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RECENT DEVELOPMENTS IN THE ACTIVITIES OF THE  
REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION-CAIRO

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RECENT DEVELOPMENTS IN THE ACTIVITIES OF THE  
CAIRO REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION

The activities of the Cairo Regional Centre for International Commercial Arbitration have recently been dedicated, not only towards promoting and providing for arbitration as means of dispute settlement, but also, towards functioning in the spirit that triggered the AALCC's scheme for dispute settlement through arbitration.

This spirit in essence was the true intention of the countries of Afro-Asian Region to reach their aspiration in promoting international trade between them and other countries of the world through the establishment of an effective machinery for international dispute settlement.

The developments in the field of international dispute settlement had to be taken in consideration and the adoption of those means became a necessity.

The Cairo Centre had therefore to exert a double effort. First, it had to introduce arbitration as the most developed means of settlement of international disputes. Second, it had to cope with the developments in the arena of international dispute settlement .

In a very short period since its establishment the Cairo Centre succeeded in its mission. The efforts that have been exerted, and are still being exerted, in the field of promoting and providing for international arbitration have shown their

signs, and the Cairo Centre's staff were all busy with eight new international arbitration cases this year. Seven of which are still pending and one already settled.

Having already seen that its efforts were moving in the right direction, the Cairo Centre is now looking forward to introducing other developments in the field of international dispute settlement.

The first step was to lay down the Conciliation Rules of the Centre that adopt the UNCITRAL Conciliation Rules and to lay down the Rules of the Centre for Technical Expertise so as to provide for alternative means of dispute settlement in international business and investment transactions.

The second step was to insure the continuous flow of information and education and organizing the leading role of the Centre in this important field. The idea of establishing the Centre's Data Bank and Institute was thus born.

In this paper we will therefore discuss the recent developments in the activities of the Cairo Centre shedding the light on the Cairo Centre's new Rules for Conciliation, Technical Expertise, as well as the Centre's Data Bank and Institute.

## I. Conciliation Rules

The Cairo Centre since its establishment was also requested to administer the settlement of a certain number of commercial disputes originally submitted to arbitration through CONCILIATION. It willingly undertook this duty, although conciliation was not anticipated in its rules, to spare the parties the relatively complicated arbitral procedures. This was also motivating for the Cairo Centre to start applying the UNCITRAL Conciliation Rules. Conciliation could be an alternative to arbitration and could also be just its prior phase in the event of its failure. Conciliation should be applied only when the parties explicitly opt for it. When disputes are not settled through conciliation the parties would still have the freedom of submitting them to arbitration.

The Cairo Centre therefore, laid down a set of rules incorporating the UNCITRAL Conciliation rules which have been developed to be acceptable in countries with different legal, social and economic systems. The Centre's rules for conciliation are thus the UNCITRAL Conciliation rules subject only to some minor modifications so as to suit the purpose of the Cairo Centre as an administering body for conciliation.

According to the Centre's Rules for Conciliation, parties file with the Centre the invitation to conciliate and all other written statement submitted for conciliation. The Centre in turn communicates all submissions to the other parties and conciliator(s). The conciliator(s) unless otherwise agreed by the parties, furnishes to the Director of the Centre -at the termination of the conciliation proceedings- the settlement agreement signed by the parties, or a report of the reasons for termination of the conciliation proceedings.

The Director of the Centre's shall be the person assisting the parties in connection with the appointment of the conciliator(s). The Centre thus, maintains a list of conciliators of high distinction and professionalism in this area.

The Centre through its director, at the request of the parties or the conciliator(s), shall provide or arrange for providing all facilities and assistances as may be required for the conduct of the conciliation proceedings. This includes accomodations for sittings of the conciliator(s) and other administrative facilities such as secretarial and interpretation facilities.

## II. Technical Expertise Rules

The Cairo Regional for International Commercial Arbitration has established a system for the settlement of disputes that arise between parties to business and investment transactions by technical expertise. In this regard a set of rules for technical expertise were laid down so as to provide for a mechanism of settling disputes that depends mostly on determining technical issues which may not be determined except by technical experts. Submitting those disputes to technical expertise may therefore be an initial step towards the settlement of the dispute that could spare the parties to those disputes from resorting to other means of dispute settlement such as litigation or even arbitration or conciliation. Technical expertise may also serve the parties in assessing their positions before deciding to submit their disputes to litigation or arbitration and also serve arbitrators by allowing them to concentrate on deciding legal issues only without having to look into other technical issues.

