

REGIONAL CENTER FOR ARBITRATION AT CAIRO

By

Dr. AHMED RIFAAT KHAFAGY

Director of the Regional Center
for Arbitration at Cairo

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1 — Introduction :

As a practical matter, the prudent investor seeks investments which will yield a fair return at minimum risk. The other party in the commercial equation, the entrepreneur in the market for capital, attempts to encourage the investor by assuring him that the risks inherent in a particular business transaction will be acceptable. Because of the possibility of conflict between them, both the investor and the entrepreneur want specific assurances that potential disputes will be resolved promptly, efficiently, and inexpensively.

Arbitration is the preferred dispute resolution mechanism for many such investors and entrepreneurs.

Therefore, the question of organising a dispute settlement system in relation to commercial transactions through centres of Arbitration was discussed.

No doubt the principle of accepting the arbitration constitutes a refinement in litigation aparting from enmity. It is more deserving in the human civilized life to take the arbitration as a settlement for its disputes.

Arbitration clauses have become almost standard procedure in international agreements.

Although economy and efficiency are traditional reasons for employing private methods of dispute resolution, there are additional compelling reasons to provide for voluntary arbitrator in non-domestic transactions. Typically, parties are also desirous of avoiding the formalities, complexities, and uncertainties of foreign court proceedings.

2 — Cairo Arbitration Centre :

It is indeed a great honour to our country for having been chosen as the location for an arbitration Centre.

This centre is established by an agreement concluded by Asian African Legal Consultative Committee (A.A.L.C.C.) and the Egyptian Government on the 28th January 1979. It was inaugurated on 5 February 1980.

I would also add that the centre is established in its convenient time to our economic open-door policy, because it occurs simultaneous.

This centre has been established in pursuance of the decision of the (A.A.L.C.C.) taken at its sessions in Baghdad 1977, Doha 1978, it represents an important landmark in bringing about regional cooperation between the countries of Asia and Africa in the field of trade, commerce and economic relations by providing for the first time a machinery suited our needs for settlements of disputes in the economic field both between the countries of our region as also those with countries of other regions.

The Kuala Lumpur and Cairo Centre have been set up to give the Third World Countries an alternative to those arbitration institutions which already exist in the West.

I do not believe that the Arab States will ignore the centre because of the boycott of Egypt.

This Regional Centre for commercial arbitration is established under the auspices of the Asian-African Legal Consultative Committee.

The scheme for the establishment of this centre was undertaken by (A.A.L.C.C.) in order to meet the growing needs for adequate and fair machinery for settlement of disputes in international transactions which may broadly be termed as commercial.

There are transactions to which governments, private individuals as well as bodies cooperate have been parties.

Such transactions had at times given rise to a number of disputes and differences between the parties which needed to be settled.

The settlement of disputes in such transaction was submitted to the institutions to resort to arbitration under the auspices of private institutions or chambers of commerce located in the west.

Experience has shown that some of the arbitrations held under the auspices of existing institutions in the West prove to be unduly prolonged and costly and the procedure adopted by certain associations of trade at times work unfavourably to the interests of the national of the developing countries.

In the light of the general survey, the secretariat of the committee prepared a scheme which envisaged the establishment of some independent centres to be located in various parts of the region. It was observed in the secretariat study that the regional centres could promote the use of the UNCITRAL rules.

The committee who has authorised the initial establishment of two regional centres, one in Kuala Lumpur and another in Cairo has also requested the Secretary General to investigate the possibility of establishing a third Centre in Africa.

3 — Functions of the centre :

The arbitral centre is entrusted with the following functions :

A) The first purpose of the centre will be to promote the institution of arbitration as an effective means for settlements of disputes where parties belong to different countries. In another term, the centre will promote international commercial arbitration in the region.

B) Co-ordinating and assisting the activities of existing arbitral institutions and chambers of commerce particularly among those within the region in regard to commercial arbitration.

C) Rendering assistance and facilities in the conduct of ad hoc arbitration and existing arbitral institutions in regard to commercial arbitration particularly those held under the UNCITRAL rules. I hope that there will be mutual cooperation between these centres and our centre in the future.

