

## **CONTENTS**

	<b>Page No.</b>
<b>I. Introduction</b>	<b>1 - 6</b>
<b>II. Report on the activities of the Kuala Lumpur Regional Centre for Arbitration (KLRCA), 2006-07</b>	<b>7 - 23</b>
<b>III. Report on the activities of the Cairo Regional Centre for International Commercial Arbitration (CRCICA), 2006-07</b>	<b>24 - 40</b>
<b>IV. Report on the activities of the Tehran Regional Arbitration Centre (TRAC), 2006-07</b>	<b>41 - 44</b>

## I. INTRODUCTION

### A. Background

1. The Asian-African Legal Consultative Organization (AALCO) during its Thirteenth Session held in Lagos (Nigeria) in 1973, proposed that apart from follow-up of the work of the United Nations Commission on International Trade Law (UNCITRAL) in the field of International Commercial Arbitration, the Organization should also make independent study of some of the more important practical problems relating to the subject from the point of view of the Asian-African region. Accordingly, the Secretariat prepared an outline of the study, which received favorable response from the Member States. The Secretariat thereafter prepared a detailed and comprehensive study and the Trade Law Sub-Committee considered this study during the Tokyo Session.

2. At the Tokyo Session (Japan) held in 1974, AALCO endorsed the recommendations of its Trade Law Sub-Committee, that efforts should be made by Member States to develop institutional arbitration in the Asian and African regions. Thereafter, the Secretariat, following the mandate of the Tokyo Session, prepared a revised study on the same topic so as to enable the Trade Law Sub-Committee during the Kuala Lumpur Session, to formulate principles or model rules for consideration. At the Kuala Lumpur Session (Malaysia) held in 1976, the Trade Law Sub Committee requested the Secretariat to undertake a feasibility study for establishing regional arbitration centers in the Asian-African region, to be placed before the Baghdad Session.<sup>1</sup>

3. At the Baghdad Session (Iraq) held in 1977, discussions were focused on the Secretariat study titled 'Integrated Scheme for Settlement of Disputes in the Economic and Commercial Matters', which envisaged *inter alia* the establishment of a network of Regional Centres for Arbitration functioning under the auspices of the AALCO 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.

4. At the Doha Session (Qatar) in 1978, the Organization in order to promote the development of the Afro-Asian region decided to establish Regional Centres for International Commercial Arbitration as a viable alternative to the traditional institutions in the West. It was envisaged that the two centers would function as international institutions under the auspices of AALCO with the following objectives:

---

<sup>1</sup> The Secretariat study elaborated the two basic objectives of the AALCO's integrated dispute settlement scheme. In the first place, to establish a system under which disputes and differences arising out of transactions in which both the parties belong to the Asian-African and Pacific regions could be settled under fair, inexpensive and adequate procedures. Secondly, to encourage parties to have their arbitrations within the region where the investment made or the place of performance under an international transaction was a country within this region. The conclusions made in the study were in favour of establishment of six sub-regions, namely East Asia, South-East Asia, West Asia, North Africa and West Africa. It was, however, pointed out that scheme could initially work with two centers and other centers could be established in the light of experience and volume of work.

- (a) Promoting international commercial arbitration in the Asian and African regions;
- (b) Coordinating and assisting the activities of existing arbitral institutions, particularly among those within the two regions;
- (c) Rendering assistance in the conduct of Ad Hoc arbitrations, particularly those held under the UNCITRAL Arbitration Rules;
- (d) Assisting in the enforcement of arbitral awards; and
- (e) Providing for arbitration under the auspices of the two centers where appropriate.

5. In pursuance of the above decision, an Agreement was concluded in April 1978 between the AALCO and the Government of Malaysia in respect of the establishment of a Regional Center for Arbitration in Kuala Lumpur. A similar Agreement was concluded in January 1979 with the Government of the Arab Republic of Egypt in respect of the establishment of a Regional Center for Arbitration in Cairo. The Agreements recognized the status of the Centers as intergovernmental organizations and conferred certain immunities and privileges for their independent functioning.

6. The Host Governments also offered suitable premises, financial grants and necessary staff to run the Centers. The Centers adopted UNCITRAL Arbitration Rules with suitable modifications and offered their services to any party whether within or outside the region for the administered arbitration and facilities for arbitration whether ad hoc or under the auspices of any other institution.

7. The success of these two Regional Arbitration Centers prompted the AALCO to establish two more centers, one in Lagos (Nigeria), which was formally inaugurated in 1989. The other Centre was established in Tehran, for which an Agreement was concluded between AALCO and the Government of Islamic Republic of Iran in 1997 and subsequently the President of the Islamic Republic of Iran ratified the Agreement for implementation on 10 June 2003. A Memorandum of Understanding between AALCO and the Government of Republic of Kenya was signed on 3 April 2006 during the Forty-fifth Session of AALCO to establish a fifth Center in Nairobi

**(i) Kuala Lumpur Regional Centre for Arbitration, Malaysia**

8. The Kuala Lumpur Regional Centre for Arbitration (KLRC) established in 1978, was the first such Centre in Asia. The Centre offers facilities and assistance for the conduct of arbitral proceedings, including the enforcement of awards made in the proceedings held under the auspices of the Centre. The Rules for arbitration under the auspices of the Centre are the UNCITRAL Arbitration Rules of 1976 with certain modifications and adaptations. Other main functions of the Centre are to promote international commercial arbitration in the Asia-Pacific region and to render advice and assistance to parties who may approach the Centre.

9. Apart from these services the Centre also provides other options for the settlement of disputes such as mediation/conciliation under the Conciliation Rules of the Centre. The

Centre, realizing the growing importance of intellectual property in the arena of Information and Communications Technology, also administers international and domestic “.my domain” name dispute resolution service, provided by the Malaysian Network Information Centre (MYNIC), which administers the “.my domain”. All domain name disputes are governed and administered in accordance with MYNIC's Domain Name Dispute Resolution Policy (MYDRP), Rules of the MYDRP and RAKL Supplemental Rules.

**(ii) Cairo Regional Centre for International Commercial Arbitration (CRCICA), Arab Republic of Egypt**

10. The Cairo Regional Centre for International Commercial Arbitration was established in 1979 by AALCO and the Government of the Arab Republic of Egypt for an experimental period of three years. In 1983, an agreement was concluded between AALCO and the Egyptian Government for granting permanent status to the Cairo Centre.

11. The Cairo Centre offers specialized services to settle trade and investment disputes, through arbitration. It includes also Alternative Dispute Resolution techniques (ADR) such as conciliation, mediation and technical expertise. Apart from this, the Centre also offers advice to parties to international commercial and investment contracts regarding drafting these contracts, promote arbitration and other ADR techniques in the Afro-Asian region through the organization of international conferences and seminars and organize training programs for international arbitrators and legal scholars from the Afro-Asian region through the Centre's Institute for Arbitration and Investment. The Cairo Centre follows the UNCITRAL Arbitration Rules with certain modifications.

12. Apart from this, the Cairo Centre had also established the Institute of Arbitration and Investment in 1990; the Institute of Arab and African Arbitrators in Egypt in 1991; the Centre's Maritime Arbitration Branch in Alexandria, which deals exclusively with maritime disputes in 1992; the Cairo Branch of the Chartered Institute of Arbitrators of London in 1999; Alexandria Centre for International Arbitration in 2001; and a Mediation and ADR Centre as a branch of the Cairo Centre to administer commercial arbitration and other peaceful non-binding means of avoiding and settling trade and investment disputes in 2001.

**(iii) Lagos Regional Centre for International Commercial Arbitration (LRCSCA), Federal Republic of Nigeria**

13. In 1980, an Agreement was concluded with the Government of the Federal Republic of Nigeria for the establishment of a third Center in Lagos. The Centre was formally inaugurated in March 1989. On 26<sup>th</sup> April 1999, Hon'ble Alhaji Abdullahi Ibrahim OFR (SAN), the then Attorney General and Minister of Justice, on behalf of Nigeria and H. E. Mr. Tang Chengyuan, the then Secretary-General of the AALCO, signed an Agreement in this connection. Since then, the Centre has been put into operation on the basis of its human resource and capital.

14. On 7 February 2006, the Secretary-General of AALCO, Ambassador Dr. Wafik Z. Kamil inaugurated the Advisory Committee of the Regional Centre for International Commercial Arbitration, Lagos. Also present on the occasion were Honourable A.G. Karibi-Whyte, CFR (Rtd.), Justice of the Supreme Court of Nigeria, Mrs. Eunice Oddiri, Director of the Centre, Members of the Advisory Board and many other dignitaries.

**(iv) Tehran Regional Arbitration Centre (TRAC), Islamic Republic of Iran**

15. An Agreement was concluded between the Government of the Islamic Republic of Iran and AALCO on 3 May 1997, for the establishment of a Regional Center for Arbitration in Tehran. At the AALCO's Forty-Second Session in Seoul (Republic of Korea), the Delegate of Islamic Republic of Iran informed that the Judicial Power has adopted the Agreement and that all the legal procedures applicable in the Islamic Republic of Iran for the ratification of the said Agreement were completed.

16. The President of the Islamic Republic of Iran ratified the Agreement for implementation on 10 June 2003. Dr. Moshkan Mashkour was appointed as the Director and the Secretary-General of AALCO as per Article V of the Agreement endorsed the Director's appointment. On 31 January 2005, the Secretary-General of the AALCO approved the TRAC Rules of Arbitration.

**(v) Proposal for AALCO's Fifth Regional Arbitration Centre in Nairobi, Republic of Kenya**

17. It may be recalled that during the Arusha (Tanzania 1986) and Bangkok (Thailand 1987) Sessions of AALCO, the representative of Republic of Kenya had requested the AALCO to consider the feasibility of establishing a Regional Arbitration Centre in Nairobi to serve the countries in Eastern and Southern Africa. The African, Caribbean and Pacific Group of States (ACP) Secretariat had also approached the AALCO Secretariat for relevant information about the establishment and working of the AALCO's Regional Centres with a view to considering the possibility of establishing such a Centre in Nairobi. At about the same time, the PTA (Preferential Trade Area for Eastern and Southern African Countries) had also sought technical assistance for establishing an Arbitration Centre to serve the countries in those parts of Africa. The PTA Centre for Arbitration was set up in Djibouti on 21 November 1987 to function under the auspices of the PTA Federation of Chambers of Commerce and Industry.

18. During the Kampala Session (Uganda 1993), the Leader of the Delegation of Tanzania expressed the view that the PTA Centre in Djibouti had not negated the need for a Centre in Nairobi and suggested that the Secretariat should pursue the possibility and modalities for the establishment of a Centre in Nairobi. Consequently, the AALCO Secretary-General had approached the Member Governments of Kenya, Uganda and Tanzania with a view to ascertaining the extent of material assistance and back-up support that could be provided by them for the establishment of a Centre in Nairobi which appeared to be an apt location to cater to the needs of the States in the Eastern and Southern parts of the African continent.

19. Accordingly at the Thirty-Third Session held in Tokyo (Japan 1994), a proposal was put before the Leaders of Delegates of Member States for the establishment of additional Centers in Tehran and Nairobi. This proposal was adopted in the Session vide Resolution “Progress Report on Regional Centres for Arbitration”, operative paragraph 3 which stated that “Directs the Secretariat in collaboration with the States concerned to consider the feasibility of establishing a Regional centre for arbitration in Nairobi for serving the Countries in East and Southern African” (see Minutes of the Meetings of the Leaders of Delegations of Member States held During the Tokyo Session, Thirty-Third Session). It is in the light of these developments that the Government of Kenya, through the office of the Attorney General, has expressed their desire of establishing a Regional Centre for Arbitration in Nairobi, Kenya.