### III. Data Bank

The Cairo Centre, in its continuing efforts to modernize its equipments, introduced a new computer system for the storage of information about all aspects of international business law including legislations, courts decisions, published arbitral awards, conventions and alternative dispute settlement rules, from various parts of the world. It started operating early this year 1989. It is the first and sole computer system in our Region that provides this service. Its information is available in Arabic, English and French, to all information seekers from both inside and outside the Afro-Asian Region. This new equipment represents an important achievement for the consolidation of the Regional Arbitration Scheme of the AALCC. It is indeed an achievement that the Cairo Centre has ventured into this advanced equipment.

#### IV. Cairo Regional Centre Institute for Investment and International Commercial Arbitration

The Cairo Regional Centre's Institute for Investments and International Commercial Arbitration is a separate independent department that operates under the auspices of the Regional Centre for International Commercial Arbitration in Cairo.

Established in July 1989, the Institute is considered one of the achievements of the Regional Centre for International Commercial Arbitration in Cairo.

The Institute was established primarily to be responsible for organizing seminars, international training courses as well as preparing studies and researches necessary for the functioning of the Centre.

The Institute is administered by its Director and its Board of Governors. The Institute's Board of Governors is responsible for laying down its annual plan and observing its implementation.

The Institute has been established to pursue the following objectives:

- 1- The preparation of high standard training programs for lawyers, legal practitioners, businessmen, government officials and other public and private sector entities in all branches of



international business law in the Afro-Asian Region including international contracts, drafting of contracts, financial and economical aspects of investments and international commercial arbitration, in particular, the arbitral procedure, the practical problems that arise in its course, enforcement of arbitral awards under the different international rules and especially UNCITRAL arbitration rules.

2- The preparation of seminars, conferences and training programs for the dissemination of specialised information and endeavouring to enable participants to acquire the necessary skills in the fields of investment and arbitration.

3- Participating in international seminars, conferences and training programs in the fields of investment and arbitration.

4- Encouraging and sponsoring research and study in the fields of investment and arbitration by publishing and circulating these researches and studies within the specialists and those interested in those fields.

5- Publishing the Centre's Journal and its periodical circulars and publications on its activities.

Training Programs are conducted in both English and Arabic, however, knowledge of the English Language is an essential requirement. Programs conducted in the French Language are also prepared in certain cases.

Specialized Instructors who combine both high academic background and extensive practical training are entrusted with the training programs. Most of the instructors are highly qualified University Professors who have extensive experience in their fields of specializations.

Consideration in those training programs is directed towards maintaining the effective participation of all participants enrolled in the basic theoretical subjects and the other practical subjects such as the drafting and formulation of international contracts.

There are different levels of training programs for participants that mainly deal with the recent developments in international contracts such as the investment contracts, international sales of goods contracts, international construction contracts, transfer of technology and the practical problems that arise with respect to investment and arbitration, as well as the role of state courts vis-a-vis arbitration and the means of reconciling the practical problems according to the different legal systems.

The programs offered in the Institute also include hypothetical and mock cases in international commercial arbitration that are given to the participants who divide into groups taking the roles of the parties and arbitrators.

Other forms of practical problems that arise concerning drafting of contracts and arbitration clauses are also dealt with in the light of the different interpretations of contracts and agreements.

Training in the Institute also includes the preparation of the requests for arbitration by claimants according to the rules of the different international arbitral institutions and the means of determining the disputed issues between the parties as well as preparing practical training on arbitral procedures, drafting of arbitral awards, challenge requests against enforcement of arbitral awards and the means of evading or solving problems that arise at the stage of enforcement of arbitral awards.

" Annex 1"

RULES FOR CONCILIATION OF THE  
REGIONAL CENTRE FOR INTERNATIONAL  
COMMERCIAL ARBITRATION  
CAIRO

Rule (1)

Where the parties to a contract have agreed in writing that the parties wish to seek an amicable settlement of disputes arising out of or relating to this contract by conciliation in accordance with the Rules of Conciliation of the Regional Centre for International Commercial Arbitration-Cairo: "the Centre", then such conciliation shall take place in accordance with the UNCITRAL Conciliation Rules subject to the modifications set forth in the present rules.

