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An analytical study of non-judicial means of arbitration to resolve disputes .. The case of the Arab Gulf States as a model

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Abstract

The tendency to introduce the arbitration system as an alternative to recourse to the courts to resolve disputes arising between the parties to the contractual relationship may be motivated by the prompt settlement of the arbitral dispute as well as by the fact - whenever the parties to the dispute agree - to keep the dispute secret and not to publish it. Except that an important reference in the adoption of the arbitration system is the desire of successors to be judged by arbitrators with a degree of technical specialization that cannot be achieved within the jurisdiction of the State with general jurisdiction, i.e. arbitration in banking and commercial transactions, international construction contracts, international sale of goods, maritime disputes, etc. In most of them, it requires the arbitrator to have technical specializations that the State's judiciary can know only through recourse to experts - which implies prolonging the settlement of

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the dispute despite the importance of a rapid resolution of disputes that concern them in the short term - and achieving for its parties a realistic judicial power according to the technical conception of the dispute, subject to which the integrity of this judicial power implies, and recourse to arbitration would lead to the agreement of the parties of the successor to choose persons who have the confidence of each of them. The decision rendered on the issue of litigation is nothing more than a decision rendered within a family or a family council, which excludes hatred between the parties to the litigation and arguments in Antagonism Familiarity and love are common, despite a decision in favor of one before the other.

It also responds to the desire of merchants and owners of commercial and industrial projects not to inform others of the differences between them. Recourse to arbitration is therefore the effective means of not publishing their differences at all. Both as regards the arbitration proceedings and as regards what can be issued by decisions, which most legislations have derived from the inadmissibility of publishing arbitration provisions or by publishing parties, except with the consent of both parties to the arbitration, arbitration proceedings are followed only by the parties to the arbitration and their lawyers.

Keywords: non-judicial means, resolve disputes, case

1.0 Introduction

The use of arbitration as a means of settling disputes is an important procedure based on the departure from the usual judicial methods in the State and the negation of the jurisdiction of the judiciary in the State, so that the jurisdiction of the arbitral tribunal is limited to the examination of the subject matter of the dispute to which the arbitrators' will goes. The judiciary necessarily refuses to be submitted to it, otherwise it would be an adherence to a

condition Arbitral tribunals should decide not to accept a lawsuit (Civil Arbitration Law., n.d.).

There is a link between arbitration and court proceedings. Either it begins with a contract and ends with a judgment, or it is subject to the rules of civil law in terms of its conclusion - in which case it is subject to the law of procedure in terms of its effects, execution and procedure.

Arbitration is null and void because contracts are invalid, just as its decision is challenged, and judgments are enforced and executed as they are executed.

The legal settlement of arbitration is based on the consent of the parties and their acceptance as a means of resolving all or part of the disputes that have arisen or may arise between them in connection with a specific legal relationship, whether contractual or non-contractual. The will of the contracting parties shall be the one that creates the arbitration and defines its scope in accordance with the issues covered by the applicable law and the formation of the arbitration panel. In addition, its powers, arbitration procedures, etc., must be determined by the parties. Whenever the agreement fails, it cannot be said that arbitration has taken place, which has a relative impact, so it is invoked only to confront the party that has accepted it and before its opponents ("Borders and politics in Arab countries Conflicts Al-Sharq Al-Awsat Newspaper Published 2 June 2001 one copy registered on 7 September 2017 on the Wayback Machine," 2001).

2.0 The importance of the subject

The importance of the research topic lies in the fact that it is an alternative means of dispute resolution, among the advantages of this alternative:-

1- It maintains the relationship between the parties and is not severed as a result of the conflict.

2- It is a shortcut that takes a maximum of a few days or weeks.

Litigation lasts for years and arbitration lasts an average of one year or a little longer.

3- It is inexpensive in the event of a dispute or arbitration.

4- It is characterized by the full speed of arbitration and that the solutions it contains are many and varied, while at the same time it is easy to resolve.

The judge is bound by the provisions of the law.

5- The judge satisfies the parties because they control the progress of the process and its outcome.

6- It is a very flexible system that does not adhere to rigid dispute resolution rules, especially when both parties do not want to openly display the dispute or defame the newspapers, or when they want their relationship to continue despite the dispute or when they need constructive solutions (*Arbitration Law in Egypt and Arab Countries, Parts I and II.*, n.d.).

3.0 Research objectives

There is no doubt that the judiciary is the primary means of resolving disputes, but with the changing conditions of domestic and international trade and investment. The need for other means of resolving disputes and keeping pace with this global commercial development seemed urgent, and although arbitration as an alternative means of dispute resolution is older than the judiciary, which means that the old concept of arbitration was closer to conciliation and reconciliation as a means of resolving disputes. But soon the development of arbitration with the growth of international trade and the global investment movement, so that most of the laws of the countries of the world has given it a section in their laws to regulate arbitration and others that enact laws on arbitration. This may represent that to develop arbitration procedures and the

formation of the arbitral tribunal, which has approached many judicial proceedings and formations, international agreements and treaties have come to strengthen arbitration provisions and ensure their implementation ("The distance between Bahrain and Iran: inhalation of tension. Al-Jazeerah Center for Studies. Published on August 26, 2014," 2014). To ensure that it is no longer exaggerated that international arbitration is no longer an alternative means of settling international commercial disputes, but rather that it has become the primary means of resolving such disputes. Unfortunately, it has begun to take on many of the drawbacks of the judiciary, namely the prolongation of the dispute and the problems and difficulties of implementation.

In the face of these developments and the international appetite for arbitration as an alternative means of dispute resolution and the problems that began to emerge, alternative means of dispute resolution began to emerge. Especially since arbitration in the United States was not as advanced as Europe at that time, unlike Europe, where the judiciary volunteered to take over and activate arbitration. As an alternative means of resolving disputes in order to reduce the burden on the judiciary and to remain under its control after the award has been made ("Relations between Bahrain and Iran are entering an obvious new phase, published on 18 September 2002. Archived copy, November 8, 2007 on the Wayback Machine.," 2002).

4.0 Research problem

The research problem is how to understand friendly ways of resolving disputes between the parties and how to manage them in an organized scientific manner, which can be summarized as follows:-

1- The arbitral tribunal cannot be authorized to take action before a dispute arises, but the condition comes into force if the dispute does arise.

2- On the basis of this definition, it can be said that the decision consists of two elements: one for the parties to the dispute and the other for the judicial activity of the arbitrators.

3- The parties concerned agree to have recourse to arbitrators in the event of a dispute, to be determined on the basis of a common agreement between them.

4- The judicial activity carried out by the arbitrators, which ultimately leads to the natural result, which is to render a judgment.

This definition is echoed by many jurists in many Arab and foreign countries, which is based on these two elements: the element of agreement and the element of judicial activity carried out by the arbitrators in the majority of jurists. Arbitration in any form whatsoever this agreement (Commercial Arbitration, n.d.).

5.0 alternative means of dispute settlement

5.1 Definition of arbitration

On the basis of the above, arbitration may be defined as an agreement to submit the dispute to one or more specific persons for resolution without recourse to the competent court.

In this arbitration, the parties waive their right to resort to the courts with their obligation to submit the dispute to one or more arbitrators, to settle a binding decision on the parties, and this agreement may be in accordance with a specific contract in which the process is mentioned.

The term arbitration is called and it may be in the case of a specific dispute that already exists between the litigants, in which case it is called an arbitration clause or arbitration agreement.

In addition, if States allow arbitration, it is done in order to facilitate the dispute, and until a dispute is resolved by a technical body in order to avoid

court sessions and proceedings, while providing time and effort in all cases. Arbitration is based on two principles: the will of the litigants and the approval of the legislator for that will (International Conferences for Law Students at the Faculty of Law, Cairo 1974., 1974).

By agreeing to arbitration, the arbitrator grants the power to adjudicate the dispute in place of the court originally competent to consider it.

There is a link between arbitration and court proceedings. Either it begins with a contract and ends with a judgment, or it is subject to the rules of civil law in terms of its conclusion - in which case it is subject to the law of procedure in terms of its effects, execution and procedure.

Arbitration is null and void because contracts are invalid, just as its decision is challenged, and judgments are enforced and executed as they are executed.

The legal settlement of arbitration is based on the consent of the parties and their acceptance as a means of resolving all or part of the disputes that have arisen or may arise between them in connection with a specific legal relationship, whether contractual or non-contractual. The will of the contracting parties shall be the one that creates the arbitration and defines its scope in accordance with the issues covered by the applicable law and the formation of the arbitration panel. Moreover, its powers, arbitration procedures, etc., must be determined by the parties. Whenever the agreement fails, it cannot be said that arbitration has taken place, which has a relative impact, so it is invoked only to confront the party that has accepted it and before its opponents (“Iran and the Gulf Politics Post Published August 7, 2015 Archived copy, September 24, 2015 on the Wayback Machine.,” 2015).

5.2 Appearance of binding arbitration

We have seen from the foregoing that, by arbitration, the arbitrator replaces the court and the authority to comply with it is transferred to the court, so that if the arbitrator does not appear before the court after having been summoned to appear before it properly, or if he refuses to present his defense. This does not prevent the arbitrator from ruling on the dispute against him, and the decision is: The decision rendered by it is subject to compulsory execution, as is the decision rendered by the court ("The islands of the occupied UAE. A future confrontation between Arabs and Iran, Al-Tahrir newspaper, published on 29 March 2015," 2015).

