Cairo Regional Centre for
International Commercial Arbitration

THE ROLE OF THE CAIRO CENTRE IN ADOPTING AND POPULARIZING ALTERNATIVE DISPUTE RESOLUTIONS (A D R)

Presented By

DR. MOHAMED I.M. ABOUL-ENEIN

Director of the Centre

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I - INTRODUCTION

The Cairo Regional Centre for International Commercial Arbitration (hereinafter the "Cairo Centre" is a non profit independent international organization. Its activities aim at contributing to the economic development in the countries of Asia and Africa through the specialized services provided in the field of the settlement of international trade and investment disputes.

This is done through fair procedures and an independent forum, both of which constitute a complete system applying the UNCITRAL Rules and providing the benefits of a quick, efficient and inexpensive mechanism for dispute settlement. In this regard the Cairo Centre was entrusted with the following duties:-

1 - Promoting international commercial arbitration in the Region .

2 - Coordination and assisting the activities of the existing arbitral institutions; particularly among those within the Region.

3 - Rendering assistance in the conduct of ad-hoc arbitrations, particularly those held under the UNCITRAL arbitration rules;

4 - Assisting in the enforcement of the arbitral awards;

5 - providing for arbitration under the auspices of and the rules of the Centre;

6 - Rendering advice and assistance to parties who may approach the Centre.

The Cairo Centre has a principal direct role in settling international commercial and investment disputes according to its Rules. It adopted the UNCITRAL Rules of Arbitration and Conciliation . It provides also for some other alternative dispute resolution techniques such as the Technical Expertise Rules of the Centre issued in 1989, and its Rules of Mediation issued in 1992.

The Cairo Centre has also an indirect role which constitutes of training programs for nationals of the Asian and African Countries. These programs are prepared and conducted by selected highly qualified experts and arbitrators from all parts of the world. The programs aim at creating a generation of Asian and African arbitrators who would be one of the principal elements in the progress of the countries of the Region. The programs also promote peaceful settlement of international commercial disputes in the Region .

In addition to the training programs, the Cairo Centre also organizes specialized conferences and seminars in the various fields of peaceful settlement of international commercial disputes .

II- ALTERNATIVE DISPUTE RESOLUTION (ADR) AND WHAT IT MEANS

Alternative Dispute Resolution (ADR) is simply a system that provides several techniques to settle commercial disputes and in some events non-commercial disputes.(1)

The international awareness of the importance of ADR is undeniable, as the last five years have witnessed tens of conferences and seminars that discussed the ADR and its future, and statistics show that the number of disputes being settled by ADR techniques are increasing .

Furthermore, it appears to several scholars that international commercial mediation (an important technique of ADR) is a

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1. Henry Brown, Mediation in family matters, in Sidney preserver editor,Alternative Dispute Resolution, London,1991, pp.109-116.

dispute resolution technique whose time is coming . As the International Chamber of Commerce (ICC), the United Nations Commission on International Trade Law (UNCITRAL) ,the American Arbitration Association (AAA), and the Cairo Regional Centre for International Commercial Arbitration as well as many other arbitration bodies have promulgated specific procedures for Mediation, or considered it in its techniques for settling international commercial disputes.

What is ADR ?

It is probably best described in its generic sense as alternatives to full legal trial. Some scholars state that historically ADR has the meaning of alternative dispute resolution. It is probably more useful to call it "appropriate dispute resolution", as in many cases ADR can supplement and precede other approaches for earlier resolution of the dispute .

Turning now to whether ADR includes arbitration or not, one have to state at the outset that there is no practical importance for such a question but its importance lies on a theoretical level. Scholars in this regard have different views, as some think that arbitration forms an integral part of the ADR, and the whole system in this sense is an alternative to the court system and national litigation (1) , on the other hand some deem the ADR

1.see:Thomas Carbanneau, Alternative Dispute Resolution Chicago: (University of Illinois Press,1989)p.162 .

to be an alternative to both court system and arbitration(1) . Finally Hunter & Redfern perceive Arbitration as an independent system than ADR, and in their opinion arbitration includes arbitration by law and informal arbitration as mediation, conciliation and amicable composition, as to ADR they state that it is a system that comprises mini-trials and rent a judge.