The rules applicable to the conciliation shall be those in force at the time of the commencement of the conciliation unless the parties have agreed otherwise.

**Rule (2)**

The party initiating conciliation shall apply to the Centre briefly identifying the subject of the dispute and accompanying it with the agreement entered into between the parties for conciliation, and a registration fee of one hundred and fifty US Dollars.

The Centre shall communicate the conciliation application as soon as possible, to the other party.

Conciliation proceedings shall commence when the other party accepts the invitation to conciliate in writing.

If the other party rejects the conciliation application or if the Centre does not receive a reply within 15 days from the date on which the other party receives the conciliation application or within such other period of time as specified in the conciliation application, the Centre shall inform the party initiating conciliation by such reply.

### **Rules (3)**

The Director of the Centre shall assist in the appointment of conciliators if the parties did not reach an agreement on the name or names of the Conciliator(s).

Where pursuant to article 4(2) of the UNCITRAL Conciliation Rules and these rules, the Centre is to recommend or appoint conciliators, the names of the recommended or appointed conciliators shall be drawn from the Panel of Conciliators maintained by the Centre for that propose.

### **Rule (4)**

The Director of the Centre shall provide or arrange for providing administrative assistance in order to facilitate the conduct of the conciliation proceedings if requested to do so by the parties or the conciliators when given the consent of the parties.

**Rule (5)**

The parties shall furnish to the Director of the Centre copies of all written statements to be submitted to the Conciliator(s) or the other parties.

The Centre shall communicate all written submissions to the other parties and to the conciliator(s).

Unless agreed otherwise, the conciliator(s) at the termination of the conciliation proceedings shall furnish to the Director of the Centre the settlement agreement signed by the parties, or a report of the reasons for termination of the conciliation proceedings without reaching a settlement.

**Rule (6)**

In lieu of the provisions of Article (18) of the UNCITRAL Conciliation Rules, the following provisions shall apply:

- a. The Director of the Centre shall prepare an estimate of the costs of conciliation and may request each party to deposit an equal amount as an advance for those costs.
- b. During the course of the conciliation proceedings the Director of the Centre may request supplementary deposits from the parties.
- c. If the required deposits are not paid in full within thirty days after the receipt of the request, the Director of the Centre shall so inform the parties in order that one or another of them may make the required payment. If such payment is not made the conciliator(s), after consultation with the Director of the Centre, may order the suspension or termination of the arbitral proceedings.
- d. The Director of the Centre may apply deposits towards disbursements for the costs of conciliation.



- e. Upon termination of the conciliation, the Director of the Centre shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

#### Rule (7)

- a. For the purpose of these Rules, the term "costs" as specified in Article (17) of the **UNCITRAL** Conciliation Rules shall also include the expenses reasonably incurred by the Centre in connection with the conciliation as well as its administrative charges.

#### Appendix (1)

- b. The facilities made available by the Centre itself may be charged for on the basis of comparable costs.
- c. The administrative charges of the Centre shall be fixed by the Director of the Centre at one quarter of the amount calculated according to the Annexed Appendix (1) with a minimum of two hundred and fifty U.S. Dollars.

d. The conciliator's fees shall be fixed at the same amount calculated according to Appendix (1) determining the arbitrator's fees.

e. In some cases due to its complexity, nature of dispute, dispute, length of hearings the Director of the Centre may undertake consultations with the parties before giving advice to the conciliator.

The Director of the Centre, in consultation with the conciliator and the parties, shall settle the basis of assesment of fees and expenses.

Rules for Technical Expertise  
of the Regional Centre for  
International Commercial Arbitration - Cairo

Art (1)

Where the parties have agreed to submit their disputes to the rules of Technical Expertise of the Regional Centre for International Commercial Arbitration - Cairo "the Centre" they may ask the Director of the Centre to appoint one or more expert to render his technical opinion in the dispute.