In addition, if the legislature is obliged to enforce the arbitrator's decision to make an order for its implementation, it is simply to verify the arbitrator's work and monitor it, because the arbitrator derives his powers only with the agreement of the litigants to arbitrate.

Control over the simple verification that the arbitrator has complied with the form required by law, whether in deciding the dispute or in writing his decision, without addressing the subject matter of the dispute, the judge, when issuing the enforcement order, clarifies the executive form of the arbitrator's decision so that the matter is not left to the court registry.

In addition, the arbitration clause does not authorize the arbitration board to take action before a dispute arises, but the clause begins to apply in the event that the dispute actually does arise.

On the basis of this definition, it can be said that the decision consists of two elements: one for the parties to the dispute and the other for the judicial activity carried out by the arbitrators ("Occuped Emirati Islands between the Emirati right and Iranian intransigence Al-Mazwama Center for Studies and Research published on 14 October 2013," 2013).

1- The parties concerned agree to have recourse to arbitrators in the event of a dispute, to be determined on the basis of a common agreement between them.

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This definition is echoed by many jurists in many Arab and foreign countries, which is based on these two elements: the element of agreement and the element of judicial activity carried out by the arbitrators in the majority of jurists. Arbitration in any form whatsoever this agreement ("Occuped Emirati Islands between the Emirati right and Iranian intransigence Al-Mazwama Center for Studies and Research published on 14 October 2013," 2013).

5.3 The difference between arbitration and experience

It is necessary to differentiate between the arbitrator and the expert, because the one that comes to mind is that they make sense: arbitration differs from experience, because the arbitrator acts as a judge and resolves the dispute between the litigants and his opinion is imposed on them. While the expert is a person who can be an assistant to the arbitrator or the judge and can be - if not there is a dispute - an agent of these parties in this assistance or agency. Its purpose is not to resolve a specific conflict but rather its purpose is to give an expert opinion on a problem and since the expert is given an opinion, that opinion is not binding on the judge or arbitrator or on the parties requesting it (Optional and Compulsory Arbitration., n.d.).

The arbitrator differs from the expert in this respect. The former is considered to be a judge in respect of litigants, who are entrusted to him by virtue of the agreement concluded between them with certain powers aimed at finding a solution to a specific dispute, i.e. they are vested with a judicial mission or they commit themselves as a general principle to the decision he has

taken within the limits of this mission and by examining the same subject (Optional and Compulsory Arbitration., n.d.).

The expert therefore has the right to ask litigants to provide him with specific documents to help him form an opinion, unlike the arbitrator who is not entitled to do so, but he decides which documents are presented to him and found under his insight (Optional and Compulsory Arbitration., n.d.).

However, doubts often arise with regard to certain agreements in which the opponents refer to persons who are responsible for resolving the dispute on a specific issue and at the same time entrust them with the task of determining the amount of the debt resulting from the resolution of the dispute. A dispute has arisen in case law and the judiciary concerning the determination of the nature of such an agreement. Some argued that it was only a private law contract and could not be considered as arbitration in the proper sense ("Reports and dialogues from the three UAE islands Al Jazeera Net published on 12 April 2012 A copy recorded on 27 June 2017 on the Wayback Machine.," 2012).

According to another opinion, this agreement is arbitration in the true sense of the word, and it is in fact the opinion that is based on a foundation worthy of support that takes into account the type of task entrusted to the expert arbitrator.

For the opinion that explains that this agreement is considered arbitration will be the first to be supported. The reason for the strength of this opinion is that, in order for the expert arbitrator to arrive at an estimate of the amount of compensation or the value of the right. He must carry out, according to his judicial function, the resolution of the dispute first, even if he is asked about it, he will do so on the basis of what he has achieved. The process of arbitration experience - in estimating the amount of compensation or the right in general and thus the arbitration process is based on it. Therefore, it is authenticated to describe this agreement by arbitration as the correct description of such an

agreement, unless it is clear from the contract originally concluded between the parties. It does not change the timing of this mandate if it is not made with a document similar to the arbitration agreement which is not considered as arbitration and in any case, this agreement cannot be considered. An arbitration award to be covered by the executive form for its implementation ("The islands of the occupied UAE. A future confrontation between Arabs and Iran, Al-Tahrir newspaper, published on 29 March 2015," 2015).

5.4 The difference between arbitration and conciliation

Arbitration and conciliation systems are different from each other. In peace, the parties to the conflict intentionally abdicate some of their rights to each other and each gives up some of their rights in exchange for the other to do something similar, in order to resolve any conflict that may exist between them. The truth is that in the legal system of reconciliation, the parties to the dispute decide their issue. The litigants in a case whose proceedings turn before the arbitrator, who is another person, and on the other hand, in the calm, we find a mutual concession by each party for some of their rights. As for arbitration, one of the parties can win the whole case. It finds a solution for them, and the solution that these interests reach may be acceptable to them and therefore suitable as a basis for the subsequent conduct of reconciliation. The recourse to the interests is in fact without being bound by procedural or substantive rules. Although it is illegal for this type of social solution, however, it is considered a system limited to its presence in the legal field, just as these righteous people are not judged by the judiciary or by conciliation for a clear reason. That the decision or the solution they reach is not binding on those who use this method, then what it does The interests .It must be a prelude or a proposal for direct reconciliation between the opponents, i.e. the interest of the two parties involved in this process is nothing more than an event of moral value for the opponents, with a view to the expected reconciliation with a reconciliation document

approved by both parties to the dispute ("Tehran: Iran's 'emirate' islands forever occupied by Arabia Net. September 5, 2012 Archived July 19, 2016 on the Wayback Machine.," 2016).

Noting that the conciliation decision cannot express its opinion on the conflict before the conciliation decision is rendered, contrary to the interests of the parties to the dispute before the reconciliation report is issued. Some may question the difference between conciliation and a judgment rendered with the consent of both parties, given the theoretical approach between them (Arbitration Law in Egypt and Arab Countries, Parts I and II., n.d.).

6.0 the steps in the negotiation process in arbitration to resolve disputes

Arbitration with conciliation differs from conciliation and a judgment rendered with the consent of both parties. A judgment rendered with the consent of both parties is a decision rendered by both parties and confirmed by the arbitrator.

Conciliation differs in that it does not include a binding solution to the dispute, but rather includes suggestions or solutions that may not be acceptable to both parties, and conciliation in some arbitration systems. Like the International Chamber of Commerce, it is regarded as an administrative and non-judicial measure, whereas arbitration proves conciliation (includes a judgment in the proper sense and is valid for enforcement by the judiciary of the country concerned) (Arbitration Law in Egypt and Arab Countries, Parts I and II., n.d.).

These ADR alternatives have taken many forms, which are described below:-

6.1 negotiation

Negotiation is a primary means of resolving the conflict, in which both parties attempt to address the dispute directly, face to face, without any third party intervention. It is the simplest, quickest and cheapest way of resolving disputes if successful in reaching a mutually satisfactory solution. When candidates transfer the communication of their differences to some and in this way, they try to resolve it and negotiate between the two parties to the dispute by holding successive sessions, wherever the dispute is discussed until decisions acceptable to each of them are taken. These decisions are more acceptable than those dictated to them by other parties (Civil Arbitration Law., n.d.).

Negotiations can be easy or difficult, depending on the point of view of the negotiation and the degree of bidding. Those who seek easy negotiations are obliged to keep the agreement in mind and have the confidence to negotiate directly, and then an increased vision of changes in the negotiations.

As for those seeking difficult negotiations, when each party is determined to meet its demands, and there is no sense in the opinions and demands for negotiation, which can spoil the negotiations. Therefore, the negotiator at the direct negotiations stage must have the technical and negotiating skill and expertise and be familiar with the record of the claim ("Tehran: Iran's 'emirate' islands forever occupied by Arabia Net. September 5, 2012 Archived July 19, 2016 on the Wayback Machine.," 2016), and must to have the following characteristics:-

1- The authority to negotiate.

2- The ability to express his or her views with clear lips or in writing.

3- The ability to think deeply and quickly under the pressure of direct negotiations.

4- The ability to persuade others.

5- Patience and flexibility.

6- The ability to control and hide one's feelings during negotiations.

In addition, by reaching the aforementioned summit:-

A- The ability to analyze the familiarity with economic knowledge and legal culture that allows him of this.

B- The ability to develop a strategy and public policy for negotiation.

C- The ability to deal with differences of opinion between the parties.

D- Mastery of the art of listening and understanding each party's point of view.

E- Speed of observation, insight and sense of justice.

F- A complete and comprehensive knowledge of the information that enables him to negotiate.

It is obvious that negotiation is an optional solution from which any party can withdraw at any time when it feels useless. One of the most important things that lead to the success of negotiations is the existence of common interests between the two parties, because this is the motivation for each party to try to find a solution from the tractor.

Often in negotiations, each party gives up some of its demands for the success of the negotiation (International Commercial Arbitration 1999., 1999).