In this regard, it seems to me that many writers would mean by ADR alternatives to litigation whether quasi-judicial or not. ADR includes arbitration, conciliation, mediation, dispute review boards, mini trial and some other less important ways of settling disputes. (2)

III - ARBITRATION UNDER THE AUSPICES OF THE CENTRE

Arbitration is the most important way of settling international commercial disputes before the Centre. It has been defined in different ways, and from different approaches. It has been always stressed that defining arbitration is not an easy job. This difficulty has been reflected in Mustill & Boyd when reference was made to the famous observation of Scrutton L.J. on the definition of an elephant which every body recognizes, but still difficult to define(3). The Centre provides for its services in this regard as a non profit institution.

1.Henry Brown & Arthur Marriott:ADR Principles and Practice, Sweet & Maxwell 1993, p.9 .

2. Such as the technique of " Rent a Judge" which is beginning to be more popular in the United States in the last few years. The

3 . Mustill & Boyd, The Law and Practice of Commercial Arbitration in England, (2nd ed., 1989) p.41.

The Centre's schedule of administrative and arbitrators fees keeps the costs of dispute settlement at very reasonable standards compared with other arbitral institutions.

The total number of cases registered with the Centre to date is fifty four international arbitration cases . Many international trade, business and investment contracts include now the clause of the Centre for arbitration. Arbitration Rules of the Centre are the UNCITRAL Rules.

One important feature of the Centre's administrated arbitration is the existence of an international panel of arbitrators. This panel currently consists of highly experienced arbitrators, representing the different fields. For example, the panelists include judges, lawyers, accountants, architects, construction managers, engineers, general contractors, insurers, manufacturers, suppliers and subcontractors.

The Centre continuously includes qualified individuals to the panel. Assistance is requested from reputed institutions such as the AAA and LCIA and others to recommend qualified arbitrators. Moreover, the Centre is assisted by universities, engineers and associations who recommend names of high qualifications to be on the list. Cooperation agreements with institutions and associations in the Region and outside the Region were concluded for wide range cooperation including exchange of arbitrators.

Twenty six international agreement were concluded in this regard.

Parties to the Cairo Centre's-administrated arbitration are given upon their request the up-to-date information about the names of arbitrators in the Centre's Panel to enable them to select the most qualified arbitrators for their case. The Centre requests each nominated arbitrator to disclose potentially disqualifying relationships. This requirement is to ensure impartiality on the part of the arbitrators. Upon such disclosure, which is communicated to the parties, they then are given the option to agree to proceed or to challenge any arbitrator's participation in a particular case.

The ruling on arbitrators' challenge balances the concept of impartiality against the inevitable business relationships of experts who are prominent and experienced members in the fields of international trade, business, and investment .

Certainly, a personal or financial interest in the result of an arbitration would always prevent the services of an arbitrator, as would other close business, social, and family relationships. The Centre has its Code of Ethics for Arbitrators specifying the relations that would disqualify the arbitrator.
To expedite the procedures, save the time of the parties, save many procedural difficulties and fix a plan for the hearings, the Centre followed the practice of holding administrative meetings with the parties and the arbitrators. In these meetings the parties give their final views about the formation of the arbitral tribunal. A draft of the terms of reference is submitted for the

approval by the parties. The points in dispute is determined, and the arbitrators are assigned their jurisdiction in the terms of reference. Also the dates of the hearings, of exchange of memos, of hearing witnesses and sometimes of the award would be determined in this meeting.

Moreover, the Centre in the administrative meetings investigates the wish of any party to be provided with interpretation services. Also the need for visiting the sites of construction in disputes is investigated in these meetings. Should a visit be necessary the arrangements for it would be taken at this early stage.

In settling the disputes that occur in international trade and business relations, arbitration is being much more preferred in the Region than litigation for many reasons, some of which are:

1 - The parties in dispute choose a person or persons to whom they entrust the resolution of the of the dispute. Normally, they choose experts in the field of the dispute whether technical or legal.

2 - Excessive legal time is consumed in courts procedures, pleadings, discovery and other complicated procedures while pleadings are submitted at or close to the appointment of arbitral tribunal. This enables the tribunal to start with the case and to continue to be in close touch with the steps taken by both sides.

3 - Parties can expedite the procedures, while this might prove to be very different in courts.

4 - Arbitral procedures is informal, thus avoiding the undesirable publicity that would disclose the parties mistakes. Arbitration procedures are also flexible and adaptable especially in fields such as construction disputes.

5 - Arbitration allows the continuation of business work between parties.

