

A DISSECTION OF INTERNATIONAL JOINT VENTURE NEGOTIATION:

PERCEPTIONS FROM STUDIES AND SUGGESTIONS FOR PRACTICE

BY KANAGA DHARMANANDA*

I. INTRODUCTION

It is perhaps hubris to attempt to comment concisely and constructively on the process of negotiations for international joint ventures when the published works on negotiation is so vast, with numerous articles, books and journals devoted to strategic, sociological, cultural, psychological, mathematical, practical and legal aspects of negotiation.¹ The utility of this paper may lie in its narrow focus. This paper will therefore present only the results of studies, often involving numerous participants over a number of years, which have relevance to problems encountered in international negotiations and confine itself to specific comment on negotiations affecting the establishment of a joint venture.

An international joint venture may be described as a project in which a foreign entity and a local enterprise combine to carry out the venture. A joint venture involves, in varying degrees, the sharing of control and decision making, the sharing of profit, loss and risk. A joint venture so described can take many forms, including a company in which shares are held by each party; a contractual relationship; or a partnership. The form selected by the parties for their joint venture will reflect their concerns and their familiarity with the particular structure. Most observations in this paper will be of relevance, regardless of the form that is ultimately adopted for joint venture, but certain, remarks will be particularly apposite in connection with a specific form of joint venture such as the corporate joint venture, the formality and traditional nature of which assures those parties uneasy with the informality of the contractual joint venture. Where this is so, it is indicated.

II. FACETS OF THE INTERNATIONAL NEGOTIATION PROCESS: DISCOVERIES AND DIFFICULTIES

Some general lessons from negotiation theory and practice are applicable to

* Visiting Fellow to the Law and Society Trust, Kynsey Terrace, Colombo 8, Sri Lanka.