in time. He informed about the two Seminars which were to be organized in the near future.

The *Representative of India* stated that the topic of the Meeting was aptly chosen. He also felt that after the active participation during the Law of the Sea negotiations there has been a lull in the contribution of AALCC in the substantive fields of law. One reason for this could possibly be the financial constraints being faced by it. Referring to the method of work adopted by the AALCC, he said that the AALCC should function as a consultative body and focus its work on legal issues. In his view, "Development Law" particularly the "right to development" could be a subject for research. He agreed with the representative of Japan, that priority be given to the item on International Criminal Court and a seminar on the subject would be useful. He stated that time during AALCC's annual sessions was limited, hence it should be utilized in a more constructive manner.

The *Representative of Malaysia* stated that the Legal Advisors Meeting provided good opportunity to exchange views on the role and functions of the AALCC. He suggested that the AALCC should continue to send its representatives to attend the ILC and Sixth Committee meetings as this was useful.

The *Representative of Kenya* expressed concern at the financial position of the AALCC. He wanted AALCC's greater involvement in the discussions on the establishment of the ICC as it was at a critical stage of formulating articles. He also pointed out that the AALCC documents were reeived late. According to him, one solution to this problem could be to send the documents in parts i.e. whenever one portion was ready, it could be despatched to the Member Governments.

The *Representative of Pakistan* suggested rationalization of the agenda items at the annual sessions, as small delegations were not able to give full attention to all the subjects. In his view, topics which were being currently discussed at the international fora for adoption as conventions should be placed on the agenda as priority.

The Chairman, in his concluding remarks expressed the hope that the AALCC would play a more effective role in the future.

## (iv) AALCC Seminars

**Seminar on the "Work and Role of the International Court of Justice" organized by the AALCC in Collaboration with the ISIL and the IJO held in New Delhi, January 24th and 25th, 1996.**



The Secretariat of the AALCC in collaboration with the International Court of Justice and in co-operation with the Indian Society of International Law (ISIL) and the International Jurists Organisation (IJO), Asia, organized a Seminar in New Delhi on the 24th and 25th January 1996. The Seminar organized with the dual objective of commemorating the 50th Annivesary of the sitting of the ICJ and the promotion of the aims of the United Nations Decade of International Law, was inaugurated by Justice Mr A.M. Ahmadi, the Chief Justice of India, the participants spoke in their individual capacities and no formal resolution was adopted.

The Seminar on the 'work and Role of the International Court of Justice' was attended by participants from 22 Member States of the AALCC. The representatives of 9 non-member States, Judge C.G. Weeramantry of the ICJ, the former Secretary General of the AALCC, Mr B. Sen, the officials of the UN Information Office, UNHCR, IFC, the members of the Executive Council of the ISIL, the Members of the Governing Body of the IJO (Asia), academicians from the Jawaharlal Nehru University, Delhi University, the National Law School, Bangalore, the Lal Bahadur Shastri National Academy of Administration, Graduate Institute of International Studies, Geneva and several eminent members of the Supreme Court Bar also participated in the Seminar.

The Ambassador of the State of Qatar Mr Mubarak Rashid Mubarak Al-Boainin, in his opening statement on behalf of the current President of the AALCC, Dr Najeeb Al-Nauimi, Hon'ble Minister of Justice of the Government of the State of Qatar, expressed appreciation for the efforts of the AALCC Secretariat and its collaborators the ISIL and IJO (Asia) in organizing the Seminar. He stated *inter alia* that in organizing the Seminar the Secretariat had fulfilled its mandate given to it by the AALCC at its 34th Session held in Doha in April 1995.

The Secretary General of the AALCC, Mr Tang Chengyuan, in his welcome address, among other things, pointed out that General Assembly Resolution on the United Nations Decade of International Law adopted at its 47th Session had invited the AALCC and "other international institutions working in the field of International Law, and national societies of International Law, to study the means and methods for the Peaceful Settlement of Disputes Between States, including resort to and full respect for the International Court of Justice."