6 - It is much easier to the parties to arrange for an inspection of the project and the matters relating to the dispute and especially in construction cases through arbitration procedures. Such arrangements are more difficult before the courts.

7 - Awards in most jurisdictions are final and binding unless it can be shown that the arbitral tribunal has erred in law or has misconducted the proceedings while judgment of the courts are subject to appeal. The arbitral tribunal may have greater power than the courts to open up, review and revise the decisions of the engineer in construction cases.

To promote arbitration and help the countries of the Region in this regard, the Cairo Centre responded to the urgent need in the Region to train lawyers, engineers, businessmen and arbitrators with the objective of creating a generation of Asian and African qualified natives in these professions .
Thirteen training programs were conducted by the Centre.

The first of these training programs was organized by the Centre with the cooperation of the American Arbitration Association

(AAA) , and the IDLI in November 1988.

The collaboration between the Cairo Centre and the Jeddah Chamber of Commerce and Industry proved to be very fruitful. It resulted in organizing, in Jeddah, Saudi Arabia, from the 6th to the 18th of November 1989 the Second Arbitration Training Program. This training program was the first of its kind in the Arab Peninsula. Thirty eight lawyers, university professors, legal and technical consultants from the Gulf Countries, participated and graduated.

The third training program was organized by the Cairo Centre, in collaboration with the German-Arab Chamber of Commerce from the 6th to the 12th December 1989. Forty seven lawyers, legal and technical consultants and university professors participated and graduated. They represented several countries of the Region.

The fourth training program for Asian and African arbitrators was organized by the Cairo Centre, in cooperation with the American Arbitration Association (AAA), the London Court for International Arbitration (LCIA) in 1990. Highly reputed professors , international arbitrators and experts from our Region, United States, United Kingdom, Germany and representatives of the AAA, LCIA and the ICC participated in the program. Sixty two of Asian and African international arbitrators, university professors, lawyers, businessmen and high governmental officials from eight Asian and African countries enrolled and graduated.

The fifth training program for Asian and African Arbitrators was organized with the cooperation of the German-Arab Chamber of Commerce from 4 to 12 November 1990. Eighty four participants lawyers, businessmen, government's officials, legal and technical consultants from ten nationalities of the Region participated and graduated.

The sixth training programs organized by the Centre and held on October 5 and 6 1991. Forty two participants from several nationalities of the Region participated and graduated.

The seventh training program was organized with the cooperation of King Fahd University of Petroleum and Minerals, and the UNCITRAL in Dhahran, Saudi Arabia from 16 to 21 November 1991. Forty two participants from several nationalities of the Gulf Area graduated.

The eighth training program was organized in Cairo from 12 to 22 December 1992 . Seventy participants from eleven nationalities from the Region participated and graduated.

The other training programs were devoted mostly to maritime arbitration in Cairo and Alexandria. Participants from the Gulf Countries, Africa and Egypt attended these programs.

These training programs were conducted in small groups through practical exercises and discussions with emphasis on case study, simulation and drafting. Mock cases also were presented and the participants were trained to settle disputes peacefully by several available techniques particularly through arbitration.

The success of these training programs, organized up till now by the Cairo Centre, encouraged other international institutions to approach the Cairo Centre for the organization of future similar programs to be held in Cairo and in other Afro-Asian cities. Negotiations are taking place to organize more of these programs in the Gulf Area.

The Cairo Centre also organized several international Conferences in which the focus studies were on settlement of disputes in construction cases by arbitration.

IV - ALTERNATIVE DISPUTE RESOLUTIONS OTHER THAN ARBITRATION

1 - CONCILIATION

Conciliation is an amicable way for dispute settlement with a third party assistance. Conciliation has been regarded and used nowadays as a viable and popular procedure for resolving disputes.

A conciliator is not empowered to make a binding decision and this fact forms the main distinction between arbitration and conciliation. This is also considered to be the main disadvantage of the conciliation procedure and the most obvious and serious drawback of conciliation. The fact that amicable settlement efforts might fail appears to be in sharp contrast to arbitration with its final and binding award. The negative result of such failure is, primarily, that the parties are "back to square one", with money , effort and time wasted. Another negative result is that under certain conciliation rules evidence and statements submitted in futile conciliation proceedings may not be relied upon in subsequent arbitration or court proceedings; consequently, parties deprive themselves of the fundamental means supporting their claim or defense since even witnesses and experts may not be heard again in the decisive proceedings that follow.