#### **MoU for Establishment of the Nairobi Regional Arbitration Centre**

20. Amb. Dr. Wafik Z. Kamil, Secretary-General of AALCO and Mr. Amos Wako, Attorney General of the Republic of Kenya signed the Memorandum of Understanding (MOU) for the Establishment of the Regional Centre for Arbitration in Nairobi during the Forty-Fifth Session of AALCO on 3 April 2006 at New Delhi.

21. Hon. Amos Wako, in his statement noted that Kenya recognized the important work of AALCO in promoting the establishment of Regional Centres of Commercial Arbitration as a viable alternative to the traditional arbitration institutions in the developed countries. He said that as regional economic integration took root in the African region under both the East African Community and Common Market for Eastern and Southern Africa (COMESA), and there was an expansion of intra-regional trade in goods and services, which created more and more contractual disputes arising from commercial transactions, construction and infrastructure projects, engineering projects, banking and insurance. In view of the need to guarantee more stability, reliability and certainty in dispute settlement, particularly disputes arising from the conduct of international trade, the need to set up a regional institution to promote resolution of international commercial disputes outside the jurisdiction of national courts and to offer arbitration services within the region had never been more urgent.

22. The signing of the Memorandum of Understanding with AALCO, he noted, was an important step towards the realization of this important goal. He said that he had already begun to take the necessary and appropriate action towards the establishment of a Regional Centre for Arbitration in Nairobi and was in the process of developing an appropriate legal and institutional framework.

23. It is expected that the Secretary-General of AALCO and the Attorney General of the Republic of Kenya would sign the Agreement Establishing the Nairobi Regional Centre for Arbitration during the Forty-Sixth Session of AALCO to be held at Cape Town, Republic of South Africa from 2-6 July 2007.

#### **B. Activities of the Centres**

24. Although in the beginning, the promotional activities of AALCO’s Regional Arbitration Centers were primarily carried out by the AALCO, in view of experience accumulated over the years and the contacts established by these centers with Governments, governmental agencies and international institutions, such promotional

activities are now mainly carried out by the Centers themselves. Such promotional activities are highlighted in the Reports of the Directors of the respective Centres. However, AALCO Secretariat periodically organizes international conferences and seminars aimed at promoting awareness about the role and functions of the Regional Centres for Arbitration.

25. It is a matter of great satisfaction that, over the years, there has been considerable increase in the number of cases, both international and domestic, referred to AALCO's Regional Arbitration Centres. The types of cases include oil contracts, insurance, intellectual property, construction contracts etc. and involve both public and private sectors. The resolution of commercial disputes by other Alternative Dispute Resolution (ADR) methods such as Mediation and Conciliation under the Rules of AALCO Centres is another option being favoured by the Parties.

26. An important function of the Directors of AALCO's Centres has been to act as an Appointing Authority in such arbitrations. The Centres have been organizing international conferences, seminars and training courses in their respective regions. In addition, the Directors of the Centres have actively pursued the conclusion of Cooperation Agreements with other arbitration institutions.

27. With a view to enhancing the role and activities of the AALCO Regional Arbitration Centres, the Secretary-General would like to urge the Member States to fully support the growing activities of these Centres and consider making financial contributions to help in the implementation of their plans and activities. Further, in this context, two concrete suggestions for consideration of Member States are as follows:

(i) The Member States may consider designating a body, for example, the national chamber of commerce or other industrial promotion organizations to be associated with the AALCO Regional Arbitration Centres as the Liaison Agency within the country, with a view to promoting the activities of AALCO Centres.

(ii) Whilst entering into contracts on behalf of the Government, Public Corporations and other Government Undertakings, consideration might be given to including an arbitration clause for settlement of disputes under the arbitration rules of AALCO's regional arbitration Centre, where it is considered expedient for such disputes and differences being settled through AALCO's Regional Arbitration Centres.

28. Such encouragement from the Member States would further boost the work of AALCO's Regional Arbitration Centres.

29. The following part of this brief provides the Report of the Director's of the Kuala Lumpur, Cairo and Tehran Centres, highlighting the details of the activities of the Centres in the year 2006-07.

## **II. REPORT ON THE ACTIVITIES OF THE KUALA LUMPUR REGIONAL CENTER FOR ARBITRATION FOR THE YEAR 2006-07**

### **Index**

1. Forty-fifth Session of the Asian African Legal Consultative Organisation
2. Change of name
3. New Arbitration Act of Malaysia
4. Domain Name Dispute Resolution under the MYDRP
5. Activities in overseas
  - (A) Meetings attended by KLRCA
  - (B) Participation by KLRCA in overseas functions
  - (C) Talks delivered by KLRCA overseas
6. Activities in Malaysia
  - (A) Talks delivered by KLRCA in Malaysia
  - (B) Participation by KLRCA in Malaysian scene
  - (C) Events organized by KLRCA
7. Visitors to KLRCA
8. Cooperation Agreements Signed
9. Research and publications
10. Proposals for year 2007
11. Statistics
12. Upgrading the facilities and infrastructure of KLRCA
13. Conclusion

### **1. FORTY-FIFTH SESSION OF THE ASIAN AFRICAN LEGAL CONSULTATIVE ORGANIZATION**

The Director of KLRCA, Dato' Syed Ahmad Idid, attended AALCO's Forty-Fifth Annual Session held in New Delhi, India, from 3 to 8 April 2006.

### **2. NO CHANGE OF NAME**

The official name "Kuala Lumpur Regional Centre for Arbitration" has been confirmed in the Malaysian Arbitration Act 2005 (Act 646).

### **3. THE NEW ARBITRATION ACT OF MALAYSIA**

The Malaysian Arbitration Act 2005 (Act 646) came into force on 15 March 2006. The Act adopts the UNCITRAL Model Law on International Commercial Arbitration to a large extent and is primarily based on the New Zealand Arbitration Act 1996.

### **4. DOMAIN NAME DISPUTE RESOLUTION UNDER THE MYDRP**

KLRCA continues to receive email enquiries concerning potential domain name disputes concerning .com.my ccTLDs (country code Top Level Domain).



Presently, nine (9) domain name disputes have been filed with the KLRCA, & posted in the KLRCA website at [www.rcakl.org.my](http://www.rcakl.org.my) and decisions for five (5) of those domain name disputes have been uploaded into the KLRCA website, the latest being over the ownership of the domain name [www.waterboss.com.my](http://www.waterboss.com.my):

Year	Case Number	Domain Name(s)	Commencement Date	Status of case
2003	rca/dndr/2003/01 (int.)	volkswagen.com.my	27/06/2003	Transfer
2004	rcaldndr/2004/02	boss.com.my	18/06/2004	Transfer
2004	rcaldndr/2004/03	manulife.com.my	06/09/2004	Terminated
2004	rca/dndr/2004/04	360aaaricus.com.my	29/10/2004	Transfer
2004	rcaldndr/2004/05	ledtronics.com.my	09/11/2004	Remain
2005	rcaldndr/2005/06	nikon.com.my	03/10/2005	Terminated
2005	rca/dndr/2005/07	mvflower.com.my	29/11/2005	Transfer
2006	rcaldndr/2006/08	samsung.com.my	19/04/2006	Terminated
2006	Rcaldndr/2006/09	waterboss.com.my	07/07/2006	Remain

Malaysian Network Information Centre ("MYNIC"), the .my country code top level domain (ccTLD) manager released a Public Consultation Report on the Reintroduction of Second Level (2LD) '.my' Domain Name Space on 11th January 2006. It was stated in MYNIC's website that *the proposed reintroduction of public registration 2LDs is to provide more choices to the public. The outcome of this public consultation process will have significant implications for consumers.* The deadline set for comments to be made by members of the public and the industry on the revised plan set out in the public consultation report was on 10th February 2006. On 31st July 2006, MYNIC was incorporated under the Companies Act of Malaysia and is now known as MYNIC Berhad.

KLRCA entered into a Deed of Novation dated 28 July 2006 with MYNIC Berhad where KLRCA remains the domain name dispute resolution service provider for the '.my' country code for the next three (3) years until 2009.

## **5. ACTIVITIES OVERSEAS**

### **(A) Overseas meeting attended by KLRCA**

#### **I. 23 - 27 January 2006**

UNCITRAL Working Group II on Arbitration's 44th Session held from 23rd - 27th January 2006 in New York, U.S.A, was attended by Dato' Syed Ahmad Idid, Director of KLRCA.

The Report is available in the UNCITRAL website at [http://www.uncitral.org/uncitral/en/commission/working\\_groups/2Arbitration.html](http://www.uncitral.org/uncitral/en/commission/working_groups/2Arbitration.html).

#### **II. 19 June - 11 July 2006**

The Thirty-Ninth UNCITRAL Session held in the United Nations in New York from 19 June to 17 July 2006, was attended by Dato' Syed Ahmad Idid, Director of KLRCA.

III. 3 December 2006

The Second Annual General Meeting of the Asia Pacific Regional Arbitration Group was held in Hong Kong and attended by Dato' Noorashikin Tan Sri Abdul Rahim, Legal Counsel of KLRCA.

**B. Participation by KLRCA overseas**

I. 17 - 19 May 2006

The International Trade Centre UNCT ADI WTO Chamonix II Symposium on *Managing Commercial Dispute Resolution Centres* was held from 17th - 19th May 2006, in Chamonix, France. KLRCA was represented by Dato' Syed Ahmad Idid, Director of KLRCA, Ms. Yeo Yee Ling, Legal Counsel, and Ms. Eng Uan Pek, Admin/Finance Officer. Participants to this Symposium came from 64 countries, representing the various arbitration and mediation centres worldwide.

II. 1 - 3 June 2006

The International Conference of Commercial Arbitration (ICCA) was held from 1 - 3 June 2006 in Montreal, Canada and was attended by Dato' Syed Ahmad Idid, Director of KLRCA.

III. 8 - 9 June 2006

The Inter-Bar Association (IBA) 3rd World Women Lawyers' Conference was held on 8 - 9 June 2006 in London. Participated by Women Lawyers from 40 nations, KLRCA was represented by Dato' Noorashikin Tan Sri Abdul Rahim, Legal Counsel of KLRCA.

**C. Talks delivered by KLRCA overseas**

I. 23 - 24 March 2006

The Supreme Court of the Philippines and the Philippine Judicial Academy Conference on Arbitration was held in Makati City, Philippines on 23 - 24 March 2006. KLRCA was invited to be the supporting organization and was represented by Dato' Syed Ahmad Idid, Director of KLRCA, and two KLRCA arbitrators, Dato' (Ar.) Kevin Woo and Ir. Chong Thaw Sing. KLRCA presented five papers: *"Arbitration: A Panacea for Dispute Resolution"*, *"Arbitrability: Changing Limitation"*, *"Recourse and Enforcement of an Arbitral Award: The Malaysian Experience"*, *"Public Policy as a ground to vacate an Arbitral Award"* and *"Chronicle of Current Issues Affecting International Commercial*

*Arbitration in Asia*".

II. 27 March 2006

The Hong Kong International Arbitration Centre and the International Chamber of Commerce Symposium on *Institutional Arbitration - an effective method of resolving International Commercial Disputes* was held in Hong Kong on 27 March 2006. KLRCA was the supporting organization for this Symposium. KLRCA Director, Dato' Syed Ahmad Idid was invited to speak on the topic "*Ad hoc Arbitration vs Institutionalized Arbitration*" and presented a paper on the topic, sharing the experiences of KLRCA.

III. 6 - 7 April 2006

The Vienna International Arbitration Centre (VIAC) and the United Nations Commission on International Trade Law (UNCITRAL) Conference on *30 Years UNCITRAL Arbitration Rules, the World's leading Force towards Harmonization of International Arbitration* was held in Vienna, Austria on 6-7 April 2006. KLRCA Director Dato' Syed Ahmad Idid was invited to speak on the topic "*Use of UNCITRAL Arbitration Rules by arbitral institutions*". Dato' Syed Ahmad Idid spoke and presented a paper on that topic, relating the experiences of KLRCA.