The Secretary General Stated that the ICJ has been and continues to be, in a position to assist the development of international law, in that

it has jurisdiction not only in contentious cases between States, but also an advisory jurisdiction. He said that the Court had over the years developed an impressive corpus of jurisprudence in the course of both, deciding the contentious cases brought before it as well as rendering the advisory opinions sought from it.

The Chief Justice of India Mr Justice A.M. Ahmadi, in his inaugural address traced the history of the peaceful settlement of disputes and the wide range of issues that had over the years, since its establishment, come up before the ICJ for adjudication. He said that in settling the issues that had been refered to it and in rendering advisory opinions the ICJ had evolved an impressive jurisprudence. He emphasized that in the contemporary global society the ICJ as the principal judicial organ of the United Nations could play a vital role in the peaceful settlement of disputes and the prevalence of the rule of law in international relations.

The High Commissioner of Cyprus, Mr Stravos A. Epaminondas, in his vote of thanks expressed his appreciation to Judge Mr A.M. Ahmadi, the Chief Justice of India; Mr C.G. Weeramantry, Judge of the ICJ and to all the dignitaries and scholars who had consented to take part in and some of whom had travelled long distances to participate in the Seminar.

Judge C.G.Weeramantry in his keynote address on "The International Court of Justice: Trends and Prospects" stated *inter alia* that ancient Eastern scriptures were replete with the concept of a world law and the idea of a world ruled by a world law. He pointed out although the Roman philosopher Cicero had written of an eternal law it was not until after the carnage of the Napoleonic wars that the occidental philosophers began to seriously consider the question of the rule of Law in inter-state or international relations. Recounting the convening of the First Peace Conference at the Hague in 1899 and the establishment of the Permanent Court of Arbitration (PCA) he pointed out that while the PCA is seen as a forerunner of the Permanent Court of International Justice (PCIJ) and its successor the present day International Court of Justice (ICJ) he went on to demonstrate the manifold differences between the three institutions. He emphasized the flexibility that characterizes the PCA and the relative rigidity, in respect of composition and procedures, that the PCIJ and the ICJ represent.

The Judge emphasised that the PCIJ was not as representative a forum as its successor, the ICJ. He pointed out that notwithstanding the opinion of the Japanese delegate that the Elihun Root-Lord Philipmore Committee mandated to draw up the Statute of the PCIJ ensure that the Permanent Court of International Justice is representative of all the civilizations of the World the PCIJ remained, by and large, a Eurocentric Court and this



is reflected in the eurocentric nature of the cases brought before it. The PCIJ was a Court of the Imperial Powers.

The ICJ, in the opnion of Judge C.G. Weeramantry is a new institution established in the sunset of the imperial empires. The problems and disputes that come before the ICJ are new problems involving questions of inter-generation, equity, and justice. The present day World Court takes into account and, in part reflects, the multiculturalism that characterizes the contemporary international society and expressed the hope that it would continue to do so in larger measures and that universality would reign supreme in the acceptance of the jurisdiction of the Court. He expressed the view that the AALCC could play a significant role in shaping the attitude of its member States towards the ICJ.

The Seminar in the course of six substantive sessions addressed the following issues:

(i) The Role of the ICJ in the Progressive Development and Codification of International Law (Chaired by Hon'ble Judge Kedar Nath Upadhyay, Judge, Supreme Court of Nepal and Professor Upendra Baxi, President ISIL);

(ii) The ICJ in the 21st Century (Chaired by Dr Saeid Mirzae Yengejeh, Director, Law, Treaties and Public International Law Department, Government of the Islamic Republic of Iran).

(iii) The Role of the Court in the Peaceful Settlement of International Disputes (Chaired by Mr S.C. Birla, President IJO);

(iv) The ICJ and the Developing Countries (Chaired by Hon'ble Judge, C.G. Weeramantry, of the ICJ);

(v) The Advisory Jurisdiction of the International Court of Justice (H.E. Mr Mangala Moonesinghe, High Commissioner of Sri Lanka); and

(vi) The Organic Relationship between the ICJ and the International Community (Chaired by Mr Dheeraj Seetalsing, Solicitor General, Mauritius).

