

**COMMERCIAL COURT OF THE TASHKENT CITY**  
*6 Volgogradskaya Str., Chilanzar District, Block-Ts, 700097, Tashkent*

**RESOLUTION**  
**(on return of a petition)**

2 October 2000

Tashkent city

Case No. 12173

Having considered during a course of the court hearing an application lodged by the firm Romak S.A., Geneva, which relates to the recognition and enforcement of the Award of Arbitration made by the Grain and Feed Trade Association G.A.F.T.A. in respect of a claim of Romak S.A. against the respondent, i.e., the FTF Uzdon, regarding the deduction of US\$ 10,510,629 under case No. 12173, with participation of:

- the representative of the claimant, i.e. Olga Mikhailovna Podmaryova (the power of attorney, dated 18 July 2000); and
- the representatives of the respondent, i.e. B.Kodirov, the Manager, and R.A.Khachaturov (power of attorney No. Uz-1/2-13-300, dated 4 June 1999).

Sh.Z.Saidov, the Judge of the Commercial Court of the Tashkent City

**HAS ESTABLISHED** as follows:

On 10 July 1996, the Swiss company Romak S.A. (i.e. the Seller) and the foreign trade firm Uzdon (i.e. the Buyer), which forms a division of the State Joint-Stock Corporation Uzdonmakhsulot, entered into a contract for the supply of 50,000 metric tons of Kazakhstan origin milling wheat 3rd class. Pursuant to Clause 11 of this Contract, in the event that it appears impossible to reach a mutually acceptable solution of any disputes between the parties, the parties have provided for the possibility of submitting such disputes for arbitration to G.A.F.T.A. as per Rules of the Grain and Feed Trade Association G.A.F.T.A. No. 125.

When executing the Contract, a dispute arose between the parties. Such dispute related to Uzdon's failure to pay the value of grain totalling US\$10,510,629.12. The company Romak S.A. has submitted this dispute for arbitration to the Grain and Feed Trade Association G.A.F.T.A.

On 22 August 1997, the arbitrators made Award of Arbitration No. 12173 pursuant to which the FTF Uzdon shall pay to the company Romak S.A. the sum totalling US\$10,510,629.12 (ten million five hundred and ten thousand six hundred and twenty nine United States Dollars and twelve cents).

On 27 March 1998, the firm Uzdon lodged an appeal complaint against the Award of Arbitration. The Board of Appeal of the Grain and Feed Trade Association G.A.F.T.A. has rejected the appeal complaint due to Uzdon's failure to lodge the appeal complaint within a prescribed period.

According to the Award of Arbitration, the FTF Uzdon shall pay to the company Romak S.A. the sum totalling US\$10,846,889.55, of which:

- US\$10,510,629.12 represent the principle debt for the supply of 40,581.580 metric tons of milling wheat;
- US\$329,820.93 represent the interest for the delay in payment;
- US\$6,439.50 represent fees and expenses for arbitration.

In accordance with the Convention ON RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (New-York, 1958), the claimant has lodged a petition on recognition and enforcement of the Award of Arbitration made by the Grain and Feed Trade Association G.A.F.T.A.

However, during a course of the court hearing the representatives of the respondent lodged a petition on submission to the court of the Award of the Grain and Feed Trade Association in the official language, i.e. in the Uzbek language, which shall be notarised in accordance with this Convention since, as envisaged in Article 4 of the Convention, a party requesting for recognition must submit an arbitral award in official language of the country where such recognition is requested. They also explained that the respondent has not been duly notified of the appointment of an arbitrator and, in view of this, they requested that the recognition and enforcement of the award of arbitration be rejected.

Having studied the submitted materials of the case and heard the representatives of the parties, the court finds it necessary to return the claimant's petition on recognition and enforcement of the award of arbitration due to the following reasons:

- pursuant to Article 4 of the Convention ON RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (New-York, 1958), with a view to recognising and enforcing a foreign arbitral award, a party requesting for recognition and enforcement, shall submit, when lodging such an application, the following documents:
  - a) a duly notarised original arbitral award or a duly notarised copy thereof;
  - b) an original contract or a duly notarised copy thereof;

In the event that an arbitral award or agreement (or contract) is drafted not in the official language of the country where the recognition and enforcement of such an award are requested, a party requesting for the recognition and enforcement of this award shall submit the translation of these documents into such language. The translation shall be notarised by an official or sworn translator or by any diplomatic or

consular department. The submitted materials of the case contain a notarised copy of the award in English and Russian. However, there is no translation of these documents into official language, i.e. Uzbek, since the Uzbek language is an official state language in the Republic of Uzbekistan;

- additionally, no evidence confirming that the FTF Uzdon has been duly informed of the appointment of the arbitrator had been enclosed to the petition.

Given the circumstances, the court cannot consider the petition on recognition and enforcement of a foreign arbitral award and, in view of this, it finds it necessary to return the petition to the claimant.

Being governed by Articles 4 and 5 of the Convention ON RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (New-York, 1958) and Article 151 of the Commercial and Procedural Code of the Republic of Uzbekistan, the court

**HAS RESOLVED** as follows:

1. The petition lodged by the firm Romak S.A. on recognition and enforcement of the Award of Arbitration made by the Grain and Feed Trade Association G.A.F.T.A. (comprising 113 pages) and also a power of attorney, which is notarised and approved by the Consular Department of the Republic of Uzbekistan in London, shall be returned to the claimant.

The resolution may be appealed within one month period.

Judge

(signature)

Sh.Z.Saidov