IV. 21 - 22 April 2006

The University of Toledo College of Law Symposium on *Enhancing Worldwide Understanding through Online Dispute Resolution* was held in Toledo, Ohio, U.S.A. on 21 - 22 April 2006. KLRCA was invited to submit a paper on "*How the KLRCA fits into the jigsaw puzzle of domain name dispute resolution within the Asian Region.*" The paper was prepared by KLRCA Legal Counsel, Ms. Yeo Yee Ling and was presented on behalf of KLRCA by Mr. Christopher To, Secretary-General of the Asian Domain Name Dispute Resolution Centre.

V. 29 June 2006

The Asia Pacific Dispute Resolution Summit 2006 was held in Singapore on 29 June 2006. Asia law, the organizer of the event, invited Dato' Noorashikin Tan Sri Abdul Rahim, Legal Counsel of KLRCA, to chair and be a panelist on the session "*Location, Location, Location*". Dato' Noorashikin emphasized on the advantages of Malaysia as the seat of arbitration, being the physical location of KLRCA.

VI. 11 - 14 August 2006

The 50th anniversary of the Pakistan's Supreme Court International Judicial Conference was held in Islamabad, Pakistan on 11 - 14 August 2006. Dato' Syed Ahmad Idid, Director of KLRCA, was invited to present two papers, entitled "*Alternative Dispute Resolution: An Alternative Access to Justice*" and "*International Arbitration*".

VII. 3 - 4 October 2006

The AAA-ICC-SIAC Conference was held on 3 - 4 October 2006 in Singapore. SIAC invited Dato' Noorashikin Tan Sri Abdul Rahim, Legal Counsel of KLRCA to present a paper on *"Enforcement of awards in Asia - the joys and pains"*.

VIII. 26 October 2006

The Hong Kong International Arbitration Centre hosted the Asian Domain Name Dispute Resolution Centre Conference on Domain Name Dispute Resolution. Representing KLRCA at the Conference held on 26 October 2006, were Ms. Yeo Yee Ling, Legal Counsel, and Tuan Syed Adam Alhabshi, Legal Executive. Ms. Yeo presented a paper on *"Procedural Issues"*.

XI. 28 - 29 November 2006

The Japan Commercial Arbitration Association International Commercial Arbitration Forum 2006 was held in Japan. Dato' Syed Ahmad Idid, Director of KLRCA, was invited to present a paper on *"International Commercial Arbitration in Malaysia"* in Osaka on 28th November 2006 and in Tokyo on 30 November 2006.

X. 4 - 5 December 2006

The Asia Pacific Regional Arbitration Group Conference was held on 4 - 5 December 2006 in Hong Kong. KLRCA was represented by Dato' Noorashikin Tan Sri Abdul Rahim, Legal Counsel. She was the panelist in the session on *"Regional Arbitration Updates"*.

**6. ACTIVITIES IN MALAYSIA**

**A. Talks delivered by KLRCA in Malaysia**

I. 4 January 2006

The Malaysian Maritime Institute (*Institut Kelautan Malaysia*) IKMAL Interactive Hi-Tea Session on Maritime Arbitration Issues was held at the Crowne Mutiara, Kuala Lumpur on 14 January 2006. The, President of IKMAL, Captain Data' Jaffar Bin Lamri, delivered the Welcoming Address, followed by a presentation by Data' Syed Ahmad Idid, Director of KLRCA on *"Developing Capabilities in Maritime Arbitration"*.

II. 20 January 2006

The Penang Bar invited KLRCA to present a Talk on ADR and Arbitration. On 20 January 2006 at the City Bayview Hotel, Penang. Both Legal Counsel represented KLRCA. Data' Noorashikin Tan Sri Abdul Rahim, delivered a presentation on *Arbitration under the KLRCA Rules, comparison with ad hoc arbitration, enforcement of arbitration*

*awards and the new Malaysian Arbitration Act* whilst Ms. Yea presented on *The resolution of domain name disputes under the Malaysian Network Information Centre's Domain Name Dispute Resolution Policy ("MYDRP")*. Penang Bar Committee Chairman for Continuing Professional Development, Mr. Ramsun Ho, chaired the session. Participants included His Lordship, Mr. John Louis O'Hara, Judge of High Court, Penang.

III. 20 February 2006

The Rt. Hon. Dato' Seri Mohamad Nazri Bin Abdul Aziz, Minister in the Prime Minister's Department, visited the Centre on 20 February 2006. The Minister's entourage included Ms. Azlinda Mohd Rashid, Special Officer, Mr. Md. Salleh Huddin Bin Abu Hanifah, Special Officer 1 and Mr. Mohamad Haji Mat Isa, Press Secretary. Dato' Seri Mohamad Nazri was met and welcomed by Dato' Syed Ahmad Idid, Director of KLRCA, who explained the History, Background and Jurisdiction of KLRCA. Both Legal Counsel, Dato' Noorashikin Tan Sri Abdul Rahim and Ms. Yea Yee Ling briefed the Minister on *Arbitration, Mediation and Domain Name Dispute Resolution services provided by KLRCA*.

IV. 1 March 2006

KLRCA welcomed a study visit by students of the National University of Malaysia (*Universiti Kebangsaan Malaysia*) on 1 March 2006. The students and their lecturer were briefed on *Arbitration, Alternative Dispute Resolution and Domain Name Dispute Resolution*.

V. 8 March 2006

KLRCA welcomed a study visit by students of the International Islamic University of Malaysia on 8 March 2006. The students and their lecturer were briefed on *Arbitration, Alternative Dispute Resolution and Domain Name Dispute Resolution*.

VI. 13 March 2006

The Malaysian Bar Council organized a Talk on *The Arbitration Act 2005*, which was attended by about 150 lawyers. KLRCA was the supporting organization for the Talk, which was held on 13 March 2006. The Chairperson for the Talk was Dato' Noorashikin Tan Sri Abdul Rahim, Legal Counsel of KLRCA.

VII. 15 March 2006

The New Straits Times, Malaysia's English-language daily newspaper, interviewed Dato' Syed Ahmad Idid, Director of KLRCA, on 15 March 2006. Under the headline *Arbitration Act to take effect today*, Dato' Syed was quoted as follows: "*The KLRCA is an international arbitration centre that just happens to be in Kuala Lumpur. The centre belongs to the whole of Asia. Half of our arbitrators are non-Malaysians who have brought expertise from their part of the world to us. We have arbitrators from New Zealand, Australia, India and Pakistan, even former House of Lord judges from the UK*".

VIII. 29 March 2006

A delegation of Ambassadors from the European Union made working visit to KLRCA. Heading the delegation was H.E. Dr. Donatus Koeck, the Austrian Ambassador to Malaysia. His Excellencies were welcomed by Dato' Syed Ahmad Idid, Director of KLRCA. The delegates comprise the ambassadors from Belgium, Czech Republic, Denmark, France, Hungary, Luxembourg, Netherlands, Poland, Romania, Slovak Republic, Spain, Sweden and the United Kingdom. Dato' Syed briefed the ambassadors on the History, Status, Functions and Services of KLRCA, which serves as an AALCO (Asian-African Legal Consultative Organization) regional centre. Legal Counsel Dato' Noorashikin Tan Sri Abdul Rahim and Ms. Yeo Yee Ling briefed the EU Ambassadors on the role of KLRCA as an arbitral institution and administration of domain name disputes arising out of the my country code.

IX. 31 March - 1 April 2006

The Chartered Institute of Arbitrators (Malaysia branch) organized the Conference on International Arbitration, which was held in Kuala Lumpur on 31 March - 1 April 2006. Both Legal Counsel, Dato' Noorashikin Tan Sri Abdul Rahim and Ms. Yeo Yee Ling represented KLRCA. Ms. Yeo presented a paper on *The Malaysian Arbitration Act 2005*. Dato' Noorashikin presented a paper on *"KLRCA and Malaysia as a venue for International Arbitrations"*.

X. 2 April 2006

The Sin Chew Jit Poh, Malaysia's Chinese-language daily newspaper, reported on 2 April 2006 that the Legal Counsel of KLRCA explained that under the Arbitration Act 2005, any domestic commercial disputes involving claims above RM120,000 or USD50,000 for international commercial disputes can be referred to the Centre for settlement. It was reported that in Malaysia, commercial & international disputes can avoid litigation as litigation unnecessarily prolongs the matter whereas the matter can be settled speedily through arbitration. The Act is based on the UNCITRAL model arbitration law. It was reported that the Centre's Panel of Arbitrators include ex-judges, lawyers, engineers & architects.

XI. 10 - 11 July 2006

The Corporate Legal Counsel Forum was held on 10 - 11 July 2006 in Kuala Lumpur. Both Legal Counsel, Dato' Noorashikin Tan Sri Abdul Rahim & Ms. Yeo Yee Ling spoke on the *Kuala Lumpur Regional Centre for Arbitration & Understanding and Resolving Disputes Arising Over Domain Names*.

XII. 27 July 2006

Officers from Malaysia External Trade Development Corporation (MATRADE) visited KLRCA on 27 July 2006. Legal Counsel, Dato' Noorashikin and Ms. Yeo Yee

Ling, gave a presentation on *The Services of KLRCA*. Ms. Susila Devi, Director of Export Facilitation Division, led the MATRADE delegation.

**XIII. 29 July 2006**

The Sabah Law Association and the Chartered Institute of Arbitrators (Malaysia branch) organized a Seminar on Arbitration, which was held in Kota Kinabalu, Sabah, on 29 July 2006. Dato' Syed Ahmad Iddid, Director of KLRCA, was invited to present a paper on *"The Role of KLRCA in relation to the Arbitration Act 2005 and the importance of UNCITRAL Rules in practice"*.

**XIV. 13 December 2006**

The Asia Business Forum (ABF) organized a Conference on *Drafting & Negotiating Commercial Contracts* in Kuala Lumpur on 13 December 2006. ABF invited Dato' Noorashikin Tan Sri Abdul Rahim, Legal Counsel, to present a paper on *"Exploring The Implications of the New Arbitration Act 2005 on Commercial Contracts"*.

**B. Participation by KLRCA in Malaysian scene**

**I. 10 August 2006**

Legal Counsel Dato' Noorashikin and Ms. Yeo Yee Ling, and Legal Executive, Mr. Syed Adam Al-Habshi, attended the 20<sup>th</sup> Sultan Azlan Shah Law Lecture which was held at the Shangri -La Hotel on 10 August 2006. The guest speaker was The Rt. Hon. Justice Anthony M. Kennedy, Supreme Court of the United States who spoke on *"Written Constitutions and the Common Law Tradition"*.

**II. 13 - 15 September 2006**

Legal Counsel Dato' Noorashikin and Ms. Yeo Yee Ling, and Legal Executive Mr. Syed Adam Al-Habshi, attended the Opening Ceremony of the International Construction Week 2006 held in Kuala Lumpur Convention Centre (KLCC) on 13 September 2006. They subsequently attended a talk on *"Model Terms of Construction Contract"* delivered by Sr. Noushad Ali Naseem Ameer Ali held on 15 September 2006.

**C. Events organized by KLRCA**

**I. 11 February 2006**

Talk by Mr. Sundaresh Menon (Singapore): KLRCA and The Malaysian Institute of Arbitrators co-organized the Talk, which was held on 11 February 2006. The topics were *"Interim Measures of Protection: The Proposed Amendments to the UNCITRAL Model Law"* and *"Public Policy and the Enforcement of International Arbitration Awards"*. Mr. Sundaresh Menon heads Jones Day (Singapore Branch) Dispute Resolution practice in Asia. Participants included lawyers, arbitrators and officers from the Attorney General's

Chambers. His Lordship Datuk Abdul Wahab Patail, Judge of High Court, was the special guest of KLRCA.