The discussions in the Seminar were mainly based on the presentations made by a group of panelists which included the former Secretary General of the AALCC, Mr B. Sen; Ms. Gao Yanping, Professor Choi Tan Hyun, Professor Hugh Thirlway, Professor K.G. Gallant; Professors V.S. Mani and Y.K. Tyagi, Professor S.K. Verma, Professor V.P. Nanda, Mr Ferafin V.C. Guingona, Dr Bhim Sen Rao, and Mr Anil Nauriya. A paper written

by Justice G. Bikshapathy was read on his behalf. Dr P.S. Rao, Joint Secretary and Legal Advisor, Ministry of External Affairs to the Government of India and Chairman of the International Law Commission led the discussion in the concluding session.

**AALCC-WIPO-UNDP-UNIDROIT: Collaboration with the India International Law Foundation (IILF): International Seminar on Franchising as a Tool for Development and New Trends in International Commercial Contracts**

The AALCC collaborated in the "International Seminar on Franchising as a Tool for Development and New Trends in International Commercial Contracts" organized by the India International Law Foundation (IILF) in New Delhi in March 1996. The two-day Seminar, held on the 28th and 29th of March, was supported by International organiations such as the WIPO, UNDP and UNIDROIT. A number of Indian and non-governmental organizations including the Indian Institute of Foreign Trade (IIFT), several Chambers of Commerce, J.B. Dadachanji & Co., New Delhi and Clifford Chance, London, supported the Seminar.

The Seminar was inaugurated by Mr Justice A.M. Ahmadi, Chief Justice of India. A large number of Judges, Lawyers and Members of the diplomatic corps including the representatives of 16 Member States of the AALCC participated in the Seminar. The AALCC Secretariat was represented by the Secretary General, Mr Tang Chengyuan, the Deputy Secretary General Dr Wafik Zaher Kamil and the Assistant Secretary General Mr. Asghar Dastmalchi.

A number of Experts made presentations at the Seminar. These included Mr Mark Abell, the author of the WIPO Guide for Franchising in Developing Countries; Mr A.S. Hartkamp, the Advocate General at the Supreme Court of Netherlands; Ms Lena Peters, member of the UNIDROIT Study Group on Franchising; Mr Raj Prakash, partner of the Clifford Chance in London; Mr I. Kiss, Secretary General of the Hungarian Franchising Commission; and Mr S. Chakravarty, Member, Monopolies Commission; Mr G.V. Ramakrishna, Member, Planning Commission and others. Dr P.S. Rao, Joint Secretary and Legal Adviser, L & T Division, Ministry of External Affairs, Government of India chaired one of the working sessions of the Seminar.

## (v) Data Collection Unit of the AALCC

A computerized Data Collection Unit has been set up as an integral part of the AALCC Secretariat to serve as a storehouse of information on the economic laws and regulations of AALCC Member States, under



the overall supervision of the Assistant Secretary-General Mr Asghar Dastmalchi.

During the first year of the establishment of the Data Collection Unit the thrust was on obtaining relevant information from member governments and certain collaborating international institutions such as the UN Secretariat, UNCTAD, UNIDO, GATT, WIPO in the Afro-Asian region and the World Bank, the IMF, the Commonwealth Secretariat, UNIDROIT etc.

The information and data was sought under the general rubric of the legal framework of foreign trade, as it was felt that it is through foreign trade that states mostly interact with each other in the economic sphere.

During the second year, the focus was on indexing the information and materials received by the Unit from member states and certain international institutions.

The performance of the Unit over the period of two years was reviewed at the Tokyo Session held in January 1994 in the light of the report presented by the Liaison Officers expressing satisfaction on the progress made, the Heads of Delegation at that session decided to absorb the Unit permanently in the AALCC Secretariat with the functional expenses to be met from the regular budget of the AALCC. Initially, the Unit was financed from the generous grant of the Republic of Korea for about three years.

