**The Second Regional Conference on Commercial Arbitration**

**Talal Abu-Ghazaleh Organization (TAG-Org)**

**In Cooperation with Konrad Adenauer Foundation**

**Opening Speech**

**The Importance of Arbitration for other Methods of Dispute Resolution**

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**Your Excellency Dr. Otmar Oehring**

**Resident Representative of Konrad Adenauer Foundation**

**Ladies and Gentlemen**

It is a good coincidence that this cooperation comes in concurrence with the launch of the Arab Centre for Dispute Resolution (ACDR). An arm of the Arab Society for Intellectual Property (ASIP), ACDR will be a provider of dispute resolution services related to domain names on the Arab regional level. The Arab Society for Mediation and Arbitration in Intellectual Property will announce for the centre through the mass media following today’s General Assembly meeting.

The fifth of its kind worldwide, ACDR will have a unique standing in the Arab world as it will put emphasis on those disputes arising on domain names. Such disputes will be settled by arbitrators from around the world who are qualified to address domain name issues in a variety of languages.

Our hope is that ACDR will assume its functions by serving the region diligently.

This vital project has been the focus of our efforts. I have, personally, dedicated my efforts for it with a firm belief in the merits that arbitration has over other out-of –the-court dispute resolutions. It has, indeed, proven to be the most common alternative means of dispute resolution.

Arbitration is nothing new. It has been a resort of humans, since the dawn of history, to go for arbitration in relation to their commercial activities and transactions, even before the formal development of laws and legislation. As such, arbitration is pursued by two disputant parties who agree to refer their dispute to one or more arbitrators fully authorized to exercise the procedures they see appropriate.

Simplicity of procedures, limitations to witnesses, seeking experts’ opinions and questioning the disputants are among the main characteristics of arbitration.

But equally important is the fact that arbitration shortens the time needed for settling the dispute. It spares the disputants long periods of time, which are otherwise undergone, in waiting for long and adjourned court hearings. It is also feasible financially by relieving the parties from any unnecessary additional costs. Confidentiality and non-disclosure to third parties of information or trade secrets are additional merits.

Commercial arbitration, more than in any time before, has increasingly become a necessity. The volume of the often overlapping commercial transactions coupled with the introduction of information and communication technologies to the arrangements of transactions of all types and stages are strong justifications to resort to arbitration.

International arbitration has also expanded in terms of coverage to address the increasing disputes arising from contracts of selling and distribution of goods, intellectual property contracts and commercial contracts. It has emerged as a main method for settling commercial disputes.

Businesses have gained momentum and their volumes increased. It has become, therefore, difficult for courts to deal with such a fast paced bulk of cases. Naturally, disputants will turn to an alternative fast track for resolving their disputes that is through arbitration.

In this context, several international conventions and treaties emerged to regulate arbitration and enforcement of arbitrational decisions. Such include the United Nations Commission on International Trade Law (UNCTRAL), which issued in 1985 the Model Law on International Commercial Arbitration. There is also the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). This resulted in an increase in the number of arbitrators and arbitration entities and centres on all levels: national, regional and international.

**The main arbitration centres on the national arena are:**

1. International Chamber of Commerce, concerned specifically with international trade disputes.
2. International Court of Arbitration
3. Permanent Court of Arbitration
4. London Court of International Arbitration
5. World Trade Organization
6. WIPO Arbitration and Medication Center

On the Arab regional level, particularly in chambers of commerce and industry, there are centers for arbitration that perform effectively in respect of disputes referred to them by the disputant parties.

**The Importance of Arbitration:**

Parties involved in arbitration enjoy the following:

* Wide authorities in organizing the subject dispute and defining relevant procedures until a final award is made and implemented.
* The freedom to define the form of the arbitration court
* The disputants are free to decide on the time and venue of the hearings.
* The disputants can define the period before which a final award must be made.
* A large scale of freedom in defining legal rules to be applied to the subject dispute.
* Confidentiality is maintained and preserved.
* Arbitration ensures for the disputants specialization and experience on the basis of which they can freely choose the arbitrator.
* Arbitration awards in most countries are final, binding and enforceable after fulfillment of the procedural conditions required by the law, unlike current practices at courts.
* Arbitration suits the needs of international trade that is inexistent before the courts.
* Arbitration is not affected by the political conditions of states in contrast to what happens with courts in some countries.
* Arbitration spares the disputants the issue of conflict of laws.

**Electronic Arbitration:**

The concept of electronic arbitration is the same as that of the traditional one. The difference is just in the means since e-arbitration is conducted in the world of virtual reality. No paper or physical procedures are needed. Even results and awards are signed electronically. This reliance on the ‘digital’ makes arbitration keep abreast more and more with the spirit of the age.

The many conventions of the WTO, whose main mandate is to streamline inter-state trade has given rise to new commercial transactions labeled “e-commerce”. As a result, electronic transactions emerged making e-arbitration a necessity.

Among the most effective bodies in e-arbitration on the world level is Uniform Dispute Resolution Policy (UDRP). It concerns itself with settling disputes on domain names. Through electronic media, disputes are referred to arbitrators, whose awards are binding with the effect of cancelling the registration of a website if it is proven that its operator is deemed unrightful. Since 2000, UDRP issued over 21,000 awards on more than 45,000 domain names.

With the International Corporation for Assigned Names and Numbers (ICANN) paving the way for applications of new domain names in all languages, a new arbitration method has been introduced known as Post-Delegation Dispute Resolution Procedure (PDDRP). The new method will be in charge of resolving any domain name that is approved by using the same bases adopted by UDRP namely:

* A domain name that is identical or similar to a trademark of the objector
* A domain name is unrightfully registered
* The domain name is registered with a malicious intent

**E-Arbitration has the following advantages:**

* Expedient resolution of disputes
* An option for referring the dispute to persons of wide experience in the subject dispute
* Reduced costs that would by otherwise incurred by using other means than e-arbitration