6.1.1 Negotiation rules

There are no specific rules for the negotiation process or the way it is conducted and therefore the negotiator should be familiar with the following rules:-

1- Creating an atmosphere of trust and understanding the interests of the other party, with the aim of finding solutions to achieve mutual benefits.

2- Focus on common interests during the negotiation.

3- Maintain a flexible and friendly relationship.

4- Openness in the flow of information so that each party understands the interests of the other party.

5- Work as a team to get out of the problem and the crisis.

6- Avoid confrontational confrontations.

7- Self-confidence and the ability to perceive or understand the intentions and interests of others.

6.1.2 General principles of constructive negotiation

1- Good preparation before the start of negotiations.

2- Respect the other party and do not underestimate him/her.

3- Discuss all issues in a calm and friendly manner and in detail.

4- Credibility and frankness in the display of positions.

5- Be patient and take appropriate time to study and be careful in making decisions.

6- Feel the other side.

7- Avoid shock and sterile controversy.

8- Provide solutions one by one.

9- Be realistic about results.

10- The negotiator must have a clear vision of the objectives.

11- Treat with professionalism, honesty and trust to create credibility among the parties.

12- Negotiation should end in a friendly and positive manner.

13- Keep his nerves calm and trust.

14- Belief in the honesty and fairness of the case.

15- Convinced of all the ideas he presents before persuading others.

16- Not to start the negotiation dialogue with provocative phrases or an aggressive attitude.

6.1.3 Steps in the negotiation process

1- Preliminary negotiations to know the aspects of the negotiation issue and to determine the best alternative in case of disagreement, this is done by helping to change the will and behavior of the other parties on some elements of the issue.

2- Creating the right atmosphere for the negotiation process

3- Responding to a negotiating table within the framework of the main factors introduced in the negotiation process

4- The executive preparation of the negotiation process, including the following elements:-

A- Choose the place of negotiation.

B- Choosing negotiation policies and strategies

5- Starting trading sessions by going through the following steps:

A- Determine the appropriate negotiation tactics for each element of the case

B- Prepare the necessary documents and data for all elements of the negotiation issue.

C- Exerting a set of negotiating pressures on the negotiating parties.

6- The negotiations are over.

7- If the parties agree to accept the results of the negotiation, a recording will be made accordingly.

6.2 mediation

6.2.1 Introduction

Mediation is one of the dispute resolution mechanisms and is represented by a neutral person, either for himself or herself or as a representative of an intermediary body, who selects the parties to the conflict in order to make a friendly effort to push negotiations between the parties to the conflict to reach a settlement of the dispute between them. Mediation can be individual or cooperative in the sense that it mediates more than one person. In clearer terms, mediation can be defined as an amicable settlement mechanism by a neutral person or more than one non-party to the dispute to assist those parties to reach a voluntary settlement through negotiation, which is led by the mediator using a variety of tools and skills, without the mediator having sole decision-making authority (Maritime Arbitration., n.d.).

The activities of the mediation process are, in principle, confidential, unless the parties to the conflict agree otherwise in whole or in part. Accordingly, in order to carry out his or her mission, the mediator may seek all possible means authorized by the parties to the conflict, including listening to the views and requests of each party, deliberating, sometimes jointly and individually at other times, with the parties to the conflict, to reach a settlement. The proper conduct of the mediation mission may require an inspection or investigation of certain facts of the dispute. The special feature of mediation is that it is an optional procedure at its various stages. The mediator is not obliged to present his or her mediation or to accept the offer to do so, and the parties are free to choose when considering the possibility of using mediation to settle the dispute (General Principles for international commercial arbitration., n.d.).

And the settlement reached with the help of the mediator - as we have said - is not binding, and the mediator works to reach a settlement of the dispute in order to exploit the data of the desire of the parties to the conflict to reach an

amicable, speedy and low-cost settlement, urging the parties to the conflict to make mutual concessions in their positions until they reach the meeting points they agree to. If successful, mediation avoids aggravating the rivalry and disagreement between the parties to the conflict and avoids reaching a consensual settlement that the parties accept.

For mediation to be successful, the parties to the conflict must participate in the mediation activities in full cooperation and good will, and they must have confidence in the mediator's abilities. The mediator should also have the necessary experience and knowledge of the relevant substantive and procedural issues and have the personality power and techniques of diplomatic action, in particular negotiation techniques for the settlement of disputes (“Borders and politics in Arab countries Conflicts Al-Sharq Al-Awsat Newspaper Published 2 June 2001 one copy registered on 7 September 2017 on the Wayback Machine,” 2001).

The mediation mechanism differs from the arbitration and judicial mechanism in that it is characterized, initially, by relative speed (time saving) and low costs, in addition to the fact that the settlement data remains in the hands of the parties to the dispute. The mediator's role being limited to assisting these parties and persuading them to agree on an acceptable settlement whether by agreeing to Resolve a dispute or agreeing to seek another mechanism to resolve the dispute, whereas in arbitration and the judicial system. The settlement and resolution of disputes is in the hands of the court individually after the parties to the dispute have submitted their claims, demands, defenses and pleas, and the mediator has no power to decide, whereas arbitration and the judiciary have the power to make a decision binding on the parties. The mediator deals directly with the parties to the dispute and holds joint and individual negotiation hearings with them or their representatives to arrive at consensual positions leading to settlement. The parties to the dispute may

consult private technical or legal advisers, and mediation procedures are flexible and varied depending on the requirements of the settlement and the circumstances of the dispute, while the situation varies in arbitration ("The distance between Bahrain and Iran: inhalation of tension. Al-Jazeerah Center for Studies. Published on August 26, 2014," 2014) .The judiciary, where the arbitrator or judge does not deal directly with litigants, but orders them to comply with established litigation procedures and rules of evidence and does not deviate from them, and strives to enforce the substantive rules and orders litigants not to violate them, and the parties to the dispute Seek lawyers and advisors in court. Finally, the mediator's task is to help the parties to the dispute to examine the real factors that cause the conflict between them and to remedy and mitigate them mutually, leading to a voluntary settlement, while before the arbitrator or judge, each party to the dispute tries to establish the responsibility of the other and to punish it ("Relations between Bahrain and Iran are entering an obvious new phase, published on 18 September 2002. Archived copy, November 8, 2007 on the Wayback Machine.," 2002).

Mediation has received much attention at the international level as a friendly means compatible with the effort to consolidate and strengthen friendly relations between countries. Therefore, it was covered by the Hague Convention for the Peaceful Settlement of Disputes of 1907, as stipulated by the Charter of the United Nations among the means of peaceful settlement of international disputes (Article 33 of the Charter) as adopted by the Charter of Duties of the Peaceful Settlement of Disputes between American States of 1948 AD, which was defined as mediation by the mediator involving the conflicting parties in the settlement of their disputes in the simplest and most direct manner, avoiding formalities and seeking an acceptable solution. Article 5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes annexed to the 1994 AD International Trade Liberalization Agreements stipulated that

mediation was a measure taken voluntarily to settle the dispute if it was accepted by both parties to the dispute. We find many international agreements concerning trade and investment and economic relations in general, which provide for the prior use of amicable means of settlement, which of course is mediation (Arbitration in the framework of the Cairo Regional Centre., n.d.).

Perhaps this is what prompted the General Authority for Investment and Free Zones in Egypt to consider encouraging the use of mediation to resolve investment disputes, in line with the recent trend followed by the United States of America and its many supporters, where the Investment Authority presented a proposal (No. 2) on 4. 9/2007 AD is a guide to the ethical rules of a mediation center set up within the Commission with the aim of educating mediators on ethical issues that may arise during mediation processes sponsored by the Commission's mediation center. The introduction to the guide states that mediation is a "voluntary and non-mandatory process in which recourse is made to a neutral third party to assist the parties in reaching a mutually beneficial resolution of the dispute. The basis on which the agreement can be built (Optional and Compulsory Arbitration., n.d.). "The Guide has specified the rules to be followed in mediation, as follows:-

1- The mediator shall ensure that all parties are informed of the mediator's role.

In addition, the nature of the mediation process, and the understanding by all parties of the terms of the settlement.

2- The mediator must protect the voluntary participation of each party.

3- The mediator must be effective in mediating the foreseeable issue.

4- The mediator must keep the mediation process confidential.

5- The mediator must conduct the mediation process in an impartial manner.

6- The mediator shall refrain from providing legal advice.

7- The mediator must withdraw if certain circumstances arise (such as his or her inability to maintain neutrality, or if the mediation process is used to persist in illegal behavior, or if persistent conflicts of interest are not resolved ... etc.).

8- The mediator must avoid misleading marketing and cannot guarantee results.

We add to the above that the mediator must have the ability to manage the negotiations between the parties to the conflict and to deal with any obstacles they may encounter and overcome them with wisdom and good conduct, and the mediator must have equal trust with the parties to the conflict. If mediation fails, the parties to the conflict shall not disclose any information, data or agreements presented or submitted to the mediator or to any judicial or non-judicial settlement body or mechanism, which the parties have recourse to in order to find a solution to the dispute ("Paper Research Paper: Iran and the Gulf. A Real Enemy or Hidden Friend, The Arab Gulf Center for Studies, accessed January 31, 2015.," 2015).