After Tokyo Session, the Unit initiated preparation of a database on legal framework for foreign investment in Asia and Africa, and it reviewed its request to the member governments to furnish the pre-requisite information including the national investment laws, codes and bilateral investment treaties on promotion and protection concluded by them so as to enable the Unit to expedite its work toward the early completion of its database on foreign investment in Asia and Africa.

At the Doha Session held in April 1995, progress made by the Unit was reviewed and the Heads of Delegations reiterated their appeal to the Member States to cooperate with the Unit by promptly furnishing the required data sought by it to enable it to establish initial database on Asia and Africa, without any further delay.

Methodology adopted in indexing the available information/ documentation and formulation of the initial database is as follows:

The information/documentation received from the Governments in the Afro-Asian region and collaborating institutions as well as those which were available in the AALCC Secretariat have been arranged under the following Classification:

**Legal Framework for International Trade**

A. *Standard/Model Contracts for use in International Trade.*

B. *Legal Guides, Guidelines and Model Laws.*

C. *Legal Framework for Foreign Investment in Asia-Africa*

I. Multilateral Instruments;

II Bilateral Treaties for Promotion and Protection of Investments

III Investment Codes and Legislation.

IV Legislation for export processing zones, free zones and special economic zones.

D. *Trade Expansion, Economic Cooperation and Integration:*

I Multilateral instruments concerning trade expansion, economic cooperation and integration in Asia and Africa.

II. Bilateral Agreements concluded by Asian and African Countries.

E. *Intellectual Property Rights*

I. International and Regional Conventions;

II National legislation regulating inventions, industrial designs, trademarks and other industrial property rights.

F. *Exchange Control Arrangements and Exchange Restrictions.*

G. *Countertrade:*

I. Legal Guides

II Bilateral Countertrade agreements concluded by Asian and African Countries.

H. *Arbitration*

I International Legislative Instruments;

II National Laws and

III Arbitration Rules

I. *International Conventions in the field of International Trade and Transport*

The abovementioned scheme of classification is intended to be revised and expanded in the light of the further information that may be received from the Governments in the Afro-Asian region and collaborating institutions. As already mentioned, the Unit has already completed the task of indexing the documentation received and gathered indicating the source of the information, but this is an ongoing work. However, the focus has been on the establishment of a database on Legal Framework on Foreign Investment in Asia and Africa.



**(vi) AALC's Regional Centres for International Commercial Arbitration**

When the Regional Arbitration Centres were set up by the AALCC in the late seventies, it was hard to predict whether they could fulfil the purposes for which they were established. At that time the practice of western style arbitration was relatively unknown in the former colonial territories of Asia and Africa and institutional arbitration, a rare bird. Institutional arbitration centres for international arbitrations did not exist in the region and the Centres were created to fill that gap. The Centres were established on an experimental basis, were non-profit, and were to function under the supervision of the AALCC during the initial period of three years.

The *Deputy Secretary-General,* Ambassador Wafik Zaher Kamil while introducing the Secretariat report on this matter at Manila Session, related the background to the adoption of AALCC's Scheme for the Settlement of Disputes in Economic and Commercial Transactions which envisaged *inter alia* the establishment of a network of Regional Centres for Arbitration functioning under the auspices of the AALCC in different parts of Asia and Africa so that the flow of arbitration cases to arbitral institutions outside the Afro-Asian region could be minimized. The Deputy Secretary General also outlined the progress made by the AALCC's Regional Centres located in Kuala Lumpur, Cairo and Lagos since the last session of the AALCC in Doha (April 1995). In that connection, he pointed out that while the Headquarters Agreement in relation to the Kuala Lumpur Centre had recently been renewed, a similar agreement was under negotiation with the Government of Nigeria in relation to the Lagos Centre which had recently been reactivated and made operational.

As for the establishment of additional Regional Centres under the auspices of the AALCC, the Deputy Secretary-General pointed out that the Secretariat had two proposals before it, one for the establishment of a Regional Centre in Nairobi and the other one in Tehran. He informed the meeting that the Government of Kenya had recently accepted in principle to host a Regional Centre in Nairobi and the administrative and financial arrangements were being worked out by the Government of Kenya in consultation with the AALCC. As for the establishment of a Regional Centre in Tehran, the Deputy Secretary-General pointed out that the matter was still being negotiated with the competent authorities in Tehran.