Moreover, another disadvantage of conciliation relates to the rule that a conciliator may not later act as an arbitrator or counsel of a party, or be called as a witness or expert. However, the opposite view is held by some commentators who consider it an

advantage to end with a non-binding decision which in the absence of agreement can then expose the weaknesses in the parties' position. A conciliator will himself draw up and propose a solution which represents what, in his view, is a fair and reasonable compromise of the dispute, after having discussed the case with the parties.

The conciliator may take the following steps to achieve his mission. First, he may bring either the parties or their representatives together. Second, he may set up the agenda for the conciliation efforts. Third, he may collect and communicate information between the parties, so that each party gains an appreciation of the other's position. Fourth, he may seek and communicate clarifications of both claims and ascertain what each party is willing to settle for and the degree to which the parties preferences would be.

The options and possibilities for agreement may result, in something acceptable to both parties and may involve a certain give and take that distinguishes conciliation from some other techniques for dispute settlement, such as arbitration. Thus, there is no losers because both parties will perceive themselves as the " winners "

The uniqueness of conciliation, may also appear in the fact that it is continuously dependent upon the willingness of both parties to participate. In contrast to arbitration, any party can withdraw at any stage of the proceeding.

Another distinguishing characteristic of conciliation is that it is faster, more informal and less expensive procedure

than arbitration, subject to the inherent risk that in the event that the conciliation effort is unsuccessful, the parties will have lost a good deal of time and money.

One of the most important advantages of conciliation is its adaptability to the settlement of almost any kind of dispute. The procedure is particularly useful for those disputes for which neither arbitration nor litigation avails itself for resolution because of the legal impediments variously referred to as "non-arbitrability" or "non-justiciability" -all amounting to a denial of jurisdiction of the arbitral or judicial tribunal. The conciliation process, is restriction free in its scope of application.

In the Far East, in particular China and Japan, conciliation has long since been a preferred method for resolving disputes, and this applies also to commercial dispute.

In Japan from the seventeenth century to modern times conciliation while changing over the years has in most periods been used in commercial matters, and one of the various special conciliation statutes enacted between the two World Wars there was a Conciliation Law for Commercial Matters (1926). In China, the preference for friendly settlement of disputes, including commercial disputes, is an equally strong tradition, deep-rooted in culture and mentality of the Chinese.

Conciliation is one of the popular methods in the Afro-Asian Region. Several cases were settled by conciliation under the auspices of the Centre and according to the UNCITRAL Rules.

2 - MEDIATION

Mediation is a facilitative process in which disputing parties have the assistance of a neutral third party who acts as a mediator to settle their dispute. The mediator has no authority to make any binding decisions. He would engage in some procedures, techniques and skills to help the parties to negotiate a settlement.

Mediation differs from arbitration in that the arbitrator is to consider the issues and then to make binding decisions on the parties. The mediator does not have any authority to make any decision for the parties, nor is that the mediator's role or function.

Even where the mediator expresses a view about the merits of the dispute, this would only be a non-binding opinion, and in no circumstances would a mediator have the authority to issue any binding resolution. The only binding outcome of a mediator is that when the parties agree on a settlement. Mediation comes in different models and covers different activities. Thus, a mediator practicing in the commercial disputes may engage in different procedures and approaches from a mediator working in labor disputes.

The mediator's primary role is to assist the parties with their negotiations. All mediation involves some elements of facilitation, which is enhanced by the mediator's communication and other skills. If the mediator has negotiating skills, that can assist the process; however, the mediator does not negotiate with the parties, but rather assist them to negotiate with one

another.

One of the main objectives and common practices in mediation is to create conditions which are conducive to discussion, negotiation and exploration of settlement options and possibilities.

This applies to the physical arrangements, to the ambience which is created by the mediators, and to the ground rules regulating the process.

An experienced and skilled mediator is that who increases in their ability to make their own decisions and to reduce their dependence on him or on professional advisers. In mediation the parties retain control over whether they wish to settle and on what terms. By their involvement in the process of fact gathering and negotiation as it proceeds, they have a direct connection with the outcome and its detailed shape (1).

1- See Henry Brown & Arthur Marriott, Ibid at p.98, 108 - 110 and p. 349 .