The above applies to what is known as traditional mediation and is widely used. Mediation may take another form, called "mediation - arbitration or court", in which the mediation becomes a resolution of its failure before an arbitration or court mechanism in case the parties to the dispute agree to it in advance. It is a form well known in Anglo-Saxon countries and in some other countries that one of the characteristics of mediation mentioned above is that if mediation negotiations are ongoing, concessions are often made by one of the parties to the conflict in order to reach a voluntary settlement, which is not invoked before any other settlement.

In general, the mediator is not qualified to become an arbitrator or judge in the same dispute.

6.2.2 The optimal time to start (mediation) in engineering contract disputes

Practical experience has shown that if one of the parties (usually the contractor) submits his claim during construction. The project manager defers his decision until the end of the project, so he does not have to stop the work or resolve claims during the work because of the tension in the relations between the two parties. If this does not happen the contractor has accepted his claim and has felt aggrieved or has accepted the opinion of the obliged engineer, his reaction may reflect negatively on the work ("Iran and the Gulf Politics Post Published August 7, 2015 Archived copy, September 24, 2015 on the Wayback Machine.," 2015).

The mediator is chosen by mutual agreement and the project manager remains the employer.

The representative of one of the parties to the mediation cannot mediate until he or she is willing to do so, so the engineer who supervised the construction process cannot be appointed as mediator in the dispute. Between the employer and the contractor who carried out the operation, as this could lead him to lean towards the opponent who was appointed to his advantage. In addition to this, he would not be free to settle the dispute without the possibility of leaning towards one of the opponents, making him unsuitable to be considered as representing one of the opponents. Both sides of the dispute because of the prejudice to the appearance of impartiality, which must be demonstrated ("The islands of the occupied UAE. A future confrontation between Arabs and Iran, Al-Tahrir newspaper, published on 29 March 2015," 2015).

6.2.3 Types of disputes resolved by mediation

Any type of conflict can be resolved through mediation, and there are many types of disputes that are brought to mediation. Their diversity is similar to the diversity of the types of industries and business specialties that use this process, and almost any type of conflict can be referred. What the parties want

to resolve quickly and at no significant cost to the mediation process, particularly disputes in engineering contracts (Arbitration in the framework of the Cairo Regional Centre., n.d.).

6.2.4 Advantages of mediation

The benefits of successful mediation in a dispute to be resolved vary depending on the needs and interests of the parties. The most common are as follows:-

1- The parties are directly involved in the negotiation of the settlement.

2- The mediator, as a neutral third party, can see the dispute objectively and can

3- Helping the parties explore alternatives that they would not have taken on their own or without help.

4- Since mediation can be scheduled at any early stage conflict, it is possible to reach a settlement more quickly than in contentious.

5- In general, mediation is characterized by lower costs and less time before the dispute is resolved.

6- Leaving the parties free to continue their business relationship.

7- Creative solutions or adjustments related to the particular needs of the parties may be part of the settlement.

6.2.5 Ongoing mediation

Mediations can be created in a variety of ways and methods:-

1- Mediation can take place when a dispute arises at the outset and prior to the filing of the complaint.

2- Mediation can occur as an additional procedure for the dispute or for the case to be decided, which means that once a case is filed, mediation can be used to

try to resolve a dispute at the beginning of the dispute or at any time thereafter, but before trial.

3- Mediation can take place when the dispute is presented to the court, but before the judge or jury announces the decision.

4- Mediation may take place after the pronouncement of the judgment in the case, the judge against whom the execution of the judgment is committed, in exchange for the pronouncement of the decision in his or her favor for a part of his or her fees (*Optional and Compulsory Arbitration.*, n.d.).

6.4 conciliation

Reconciliation is a procedure for the amicable settlement of a dispute, in which a person or a committee composed of specialized personalities (e.g. experts in the field, lawyers, engineers, diplomats or politicians) takes up the dispute presented and draws up a report accompanied by proposals for settling the dispute. Conciliation is carried out by agreement between the parties to the dispute. This agreement may regulate conciliation procedures directly in relation to a specific case, and may be a prior agreement for any dispute between the parties to the agreement. Noting that such prior agreement requires, when the dispute arises, a further agreement between the parties to the dispute specifying the subject matter to be submitted to the conciliation mechanism and the manner in which the committee and its procedures shall be constituted. In particular in the case where the prior agreement is limited to a mere undertaking to resort to conciliation without being settled by regulation the question of the formation of the committee and its procedures. Even if the previous agreement was structured for these matters, it remains necessary to determine the subject matter of the dispute, either by agreement or by submission by one of the parties to the dispute. Furthermore that the international community was aware of the possibility of conciliation procedures within the framework of a general

international multilateral treaty as a procedure available to States parties to the treaty (General Principles for international commercial arbitration., n.d.).

Conciliation is usually mediated by a neutral individual conciliator or an odd-numbered committee - three or five members (although there is nothing to prevent it from being an even number).

The committee may include delegates of the parties to the dispute who are trusted to ensure that their views are dealt with in all its aspects in the conciliation commission, as well as one or more neutral delegates - depending on the number of members of the committee agreed upon - who are appointed by mutual agreement of the parties to the dispute, as a rule . The role of conciliation is determined by examining the facts of the dispute and the positions of the parties, and by submitting such proposals as it deems appropriate to resolve the dispute, the conciliator or the committee generally sets time limits for each party to clarify its position regarding the proposals for dispute settlement, and the conciliation report is not binding on the parties to the dispute, when approved or rejected (International Conferences for Law Students at the Faculty of Law, Cairo 1974., 1974).

Conciliation procedures are determined by agreement between the parties to the dispute, directly or indirectly, by reference to an optional form of conciliation procedure acceptable to those parties, or it is for the conciliator or the conciliation committee to determine the procedures. The parties may seek the assistance of legal counsel, advocates and experts, and may request the hearing of testimony and the provision of necessary evidence. In general, the procedures and rules of conciliation may be similar, but in certain cases and with the prior agreement of the parties, the conciliation may, if it fails within the time limit set by it for the parties to the dispute, resort to arbitration. The parties to the conflict shall guarantee objectivity and impartiality (as happened in the

settlement of the Taba conflict between Egypt and Israel) (Arbitration Law in Egypt and Arab Countries, Parts I and II., n.d.).

(Conciliation) as a means of amicable settlement has been deemed acceptable by the international community for settling disputes arising between States and between persons under international law in general. Human groups have resorted to conciliation and reconciliation to resolve conflicts that have arisen between them, as stipulated in the Hague Agreement for the Peaceful Settlement of Disputes concluded at the Hague Conference for Peace in 1899 and 1907 and its procedures were regulated by the Geneva Charter for General Arbitration concluded in 1928 AD during the League of Nations as one of the means of settlement. Three articles organized by this Charter, in addition to arbitration and judicial settlement, were considered by the United Nations General Assembly in 1949 and provided for conciliation as a means of settling the Charter of the United Nations as part of the peaceful settlement of disputes that States must seek to settle (Article 33 of the Charter). It was also organized by the 1982 United Nations Convention on the Law of the Sea (Article 284 of the Convention and section 1 of Annex V thereto) as part of the settlement of disputes relating to the use and exploitation of the seas ("Tehran: Iran's 'emirate' islands forever occupied by Arabia Net. September 5, 2012 Archived July 19, 2016 on the Wayback Machine.," 2016).

Faced with the intensification of trade and investment relations and even economic relations in general at the international level, whether they are represented in direct relations between persons governed by international law or in relations involving persons governed by private law. The emergence of the need for rapid dispute settlement mechanisms, reconciliation as a settlement mechanism occupied a prominent place among the preferred mechanisms of competitors, and as an alternative means of dispute settlement. Reconciliation is a means of dispute settlement, both judicial and arbitral, because it saves time

and money and reduces the seriousness of discord between the parties to the conflict ("Tehran: Iran's 'emirate' islands forever occupied by Arabia Net. September 5, 2012 Archived July 19, 2016 on the Wayback Machine.," 2016).

Consequently, the parties concerned worked at the international level to help parties to disputes to resort to conciliation and to guide them to the provisions of the organization, where several optional rules were issued, among others: the UNCITRAL (United Nations Commission on International Trade Law) Conciliation Rules in 1980 and the Model Law on Commercial Conciliation prepared by UNICTRAL In 2002 AD .The Conciliation Rules of the Permanent Court of Arbitration in 1996 AD and the Conciliation Rules of the International Chamber of Commerce in 1998 AD in addition to the conciliation system of the International Centre for Settlement of Investment Disputes established by the Agreement on the Settlement of Investment Disputes between Countries and Nationals of Other Countries which adopted it. A World Bank in 1965 and adopted conciliation as a means of settling the Arab Investment Guarantee Agreement in 1970 and stipulated conciliation as a precautionary measure to settle investment disputes .The Unified Arab Investment Agreement issued in 1980 as adopted by the Uruguay Round in 1994, which led to the establishment of the World Trade Organization. The conclusion of global trade liberalization agreements, when it provided for conciliation as a means of settling global trade disputes (article 5 of the Agreement on Rules and Procedures Governing the Settlement of Disputes) ("Relations between Bahrain and Iran are entering an obvious new phase, published on 18 September 2002. Archived copy, November 8, 2007 on the Wayback Machine.," 2002).