**Functions**

The Centres were entrusted with certain broadbased functions such as the promotion of the institution of arbitration in dispute settlement; wider use and application of UNCITRAL Arbitration Rules 1976; establishment

and growth of national arbitration institutions and agencies and encouraging inter-institutional cooperation between them; rendering assistance in the enforcement of awards. In addition, the Centres would also function as arbitration institutions in providing facilities for arbitration under their Rules.

**Rules of the Centres**

The procedural Rules for arbitration adopted by the Centres are those of UNCITRAL which had in 1976 promulgated these Rules. They were adopted by the UN General Assembly and were recommended to member countries for use in *ad hoc* arbitration. It was hoped that adoption of these Rules by member countries would lead to the harmonisation of arbitration Rules worldwide. The Regional Centres were the first arbitral institutions to adopt the UNCITRAL Rules. They were, therefore, the launching pad for those Rules which themselves were experimental in nature. It was not possible at the early stages to predict with any certainty whether these Rules would take off.

As events have developed, the process of harmonisation has proceeded very smoothly. Experience has shown the UNCITRAL Rules have been used more in institutional arbitrations than in *ad hoc* arbitrations which is somewhat ironical when the UNCITRAL Rules were designed for *ad hoc* arbitration rather than for institutional arbitration.

As mentioned earlier, the process of harmonisation proceeded so smoothly that UNCITRAL was able to come up in 1985 with a Model Law on arbitration which was within a decade of the launching of the UNCITRAL Rules in 1976, in which the Centres have played a part.

**U.N. Model Law on International Commercial Arbitration 1985**

The promulgation of the Model Law has, in turn, helped to accelerate the process of legal reform of arbitration laws in countries in the Asian region. In Asia this movement for reform has been spurred by rapid economic development, which has seen the rise in the number of disputes in international trade and commercial contracts requiring speedy settlement. As Court dockets are overloaded, dispute settlement outside the Court system has become an important issue.

The launch of the Model Law was well-timed for it offered to the law reformers a ready-made legal structure of an international standard which countries can either adopt or adapt to their own requirements. Countries adopting the Model Law are—to mention a few—Australia, Canada, Bahrain, Cyprus, Egypt, Hongkong, India, Kenya, Mexico, Nigeria, Peru, Scotland, Singapore, some States of the U.S.A. Those contemplating adoption are Germany, New Zealand, Cambodia, Laos and Vietnam.



**Regional Centre for Arbitration, Kuala Lumpur**

In Asia, interest has grown in arbitration as a means of dispute settlement especially in the last decade or so, following the establishment of the Kuala Lumpur Regional Centre. Its establishment was in some ways timely as it drew attention to the existence in the region of an international arbitral institution which could offer facilities and assistance for arbitration at a time when interest was growing in this field.

This in turn led many countries in the Asian region to set up arbitral institutions of their own so that business disputes could be settled within their own boundaries. The decade following the Centre's establishment saw a burgeoning of arbitration centres in the Pacific Rim and the emergence of new players in the field of international commercial arbitration as follows:

1. Hongkong International Arbitration Centre (HKIAC), 1985;
2. Australian Centre for International Commercial Arbitration (ACICA), 1985;
3. Australian Commercial Disputes Centre, Sydney (ACDC), 1986;
4. British Columbian International Commercial Arbitration Centre (BCICAC) 1986;
5. American Arbitration Association (AAA) Asia-Pacific Centre in San Francisco, 1986;
6. Centre for International Commercial Dispute Resolution (CICDR), Hawaii, 1990;
7. Singapore International Arbitration Centre (SIAC), 1991;
8. The Thai Arbitration Institute, 1994;
9. The Vietnam International Arbitration Centre (VIAC), 1995.

The Kuala Lumpur Centre, as the forerunner in this field, has more than fulfilled its major function, which is to promote the establishment and growth of national arbitral institutions and agencies. As national governments remodel their arbitration laws to create a favourable environment for international arbitration in their countries, this will result in fewer cases coming to the Centre.