A definition of a mediator's role has been concisely given by the Department of Education of the American Arbitration Association in its publications under six headings as follows:

(a) The reconciler who brings parties together in order to engage
in face-to-face discussion; opens channels of communication; and defuses hostility.

(b) The facilitator who keeps discussions going by providing a neutral ground, arranging meetings, offering to chair them, helping to shape the agenda, simplifying procedures, etc.

(c) The resource expander who helps to gain access to necessary factual and legal information, having an important bearing on the dispute, cuts through bureaucratic red tape, etc.

(d) The interpreter/translator who makes sure that each party understands what the other is saying; and increases perception and empathy between the parties.

(e) The trainer who instructs the parties how to negotiate more effectively with each other through probing and questioning.

(f) The reality tester who gets each party to look at how the other side sees the problem; makes each side think through and justify its facts, demands, positions and views; has the parties assess the costs and benefits of either continuing or resolving the conflict; makes each party consider and deal with the other's arguments; raises doubts or rigid positions; and explores alternatives.

Agreement on mediation may be made at the contract stage prior to any dispute taking place. The advantage of mediation may

include informality, speed and economy, but more importantly perhaps it often leads to an agreed settlement between the parties. Mediation has little chance of success unless the parties have considerable degree of mutual trust in each other's integrity and willingness to resolve the dispute.

Conciliation and mediation are very similar. Generally in conciliation and mediation the neutral will meet with the parties in a joint conference which will involve fairly short initial presentations from each side. At the end of those presentations, perhaps after some questions, the most important difference between conciliation and mediation takes place. While the conciliator is bound by meeting the parties together or after notifying them by the date of the meeting to be present with him the mediator will generally separate the parties and begin to explore with them privately how best to meet their needs, how best to settle the dispute. The mediator will shuttle backwards and forwards until a settlement is reached or until some one decides that there is no further advantage in meeting again.

Moreover, another difference between them is that in conciliation normally nothing is done beyond exploring the opportunities for settlement. In mediation normally the parties have agreed before the process, that they will entertain a formal set of recommendations from the mediator as to the terms of settlement.

It should be noted that ADR implies a new approach in the sense that mediation or conciliation require a different "mindset". A mediator is not a lawyer who looks only at the histori-

cal facts of the case: what were the terms of the contract; who breached the contract;and what damage followed that breach. A mediator will not only take into account this historical legal role - based view but also consider: what will satisfy the parties; what are their interests; what are their current financial position; what are they looking for as a form of settlement of the dispute? He will take a much more open ended, much more unbounded view of the dispute and try to resolve the dispute to the satisfaction of the parties taking into account, present and future interests as well as past events.

There are different practices in the procedures of mediation according to the different fields and activities in which mediation is used. Each field of activity in which disputes arise may well have its own traditions, culture and ways of dealing with conflict and disputes.

Commercial and civil disputes tend to be factual, legal and/or technical disputes, requiring businesslike solutions to issues that can range from simple disagreements to complex and substantial technical or commercial disputes. Different practices may occur in industrial and labour disputes (1).

The Cairo Centre has issued its Rules of Mediation in 1992 and its experience in this techniques is still at the beginning.

1- For more details about variations in mediation practice see Henry Brown & Arthur Marriott opt.cit, pp.111

3 - THE CLAIM REVIEW BOARD

(CRB)

Another new method added to the ADR in construction contracts is the claim review board, CRB. It is a three-member committee formed at the commencement of a construction project: one member is appointed by the employer, another by the contractor and the third is selected by the other two appointed members.

The parties share the cost of forming and maintaining the CRB for the whole duration of the contract, unless the board is dismissed. Each member of the board is issued with a complete set of contract documents, together with any critical path schedules and network diagrams, minutes of meetings and other documents such as progress reports.

In some cases that were administered by the Cairo Centre the CRB technique proved to be very much helpful to the arbitral tribunal in deciding the cases when they review the CRB decisions.

4 - MINI TRIALS

(Executive Tribunal)

Due to the increasing complexity of international business transactions and the inevitable disputes which follow, and due to the high cost and protracted nature of both litigation and arbitration another option has been developed by the American Arbitration Association then later by the Zurich Chamber of Commerce (refers to as "the Zurich Mini-Trial").

As with other ADR methods, the goal of mini-trial is to settle the dispute quickly and informally, and at minimal cost to the

parties.(1) This method was developed to meet the demand for alternative methods to those traditionally accepted that involve high costs.