As also to promote the use of UNCITRAL arbitration rules recommended by the United Nations General Assembly.

D) Assisting in the enforcement of arbitral awards, and

E) Providing for arbitration under the auspices of the Centre where appropriate, for settlement of disputes arising out of international commercial transactions and matters of investments.

In case where parties agree under an arbitration clause incorporated in a contract or by separate arbitration agreement, that any dispute arising out of or in relation to a contract should be settled by arbitration under the auspices of the centre.

In so far as the promotional work envisaged in clauses (a) and (b) of paragraph 3 is concerned the Centre is intended to serve the Arab Countries in West Asia and Africa and any other country in Africa which may wish to be served by the Centre. The services contemplated in clauses (c), (d) and (e) may be rendered to any party whether government undertakings, individuals or bodies corporate who may approach the Centre for the purpose.

4 — Appreciation of our Centre :

Our Centre is an International institution, having its own personality, acting for the time and until 27 January 1982 under the auspices and supervision of the (A.A.L.C.C.).

It is neither Egyptian nor Arab. It is international and does not deal with politics. It is an independent court, working in the field of Justice and nothing else but Justice.

It applies the Private International Law and the Arbitration rules by the United Nations commission on international trade (Uncitral) 1967.

The Centre maintains an International Panel of Arbitrators from both eastern and western countries which contains the names of a number of eminent jurists, judges and diplomats. But, the parties are free to choose their own arbitrators.

The costs, the fees, and the changes of the Centre would be fixed; taking into account the actual expenses incurred

and also keeping in view the non-profit making character of the Centre. I sincerely hope that with God's blessing and help we shall succeed in achieving the aims of the Centre especially participating in settlement of disputes arising out of International transaction, especially those of commercial character including investment disputes, which will be resolved promptly, efficiently and inexpensively.

Our Centre settle disputes arising between the countries of the region, between the institutions and the states, between the individuals and these bodies, or between the individuals in international economic transactions.

Now and since the establishment of our centre, many contracts have incorporated an arbitration clause for settlement of disputes under the auspices of our Centre.

That is an evidence of the faith and trust which countries have in the disputes settlement system offered by our Centre.

5 — Other institutions of arbitration :

They are many, but I can say as examples the following :

1 — International Chamber of Commerce in Paris I.C.C.

2 — American Association of Arbitration A.A.A.

3 — World Bank's International Centre for the settlement of investments disputes (ICSID).

4 — Regional Centre of Arbitration at Kuala Lumpur established on 1st January 1978, inaugurated on 17 October 1978.

But I think that it will no longer be necessary for parties to take recourse to these institutions outside the region for settlement of disputes arising out of International trade and investments.

Our Centre is a sort of approaching Justice to the parties of contracts instead of going to far countries for this purpose.

6 — Cooperation with ICSID :

The Cairo Arbitration Centre had concluded an agreement with the ICSD, on 6th February 1980, providing for mutual cooperation and assistance in the field of settlement of disputes through arbitration in the economic field.

7 — Future of the Centre :

I think that the Cairo Centre will become very important, because of its geographical situation.

After Peace in this region Egypt will become a centre of commerce here.

Choosing Cairo as a resident for establishing the International Arbitration Centre was not randomly but it was the outcome of comprehensive objective study aimed to facilitate the assistance for the countries of the region of Western Asia and Africa. A main factor in the choice of Cairo as a site was its pivotal location between East and West.

God has endowed Egypt a location by which it centres the region. Egypt is the land of civilisation 7 thousands of years ago, it is a well-spring of knowledge for all the world and you testify the notable contribution of the Egyptian civilisation.

Every one knows how valuable is the contribution of the immense cultural heritage of Egypt which has done much to the world.

8 — Conclusion :

I avail myself of this opportunity to express that with support and fruitful cooperation of our friends, the Centre will function at high capacity.

I hope that the functions of this centre will be crowned with progress and success.

In this effect, I would like to mention that our country has taken the world leadership in the quest of peace and stability. Therefore, the Egyptian government encourages the activities of the Centre whose functions will help to ensure Justice and Peace.