II. 15 February 2006

Talk by Mr. David W. Rivkin (U.S.A.): The Talk was held on 15 February 2006. Mr. Rivkin is a litigation partner in the New York and London offices of Debevoise & Plimpton LLP. He presented two papers *"Best Practices in International Arbitration: An American perspective"*. Participants included lawyers, arbitrators and officers from the Attorney General's Chambers. His Lordship Datuk Abdul Wahab Patail, Judge of High Court, was the special guest of KLRCA.

III. 21 February 2006

Talk by the Rt. Hon. Lord David Hacking (U.K.): The Talk was held on 21 February 2006. The Rt. Hon. Lord David Hacking spoke on the topic " *Well, Did you get the Right Arbitrator?*" The Rt. Hon. Lord Hacking is from Littleton Chambers, England. The participants comprised corporate counsel, lawyers and arbitrators. His Lordship Datuk Vincent Ng, Judge of High Court was the special guest of KLRCA.

IV. 22 February 2006

Talk by Mr. Niall Lawless (U.K.): KLRCA co-organized with The Malaysian Institute of Arbitrators the Talk, which was held on 22 February 2006. Mr. Lawless presented papers on *"How Mediation Wo/I(s)"* and *"Recent Arbitration Developments in China"*. Mr. Lawless is a Chartered Arbitrator and Engineer. He is based in Buckinghamshire, United Kingdom. Participants were lawyers, arbitrators, corporate counsel and officers from the Financial Mediation Bureau of Malaysia.

V. 26 April 2006

KLRCA-CIDB Adjudication Seminar: KLRCA co-organized with the Construction Industry Development Board of Malaysia (CIDB) the Seminar, which was held on 26 April 2006. The theme of the Seminar was *"Adjudication, An End to Cash Flow Problems in the Construction Industry"*. The speakers were Sr. Noushad Ali Naseem Ameer Ali (Malaysia), Mr. Peter Gow (Australia), Mr. Geoff Bayley (New Zealand), Datuk William Lau (Malaysia), Dato' Kevin Woo (Malaysia), Ar. Chee Soo Teng (Malaysia) and Sr. Low Khian Seng (Malaysia). The Welcoming Address was by Dato' Syed Ahmad Idid, Director of KLRCA. The Seminar was officiated by The Hon. Dato' Ir. Mohd Zin Mohamed, Deputy Minister of Works, Malaysia. Over 100 participants from the construction industry attended this Seminar.

VI. 17 - 18 July 2006

Asia-Pacific Conference on Contemporary Trends in Mediation and Arbitration: KLRCA co-organised with the International Islamic University of Malaysia (IIUM) a two-



day Asia Pacific Conference on Contemporary Trends in Mediation and Arbitration. The Conference was held on 17 - 18 July 2006. The Keynote Address by His Lordship Tun Ahmad Fairuz Sheikh Abdul Halim, the Chief Justice of Malaysia, was delivered by His Lordship Dato' Abdul Wahab Said Ahmad, Judge of High Court. Prof. Datuk Dr. Syed Arabi Idid, the Rector of IIUM delivered the welcoming address. The Opening Address was by The Hon. Datuk Dr. M. Kayveas, Deputy Minister in the Prime Minister's Department. Twenty speakers from Australia, Cambodia, Hong Kong, India, Indonesia, Japan, Philippines, Russia, Singapore, Malaysia and Vietnam presented papers on "*Mediation in Asia Pacific*", "*Mediation Centres - Case Studies*", "*Arbitration Centres - Case Studies*", "*Industrial Matters*" and "*Mediation and Arbitration - Practical Aspects*". The supporting organizations were the Malaysian Bar Council, Construction Industry Development Board of Malaysia, Financial Mediation Bureau, The Malaysian Institute of Arbitrators, Consumer Claims Tribunal and the Chartered Institute of Arbitrators (Malaysia Branch). Over 120 participants consisting of mediators, lawyers, members of the academia, arbitrators, corporate counsel, officers of the Judicial and Legal Service and a Judge from the Syariah Courts attended the Conference. The Closing Speech was by Dato' Syed Ahmad Idid, Director of KLRCA. Ms. Shaila Koshy reported an article on the Conference in the Star newspaper dated 19 July and 2 August 2006 under the headline *Legal experts considering a Mediation Act and 75% success rate for mediation*.

VII. 9 September 2006

Seminar on Arbitration Act 2005: KLRCA co-organized with The Malaysian Institute of Arbitrators the Seminar, which was held on 9 September 2006. The speakers from Malaysia were Mr. WSW Davidson, Dato' Dr. Cyrus Das, Mr. Tee Geok Hock and Mr. Khoo Guan Huat. The participants were enlightened by the views of speakers from outside Malaysia: Mr. Tomas Kennedy Grant, ac, (New Zealand), Assoc. Prof. Lawrence Boo (Singapore International Arbitration Centre) and Dr. Colin Ong (Brunei).

VIII. 8 November 2006

Talk by the Court of Arbitration for Sport: KLRCA co-organized with the Olympic Council of Malaysia (OCM) an evening Talk on Sports Arbitration. Mr. Matthieu Reeb, Secretary-General of the International Council of Arbitration for Sport was the guest speaker that evening on 8 November 2006. HRH Tunku Tan Sri Imran, President of OCM, chaired the Talk. Over seventy (70) participants attended the seminar, which took place at the new annexe of the KLRCA.

XI. 21 - 23 November 2006

UNCITRAL-KLRCA Joint Conference on 30 Years UNCITRAL Arbitration Rules: KLRCA co-organized with the United Nations Commission on International Trade Law (UNCITRAL) an inaugural Conference commemorating 30 Years of the UNCITRAL Arbitration Rules, in Kuala Lumpur. The Conference which was held on 21 - 23 November 2006, was based on the theme "*Impact of the Rules on International Commercial Arbitration: History, Practices and Future*". Seventeen (17) speakers from UNCITRAL, Sri Lanka, South Korea, the Permanent Court of Arbitration, Nigeria, Hong Kong,

Australia, Malaysia, USA, Spain, the American Arbitration Association, India, Singapore, UK, Philippines, Switzerland and the London Court of International Arbitration presented papers on the courts' role, history of the rules, Articles 1 to 41 of the UNCITRAL Arbitration Rules and recommendations were made for future amendments to the rules. The Keynote Address was delivered by The Hon. Dato' Seri Mohamad Nazri bin Abd. Aziz, Minister in the Prime Minister's Department, who also hosted the dinner for all participants and guests on 21 November 2006. Her Ladyship Tan Sri Dato' Siti Norma Yaakob, the Chief Judge of Malaya, and four Judges of High Court, His Lordship Dato' Hj. Abdul Malik bin Hj. Ishak, His Lordship Dato' Azhar bin Hj. Ma'ah, His Lordship Datuk Ramly bin Hj. Ali and His Lordship Dato' Balia Yusof bin Hj. Wahi also participated in the conference. Over 200 participants from all five continents of the world attended the Conference.

## **XII. 24 November 2006**

Talk on Resolving Disputes with People from Different Cultures: KLRCA co-organized with the Chartered Institute of Arbitrators (Malaysia Branch) and The Malaysian Institute of Arbitrators, a morning talk by Mr. Richard Naimark from the American Arbitration Association on 24 November 2006. The Talk was held in the new hearing room of KLRCA.

## **7. VISITORS TO KLRCA**

KLRCA continues to receive a number of visitors, amongst whom were:

*15 February 2006*

Mr. Bernard Hanotiau (Belgium) & Mr. Christopher Lau (Singapore).

*2 March 2006*

Ms. Low Beng Choo (Vice President, Olympic Council of Malaysia),  
Mr. Matthieu Reeb (Secretary-General of Court of Arbitration for Sport) & Mr.  
Vinayak Pradhan (KLRCA Arbitrator).

*30 March 2006*

Dr. Robert Brinner (ICC, Paris) & Dato' Mustafa Mansur (ICC, Malaysia).

*19 April 2006*

Mr. Denaldy Mauna (Chairman, Indonesian Mediation Centre) &  
Mr. Y. Wawang.

*25 April 2006*

Mr. Runjit Singh (Chairman, Consumer Claims Tribunal of Malaysia).

*30 May 2006*

Dr. Markus Wirth, President of the Swiss Arbitration Association.

*4 July 2006*

Mr. Homayoon Arfazadeh, Attorney at Law, Geneva and New York, Python, Schifferli, Peter.

*16 July 2006*

Mr. Hew Dundas (Incoming President, Chartered Institute of Arbitrators, UK)

*18 July 2006*

Dr. Koji Takahashi (Doshisha University Law School).

*27 July 2006*

Delegation from the Malaysia External Trade Development Corporation (MATRADE) led by Pn. Susila Devi, Director, Export Facilitation Division.

*4 August 2006*

Mr. (Ms.) Marinka Schillings, Advocate from Loyens Loeff, Paris, France.

*17 August 2006*

Mr. Robert Voltenra & Mr. Stephen Fietta (Latham & Watkins, London).

*18 August 2006*

Mr. Ng Jern-Fei (Essex Court Chambers, London).

*22 August 2006*

The Malaysian Institute of Arbitrators led by President, Dato' (Ar) Kevin Woo.

*30 August 2006*

The Singapore Institute of Arbitrators led by President, Mr. Raymond Chan.

*17 October 2006*

Mr. Takuya Sasayama, Embassy of Japan.

*8 November 2006*

HRH Tunku Tan Sri Imran (Chairman, Olympic Council Malaysia), Tan Sri P. Alagendra (Asian Hockey Federation), Dato' Roy Rajasingham (Olympic Council Malaysia), Dato' Dr. P.S. Nathan (Malaysian Tenpin Bowling Congress) & Mr. Mark Talalla (Malaysian Tenpin Bowling Congress).

*24 November 2006*

Mr. Ike Ehiribe (Chambers of Ike Ehiribe, Luton, U.K.), Prof. Dr. Gerhard Walter (University of Berne, Switzerland), Mrs. Eunice Oddiri (Director, Lagos Regional Centre for International Commercial Arbitration), Dr. Moshkan Mashkour (Director, Tehran Regional Arbitration Centre), Mr. Brooks W. Daly (Deputy Secretary-General, Permanent Court of Arbitration) & Mr. Emmanuel Dike (Counsel, Lagos Regional Centre for International Commercial Arbitration).

## **8. CO-OPERATION AGREEMENT**

### **I. 26 May 2006**

A historic Memorandum of Co-operation was signed in Palm Cove, Cairns, Queensland, Australia on 26 May 2006 between KLRCA, and the Institute of Arbitrators and Mediators Australia (IAMA). KLRCA was represented by Director, Dato' Syed Ahmad Idid, and IAMA was led by National President, Mr. Tim Sullivan. The signing ceremony was witnessed by the Chief Executive Officer of IAMA, Mr. Gordon Tippet and Senior Vice-President, Mr. Laurie James, other key officials from IAMA, and Datuk William Lau, Arbitrator & Mediator on the KLRCA Panel.

## **9. RESIARCH AND PUBLICATIONS**

### **I. KLRCA Newsletter**

KLRCA embarked on and completed the publication of the January, May and September 2006 Newsletters.

### **II. Publication of Book**

KLRCA compiled into a book the papers presented at the KLRCAADNDRC Conference held on 4 October 2005. The publication of the book entitled "*Internet & E-Commerce: Alternative Dispute Resolution*" by the University of Malaya Press (UM Press) is about to be completed. UM Press has been granted the ISBN code from the National Library of Malaysia. UM Press is now arranging for the book cover and wider circulation of this book.