The Zurich Mini-Trial procedure requires the parties to submit their dispute to a panel consisting of a neutral umpire and two "associate members". The associate members are chosen from among the senior corporate officers of each party to the dispute. These associates are expected to be intimately familiar with the details of the dispute. The two associate members choose the neutral umpire. If they are unable to do so, the umpire may be appointed by a sanctioning body, such as the Zurich Chamber of Commerce (the body generally credited with creating the mini-trial procedure). The panel is responsible for presenting a settlement proposal to the parties. If the entire panel is unable to agree on a proposal, the umpire will present his own.

1- Desax "The Zurich Mini Trial : A New Option for International Dispute Resolution Alternatives", Jan. 1985, at P:1.

Although the parties are not obliged to accept the proposal they waive their rights to continue or institute judicial or arbitration proceeding during the tendency of the mini-trial.

However, where the parties ultimately reject the panels proposal, no admission or concession made by a party at the mini-trial can be asserted by the other party in subsequent litigation or arbitration proceedings.

This "no risk" atmosphere works to ensure that the parties speak freely and candidly without fear of prejudicing their legal positions there by.

It is worth mentioning that the Cairo Centre has not yet experienced administering the mini-trial technique in settling international commercial disputes.

5 - RENT A JUDGE

This form of ADR is intended to lead to binding results, enforceable by courts. Under this system, which has been developed in California, New York and certain other states, in the United States. The parties may by agreement request a court to appoint a referee, often a retired judge, who presides over an informal process and delivers a judgment which can be enforced by the courts.

There is no evidence that this system is applied in any country other than the United States.

6 - PRE-ARBITRAL REFEREE PROCEDURE

The Pre-arbitral referee procedure is relatively a new procedure developed by the International Chamber of Commerce in Paris. The Rules of this method which were published in 1990 were designed to provide a procedure for recourse at very short notice to a third person, the "Referee", who is empowered to order provisional measures needs as a matter of urgency.

These Rules can be summarized as follows:

(a) The Rules may be resorted to on the basis of a written agreement either before or after the relevant contract from which the dispute may arise.

(b) The Referee may be selected by the parties or be appointed by an appointing authority in the absence of such a selection.

(c) The Referee is empowered to make widely varying orders of a binding nature unless and until a competent jurisdiction (Court of Arbitral Tribunal) has decided otherwise. The Cairo Centre has not yet experienced this technique.

7 - TECHNICAL EXPERTISE

Beside arbitration and conciliation as means of settlement of commercial and investment dispute, the Cairo Regional Centre for International Commercial Arbitration has established a new set of rules for the settlement of disputes by technical expertise. In this regard the rules for technical expertise were laid

down in 1989 so as to provide for a mechanism of settling disputes that depend mostly on determining technical issues which may not be determined except by technical expertise. Submitting those disputes to technical expertise may therefore be an initial step towards the settlement of this kind of disputes to spare the parties resorting to other more complicated means of 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. Also technical expertise serve arbitrators by allowing them to concentrate on deciding legal issues only without having to look into other technical issues. It consists in the appointment by the parties, or in their absence by the appointing authority of a technical expert who verifies the situation by hearing the parties and witnesses and obtains a comprehensive overview of the situation by making inspections, controls and calculations. In this way important factual elements are recorded while they are still fresh, avoiding the risk of their fading after a long period of time. The parties may grant a technical expert, wider authority than that of mere making recommendations.

9- RENEGOTIATION

When a contract begins to cause trouble the parties voluntarily get together to see what can be done to preserve the business relationship. People in business would rarely jump immediately into court merely because something troublesome occurs. The obligation to renegotiate can also be built into the contract and conceivably enforced as any other provision in the contract.

In all cases the Centre encourages the parties to begin trying to solve their disputes by renegotiation.

Renegotiation is distinct in only one sense from initial contract negotiation, when initial negotiation fails, the parties simply do not execute the contract, when a renegotiation fails, the parties generally resort to some more structured type of dispute resolution mechanism such as Arbitration.

V - An Evaluation of the ADR Techniques

We may observe the ADR generally would realize some important advantages such as:

1. Control:

The parties remain in control of the process in ADR techniques except in arbitration. As they do not hand over the dispute to an external adjudicator they can stay in the process as long as they want and can leave it when they want. If they do not like what they hear, if they do not like the settlement offers ,

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