In earlier years, the superior bargaining position of parties wishing to invest or trade in the Asian-African region meant that they could dictate the venue and the arbitral institutions to which disputes and differences arising out of business transactions would be referred to for arbitration. Inevitably, standard form contracts proferred by the buyers would contain reference to arbitration outside the region. In the two decades that followed the establishment of the Centres, the bargaining position of developing

countries has improved from one of passive acceptance of a predetermined venue to that of being able to negotiate for themselves their preferred venue for arbitration. As the network of commercial transactions between the developed and developing world has expanded from the restricted colonial markets to those which now encompass the globe, developing countries can now "shop" in any country of the world that can provide them with the tools, the cash and the technology that they need.

With the proliferation of arbitration centres in Asia, the world of the 21st century will be characterised by increasing competition among these Centres to attract arbitration to themselves. For the foreign investor, the choices are manifold and shopping for the best forum will be the order of the day.

It is non-profit and the administrative charges of the Kuala Lumpur Centre are a fraction of the arbitrator's fees. These charges cover the costs of servicing the arbitration; advising parties on the application of procedural rules of UNCITRAL and as provided in the Rules-deciding on challenges to the arbitrators when questions about their impartiality or independence are raised; appointing arbitrators in default of appointment; and deciding on the amount of arbitrator's fees according to its Schedule of Fees; and collecting deposits—to name some of its responsibilities. These charges do not contribute much to the finances of the Centre. Nevertheless, the emphasis is to offer efficiency and quality service to the user of arbitration.

Another limiting factor in the number of cases coming to the Centre is the existence of standard form contracts which refer arbitrations to the established arbitral institutions in the West. Until businessmen are able to effect a change of venue in their contracts, this is a factor to be taken into account in setting up a Centre.

From information received, some contracts concluded in Indonesia, Thailand and India contain the Centre's arbitration clause but so far only one original dispute has been referred to the Centre and this originated from India.

Interest in arbitral services was indicated by recent visits from the Ministers of Justice of Vietnam, Laos, Indonesia and Thailand, seeking information on the Centre's facilities for arbitration and on the expenses and problems involved in setting up an Arbitration Centre. Information was provided and assistance offered in administering arbitrations for them, if need be.

According to a number of surveys conducted by the Centre between the years 1988-1993, among construction, shipping, oil and commodity



sectors in Malaysia alone, there are now more than 5,000 contracts which have incorporated the Centre's arbitration clause in their contracts, but not all of them have reached the stage of arbitration. It must be concluded that a large number may have been settled.

The fact that there is an arbitration clause which obliges parties to arbitrate sometimes leads to settlement before the stage of arbitration is reached.

Thus despite the fact that in Malaysia alone there is a large number of international contracts which contain the Centre's arbitration clause, the number of arbitrations conducted at the Centre is small. In fact, with the exception of the ICC, arbitration cases form a relatively small part of the caseload of most institutions.

Conferences have been organized aimed at spreading information on international commercial arbitration and on current trends and developments in this field. The centre has gone a stage further to organise workshops in conjunction with experts in the field to train arbitrators. As mediation and conciliation are the new buzz-words in dispute settlement, workshops are also being organised in this field.

As a pioneer and newcomer in the field, the Centre has had in its initial years to overcome scepticism, prejudice and ignorance. Its unique character as a Regional Centre, created by an intergovernmental organisation with the aim of serving the needs of the international business community efficiently and cost-effectively had to be understood. Above all, confidence had to established about its ability to deliver.

In its pioneering efforts, the Centre was indeed fortunate to obtain from the host government—Malaysia—not only financial support but legal logistics aimed at attracting international arbitrations to the Centre. The steps taken were as follows:

(1) In 1980, Malaysia amended its Arbitration Act 1952 to exclude International Arbitrations held under the Rules of the Centre from the ambit of the Arbitration Act (S. 34 of the Arbitration Act 1952);

(2) In 1985, the Government of Malaysia having ratified the 1958 New York Convention passed implementing legislation to bring its provisions into effect;

(3) In its Agreement with the AALCC, the Government of Malaysia guarantees the independent functioning of the Centre.