As in arbitration, there are two basic types of conciliation procedures: private conciliation and institutional conciliation.

Private conciliation is simply a process organized and managed on terms determined by the parties themselves without the assistance of any other institution. The rules of conciliation adopted by the United Nations Commission on International Trade Law (UNCITRAL) in 1982.

Supplementing the 1976 UNCITRAL Arbitration Rules is a good example of special conciliation rules. It has been recommended to practitioners in the field of international trade in accordance with the United Nations General Assembly resolution of 4 December 198.

Organizational reconciliation is distinguished by its organization through one of the specialized institutions or centers, which are often arbitration institutions.

In any event, the conciliation process is totally independent and distinct from arbitration. There are two examples of institutional reconciliation: the Rules of Optional Conciliation of the International Chamber of Commerce, which entered into force on 1 January 1988, and the Rules of Reconciliation of the Arab-European Arbitration Centre, which entered into force on 17 December 1997.

It included a chapter (Articles 11 to 18) on conciliation procedures.

As with arbitration, the conciliation procedure does not begin without the agreement of the parties. This agreement may be expressed in the form of a clause in the contract, or in the form of a subsequent conciliation agreement which is tacitly approved or in writing. For example: All disputes arising under this contract are referred to conciliation in accordance with accepted rules and be the place of success (Arbitration in the framework of the Cairo Regional Centre., n.d.).

Some of the rules governing the administration of conciliation proceedings derive from the rules governing arbitration proceedings, as they

require the exchange of notes and the holding of sessions in addition to certain other procedural rules. It is not necessary to apply the principle of confrontation between the opponents, as the conciliator may listen to the parties collectively or individually and, to be effective. It is preferable to provide room for flexibility in the taking of evidence, which may include the use of informal means such as the submission of proposals and offers and persuasion with the principle of confrontation among the parties. As long as the parties have accepted them and with regard to the principle of confidentiality, it has been approved and adopted in particular in the rules of conciliation of arbitral institutions which prevent the parties from using any proposal or evidence presented in conciliation proceedings in any other proceedings (such as their use before the court). (Or arbitration tribunals) ("Paper Research Paper: Iran and the Gulf. A Real Enemy or Hidden Friend, The Arab Gulf Center for Studies, accessed January 31, 2015.," 2015).

If the conciliation proceedings fail, the parties may refer the case to the state courts or arbitration bodies, which is the most common procedure (as long as arbitration has been agreed upon) and, as mentioned above. The persons involved in the arbitration proceedings are completely different from the persons involved in the conciliation proceedings, where the bodies administering the proceedings generally differ as a general rule, the conciliator is not appointed as arbitrator in the same case if the conciliation process fails.

Proposals or recommendations submitted by the conciliator after studying the matter are not binding and the parties are free to accept or reject them, and the parties may convert such proposals into a signed contract or a binding arbitration decision agreed upon by the parties.

There is a well-known set of rules concerning conciliation rules, the most famous of which are:-

1- Rules of Reconciliation issued by the ICC of the International Chamber of Commerce in Paris on 1/1/1988

2- Conciliation Rules issued by the Institute of Certified Arbitrators on 1/7/1981.

3- UNCITRAL Conciliation Rules issued on 4/12/1989 AD

4- Conciliation rules published by the British Institute of Civil Engineers in 1988.

5- The rules of the Arab-European Chamber of Commerce.

6- The rules of the International Centre for Settlement of Investment Claims.

7- Mediation Rules issued by the Cairo Regional Centre for International Commercial Arbitration.

All the above rules were unanimous according to the different role of the arbitrator compared to the conciliator or the mediator.

7.0 a study of the case of the Arab Gulf States on the importance of arbitration in resolving disputes

Arbitration has long been regarded as one of the most important means of resolving disputes between parties to a dispute, particularly in the field of commercial transactions. However, the importance of arbitration and the growing desire to use it increased at the beginning of the twentieth century because of the great growth in commercial relations between the parties of human society and the complexity and sophistication of those relations. Thus, their need for a system that ensures the speedy and efficient settlement of disputes and the disputes that may arise from them (Civil Arbitration Law., n.d.).

The importance of arbitration has emerged in the economic and commercial sphere because of the distinctive and unique nature of this system,

with many advantages and features rarely found in other dispute settlement systems. This system can be defined in a simple manner as "a means by which the parties to a dispute voluntarily submit their dispute to a neutral third party as an arbitrator chosen by them to examine the dispute in order to render a final decision after hearing the evidence and proof presented by the parties" (“Tehran: Iran’s ‘emirate’ islands forever occupied by Arabia Net. September 5, 2012 Archived July 19, 2016 on the Wayback Machine.,” 2016).

It follows from this definition that arbitration is a consensual contract in which the parties to the contract choose to separate their relationship from the supervision and control of national courts. Since the parties themselves choose the arbitral tribunal that decides any dispute that may arise between them, and this largely guarantees the continuation of that relationship, despite what they may object to differences and problems during its validity

One of the advantages of arbitration is the rapid adjudication of the merits of the dispute in relation to the length and complexity of proceedings before national courts. Arbitration is also distinguished by specialization, as the parties to the relationship, particularly in contracts for technical projects with distinct specifications such as oil and energy projects, for example, may choose arbitrators with expertise and specialization in that field. Arbitration is also aware that all its proceedings and decisions are confidential, and only the parties themselves or those authorized to do so will review the proceedings and decisions of national courts, which are always accessible to all. This secrecy is of great importance in the field of economic and commercial relations (“The distance between Bahrain and Iran: inhalation of tension. Al-Jazeerah Center for Studies. Published on August 26, 2014,” 2014).

One of the advantages of arbitration is also that it has become a great incentive to encourage foreign investment, as most foreign investment companies currently insist on including the contract in the << arbitration clause

>>, so that arbitration is the only way to resolve any dispute that may arise between the parties to the contract. Usually, these companies use the arbitration clause to keep their economic relations outside the control and supervision of national courts.

On 19 March 1995, with the generous blessing of the leaders of the Gulf Cooperation Council countries, it was officially announced that the Commercial Arbitration Centre of the Cooperation Council for the Arab States of the Gulf was officially inaugurated, after it had become ready to perform the tasks for which it was established. One of the most important services is to fill the gap caused by the lack of a specialized regional mechanism that provides prompt and efficient arbitration services to the commercial, industrial, construction and services sectors, among others. Moreover, to settle disputes that arise between parties within the Cooperation Council States or between one of them and other parties outside the Gulf Cooperation Council countries through arbitration, in a world where the speedy and efficient settlement of contentious cases has become a priority (Commercial Arbitration, n.d.).

The launching of the Centre was the culmination of determined efforts that culminated in the preparation of systems and rules for the Centre that are in line with established rules of international arbitration. That meet the needs of the various economic sectors in the region, where they can rely on the Centre to settle their disputes efficiently, quickly and easily, and in a manner that reduces the burden on the courts in the Gulf Cooperation Council member States. It was found that the Centre deals with commercial matters, including banking and banking related matters, insurance, reinsurance, construction, engineering services, various contracts and intellectual property in its commercial and industrial aspects, copyright, all international commercial contracts and other matters of a general commercial nature (Arbitration in the framework of the Cairo Regional Centre., n.d.).

The Commercial Arbitration Mechanism operates in accordance with the rules and regulations of the Centre, where the parties to the dispute and the arbitration body formed are required to comply with those rules and regulations and to apply them in accordance with the rules and regulations of international or Arab arbitration bodies and institutions. The place of arbitration hearings shall be provided either at the center of the center or outside. The Centre shall also serve as a channel of communication between the members of the arbitration panel and the parties to the dispute and shall provide the parties, upon their request, with the rosters of arbitrators, according to their qualifications, experience and competence, to select from among them, from the arbitration panel, the appropriate one. At the request of the parties or official bodies, the arbitrator(s) or the chairman of the arbitral tribunal for the case concerned shall be appointed. The Centre works to provide information on commercial arbitration in the GCC countries in particular, and in Arab and foreign countries in general. Arbitration education, awareness and training. The center has an educational and awareness aspect, as it works to organize courses, seminars and workshops in the field of commercial arbitration in particular and law in general to create and disseminate arbitration awareness among public and private institutions in the Cooperation Council countries and familiarize them with the importance and effectiveness of arbitration and its practical advantages in resolving commercial disputes and publish the periodical newsletter (Arbitration in the framework of the Cairo Regional Centre., n.d.).

The Centre covers many issues related to arbitration, its rules, commercial matters and arbitration precedents, both regionally and globally. Advantages of using arbitration The use of arbitration has many advantages as it provides fast and efficient professional services provided by the center and saves a lot of effort, money and time for the parties in dispute. It is also easy to include the model arbitration clause in contracts, as procedures for the settlement of

commercial disputes that may arise between the different parties (Civil Arbitration Law., n.d.).