### **III. KLRCA Website**

KLRCA is maintaining the domain name [www.klrca.org.my](http://www.klrca.org.my) and is preparing to reroute contents from the existing website address of [www.rcakl.org.my](http://www.rcakl.org.my) to that new address. KLRCA currently has two website addresses at [www.rcakl.org.my](http://www.rcakl.org.my) and [www.rcakl.org](http://www.rcakl.org).

There are plans to set up a website for KLRCA as the Kuala Lumpur branch of the Asian Domain Name Dispute Resolution Centre via their official website at [www.adndrc.org](http://www.adndrc.org).

### **IV. A Guide to Arbitration at the KLRCA**

KLRCA is currently preparing a comprehensive Guide to assist parties to arbitration under the KLRCA Rules of Arbitration. A CD version is presently being prepared.

## **10. PROPOSALS FOR YEAR 2007**

### **I. Creation of On-Line Dispute Mechanism.**

A Memorandum of Understanding has been signed between KLRCA and Multimedia Development Corporation. The legal framework has been completed. A survey on its feasibility has been completed by AcNielson. Funding remains the sole question.

II. Islamic Bankina and Financial Services Rules of Arbitration

KLRCA, the Central Bank of Malaysia and the Securities Commission of Malaysia have finalized the drafting of the Rules of Arbitration for Islamic Banking and Financial Services, which are essentially the UNCITRAL Rules of Arbitration. A joint Press Release is scheduled around March 2007, together with the printing of the Rules and Schedule of Fees.

III. Proposed KLRCA Fast-Track Maritime Arbitration Rules

The KLRCA is spearheading the proposal to create the KLRCA Fast-Track . Maritime Arbitration Rules in collaboration with the Malaysian Shipowners Association (MASA) and the Malaysian Maritime Institute (IKMAL –*Institut Kelautan Malaysia*). The Centre is considering two sets of rules, one for small claims not exceeding RM250,000.00 and the other set of rules for claims exceeding RM250,000.00. The IKMAL Small Claims Maritime Arbitration Rules for small claims not exceeding RM250,000.00 is nearing completion.

IV. Co-operation with the Asian Domain Name Dispute Resolution Centre

The Asian Domain Name Dispute Resolution Centre has approached KLRCA to join their existing branches in Beijing, Hong Kong and Seoul. This is to administer trademark-related disputes that may arise over generic top-level domain name disputes such as for .com, .org and .net. KLRCA endeavours to provide such services for the ASEAN region (*Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam*). Currently, KLRCA is administering trademark-related domain name disputes that arise over the .my country code under the Malaysian Network Information Centre's Domain Name Dispute Resolution Policy ("MYDRP").

V. Conferences/Seminars/Workshop:

1. Proposed Arbitration Act 2005 & KLRCA Seminar in Kuching, Sarawak on 24 March 2007.
2. Conference on Construction Law & Arbitration on July 2007



## **12. UPGRADING THE FACILITIES AND INFRASTRUCTURE OF KLRCA**

- I. Renovation works and construction of an ancillary building at KLRCA started on 16 November 2005. The renovation plan included the creation of two additional arbitration-hearing rooms, a new library, administrative area and Legal Counsel's rooms. The annexe was handed over to the KLRCA in the morning of the 8th November 2006.
- II. Tele-conferencing, Internet access and video-conferencing are presently available at the KLRCA for the parties and their representatives, upon request.
- III. Additional catering services for parties to the arbitral proceedings held at the Centre are also available, upon request.
- IV. The Arbitrators' Lounge has been equipped with 24-hour internet access.

## **13. CONCLUSION**

### **Arbitration Act 2006**

The year 2006 was a successful year during which the KLRCA could observe the usefulness of Arbitration Law & Rules. From the time the new Malaysian Act 2006 was implemented, parties maintained their silence as they did not or could not be sure of the implications on their disputes. But thankfully some semblance of understanding has returned to the legal advisers who should now be able to explain what the Act 2006 means by "opt-in" and "opt-out" in the law. The drastic change made by the Act 2006 was steamroll the KLRCA into just another Arbitral body unlike the time (from 1980) when the KLRCA was given a unique status by the creation of Section 34 in the 1950 Act. By taking away this, we had a drastic drop of international cases in 2006 (from what were 6 in 2005 down to just one in 2006). We fear that the change has discouraged international arbitrations. We hope something can be done to remedy the situation without any further loss of confidence.

The law can also consider various areas where the KLRCA be made the dominant Centre (like the AAA in the US, CIETAC in China, SIAG in Singapore) and so would prohibit other bodies competing for arbitration cases versus the KLRCA. The professional bodies e.g. Architects, Engineers, Surveyors, should instead concentrate, improve on their qualifications and carry out their professional work and thus leave arbitration to the KLRCA.

### Domain Name

As for domain name administrative proceedings, we are going to sign an agreement with the Asian Domain Name Dispute Resolution Centre sometime in late March 2007 or early April 2007. This will enable the KLRCA to administer disputes over generic Top-Level Domains (gTLDs).

### Islamic Financial Arbitration Rules

Bank Negara Malaysia is arranging to launch the KLRCA Islamic Financial Arbitration Rules after the Deputy Prime Minister of Malaysia's Keynote Address at the Global Islamic Finance Forum, scheduled to take place sometime around March 2007.

### Departure from KLRCA - big loss

Ms. Yeo Yee Ling resigned from her post as Legal Counsel and will be leaving for MYNIC, with effect from 28 January 2007. Tuan Syed Adam Alhabshi completes his one-year internship stint at the KLRCA on 31 January 2007.

### **Annex**

The KLRCA is expected to complete the transfer of the administrative and library operations to the new wing by end January 2007. The new wing is expected to be fully furnished and operational by early February 2007.

### General objectives

We are still in infancy in our quest to educate the public and end-users on Arbitration. Hence much of our efforts have been spent on courses and meetings. We do know such efforts will bear fruits in a few years when more corporations and individuals are made aware of our services.

Kuala Lumpur Regional Centre For Arbitration (KLRCA)

12 Jalan Conlay

50450 Kuala Lumpur

Malaysia

Tel: 03-21420103/21420702/21420384

Fax: 03-21424513

Email: [enquirv@rcakl.org.my](mailto:enquirv@rcakl.org.my)

Website: [www.rcakl.org.my](http://www.rcakl.org.my)

17 January 2007

*KLRCA - Annual Report for year 2006*



### III. REPORT ON THE ACTIVITIES OF THE CAIRO REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION (CRCICA), 2006-07

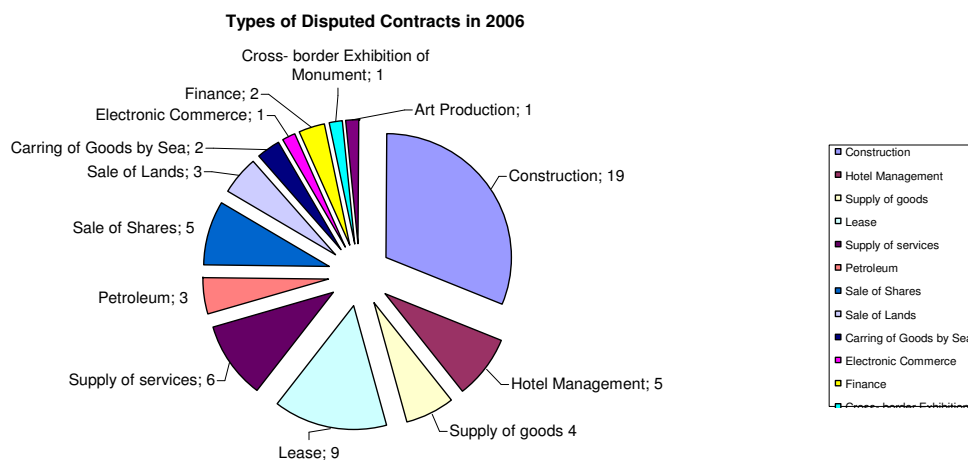
#### Introduction

The year 2006 was an exceptionally glorious year of progress for CRCICA. It was a year of records in the administration of arbitral cases as well as the organization of international events. On various other scales, the Centre achieved during the year remarkable development whether related to arbitration in particular or trade and investment laws at large. This report is meant to shed light on the most distinguished CRCICA activities in 2006.

#### CRCICA CASE REPORT

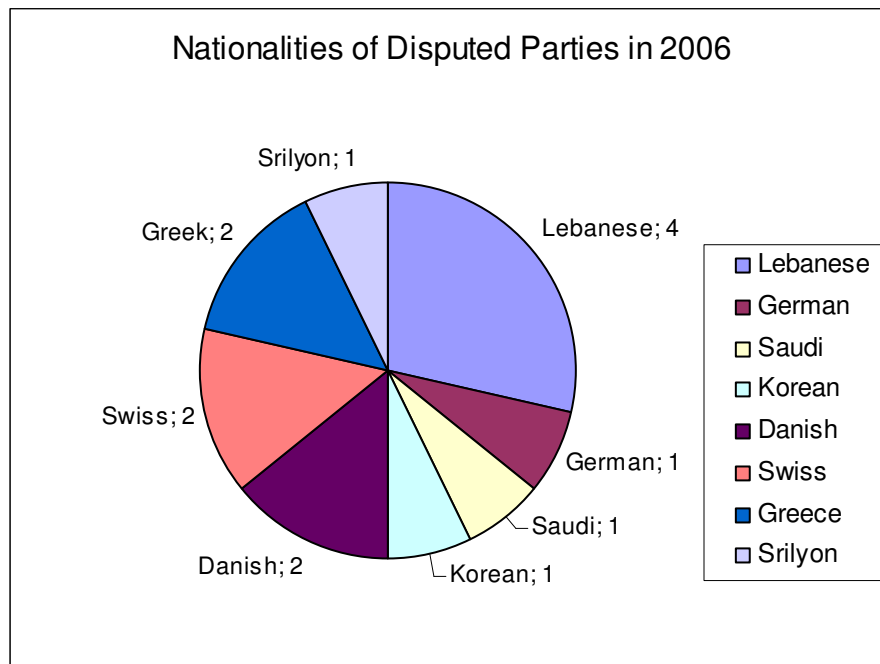
The total number of national and international cases filed before CRCICA reached 535 cases among which 462 cases are already settled (whether by final arbitral awards, including awards on agreed terms, or by subsequent conciliation or mediation), while 73 cases are still pending before the Centre. It is noteworthy that the past year witnessed a 170 % increase in case referrals with 63 new cases against 37 new ones in 2005.

Generally speaking, construction contracts still rank top among the types of disputes administered under the auspices of CRCICA. In 2006, however, other types of contracts were subject to CRCICA-administered disputes , these contracts included hotel management , supply of goods, supply of services, petroleum, sale of lands, sale of shares, carriage of goods by sea, e-commerce, taxes, art production and software licenses. A new type of contracts was introduced during the past year involving cross-border exhibition of monument.



In 2006, beside multinational corporations, parties to CRCICA arbitration proceedings have been business entities from a broad span of countries including, but not

limited to, Egypt, Lebanon, Switzerland, Germany, Saudi-Arabia, Korea, Greece, Denmark and Sierra Leone (see the illustrating diagram).



Generally speaking, CRCICA arbitrations have involved nationals of almost all countries either as parties or arbitrators.

### **THE CAIRO REGIONAL CENTRE IS AMENDING ITS ARBITRATION RULES**

The Cairo Regional Centre for International Commercial Arbitration (“CRCICA”) applies the UNCITRAL Arbitration Rules approved by the General Assembly of the United Nations by Resolution No. 31/98 on December 15, 1976. Since its establishment in 1979, CRCICA adopted minor amendments to these Rules in order to suit the institutional arbitration and to satisfy the needs of disputants. Such minor amendments were made in years 1998, 2000 and 2002 and they became effective as of January 1<sup>st</sup> 1998, October 1 2000 and July 2002 respectively.