In addition, the Malaysian Courts have given judicial support to the arbitral process, in two notable decisions when they upheld:

(1) The right of parties to be represented by persons of their own choice in arbitrations held in Malaysia.

(2) The principle of non-intervention of the Courts in arbitrations held under S. 34 of the Arbitration Act. The Court refused to intervene in a pending arbitration held under the Rules of the Centre.

The Malaysian Ministry of International Trade has also applied its efforts to recommend and encourage parties in joint venture contracts to refer their trade disputes to arbitration under the Centre's Rules. There is no question of compulsion here, as parties are free to choose where they want to arbitrate within Malaysia.

All these efforts have helped to put the Centre on its feet, and the Centre has been able to function all these years with no supervision after the initial period of three years were over, and that it has now achieved international recognition as an independent and neutral arbitral institution.

A new Agreement has just been concluded between the Government of Malaysia and the AALCC for the continued functioning of the Kuala Lumpur Centre under the auspices of the AALCC.

**Kuala Lumpur Centre's Regional and International Links**

In a regional context, recognition was accorded in a Treaty dated 15 December, 1987 'Among the Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand for the Promotion and Protection of Invetments' ratified in Denpasar, Bali, on the 24th February, 1989. There it is provided in Article X that any legal dispute arising out of an investment between any Contracting Party and a national or company of any of the other Contracting Parties be settled amicably or if not, it should be brought before ICSID or UNCITRAL, or the Regional Centre for Arbitration at Kuala Lumpur or at any other Regional Centre in Asean as the parties may agree.

In the International context,

(a) The World Bank's Standard Bidding Documents for the Procurement of Works of January 1995 draws attention in a footnote, to the Regional Centres in Cairo and Kuala Lumpur as arbitration centres which offer to provide administered arbitration under the UNCITRAL Rules.

(b) The Centre has been designated an appointing authority by the Secretary-General of the Permanent Court of Arbitration at the Hague, in a few disputes.



(c) As an example of international cooperation and links established between the Centre and other arbitral institutions, the Centre has administered cases in Kuala Lumpur on behalf of ICSID and the ICC. These links will continue to grow in the years ahead and will expand to encompass other institutions as well.

(d) Articles have been written about the Centre by foreign lawyers. One such article has recommended the Kuala Lumpur Centre as a venue for arbitration in the event that Hongkong reverts to Chinese rule in 1987. The Hongkong factor has also prompted CEOs of Hongkong based companies and other companies based in Asia and Australia to visit the Kuala Lumpur Centre and to look over its facilities, the list of such visitors is mentioned in the AALCC Progress Report. These are all hopeful signs pointing the way forward in the years ahead.

**Regional Centre for International Commercial Arbitration, Cairo**

Increasing reliance on arbitration in national and international trade is one of the main features of today's world business community. The global market, quick-paced, mercuric and demanding as it is, nowadays tends to rebuff the formality, rigidity, expensiveness and time consumption characterizing litigation. Within the framework of international regulations and the dictates of local applicable laws, arbitral procedures have a unique ability of adjusting procedures to the parties' precise needs. Arbitration fora, having the express authorization of parties involved, provide liaison between the parties and the tribunal. Among these forums the Cairo Regional Centre for International Commercial Arbitration (hereinafter the CRCICA) safely ranks one.

Since early inception, the CRCICA has managed to achieve a wide promotion of arbitration and other Alternative Dispute Resolutions techniques in the region. The Centre, through and altogether with its affiliates, the Alexandria Centre for International Maritime Arbitration (ACIMA), the Institute of Arbitration and Investment and the Arab African Arbitrators Association, manages to extend its scope of activities going far beyond the mere administration of the settlement of dispates.