In all cases, the decision is rendered within a maximum of one hundred days from the date of referral of the file to the commission, unless the parties agree on another time limit for rendering the judgment and the decision rendered by the commission is final and the parties undertake to execute it immediately. By the competent judicial authority. Model Arbitration Conditions The Centre encourages parties wishing to enter into commercial contracts to include the arbitration clause in accordance with the text of Article 2/2 of the Rules on Arbitration Proceedings in the Centre as follows:

All disputes arising out of or in connection with this contract shall be finally resolved under the system of the Arbitration Centre (Gulf Arab States Council for Trade and Cooperation in the Arab States). The Centre welcomes any suggestions or comments concerning its activities, work and systems, and the General Secretariat in particular welcome and is keen to meet with officials and legal advisers to shed light on the Centre and its role and to respond to any other inquiries, with the aim of strengthening joint cooperation for the benefit of all. A vision for the future and on the occasion of the celebration of the founding of the Centre, said the Chairman of the Governing Board of the Centre, Bader bin Abdullah Al-Darwish. The Commercial Arbitration Center for the Gulf States has become, since 19/3/1995, an institution dear to the people of the Gulf because it is seen as the factors of unity and common interest and all the positive elements that strengthen the interests of the Gulf private sector through the presence of an approved Gulf mechanism for settling disputes. Thus, the Centre has confirmed itself as an institution of honest and professional judgment based on following the most fair and efficient means and in full impartiality with the various commercial and economic parties to resolve commercial disputes. This has manifested itself in the increase in the number of cases transferred to it,

many large companies in the Gulf include the text of the use of commercial arbitration at the Centre in their agreements and contracts, and a number of them have been transferred to the Centre accordingly and have managed their arrangements successfully and competently. The growing importance of the center is also evidenced by the increasing number of arbitrators and experts who have been on its rosters for years, as the number of arbitrators and experts in various legal and technical specializations has reached nearly 1004 arbitrators and experts between an Arab and a foreigner. This growth in number and diversification is clear evidence of its growing status and an expression of the importance of arbitration as a means of dispute settlement ("Borders and politics in Arab countries Conflicts Al-Sharq Al-Awsat Newspaper Published 2 June 2001 one copy registered on 7 September 2017 on the Wayback Machine," 2001).

A major objective of the Governing Council at its current session is to elevate the center to a position of prominence among the ranks of well-known Arab regional and international arbitration centers. In order to achieve this, the Governing Council places in its current priorities a strategic analysis of the state of the center, identifying its strengths and weaknesses and studying the capacities available to it to improve Opportunities that can be invested in and faced with challenges. One of the priorities of the Board of Directors is to promote ways of resolving trade disputes by marketing the center as an important institution for the Gulf private sector. Arab and possibly international in order to persuade many of these parties to adopt it as a documented institution for resolving disputes by urging them to place the text of arbitration as a necessary condition in contracts concluded between commercial institutions and various entities, in addition to noting the condemnation of the official authorities of the Gulf Cooperation Council countries to adopt the center and to adopt it as one of the effective channels for the settlement of disputes. One of the

aspirations that the Governing Board hopes to achieve in the coming years is the teaching of commercial arbitration materials in law school curricula to advance arbitration methods, foundations and systems. Likewise, the ambition of the board of directors extends to thinking about the development of the center's activities by improving its capacities to create a Gulf institute for training in arbitration means and systems and to issue certificates of arbitration experience that express the advanced level reached by this enterprise in the Arab Gulf region. However, that the ambition reaches to think about the organization of scholarship certificates with advanced international centers and the organization of joint training programs with Arab international centers or similar using the means available through the world information network (Internet). Being able to use arbitration as a basis for litigation and demonstrating the scientific advantages of this efficient means will contribute to strengthening the mechanisms of the Gulf private sector and increasing its efficiency in unifying the Gulf national economy by resolving disputes and managing investments by reducing the time needed to reach satisfactory solutions for the parties in conflict, which will of course improve the performance of the Gulf economy ("The distance between Bahrain and Iran: inhalation of tension. Al-Jazeerah Center for Studies. Published on August 26, 2014," 2014) . All this and increase the efficiency of the private sector in leading the economy and achieving greater success in reducing production costs. Related justice says the kingdom's representative in the center d. Hassan Issa Al-Mulla:

The Commercial Arbitration Center has many meanings that revolve around the unity of the interests of the Gulf, as well as its role in that it is a fast and efficient means of settling commercial disputes without the need to resort to courts that may be occupied by many different cases. The decision on them involves delaying the decision on the commercial dispute that must be fast to render the decision because of the consequent settlement of that decision due to

a dispute related to immediate time conditions that must be respected at the time or a dispute that cannot be resolved in a timely manner.

The mechanism of the Centre operates according to what the authors describe as a path to private justice where the parties to a dispute choose arbitrators competent for the subject matter of the dispute, thus avoiding lengthy court proceedings, multiple levels of litigation and the large number of cases brought before the courts. The center's performance is characterized by the secrecy of hearings and judgments, unlike the judiciary, where the origin is public hearings, and some businessmen often prefer to waive some of their rights before the arbitration board rather than obtain their full rights under the judiciary after their trade secrets have been made public in public hearings. And this applies to the Gulf Arbitration Center describing lawyers as << justice of connected business ties >> in exchange for their description of judicial power as << justice of severed business ties >>, making it a means of improving communication in the Gulf private sector and the pursuit of its relationships and joint ventures. Some support The President of the Eastern Region Chamber of Commerce and Industry, Abd al-Rahman al-Rashid, said that the existence of the Commercial Arbitration Center for the Gulf Cooperation Council States is a sure guarantee for resolving local, regional or international commercial disputes if all parties wish to do so and resorting to arbitration is a means we know all over the world as an alternative to litigate (General Principles for international commercial arbitration., n.d.).

The continuation of the work of the Commercial Arbitration Centre, its support and the development of its performance are the responsibility of all those concerned with the interests of the private sector and its various institutions. Just as the recourse to arbitration by effectively enforcing its mechanisms in case of commercial dispute, the Concessionaire's House is one of the forms of support expected from the heads of the various commercial and

economic institutions and it is an objective it should be pushed and strengthened among the private sector institutions in the Gulf. The Chamber of Commerce, as an ancient institution, knows how the bosses of trade and business governed the major traders, market personalities and notables to settle disputes. The provisions of these notables were effective as experts in business management, today the work of arbitration has evolved into an integrated system that teaches each party how to benefit from it to protect their rights. The maintenance of its interests, and commercial arbitration has today become an integral part of the judicial system, although it is distinguished by its simple procedures. The ease of management of its organs and the direct role of the parties directly in conflict in reaching a settlement on its issues, but this in no way means that arbitration is not knowledge, expertise and know-how. On the contrary, the whole world today is aware of its importance and its role in the settlement of disputes and the search for solutions satisfactory to both parties (Commercial Arbitration, n.d.). As a science of law, it is taught in universities and institutes, and many specialize in this field. A continuous effort says the member of the board of directors of the center d. Ibrahim Issa Al-Issa, based on his personal experience and his work within the activities of the Commercial Arbitration Center of the Gulf Cooperation Council. It is clear that arbitration has many advantages, which can save a lot of effort and costs on various commercial and economic institutions. On the one hand, the status of the Commercial Arbitration Centre provides a valuable opportunity depending on the need to reach a final decision in the dispute within 100 days from the commencement of the work of the arbitration commission under the direction of the Centre, and the outcome of the arbitration is binding on the parties so as not to prevaricate or delay (Commercial Arbitration, n.d.).

The experience of the Commercial Arbitration Centre of the Cooperation Council States confirms that the properties and advantages of arbitration are

manifold and beneficial to the various parties, perhaps the most important of which is the speedy settlement of disputes. When arbitration sessions are held at times appropriate to the situation of the parties and the arbitrators, the Centre organizes the working mechanism of the arbitration bodies and follows the agenda in order to complete the tasks within the time limits provided for in its rules. The continuous work of the Commercial Arbitration Center for the Gulf Cooperation Council Countries and the strengthening of its position is a service that we are proud to work to dedicate and provide to the private sector in the Gulf. It is a trust that we hope God will succeed in the present board of directors to support and satisfy its requirements, including the goodness of this dear part of the great Arab world. Necessity and lawyer Abdullah Al-Saidi of the Sultanate of Oman say that the GCC States have addressed the importance of arbitration and its necessity at the present time, so that most of these countries have issued arbitration laws guided by the United Nations Model Law and have also established the center, which has contributed since its establishment with a major and active effort to emphasize the importance of arbitration and the need to resort to it at the present (International Commercial Arbitration 1999., 1999).

