

## **A STEP FORWARD TO STRENGTHEN THE ARBITRATION INSTITUTE!**

(By Yohannes Woldegebriel)

In its regular meeting last June 16 2009, the Board of Directors of the Addis Ababa Chamber of Commerce and Sectoral Associations (AACCSA) adopted the procedural rules of the Arbitration Institute. Since the establishment of the Institute and the adoption of the first arbitration rule in 2002, the chamber determined that the institute shall be an independent dispute resolution body having its own supreme organ, the council, the members of which shall be nominated by the board to administer its over all activities. This is aimed at ensuring its functional freedom and guarantees the confidence of its customers from all other functions of the chamber.

AACCSA was legally mandated to conduct arbitration “upon commercial and industrial differences” of its members when it was first established by the imperial charter order no 90/1947. Although traditional arbitration has been widely practiced among the people of Ethiopia for quite a time, it seemed that modern commercial arbitration is a recent phenomena dating back legally speaking, not beyond the establishment of the Addis Ababa chamber of commerce. It is quite interesting to note here that when the chamber was provided with the legal mandate to carry out arbitration, Ethiopia has not had applicable arbitration rules. It was only after 1960, when the civil code came in to force along with modern arbitration rules that are still in effect that Ethiopia started to have detailed arbitration rules.

We do not have systematically recorded account of how arbitration has been conducted and other related activities such as the appointment of arbitrators were

made. The scanty information we have on the subject indicate that there were arbitration and other dispute resolution services provided by the chamber on ad hoc basis to business disputes notwithstanding the absence of a specific work unit within the chamber system.

Commercial Arbitration is one of the most important services provided by chamber of commerce and industries the world over. This is because it is far more suitable, convenient and useful to resolve commercial disputes through arbitration and other peaceful dispute resolution mechanisms than litigation. As a result, most chambers of commerce the world over are legally mandated to exercise arbitration on commercial and industrial disputes. Consistent with similar experiences in other jurisdictions, the law maker in Ethiopia decided to mandate the first Chamber of Commerce to be established in Ethiopia, the Addis Ababa Chamber of Commerce, “to conduct arbitration on commercial and industrial differences among its members.

Subsequent changes on the establishment legislations of the chambers of commerce in the country left this crucial power unaffected. However, it was only seven years ago that the establishment of separate body that function as an arbitration body came in to reality. In this regard, The Addis Ababa Chamber of Commerce and Sectoral Association always acknowledge the support and assistance provided by the Embassy of the kingdom of the Netherlands in Ethiopia that enabled the institute to fulfill office accommodations and effectively operate for several years.

The newly adopted procedural rules comprise three parts and a total of 20 articles. These rules, among others, clearly determine the objective, status, function and

organization of the Arbitration Institute, the composition, powers, and duties of the council, the secretariat, the director of the institute and other miscellaneous issues.

Why, it may be asked is it necessary to adopt detailed procedural rules for the institute? The answer is quite simple. The function of the arbitration institute is a quasi judicial function and therefore it involves the issue of justice. As the first and the only legally mandated commercial dispute resolution organ in the country, the administration of such function requires to have clearly set, transparent, predictable and accountable rules. Moreover, most commercial contracts refer to the Chamber or the Arbitration Institute as dispute resolution, arbitrator, conciliator, mediator or adjudicator appointing body and its rules are often cited as the applicable rule for current or future disputes. This shows the confidence and trust of parties to the contract on the Chamber and the Arbitration Institute to help them in resolving when disputes arise. As a result, the Institute would have to make itself ready to facilitate the resolution of commercial disputes, strengthen its organizational structure, update operational manuals, issue new and revise existing rules to handle arbitration or related functions, other alternative disputes resolution methods and ultimately fulfill the expectations of its customers.

The newly adopted procedural rules help to meet all commitments and hopefully create better and conducive situation to help the Arbitration Institute attain its objective.