Before the end of 2005, CRCICA initiated a revision of its Arbitration Rules. The reasons for amending the Rules mainly reside in the application of such Rules in practice, the judicial precedents and the recent international developments in the field of international commercial arbitration. The philosophy of the amendment is to amend only when necessary, while maintaining the spirit of the UNCITRAL Rules and its long established principles.

Regarding the methodology adopted by CRCICA in this respect, it consisted of studying the most important problems encountered in applying its Rules, through the analysis of arbitral awards rendered according to such Rules as well as the court decisions rendered in setting-aside actions filed in connection with such awards. CRCICA also

surveyed the opinions of practitioners including arbitrators, disputants and lawyers, in addition to studying and analyzing the rules of other arbitral institutions applying the UNCITRAL Rules and that already amended their rules (in particular the Swiss Rules and the Stockholm Rules). A committee composed from amongst the Center's consultants was then assigned with the mission of preparing a draft comprising the proposed amendments, which was later submitted to the Center's Board of Trustees and posted on the Center's website. Furthermore, the Centre attended the 45<sup>th</sup> and the 46<sup>th</sup> sessions of the UNCITRAL Arbitration Working Group held in September 2006 and January 2007 respectively to discuss the potential amendments to such Rules. The New Rules are expected to enter into force within the first quarter of 2007.

Regarding the content of the draft amendments, here below are the salient features thereof:

- Three High Legal Committees were constituted and composed from among the members of the Center's Board of Trustees, any of which shall present its reasoned opinion, adopted by majority vote, in the matters that should be referred to it under the new Articles 7 (bis) and 12 (bis) of the Rules as well as in the other matters referred to it by the Director of the Centre.
- Pursuant to the new Article 7 (bis), the Centre may, upon the approval of the High Legal Committee, reject the appointment of any arbitrator chosen to decide the case based on the existence of substantial evidence confirming that the concerned arbitrator lacks the legal or contractual requirements or in case the said arbitrator did not act in compliance with the Center's Code of Ethics in any previous case, and after giving the said arbitrator and the parties the opportunity to express their views.
- Under the new Article 12 (bis), in the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of the performance of his functions or in the event that he deliberately delays the commencement or the continuation of the arbitral proceedings, the Centre may, upon the approval of the High Legal Committee, remove him upon the request of either of the parties after giving him and the other party the opportunity to express their views in this respect.
- In case the duration of the arbitral proceedings is determined, such duration shall not commence except after the full composition of the arbitral tribunal, unless the parties have agreed otherwise (Article 3/2).
- It was also confirmed that the parties might be represented or assisted by lawyers or non-lawyers of their choice (Article 4). This confirms the practice already existing since the establishment of CRCICA, according to which the parties may be represented in international arbitrations by Egyptian or foreign lawyers or even non-lawyers.

- The other party to the requests of interpretation and correction of awards as well as additional awards is granted the right to comment on the said requests within a reasonable period to be determined by the arbitral tribunal (Articles 35, 36 and 37).
- Ad hoc arbitrations hosted by the Cairo Centre shall be subject to the costs of arbitration applied by the Centre, unless the parties agree on a different determination of the arbitrators' fees or on applying other rules in this respect (Article 38/h).
- The ceiling of domestic cases enjoying reduced administrative and arbitrators' fees is raised to one million L.E. instead of 300 000 L.E. (Paragraph 3 of Article 40 bis).
- In case the arbitral tribunal issues an order for the termination of the arbitral proceedings according to one of the causes indicated in paragraphs 1 and 2 of Article (34), or in case of rendering an arbitral award on agreed terms based on a settlement reached between the parties during the proceedings and before rendering the arbitral award, the administrative and the arbitrators' fees may be reassessed in the light of the proceedings that has been already achieved and in the light of the period elapsed starting with the commencement of the proceedings and until its termination or until rendering the arbitral award on agreed terms (Paragraph 7 of Article 40 bis).
- Some important principles were introduced to the Center's Code of Ethics including the principle according to which any doubts as to the duty to disclose a fact, circumstance or a relationship shall be interpreted in favor of disclosure (Article 3), the arbitrator shall avoid any act or behavior likely to hinder the deliberation or to delay the settlement of the dispute (Article 4), the arbitrator shall also avoid superfluous expenses that are likely to increase the costs of arbitration in an unjustified manner (Article 6) and the provisions of the Center's Code of Ethics shall apply to experts, conciliators and mediators appointed according to its Rules, taking into consideration the nature of their respective missions (Article 9).

**Principles adopted by  
arbitral tribunals acting under the auspices of CRCICA**

**1) The consequence of the failure to obtain the approval of the competent minister on the validity of the arbitration clause in administrative contracts disputes:**

The Egyptian legislator requires the approval of the competent minister or whoever exercises his powers, in relation to public juridical persons, as a prerequisite for the settlement by arbitration of disputes arising out of administrative contracts. Any delegation with regard to the exercise of such powers is prohibited. Moreover, under the Egyptian law, the arbitral tribunal has jurisdiction to rule upon all

petitions relating to its own jurisdiction including the plea for nullity or absence of the arbitration clause.

It is also acknowledged that in administrative contracts the relationship between the administrative authority and the contracting party is a contractual one based on an agreement between the two parties that creates legal rights. In concluding such administrative contracts, the administrative authority is the party that is responsible for undertaking the relevant procedures leading to the conclusion of the contract, including all necessary announcements, prior approvals, allocating necessary funds and other statutory procedures or approvals.

The administrative authority is, therefore, the party that dominates the procedures of concluding administrative contracts and is, thus, exclusively liable for the satisfaction of such procedures, in the sense that its intentional or neglectful failure to carry out any of the required conditions makes it solely liable for the outcome of such failure, especially if the contracting party has no role to play in satisfying the said conditions. This is logical given the fact that the relationship between both parties is contractual and not regulatory.

The said contracting party should, therefore, be protected and the confidence in the administrative authority should be reliable, especially if it is not possible for such party to be aware, in advance, of whether the administrative authority has satisfied the required administrative procedures or has obtained the necessary approvals.

Based on the above, the condition stipulated in Article (1) of the Arbitration Law, concerning the approval of the competent minister, is exclusively incumbent upon the administrative authority. Indeed, it is inconceivable that the contracting party has a role in this respect, especially if the arbitration clause is inserted in the administrative contract itself or in one of its annexes. The administrative authority, and not the contracting party, is, in fact, the party that is addressed by the required condition, taking into consideration that it is the party that dominates the procedures of concluding the contract and which is responsible for assuring the validity of such procedures usually undertaken in the absence of the other party.

Accordingly, it is not possible to sanction the failure to obtain the competent minister's approval on the arbitration clause by annulling such clause; otherwise, it would be possible for the defaulting party to benefit from its own fault, to the detriment of the other party. This, in fact, is untenable since it violates the basic principles of justice. Furthermore, as a rule, the nullity is conditioned upon the existence of a legal provision, while the legislator did not stipulate in Article (1) of the Arbitration Law that the failure to obtain the competent minister's approval should be sanctioned by the nullity of the arbitration clause. All what could be the consequence in such a case is establishing the administrative (disciplinary) liability of the employee, member of the administrative authority, who is proved to have breached this obligation by failing to seek the approval of the competent minister.

This is already acknowledged in the decisions of the Supreme Administrative Court regarding both the infringements tingeing the procedures pertaining to the conclusion of contracts by the administrative authority as well as the lack of necessary funds for the performance of the administrative contracts. Such procedures are the internal business of the administrative authority, while the contracting party has nothing to do therewith. Based on the above, the arbitral tribunal considers that the challenge of its jurisdiction is unfounded and is, therefore, rejected.

**(Arbitration Case No. 464 of the year 2006, Session dated 2 July 2006)**

**2) The arbitral tribunal's power to characterize the claims of the parties:**

The arbitral tribunal has the power of characterizing the parties' requests according to their purpose; it may decide that the request submitted by one of the parties for the correction of the arbitral award also comprises an interpretation request.

The interpretation request is inadmissible if the operative part of the award is clear without any ambiguity and if the reasons of the award are associated with its operative part in a way that makes such reasons the prerequisites of the conclusion reached by the award and, thus, forming with the latter one and an integral part enjoying *res judicata*.

**(Arbitration Award issued on the Request for the correction and the interpretation of the Award rendered in Arbitration Case No. 444 of the year 2005, Session of 30 January 2007)**

**3) Request for the correction of an award is not a challenge:**

The request for the correction of the arbitral award could not be a means of challenging or amending the award or re-discussing the substantive claims already settled by the arbitral award. It is also prohibited that the request aim, at any rate, at re-judging the dispute or some of its aspects in a way that impinges what was decided by the award, and, thus, violates its *res judicata*.

**(Arbitration Award issued on the Request for the correction and the interpretation of the Award rendered in Arbitration Case No. 444 of the year 2005, Session of 30 January 2007)**

**4) The joint stock company is obliged to abide by the provisions of the contract concluded by the founders as a prerequisite for its establishment**

The simple contract concluded between the founders of the company as a prerequisite for its establishment is legally applicable thereupon after its establishment. The company is, therefore, obliged to abide by its provisions and to respect the restrictions contained therein.

In spite of the fact that the contract for the joint stock companies is governed by the provisions of the law No. 159 of the year 1981, the capital market law No. 95 of the year 1992 as well as their implementing regulations, the origins of the companies

are still initiatively based on consensual agreements whose provisions, as agreed upon by the founders and the shareholders, are applicable as long as they do not contradict with the imperative provisions stipulated in the said laws.

**(Arbitration Award rendered in Arbitration Case No. 504 of the year 2006, Session of 17 January 2007)**

**5) The legislator may for the protection of small shareholders adopt some imperative rules that could not be violated:**

The contracts and statutes of the joint stock companies are still deemed consensual agreements concluded and producing their legal effects among the founders and the shareholders upon their agreement, unless the legislator prefers, for the protection of small shareholders, to adopt some imperative rules that could not be violated.

**(Arbitration Award rendered in Arbitration Case No. 504 of the year 2006, Session of 17 January 2007)**

**Principles adopted by the Court of Appeal**

*1) Decision rendered in challenge No. 29 of the Judicial year 122, Cairo Court of Appeal, Chamber (91) Commercial, Session of 25 September 2005)*

The failure to object to the extension of the period of the arbitration during the proceedings and until the closure of the hearings is deemed a waiver of the right to object in accordance with Article (8) of the Arbitration Law No. 27 of the year 1994 as well as an implicit acceptance to extend such period until the last hearing session.

*2) Decision rendered in challenge No. 93 of the Judicial year 120, Cairo Court of Appeal, Chamber (91) Commercial, Session of 29 January 2006)*

It is not possible to seek the annulment of the award due to an error committed by the Arbitral Tribunal in interpreting the provisions of the law, or in comprehending the facts of the case or in considering the documents, or due to the lack of reasoning of the arbitral award, since such causes are not among the causes of setting-aside arbitral awards, as determined by Article (53) of the Arbitration Law.

*3) Decision rendered in challenge No. 64 of the judicial year 122, Cairo Court of Appeal, Chamber (91) Commercial, Session of 30 May 2006)*

The Arbitrator's written acceptance of his mission is not of public policy; it is rather a regulatory measure. Accordingly, the attendance of the session by the nominated arbitrator is sufficient to consider that there is an implicit acceptance of the said nomination.