Awareness-raising: lawyer Dr. K. K. Lawyer Dr. Abdul-Rahman Al-Bar says that we should commend the Centre as an international regional mechanism for the settlement of commercial disputes. Its role in disseminating arbitration and legal awareness in the countries of the Cooperation Council for the Arab States of the Gulf, so that the Commercial Arbitration Centre of the Gulf Cooperation Council can play the greatest role in settling disputes related to the Unified Economic Agreement of the Arab States of the Gulf and relying on it instead of resorting to foreign arbitration centers and bodies, which were often unsuitable for many reasons, including the dominance of foreign arbitrators and those who were not aware of the laws and regulations of the Gulf States and apply foreign laws on our disputes in their countries. The activation of the text

of Article (2) of the Centre's system, which requires the Centre to deal with commercial disputes between citizens of the Gulf Cooperation Council States or between them and others, whether natural or legal persons, and disputes arising therefrom. It is necessary to sign up the Gulf States that have not registered to join the Arbitration Centre Commerce for the Cooperation Council for the Arab States of the Gulf, and it follows that the center is the place of negotiation between its member states and is used by it to resolve commercial disputes, which is the best. Overcoming difficulties The member of the arbitrators and certified accredited members of the center, lawyer Issam Al-Tamimi of the United Arab Emirates, said that the performance of the center in addition to the agreement between the countries of the Gulf Cooperation Council on the implementation of judicial and arbitration provisions in the countries of the Gulf Cooperation Council signed in December 1995, as well as the accession of the majority of the Gulf Cooperation Council countries to the 1958 New York Agreement, and in the hope of joining the others, would go a long way towards achieving much and overcoming the difficulties that might be encountered by those who seek to implement arbitration decisions in a manner that achieves the main objective of using arbitration to resolve disputes. It is essentially of a special nature that requires its resolution without obstacles. It is therefore necessary to rely on a rapid means of resolving disputes arising from this type of relationship and what arbitration, and institutional arbitration in particular, and it is shortening in time, is only the optimal means for rapid solutions that provides it to defendants in addition to justice, by examining the dispute by specialized technical and legal persons. With this emphasis on the other hand, on the side of confidentiality, which is characterized by arbitration proceedings relating to the confidentiality of the matters in dispute between the applicants, which the parties are interested in not disclosing or announcing? All this confirms the glory The main purpose of commercial arbitration as an important, efficient and expeditious means of settling commercial disputes (“Occuped Emirati Islands

between the Emirati right and Iranian intransigence Al-Mazwama Center for Studies and Research published on 14 October 2013," 2013).

In the context of the trade and economic renaissance in the Gulf Cooperation Council countries, in order to activate the movement of growth and trade among the GCC countries, the idea was born of finding a mechanism whose task is to settle trade disputes among the member States, which have the powers and constituents that give strong reassurance to the common trade sectors. It provides a clear and practical legal basis that clarifies the rights and obligations of all parties in the event of a trade dispute (International Commercial Arbitration 1999., 1999).

The idea of this mechanism was developed by the Commercial Arbitration Centre, which Riyadh witnessed on 7 Dhul Qi'dah, and for three days its nineteenth meeting of the Governing Council was held.

In order to shed light on this centre, we had a meeting with the chairman of its board of directors, His Excellency Dr. Hassan Issa Al-Mulla, and we came out with the following result:

On the occasion of the meeting of the Governing Council of the Commercial Arbitration Centre of the Nineteenth Gulf Cooperation Council Countries in Riyadh, could you give the reader a general idea of the center in terms of its establishment, objectives and regulatory frameworks. The Gulf Cooperation Council Commercial Arbitration Centre establishes an international regional mechanism for the settlement of commercial disputes in the Gulf Cooperation Council States. The statute of the Centre was issued in December 1993 after the Riyadh Summit, indicating the agreement of the leaders of the six Member States to form this mechanism for which the state leaders wanted to be an effective tool in the hands of the private sector , as part of a forward-looking vision of an enhanced role for the private sector in the process of Economic

development in the GCC countries (International Commercial Arbitration 1999., 1999).

Subsequently, the trade ministers of the Gulf Cooperation Council countries, members of the Gulf Trade Cooperation Committee, adopted the rules on arbitration procedures at the center almost a year after the establishment of the center's system, paving the way for the center's recognition and the start of its activities in early 1995.

However, what exactly is the purpose of this mechanism? The knowledge of Their Majesties and Highnesses the Leaders of the GCC countries was the reason for the adoption of this mechanism, which was at the origin of its creation in more than one way. The Council and the willingness of these economic sectors to rely on effective, dynamic mechanisms to help them resolve their disputes outside the judicial sphere. The creation of the center on the other side was intended to complement the Council's organizational and administrative frameworks at the judicial and legal levels (Maritime Arbitration., n.d.).

8.0 Where does the role of the Gulf private sector come from?

The desire of the leaders of the GCC States was to give the private sector a representative in the chambers of commerce and industry of the GCC States an essential executive supervisory role in the work of the center. In this way, the chambers were entrusted with the task of appointing the members of the center's board of directors to manage and develop this legal edifice, as well as to contribute to the funding of its budget until it is able to finance itself. In addition, it is clear that the objective of the high will is to motivate the private sector to resort to the settlement center in its disputes, as long as it administers and funds the center ("Borders and politics in Arab countries Conflicts Al-Sharq

Al-Awsat Newspaper Published 2 June 2001 one copy registered on 7 September 2017 on the Wayback Machine," 2001).

The political will has established the center and has abandoned the management of its beneficiaries, which are the private sector in the Gulf. Consequently, we operate under two official umbrellas represented by the General Secretariat of the Gulf Cooperation Council and one popular umbrella represented by the Federation of Gulf Chambers of Commerce and Industry.

It goes without saying that this type of mixed entity in which political will coexists with the administration that benefits from the entity, but it is an advanced qualitative step that is rarely seen in regional organizations (International Commercial Arbitration 1999., 1999).

8.1 Advertising

The center has come a long way in its work since its inception five years ago, what are the stages it has gone through? What has it achieved and what are the obstacles that stand in the way of its career path? As you know, the beginning is always difficult for any new project. So what about you with an ambitious regional project within the Cooperation Council system that touches on a range of more than one side and an area where interests overlap, and can conflict with the whims and desires of the local domain, because it offers regional integration in the area of commercial arbitration. However, it can be said with confidence that the beginnings have been good so far within the available capacities and under the objective conditions of the Gulf Cooperation Council, and considering that the center is part of the whole, i.e. part of the Cooperation Council system, it affects and is affected. These effects overlap to reflect on it and its work. Publicity was the first step after the establishment of the legal basis of the Centre by approving the system and rules of arbitration procedures, followed by the completion of the regulatory and administrative frameworks by approving the rules for the organization of arbitration fees and

the constitution of the tables of arbitrators and experts accredited to the Centre. The definition of the center and its role and mechanisms constituted another step in the life of the center through the press, media, press conferences and the distribution of the system and regulations. In particular, the standard requirement of arbitration from the center to legal and engineering consulting, accounting and auditing offices and relevant government institutions, enterprises and private sector institutions in the Gulf Cooperation Council countries (Maritime Arbitration., n.d.).

We felt a lack of awareness of arbitration, which prompted us to pay great attention to creating and disseminating legal awareness and appropriate arbitration, organizing numerous events and seminars and publishing the Gulf Commercial Arbitration Bulletin periodically and continuously. In addition to publishing numerous media materials and interest in copying and publishing in the Field of Commercial Arbitration, and the Centre has not stopped there. Rather, it was among the first organizations in the Gulf to establish since its inception a special website on the Internet in line with the information and communication revolution.

What mainly hinders the work of the center is a reflection of the negative aspects of the Gulf's work on the center and its future role. What has led His Royal Highness Prince Abdullah bin Abdulaziz Al Saud, God forbid, to a slow pace on the way to the Cooperation Council. His call to transcend the negatives is the right thing, we are affected by the reality The ocean, for example, how can the center activate and provide its arbitration services when it talks about disputes related to the unified economic agreement and its executive decisions at a time when the agreement itself is suffering from very slow implementation, which led the leaders of the GCC States at the last Gulf Summit in Riyadh to issue a decision mandating . The intention of financial and economic cooperation is to review the Unified Agreement so as to ensure the strengthening

of the productive structures of the GCC States, the increasing role of the private sector and the realization of common interests for the citizens of the GCC States (Civil Arbitration Law., n.d.).

9.0 Reasons why trade disputes in the Gulf are rare

An important question comes to mind regarding the reason(s) why cases are not referred to the center. Can you explain that to us? As we said earlier, the slowness of the procedures and the disadvantages of the Gulf's work have led to the neutralization of the competence granted to the center to examine disputes relating to the unified economic agreement and its executive decisions. In the knowledge that the center is the only party among the Gulf arbitration bodies to have this advantage, i.e. with this jurisdiction. The delay in the establishment of the Gulf common market which would have been followed by a Gulf economic unit which has prevented the development of inter-trade as desired by the leaders of the Cooperation Council, which has led to the rarity of trade disputes in the Gulf. Hope is attached to the important economic decisions of the Riyadh summit held in November last year. Its implementation led to the decision to establish a customs union for the countries of the Cooperation Council, to achieve a unified customs tariff and adopt the unified customs system (law) for the countries of the Cooperation Council. As well as to adopt the amendment of the specific conditions for acquiring the status of national establishment and agreeing to organize the ownership of real estate by citizens of the GCC countries in the member states of the Cooperation Council (Maritime Arbitration., n.d.).