**Settlement of International Commercial and Maritime Disputes**

According much to the status the CRCICA developed as a trustworthy arbitration forum, two major factors have evolved, the one legal and the other administrative, contributing to the continuation of success and

achievements. The first of these factors deals with the enactment of the New Egyptian Arbitration Law no. 27/94 (hereinafter the New Law/Law). The New Law has entered into force on the 22nd of May 1994 drawing to a close what seemed to have formed endless complexities concerning arbitration.

The New Law unveils obvious flexibility that seems to dissolve the ambiguities and incoherence pertinent to the previous and, now repealed, rules and regulations. For instance, the Law widens the interpretation of the term "international arbitration" stating that an arbitration is to be considered international if, among other things, the subject matter of the arbitration agreement, relates to more than one State without further requiring the parties' express agreement to that effect.

Insofar as the arbitration procedures are concerned, the New Law helped the promotion of arbitration by adopting a new principle, i.e., "*competence de la competence*", by virtue of which the tribunal is to have jurisdiction to rule on its own jurisdiction. This definitely helps minimizing the interference of the national courts with the arbitral process, a cause having direct and positive effect on ensuring an expedited settlement of the disputes referred to arbitration. This, in turn, has activated the works of the CRCICA and has helped increase the number of international cases it administers.

The second factor is so much related to the process of bettering secretarial facilities the Centre is now witnessing. In the second half of the year 1995, the Centre managed to augment the lingual services provided by expanding the French Translation and Publication Section. Besides Arabic and English versions, French versions of the New Egyptian Law and the CRCICA Information Booklet are now available. Some cases are now being administered in French. Similarly, whenever needed, the Centre provides in-session simultaneous translation services. These different endeavourings towards bettering the services offered actually absorb communicative obstacles likely to prevent the smoothness of procedures, a characteristic totally indispensable in international arbitration.

Viewing the causal relation between these factors and the number of cases filed with the Centre, it is remakable that, the number of cases filed with the Centre has increased from sixty-one international cases up to seventy-two cases. Concurrently, the number of cases submitted for conciliation and/or mediation counted up to eleven cases.

Of obvious relevance is the fact that since April '95, eight arbitral awards were issued in international cases. The time span during which most of these cases lasted, ranges from six to fourteen months.



**Organisation of International Events**

Taking full cognizance of the complementary relation between the practice and the theory, the method and the application, the CRCICA keeps non-reversible faith in the importance of providing educational bases for the conduct of masterfully-standard arbitrations. Bringing the faith into actuality, the Centre has taken the lead in organizing training programs and conferences to this effect. Following is a brief review highlighting the purposes and characteristics of each:

*A. Two Successive Training Programs Organized Jointly with the London Chartered Institute of Arbitrators Held on June 12-18, 1995*

On the 12th of June through the 18th, the CRCICA organized jointly with the London Chartered Institute of Arbitrators, two sequential training programs to quality, and accredit the professionality of, African and Asian Arbitrators. The first program qualified those who succeeded to apply for Associate Membership of the Institute while the second qualified successful participants for Fellowship of the Institute. The two programs rank the sixteenth and the seventeenth in the series of training programs the Cairo Centre has organised. The programs witnessed a multinational participation from lawyers, engineers and practitioners from different African and Asian Countries. The Egyptian Presence constituted no more than 45% while the remaining 55% represented attendees from other Countries with a majority from the Arab Countries.

B. *Conference on "The Rules and Regulations of Procurement of Goods, Construction and Services" Organized Jointly with the UNCITRAL, World Bank and the International Law Institute of Washington, Held on September 17 and 18, 1995*

On the 17th and the 18th of September '95, the CRCICA organized a Conference on "the Rules and Regulations of Procurement of Goods, Construction and Services". Co-organized by the United Nations Commission on International Trade Law (UNCITRAL), the World Bank and the International Law Institute of Washington (ILI), the Conference ranked second in a whole planned series of conferences scheduled to cyclically trace and discuss the new occurrences in the rules and practices of international procurement. These conferences, though having the same bounding theme, are meant to present different angles of approaches. While the first conference focused on tackling and probing into the probability of "Reforming and Modernizing Procurement Rules in Developing Countries" (Cairo-January, 1994), the second came to put under analytic spot the new international rules recently enacted.