## **2006 CRCICA Events: Briefing Report**

### **1) February 2006: The WTO at 10: The Role of Developing Countries in Negotiations and Dispute Settlement:**

*For a better integration into the multi-lateral trade system,  
WTO at 10 (Cairo) aired a significant*

*Message to Developing Countries:  
organize as many WTO-related training courses as regional capacities and  
institutional frameworks permit; practice the rights developing countries are entitled to  
within the WTO Context but still have no sufficient knowledge of; exercise the right of  
participation as third parties in WTO disputes.*

CRCICA collaborated with the World Trade Organization (WTO) held an international celebratory conference entitled: "**The WTO at 10: The Role of Developing Countries in Negotiations and Dispute Settlement**". Held on 11-13 February 2006 at the Arab League Premises, Cairo / Egypt, the Event ranked the fourth in a series of six conferences held in commemoration of the 10th Anniversary of the WTO and its Appellate Body in 2005 and 2006. Having the other five events held in Italy, Brazil, Japan, Australia and the USA, the Cairo Conference marks the only one of its kind in the whole Afro-Asian Region (except East Asia) and CRCICA is honored to be the only arbitral institution chosen by the WTO to organize one of its international celebratory conferences. All prefixed by "The WTO at 10" motto, the six conferences shared common objectives being: *to enhance the understanding of the WTO and its contribution to global governance and bring out regional perspective on the various topics of discussion.*

The Conference witnessed unprecedented participation of senior WTO officials including H.E. Amb. Alejandro Jara, WTO Deputy-Director General and Mr. Hamid Mamdouh, Director of the Trade in Services Division of the WTO. Eminent international and regional experts on WTO matters also contributed to this historic event from France, Switzerland, Brussels, Germany, Canada, the U.S.A., Lebanon and Egypt in representation of worldwide business, legal and academic communities as well as leading international organizations including the United Nations Economic and Social Commission for Western Asia (UNESCWA), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Advisory Centre on WTO Law, the World Trade Institute and the European Commission.

The Event was attended approximately by 180 representatives of around thirteen sectors from twenty-one countries being Egypt, Saudi Arabia, Qatar, United Arab Emirates, Kuwait, Bahrain, Jordan, Libya, Lebanon, Yemen, Sudan, Tunisia, Morocco, Nigeria, Cote d'Ivoire, Kenya, Pakistan, Germany, the Netherlands, Canada and the U.S.A.

The conference agenda discussed various topics including, The WTO at 10: From Marrakesh to Hong Kong and Beyond", "How Can Developing Countries Participate More



Effectively in Trade Negotiations?", "Special and Differential Treatment in the WTO Agreements and its Relationship with the Basic Principles Underlying the Multilateral Trading System", "Developing Countries' Participation in Dispute Settlement Proceedings: Who, What, Why and How?", "The Rules of the game: Can the Dispute Settlement Understanding ("DSU") be Clarified and Improved to Assist Developing Countries?", "Dispute Settlement in Practice–Multilateral Rules on Trade Remedies: Case Study 1- The US- Steel Safeguards dispute", "The EC – Bed Linen dispute", "The Arab Countries and the Multilateral Trading System" and "The Role of the Appellate Body and its Contribution to the Development of the Law".

The final statement of the Conference brings developing countries close to the fact that amending the WTO Rules in the near future is seen as a definite impossibility and that it is urging for developing countries to organize as many WTO-related training courses as regional capacities and institutional frameworks permit; practice the rights they are entitled to but still have no sufficient knowledge of and exercise their right of participation as third parties in WTO disputes.

## 2) March 2006: The Fourth UN Forum on Online Dispute Resolution & First

*"I don't think I have ever seen a more organized conference and a more helpful and good natured staff than you have",*

Prof. Ethan Katsh, Director of the Center for Information Technology and Dispute Resolution, University of Massachusetts, USA; Head of the UN Expert Group on ODR

*"The preparation and organization (of the Forum)  
was at the highest level of professionalism",*

Dr. Robert Whipple, Ed.D., Educational Consultant Specializing in Online Learning and Conflict Resolution

On 22-23 March, CRCICA held the Fourth United Nations Forum on Online Dispute Resolution (ODR) in collaboration with the Centre for Information Technology and Dispute Resolution, University of Massachusetts, USA (CITDR) and the UN Expert Group on ODR. The Forum was held in Cairo under the auspices of his Excellency Dr. Tarek Kamel (Minister of Communication and Information Technology), sponsored by the Information Technology Industry Development Agency ("ITIDA") and held in collaboration with the United Nations Economic and Social Commission for Asia and the Pacific ("UNESCAP"), and the United Nations Commission on International Trade Law ("UNCITRAL"). The Event built on prior meetings in Geneva (2001-2002) under the auspices of the United Nations Economic Council for Europe (UNECE) and in Melbourne (2004) under the auspices of the UNESCAP.

Placed in an internationally vital institutional context as the UN ODR forums are, the Event featured leading ODR experts in the world from Australia, Bahrain, Britain, Canada, China, Egypt, India, Italy, Ireland, Korea, Malta, Nigeria, Sri Lanka, Thailand,

and the U.S.A. Forum participants were members of the legal and communication communities in Bahrain, Egypt, Oman, Qatar, Saudi Arabia, Sudan and Yemen.

The Forum agenda provided an overview of the diverse ODR techniques, the prospects of ODR, as well as explored and analyzed the necessity for developing and promoting ODR, especially for developing countries with emphasis on some institutional ODR experiences and ODR applications in the Banking and Financial Sector. The recommendations well reflect the overtones of Forum discussions; among various other items, they stress the necessity for providing the required regulatory framework for building a truly efficient information society including the enactment of e-signature and information security laws, and consumer protection laws...etc. In another aspect of the recommendation, the importance of establishing ODR Pilot projects is stressed, especially in developing countries to assess the needs of global and local markets, and sustain an open market economy. At last, conferees recommend establishing a global code of conduct for ODR providers based on principles of transparency, neutrality, justice, due process, accountability, and expertise.

As an immediate response to this echoing Forum, CRCICA negotiates a pilot project with ITIDA to build a joint platform for IT disputes between companies (B2B and B2C).

It is noteworthy that the Fifth UN ODR Forum is scheduled to take place in Liverpool / England on April 19-20, 2007. For more information, please access [www.odr.info/liverpool](http://www.odr.info/liverpool).

### 3) March 2006: First International Course on Online Dispute Resolution (ODR) in the Middle East and Africa

On the occasion of holding the Fourth UN Forum in Cairo, CRCICA hosted the First International Course on Online Dispute Resolution in the Middle East and Africa on the 20 and 21 of March 2006. The Course aimed at providing an overview of the diverse aspects of ODR with various applications, case studies and successful models. The course faculty includes eminent members of the UN ODR Expert Group. A video-conference presentation was broadcasted from the School of Information Systems, Victoria University, Australia with compete interaction between the audience in Egypt and the lecturer in Australia.

### 4) April 2006: Seminar on Arbitration in International Administrative Contracts:

The Egyptian State Council approached CRCICA to tailor a seminar for about 100 Council members. Held on 16-18 April under the title "**Arbitration in International Administrative Contracts**", the Seminar was a great success with various in-depth debates among the members of the State Council, academicians and arbitration practitioners regarding the arbitrability of administrative contracts. By the participation of a representative of the French Conseil d'Etat, the theme was developed in an interestingly comparative mode. Various related topics were discussed including an evaluation of the effects of the provisions of the Bilateral Investment Treaties (BITs) on Egyptian state

contracts and how the standard permanent offer made by the state in such provision is directly instrumental in steadily increasing the number of ICSID cases against the Egyptian Government regardless of the type of the investment in question and without necessarily having any contractual relation with the claiming investor. This was presented within the course of a detailed CRCICA Survey under the title **Quo Vadis Egyptian State Contracts and ICSID**. The Seminar was concluded by panel presentation of a hypothetical case featuring almost all problematic issues likely to arise in state contracts arbitrations.

Upon the tremendous success of the Seminar, there are plans and proposals to organize similar ones for the esteemed members of the judiciary on the local and regional levels.

5) May 2006 : International Seminar on: "Managing Risks in International Oil and Gas Contracts":

*"The great turn out and the excellent organization of the seminar reflected the high level of professionalism and dedication (CRCICA Staff has)"*

**Walid Hegazy**, Foreign Consultant, Fulbright & Jaworski L.L.P.

The Cairo Regional Centre for International Commercial Arbitration (CRCICA) organized in collaboration with the International Firm Fulbright & Jaworski L.L.P. and the Egyptian Ministry of Petroleum a Seminar on "Managing Risks in International Oil and Gas Contracts" during the period of **22-23 May 2006 in Cairo, Egypt**. The Seminar discussed various topics including, "Project Risk Management", "Oil and Gas Contracts", "Arbitration in Oil and Gas Contracts" and "Minimizing Arbitration Risks".

6) November 2006: The Protection of the Hispano-Arab Expanding Trade and Investment

In reflecting on the outcomes of the Conference,  
Prof. Bernardo M. Cremades,

President of the Spanish Court of Arbitration gave the following declaration :

*The echoes are unanimously positive and prove the general enthusiasm aroused by the conference. I am confident that the consequences in terms of investments between the Arab World and Spain as well as regarding the promotion of international arbitration will be numerous*

On the 13-14 November 2006, CRCICA Events 2006 crossed the Mediterranean to the beautiful City of Madrid where "The Protection of the Hispano-Arab Expanding Trade and Investment" was extensively probed into in a structurally impressive debates between Arab and Spanish speakers. This historic Event was organized by the Arab Union of International Arbitration (AUIA), CRCICA, being the seat of the AUIA, the Spanish Court of Arbitration, the Real Instituto Elcano and the Higher Council for Spanish Chambers of

Commerce, Industry and Navigation.

The agenda featured a wide range of topics of vital significance to the Arab-Spanish trade and investment including: the major trends in Hispano-Arab trade and investment, the settlement of Spanish-Arab commercial and investment disputes, fundamental law and constitutional guarantees, disputes arising in connection with national resources, transnational public policy and finally judicial protection of the arbitral settlement of business disputes.

The recommendations of the Conference provides a balanced approach towards the promotion of Hispano-Arab investment, trade and arbitration relations including a call for all authorities in Arab Countries and Spain to *facilitate* all procedures related to Hispano-Arab investments with a prospect to *free* such procedures from all constraints and bureaucracies, *cooperate* in the settlement of disputes through suitable procedures and *study* formulating mutual provisions for international commercial arbitration.

Topics were approached in a bilateral fashion between Spanish and Arab Speakers, the latter having been chosen from the twelve Arab Countries enjoying significant trade and investment relations with Spain, these are Egypt, Qatar, Saudi Arabia, Lebanon, Tunisia, Morocco, Kuwait, Emirates, Algeria, Bahrain, Libya and Jordan. Beside the Spanish audience, the Conference was attended by representatives of 15 Arab Countries.

#### 7) December 2006: Tailored Training of Iraqis Governmental Officials:

The American-Iraqi Chamber of Commerce approached CRCICA to design a training program for some senior Iraqi governmental officials from the ministries of Trade, Petroleum, Agriculture, Transport, Industry and Communication, the Iraqi Federation of Industries, Federation of Chambers of Commerce and finally the Iraqi Consultancy Council (*Majlis Al Shuraa*). This CRCICA Training Course is taken to be the official baseline necessary for building local capacities to establish an Iraqi Arbitration Centre as well as to draft an arbitration law for Iraq. With this background, the program featured two main themes: The Law of Arbitration and The establishment and Rules of Arbitration Centres, each of which was developed into various illustrative sub-topics with a comprehensive tackling of both the theory and practice of arbitration.