10.0 Negatives need cooperation

What about the professional aspect of the evaluation?! The nature of the arbitration center's work and the condition of consent of competitors, past or post dispute, to settle the dispute according to the center's system. It requires that

contracts concluded between the private sector in the Gulf be stipulated under the condition of arbitration according to the status of the center when signing these contracts, or after the dispute has arisen. Therefore, despite the Achieving significant gains in the Centre's accreditation as a jurisdiction in the field of arbitration with prestigious Gulf organizations such as the Gulf International Bank. Some major institutions in the GCC countries and increasing the number of contracts that include the Gulf arbitration clause in their contracts. However, it is not expected that a dispute will arise on all contracts included with the condition of arbitration before the center, as well as that some of these contracts are either essentially exempt from the arbitration clause. This requires the consent of both parties to refer to the center, or the contract has stipulated to the board of directors the jurisdiction of a foreign arbitration center. Therefore, the jurisdiction of the center is not held, even if a party seeks to refer the dispute to the center, and there are many such cases. In addition, this reflects the lack of awareness and concern of some parties in the Gulf to expressly stipulate the jurisdiction of the Gulf Arbitration Centre in the condition of arbitration in contracts concluded with others ("Tehran: Iran's 'emirate' islands forever occupied by Arabia Net. September 5, 2012 Archived July 19, 2016 on the Wayback Machine.," 2016).

11.0 However, how do we get out of this problem?

Cooperation is needed between the center and the chambers of commerce on the one hand, and between the center and the executive bodies of the GCC States on the other, to convince stakeholders to adopt the model arbitration clause for the center in contracts concluded by these bodies. Whether they are institutions or individuals of traders and market traders, initially to refer cases to the center and there is one point that needs to be clarified, and that is that despite the rarity of cases at the center. There are positive indications of the response of stakeholders to the center's repeated calls to benefit from its various arbitration

services. We mentioned that the Gulf International Bank has chosen the center as an arbitration body in the event of an emerging situation. Anyway, whether it is between the parties from the institution to the bank, or between the bank and its clients who deal with it. There are other organizations in the Gulf that have adopted the same approach, in addition to this, other positive indicators are the holding of some free arbitrations at the center by providing secretarial services, archiving of files, translation, etc., as requested by certain authorities. Including the Bahraini courts to appoint arbitrators to the Centre's list in some cases, in addition to the Gulf authorities requesting lists of arbitrators accredited to the Centre ("Borders and politics in Arab countries Conflicts Al-Sharq Al-Awsat Newspaper Published 2 June 2001 one copy registered on 7 September 2017 on the Wayback Machine," 2001).

12.0 Reviewing the list of arbitration proceedings

We have learned that the center has made some changes to the list of its arbitration procedures, and what is the reason for that? What are the elements included in the amendment?

Perhaps one of the reasons for the reluctance of some foreign parties, investors and businesses to refer their disputes to the center is that there were some gaps in the center's list of arbitration procedures previously.

In general, it is the practice of all international arbitration bodies, including regional and national arbitration bodies, to review their rules and procedural systems to ascertain the extent to which they meet the needs of the users of arbitration and their consistency with international developments and trends that reflect the international relations of trade and money.

The Governing Council of the Centre considered that the time had come to review the list of arbitration procedures at the Centre, particularly after almost four years had elapsed since the start of work at the Centre, bearing in mind that

the list was approved by the Commercial Cooperation Committee in November 1994 AD. That it has become effective after approval by the Committee the foregoing, and these Rules may be deficient in some of its articles and are not consistent with the requirements of regional and international commercial arbitration, and may hinder the advancement of the status of the Centre and attract candidates for arbitration ("The distance between Bahrain and Iran: inhalation of tension. Al-Jazeerah Center for Studies. Published on August 26, 2014," 2014).

In addition, the Board was informed of the views of some Arab and foreign legal scholars and arbitration practitioners on the list of arbitration procedures at the Centre, and these views were discussed, where the Board was convinced of the views presented on the need to amend some articles of the rules and prefer to keep the other elements unchanged. In order to discuss the proposed amendments, the Governing Council of the Centre held a special meeting in Dubai, United Arab Emirates, on 18 May 1998 (General Principles for international commercial arbitration., n.d.).

13.0 What was the outcome of the meeting?

Resulted in the adoption of certain amendments to the list of arbitration proceedings of the Centre, where the articles on the arbitration agreement (Article 2/2) and the place of arbitration (Article 6) and the language of arbitration (duration 7) and the formation of the arbitration board (Articles 8, 9, 12 and 13) were amended. After Article (12) relating to multiparties, in addition to what was mentioned, the Board agreed to cancel Article (38) relating to the setting aside of the arbitral award of the Centre through the Secretary General, and Article (41) relating to the obtaining by the Centre of 3% of the sums paid to the arbitrators was cancelled (General Principles for international commercial arbitration., n.d.) .

According to the proposed amendments, the form of the Centre's standard arbitration clause will be broader to cover any dispute that may arise concerning the nullity of the contract, its annulment or dissolution, and it will remove the suspicion that the will of the parties has left disputes based on the provisions of non-contractual liability.

14.0 No language limitations, and is there anything new on the language of arbitration?

The proposed amendment leaves it opens to the parties or the committee to agree on the language of arbitration so that it is not limited to a specific language. It has been found that restricting the language of arbitration to Arabic only despite the will of Mahmoud himself is not without its difficulties, as it may limit recourse to arbitration. Depending on the status of the center, especially if one of the parties is a foreigner and one of the foreign languages (mainly English) is the language of the contract and correspondence between the two parties.

As regards the place of arbitration, the proposed amendment does not limit the place to the country of the seat only, but leaves room for the agreement of the parties. Otherwise, the arbitration board has determined the place and therefore the place of arbitration may be in any city in the world, and the proposed amendment gives more flexibility in relation to a contract Arbitration sessions ("Paper Research Paper: Iran and the Gulf. A Real Enemy or Hidden Friend, The Arab Gulf Center for Studies, accessed January 31, 2015.," 2015).

15.0 What about the formation of the arbitration panel?

The case in which arbitration is required may not always require three arbitrators, as the case may be easy so that only one arbitrator is needed, so the proposed amendment has come to reflect this view.

15.1 And what else?

It was decided to delete the word "all" in article 9, paragraph 5, as this is complicated and difficult for the parties, bearing in mind that this stage is the stage of submission of claims to the secretariat and not to the body which is free to request all documents related to the dispute at a later stage. As regards the time limits and time limits provided for in Article (12), paragraphs (1), (2), (3) and (4) and Article (13), it has been extended to two weeks instead of one week in Article (12) and three days in Article (12) (13) Since the time limit of one or three days is not sufficient to nominate and refer the arbitrator and to appoint the chairman of the arbitral tribunal.

A proposal was also made to add a new article relating to multiple parties, and as is well known, multiparty arbitration has started to spread, particularly in construction disputes. Therefore, it was necessary to allocate an article to deal with this growing type of arbitration, as the Governing Council approved the deletion of article (38) as it contradicted the concept of arbitration. It was considered to be an optional judicial system and a non-judicial body was not allowed to set aside the arbitral award, just as no provision for this text was found in the comparative legislation, and Article (41) has been deleted. This would make the center critical when determining the fees and it will be considered non-neutral to determine the arbitrator's fees, as it is his interest in the increase.

These amendments were presented at the meeting of the Legal Committee formed by the representatives of the Member States of the Council at the General Secretariat of the Cooperation Council in Riyadh on 27/04/1999 AD, where it was approved. According to the established procedures, the Trade Cooperation Committee is the competent authority to approve these amendments, when it met in Al Ain City in the United Arab Emirates last October by its approval in the manner indicated above, and therefore these

amendments entered into force as from its date (Arbitration in the framework of the Cairo Regional Centre., n.d.).

16.0 Executive decisions support the implementation of the provisions

Some raise a subject related to the status of the center and the importance of making the executive decision in each of the Member States of the council to give it legal power. What do you think about this issue?

There is an urgent need for a legal instrument issued in each of the GCC States to approve the system for the establishment of the Centre, as is the case with the rest of the sister organizations that fall under the Gulf Cooperation Council and whose regulations have issued executive decisions in the GCC countries such as the Gulf Standards Authority, the Gulf Consulting Corporation and others.

The publication of these executive decisions will provide strong support for the implementation of arbitration decisions in the Centre and will give it credibility and legal force against any challenge to its provisions on the pretext of not ratifying the Centre's systems. (24, 25, 26 and 27) of the Centre's system, which will have a positive impact on the status of the Centre in regional and international forums (Arbitration Law in Egypt and Arab Countries, Parts I and II., n.d.).

17.0 Conclusion

1- Attention to the arbitration system in academic programs, given the urgent need for results that recognize the value and importance of the arbitration activity in all legal actions.

2- The scientific reality in the Arab Gulf States has proved through prepared questionnaires that the rumor that arbitration in the field of administrative

contracts benefits from a quick decision on the decision is a theoretical issue, as the Administrative Court of the Gulf States has the tools and capacities to decide. This type of case is dealt with quickly and fairly at all stages and stages of the dispute - in most cases - for twelve months, which is more than the period devoted by the arbitrator to settle these disputes.

3- A special codification should be put in place for administrative authorities to have recourse to arbitration in the field of administrative contracts - particularly with domestic companies. It is limited to contracts with a value of more than half a million dollars, given the cost of arbitration and for other reasons that the parties may have recourse to the conclusion of contracts that differ from what is in force in a way that can often lead to undermining or hindering the powers and broad privileges available to the administration in administrative contracts in particular.

4- The study recommends the need to initiate the establishment of an independent arbitration center in certain countries concerned with the supervision of the arbitrator, the receipt of complaints about him or her and other matters.

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