account, again with the bank mandates providing for control of the accounts being within the purview of the Tribunal.

Additional funding requests have also been made to the Government and have been approved on an expedited basis.

The Tribunal can report that the financial support required by the Tribunal has been provided promptly and in accordance with the Decree.

### **Premises**

Office space for the Tribunal has been granted by the DIFC, comprising 3 adjacent meeting rooms and a conference room. The Tribunal is located adjacent to the DIFC Courts, with its entrance off the DIFC Courts’ reception. The premises have been equipped with telephones and computer equipment for upto 5 staff. In addition, should there need to be additional space for hearings, the Tribunal has secured the first right of refusal to make use of the adjacent DIFC Conference Centre.

### **Staffing**

At this stage, and until the number of claims to be filed before the Tribunal is better understood, the Tribunal has considered it appropriate to recruit only one person, Henna Yousaf. Henna provides administrative support in relation to the Tribunal’s operational establishment, and the day to day affairs of the Tribunal. She also supports the Registrar and Deputy Registrar.

Further staffing needs will be considered in due course.

## Website for the Tribunal

A dedicated website for the Tribunal ([www.dubaiworldtribunal.ae](http://www.dubaiworldtribunal.ae)) has been created and is now fully operational. The website contains information regarding the Tribunal, as well as the claim forms and application notice to be used for filing claims and making applications to the Tribunal. Under development is a portal through which law firms which are registered with the DIFC Courts might be given online access to the Tribunal's files in respect of which they are acting. This will enable round the clock access to a law firm's case, taking account of the potential for many firms to be based in time zones that would make direct contact with the Registry challenging.

In addition, an email account has been created ([registry@dubaiworldtribunal.ae](mailto:registry@dubaiworldtribunal.ae)) to which all enquiries can be addressed. It should be noted that the Registry cannot provide legal advice regarding the Decree, and any such enquiries should be sent to the Tribunal by way of application. In relation to the numerous enquiries that the Registry has received concerning the impact of the Decree on arbitration proceedings, we understand that the Government of Dubai will shortly be addressing this matter

## IT Facilities

The technology utilised by the Tribunal will play a vital role in its efficiency, accessibility and transparency. All IT systems have been developed, reviewed, tested and enhanced to best serve the needs of the users of the Tribunal.

### *Videoconferencing Facilities*

The Tribunal is likely to use the video conferencing facilities of the DIFC Courts. Having reviewed them, it was identified that for high quality and consistent video conferencing involving multiple parties and jurisdictions, the system required to be upgraded to have 16 ISDN lines. This upgrade has been completed and tested.

### *Recording Equipment*

In order to ensure maximum transparency in the Tribunal's dealings with users, the recording systems within the DIFC Courtroom have been reviewed and adjusted. This will allow for hearings to be recorded and copies of hearings to be available shortly after the end of each hearing or hearing day. In addition, law firms and transcription companies can be given direct access to the recording server, allowing them to listen to hearings in almost real time. This will allow for timely transcription of hearings for parties, and allow law firms to have lawyers addressing matters raised during the course of a hearing from their own offices. In addition, portable recording devices have been acquired which will ensure that any meetings held outside of the DIFC Courts' courtroom can also be recorded and stored. In addition, all calls into or out of the Tribunal will be recorded.

### *Electronic filing – Case Management System*

In order to ensure efficiency in the handling of claims and applications made to the Tribunal, the interCOMM eFiling system has been installed. This allows for claims and applications to be filed electronically with the Tribunal, and for the sealed forms to be returned automatically to the claimant, allowing it to serve the forms on the other parties to the claim. The eFiling initiative will link into the Tribunal's state of the art case management system, which is modelled on that used by the DIFC Courts and the UK Commercial Court, and will allow for the efficient handling of all claims and applications to the Tribunal.

This case management system will deliver considerable efficiencies for the Tribunal's administration activities, streamlining scheduling, linking electronic records and ensuring secure and accurate document management. By adopting these technologies, the Tribunal will be on par, and perhaps even ahead, of other world class judicial systems.

## **Security**

The physical and electronic security of Tribunal is under review and will be audited to ensure it meets the necessary high standards.

## **Miscellaneous**

A logo for the Tribunal has been designed and produced, as well as stamps and seals. Stationery has been created and delivered. Application form templates and other forms have been developed and are available on the Tribunal's website. A media protocol for the Tribunal is in the process of being developed to ensure the efficient provision of information to the media regarding the Tribunal and proceedings.

## **Conclusion**

The Tribunal is now operational. In addition, in a short period of time, the Tribunal has established a world-class case management system to support the administration of claims, introduced a leading eFiling initiative which will allow claimants to receive sealed claim forms and applications almost instantaneously following filing, established the physical infrastructure from which the Tribunal will operate and secured the necessary funding for the Tribunal to operate independently of Government. By any standard this is a remarkable achievement given the short period of time involved, and is a testament to the commitment of all involved to establish a credible, efficient, accessible and transparent Tribunal to handle disputes pertaining to the settlement of the financial position of Dubai World and its subsidiaries.

Any enquiries regarding this report should be addressed to [registry@dubaiworldtribunal.ae](mailto:registry@dubaiworldtribunal.ae).