Art (2)

The request submitted to the Director shall include:

- a. The names and address of the parties
- b. The proposed number and names of technical experts to be appointed or the number of experts and their names if previously agreed upon.
- c. The subject and nature of the technical dispute and the expertise requested.

Art (3)

The Centre shall send a copy of the request to the other party (parties).

Art (4)

The technical expert shall be appointed by the parties' mutual agreement or by the Director of the Centre where the parties have failed to make this appointment.

Art (5)

In case the parties have not agreed on the number of experts, a sole expert shall be appointed unless the parties have agreed otherwise or if any of the parties have requested the appointment of more than one expert and the Director of the Centre decided to appoint more than one expert on the recommendation of the sole expert then appointed.

Art (6)

The Director of the Centre shall appoint the expert(s) from the list of experts maintained by the Centre for that purpose, taking into consideration that the expert chosen must be a national of a country other than the countries of both parties. In all cases the expert appointed shall disclose any information that may affect this opinion in the dispute.

Art (7)

The Director of the Centre shall decide on the replacement of an expert who has died or is prevented from carrying out his functions.

The Director may also replace the expert on the grounds of objection made by the parties concerning the person appointed as expert or if he finds, after having considered the expert's observations, that the expert is not fulfilling his functions in accordance with these rules or with the prescribed time limits.

Art (8)

1.a) The expert is empowered to make findings within the limits set by the request for his appointment, after giving the parties an opportunity of making submissions.

b) The expert may also be empowered, by express agreement between the parties, either in a prior agreement or in their request for the appointment of an expert, to

- recommend, as needed, those measures which he deems most appropriate to the performance of the contract and/or those which would be necessary in order to safeguard the subject matter;

- supervise the carrying out of the contractual operations.

2. In adhering to these Rules the parties undertake to provide the expert every facility to implement his terms of reference and, in particular, to make available to him all documents he may consider necessary and also to grant him free access to any place where the contract is being carried out. The information given to the expert will be used only for the purpose of the expertise and shall remain confidential.
3. Unless otherwise agree the findings or recommendations of the expert shall not be binding upon the parties.

Art (9)

1. The Director of the Centre shall fix the amount of the administrative charge and the deposit to be paid for the expertise.
2. The party or parties requesting the appointment of the expert shall advance those amounts.
3. The total amount of the costs of the expertise shall be determined by the Director of the Centre when the expertise operations have been concluded.

" Annex 3 "

RESOLUTION  
FOR THE COMPOSITION AND POWERS OF THE BOARD OF GOVERNORS  
OF THE CAIRO REGIONAL CENTRE INSTITUTE  
FOR INVESTMENT AND INTERNATIONAL  
COMMERCIAL ARBITRATION

ARTICLE (1)

The Board of Governors of the Institute shall be composed of eminent lawyers and economists selected primarily from the Afro-Asian Region. Chairmanship and membership of the Board are for three renewable years.

ARTICLE (2)

The Board shall lay down the policy of the Institute and its plan of activities, and shall be responsible for approving its annual budget and endorsing its final balance.

ARTICLE (3)

The Board of Governors shall hold two meetings at least each year.

The Board shall meet also at the invitation of the Director of the Institute or at the request of six of its members.

The Director of the Institute shall chair the Board in the absence of the Chairman.

#### ARTICLE (4)

The Board of Governors shall meet at its premises unless the Director or the Board see it appropriate to meet at any other place.

#### ARTICLE (5)

The quorum necessary for the meetings of the Board of Governors is the presence of two thirds of its members. If this quorum is not established the Board shall be invited to another meeting after the lapse of two weeks at least where the quorum shall be the presence of half its members. If this quorum is also not established the Board shall be invited to another meeting after the lapse of one week at least, where the quorum shall be the presence of three of its members in addition to the Chairman or whomever substitutes for him or the Director of the Institute.

#### ARTICLE (6)

The quorum necessary for voting on the decisions of the Board is the majority of the members present. If the votes are even the proposal shall be rejected.

Voting may be made by proxy to another member of the Board.

The decisions may also be taken by circulation whenever necessary.



ARTICLE (7)

The Board shall lay down the necessary arrangements for regulating and registering its decisions. The Secretary-General of the Institute shall be responsible for the secretarial works of the Board.