Mark Beer  
Registrar

Amna Al Owais  
Deputy Registrar

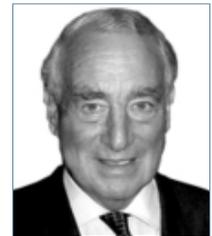
## Schedule one - Profiles

### **Sir Anthony Evans, Chairman**

Sir Anthony has extensive recent experience as an arbitrator, with particular emphasis on international commercial arbitration. Before being appointed as judge, Sir Anthony practiced as a barrister, specializing in commercial cases. He became Queen's Counsel in 1971 and a Recorder of the Crown Court in 1972. He was a High Court Judge in England and Wales from 1984 until 1992, where he regularly sat in the Commercial Court, and from 1990 until 1992 he was a judge in charge of the Commercial list. Sir

Anthony was a Lord Justice of Appeal (a member of the Court of Appeal) from 1992 until his retirement in 2000.

Since 2000, he has continued to sit from time to time in the Court of Appeal and as a member of the Judicial Committee of the Privy Council. He is also a member of the Court of Appeal in Bermuda. Sir Anthony Evans was appointed Chief Justice of the DIFC Courts in April 2005.



### **Michael Hwang, SC, Member**

From 1972 to 1991 and again from 1993 to 2002, Mr Michael Hwang SC was a partner in Allen & Gledhill, the largest law firm in Singapore and served as the Head of its Litigation and Arbitration Department for 10 years. In 1991, he was appointed a Judicial Commissioner of the Supreme Court of Singapore (a full time post equivalent to the office of an acting High Court Judge) for a fixed term contract which expired at the end of 1992. During his term, he dealt with a full caseload of civil litigation and 15 of his reasoned judgments are reported in the Singapore Law Reports. He returned to private practice at the beginning of 1993 and since 2003 has practiced as an independent barrister and arbitrator.

In 1997, he was appointed one of the first twelve Senior Counsel (SC) of the Supreme Court of Singapore (a status equivalent to that of Queen's Counsel in England). In 1999, he was elected a member of the

American Law Institute and also served as a Visiting Professor to the National University of Singapore teaching advocacy and commercial arbitration. Between 2000 and 2003, he served as a Commissioner of the United Nations Compensation Commission (UNCC) based in Geneva, a body set up under the Security Council to assess claims against Iraq arising from the Gulf War.

He was a former Vice Chairman of the International Court of Arbitration of the International Chamber of Commerce, a Vice President of the International Council for Commercial Arbitration, a member of the London Court of International Arbitration and a member of the International Council of Arbitration for Sport. Mr Michael Hwang, SC, was appointed as the Deputy Chief Justice of the DIFC Courts in April 2005. He has since 2008 been the President of the Law Society of Singapore and is a Trustee of the Dubai International Arbitration Centre.

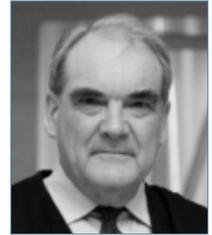


**Justice Sir John Chadwick, Member**

Justice Sir John Chadwick was called to the Bar of England and Wales in 1966. He was standing counsel to the UK Department of Trade and Industry from 1974 until 1980, when he was appointed Queen’s Counsel.

Justice Sir John Chadwick was appointed as a Judge of the DIFC Courts in January 2008, having served for 10 years until 2007 as a Judge of the Court of Appeal of England and Wales. He had previously held senior judicial

appointments as a Judge of the High Court of England and Wales (Chancery Division), and a Judge of the Courts of Appeal of Jersey and Guernsey. In private practice he undertook both litigation and advisory work; principally in property, company, insolvency, banking and insurance matters. His experience includes litigation in Malaysia, Hong Kong and Bermuda. He is also the President of the Court of Appeal in the Cayman Islands.



# Schedule two

**Names of those who have been instrumental in the operational establishment of the Tribunal.**

## **Acknowledgments**

The Tribunal would like to express gratitude to all those involved in its operational establishment. Below are the names of some of those who have been instrumental:

**Governor of DIFC:** HE Ahmed Humaid Al Tayer

**Government of Dubai, Department of Legal Affairs:** Dr. Lowai M. K. Belhoul, Director General

**Government of Dubai, Department of Finance:** Jamal Hamed Al Marri and Ms.Suad Sayed Sharaf

**The Office of the Governor of the DIFC:** Nabil Ramadhan, Ra'ed Walid Saqfelhait, Rabih Allaf and Seja Rajan

**DIFC Authority, Finance:** Mahmood K. AlTajir

**DIFC Authority, Human Capital:** Hani Hirzallah, Archana Menon, Nawal Mohamed and Reem Al Shihhe

**DIFC Authority, IT:** Alaa Saleh, Adil Ibrahim, Nitin Narayan, Wolger Mascarenhas, Sabah Al Shamsi, Allen Pereira and Amin Meqdadi

**DIFC Authority, Hospitality:** Souzane Abou Eid and Nadin Cavallo

**DIFC Authority, Security:** Ibrahim Al soori

**DIFC Authority, Procurement:** Ali Zariwala, Jawhara Naji Muhsin Ahmad, Gigy George and Mary Martinez

**DIFC Authority, Marketing:** Brendan Ryan, Amira Abdulla, Ayham Hajaj, Dana Theodory, Hana Aftikhar, Medhat Mustafa, Maryam Hassan, Shaima Al Ali, Bakhita Al Mutrib and Al Unood Al Bahar

**Visionhall Information Systems Ltd:** UK based developers of the interCOMM Electronic Filing and Case Management System who have helped us keep not only keep up to date with the latest technologies but go one step ahead to ensure we provide a fast and efficient service.

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