#### 8) December 2006: UNCITRAL Arbitration Rules: 30 Years and Beyond ...Revision of the Rules in Response to Emerging Users' Needs

UNCITRAL Secretary to conferees  
and to all members of the arbitration community in the region:

*I invite you all to submit your comments on the net-based UNCITRAL doc.  
Revision of the UNCITRAL Arbitration Rules ([A/CN.9/WG.II/WP.145-144](#))  
either to CRCICA ( in its capacity as an international observer  
organization to the UNCITRAL meetings)  
or to your respective governments*

For more than quarter of a century, CRCICA has opened up a regional gateway for

the UNCITRAL works and has taken the Model Arbitration Rules as its very own constitution in the administration of international arbitration. In its capacity as the leading arbitration institution in the region, CRCICA has managed to promote the institutional use of the Model Rules in a number of Arab arbitration centres or arbitration-centres-to-be in Yemen, Morocco , Palestine and most recently Iraq.

Now as the Rules soar up a higher pinnacle with so many promising changes appearing far in the horizon, CRCICA is regionally bound to step in and place the international vision into full vivacity in such an important part of the world of trade and business as the Arab Region is.

Out of this perspective, CRCICA held an international conference on: **UNCITRAL Arbitration Rules : 30 Years and Beyond ... Revision of the Rules in Response to Emerging Users' Needs** on 16-17 December 2006 in collaboration with the UNCITRAL, the International Federation of Commercial Arbitration Institutions (IFCAI), the Arab League, the Arab Union of International Arbitration (AUIA) and the Saudi Arbitration Group. One-fifty participants were in attendance from Egypt, Tunisia, United Arab Emirates, Syria, Iraq, Saudi Arabia, Lebanon, Palestine, Sudan, Yemen, Qatar, Morocco and Kuwait.

The Event caught responsive chords with other international initiatives as two similar celebratory conferences were held in Vienna (April 2006) and Kuala Lumpur (November 2006).

The Cairo agenda was structured to present important experiences and case law related to the application of the UNCITRAL Arbitration Rules and in-depth discussions of the proposed revision thereof. This was rendered in a cross-cultural context inter-mixing international experiences and prospects with their regional counterparts. The program lent quite a considerable portion to the institutional application of the UNCITRAL Arbitration Rules by the American Arbitration Association (AAA), the Permanent Court of Arbitration (PCA), the Stockholm Arbitration Institute and the Cairo Arbitration Centre.

**Full reports covering the above-mentioned conferences and seminars are available on: [www.crcica.org.eg](http://www.crcica.org.eg)**

CRCICA contributed to the Second International Symposium on Managing Commercial  
Dispute Resolution Centres  
(Chamonix II)

Chamonix, France  
17-19 May 2006

The International Trade Centre (ITC), a technical cooperation agency of the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization (WTO) for operational, enterprise-oriented aspects of trade development, organized the second International Symposium on Managing Commercial Dispute Resolution Centres in Chamonix, France.

The Symposium focused on the management of both mediation and arbitration services at the national level giving due attention to young centres in developing economies. The Symposium provided a golden opportunity for information exchange, mutual interaction, and potential cooperation amongst dispute resolution centres world-wide. Time was provided for one-to-one meetings between centres, which strengthened regional and international dialogue and enabled momentous exchange of ideas and experiences.

The Symposium was very successful with more than ninety dispute resolution centres from all-over the world participating. The Cairo Regional Centre for International Commercial Arbitration (CRCICA) was represented at the Symposium by **Dr. Mohamed S. Abdel Wahab**, whose well-received working paper has focused on the prospects and feasibility of online dispute resolution services. Dr. Abdel Wahab's presentation identified the technological, cultural, and legal risks and barriers to implementation and diffusion of online dispute resolution services in Egypt and developing economies, and outlined the ongoing efforts to boost connectivity, enact cyber laws, raise awareness and ICT literacy, and build e-trust. Furthermore, a proposal for gradual phase development was submitted, and a vision of building an Egyptian ODR platform for sector-specific disputes (such as IT related disputes) was depicted. It was further ascertained that the CRCICA is on the verge of implementing an ODR pilot project and introducing expedited dispute resolution rules for the ICT sector.

The presentation triggered in-depth discussions and many dispute resolution centres expressed their willingness and interest to collaborate with the CRCICA on future projects and events, which boosted the well-deserved image of the CRCICA as a distinguished transnational dispute resolution institution. Moreover, this importance of this new dimension in dispute resolution services was emphasized in the final Symposium Report.

Owing to the success of the Symposium, which was a truly memorable and enriching experience, the third symposium “Chamonix III” is scheduled to take place in 2008.

#### June 2006: CRCICA co-organized a US Rule of Law Forum

The Southern Methodist University (SMU) School of Law approached CRCICA to organize a Rule of Law Forum for an Egyptian delegation of senior governmental officials, Parliamentarians and business leaders. In June 2006, the Delegation visited the United States for a week of meetings with U.S. leaders and visits to some significant American institutions, including a meeting with the U.S. Attorney General, another with the White House Counsel, visits to the Supreme Court Building and the Federal Reserve Bank.

The Rule of Law Forum for Egypt ranked the fourth in a series of similar forums for Oman, Bahrain, Brunei Darussalam and other countries, all organized in partnership with Senator Kay Bailey Hutchinson and the State Department.

Participants became familiar with the rule of law, as it exists in the United States as well as with key individuals, institutions and systems in place in the United States as indicated by Senator Hutchison. The rule of law involves four basic requirements: equality under the law; a respect for individual rights; an independent and honest judiciary; and transparent court proceedings. According to Senator Hutchison, the delegates return to their countries with a much greater depth of knowledge about the rule of law concept as existing in the United States.

The Forum for Egyptian Delegates was a great success, and Dean J. Attanasio's kind words of appreciation addressed to CRCICA Director: *"without your help we wouldn't have been able to accomplish what we have"*, sums up the organizational role CRCICA took over to help make the Forum a success.

### **UN approves CRCICA Remarks on New Egyptian Model BIT**

Upon the request of the Egyptian Ministry of Investment, the Cairo Centre participated in two workshops held in Cairo on 12-13 December 2006 and 18-19 February 2007 in cooperation with the United Nations Conference on Trade and Development (UNCTAD) in view to discuss the adoption of a model Egyptian Bilateral Investment Treaty ("BIT").

The Cairo Centre submitted remarks on the UNCTAD's drafting suggestions for a new Egyptian model BIT on the light of the position of the existing Egyptian BITs with special emphasis on the dispute settlement provisions stipulated therein.

Such Comments were discussed, approved and shall be integrated in the final version of the proposed model.

### **Future Projects**

- CRCICA will:

⇒ *launch* its Fellowship Program in 2008. More Details will be available as of April 2006 ;

⇒ *soon finalize* its round table discussions on the current Egyptian Arbitration Law no 27/1994. The Cairo Centre's observations and proposed amendments will be then processed to legislative authorities in Egypt;

⇒ *implement* an ODR pilot project and introduce expedited dispute resolution rules for the ICT sector and ;

⇒ *lay out a project* to institutionalize relations with the World Trade Organization in order to organize regular WTO training course by the official support and contribution of the WTO and other international trade law organizations.

- **Project objective:** to Mainstream the WTO, skills and culture into the well being of the region, law and economy;

- **Target region:** CRCICA functions on a wide-regional scale that extends to include all the Afro-Asian Region.
- **Scope of project:** The project targets the implementation of various CRCICA-initiated WTO activities including:
  1. Holding all types of official WTO Training Courses
  2. Conducting Distance Learning WTO Education
  3. Providing E-Training to promote the use of the WTO computer-based training modules (CBTs)
  4. Creating enquiry Points to deal with WTO concerns.

**CRCICA hereby calls upon all AALCO Member States and centers to send their training requirements in the field of WTO Agreements.**

**CRCICA Future Events in 2007 and beyond\***

<b>Date</b>	<b>Event</b>	<b>Co-organizers</b>
1-2 April 2007, Cairo, Egypt	Training Program on the Practical Use of FIDIC Contracts	Federation Internationale Des Ingenieurs Conseils (FIDIC); Egyptian Society for Consulting Engineers (ESCONE)
3-5 April 2007, Cairo, Egypt	Construction Arbitration Training Course	
22-24 April 2007, Amman, Jordan	International Entry Course leading to the Membership of the Chartered Institute of Arbitrators CIArb	Cairo Branch of the Chartered Institute of Arbitrators; Jordanian Engineers Syndicate; Jordanian Engineers Training Centre
6 May 2007, Cairo, Egypt	Arbitration in Trade and Investment Disputes	Egyptian British Chamber of Commerce (EBCC); Wilmer Hale Law Firm
7 May 2007, Cairo, Egypt	Workshop on Drafting the Arbitration Agreement Workshop	Egyptian British Chamber of Commerce (EBCC); Wilmer Hale Law Firm
14-15 May 2007, Saudi Arabia	International Conference on Settlement of Disputes under WTO	World Trade Organization (WTO); Wahib Lami Law Firm (Saudi Arabia)
May/June	Arbitration Training Workshop	United Nations Conference on Trade and Development



		(UNCTAD) United Nations Commission on International Trade Law (UNCITRAL)
4-6 September 2007, Amman, Jordan	Biennial Conference of the Arab Union of International Arbitration (AUIA)	Arab Union of International Arbitration (AUIA); Jordanian Law and Arbitration Centre
17-19 November 2007, Cairo (To be confirmed)	International Conference on UN Convention on Use of E- Commerce in International Contracts	The United Nations Commission on International Trade Law (UNCITRAL)
13-17 December 2007, Cairo, Egypt	Advocacy in International Arbitration	The School of International Arbitration (SIA), Queen Mary University of London, UK
June 2008	The New York Convention : 50 Years of Applications	The United Nations Commission on International Trade Law (UNCITRAL)

#### **Brief News:**

- As of January 2006, Dr. Mohamed Aboul-Enein, CRCICA Director, was elected as member of the Board of the Arbitration Institute of the Stockholm Chamber of Commerce (SCC).
- As of January, 2007, he was re-elected as member of the Board of Trustees of the Chartered Institute of Arbitrators (CIArb) for the Middle East/Indian Sub-continent Region.
- In 2006, CRCICA concluded four new cooperation agreements with the Polish Chamber of Commerce; the International Commercial Arbitration Court of Azerbaijan (ICAC); the Sudanese Association of Legal Counsels and finally the Information Technology Industry Development Agency (ITIDA) of the Egyptian Ministry of Communications.

In January 2007, three new international members joined the CRCICA Board of Trustees; Mrs. Tinuade Oyekunie (Federal Republic of Nigeria), Dr. Georges Abi Saab (Geneva) and Dr. Fouad Abdel Moneim Riad (Arab Republic of Egypt). It is worth noting that CRCICA Board of Trustees composes eminent members of the international and Afro-Asian arbitration community from Egypt, Morocco, Saudi Arabia, Jordan, Lebanon, Kuwait, Japan, China, Nigeria and Geneva.

#### **IV. REPORT ON THE ACTIVITIES OF THE REGIONAL ARBITRATION CENTRE, TEHRAN (TRAC), 2006-07**

##### **INTRODUCTION**

The present document is prepared by the Tehran Regional Arbitration Centre (TRAC) for submission to the Forty-Sixth Session of the Asian African Legal Consultative Organisation (AALCO) to be held in Cape Town, South Africa, in July 2007. It contains the report of activities undertaken by TRAC and the foreseen plans for 2007.

##### **A. ACTIVITIES IN 2006**

In general TRAC feels rather content with the scope and variation of its activities over the last year. Having dealt with three years of preliminary challenges faced by TRAC since the commencement of its activities, it now feels to have taken root and bestowed with a more vivid sense of directions and incentives. The following highlights what TRAC has achieved during 2006:

##### **1. Rules of Conciliation**

In November 2006 TRAC drafted its Rules of Conciliation. In the current world of commerce, Alternative Dispute Resolution mechanisms are evidently at their highest prominence since ever before. Being aware of this, TRAC felt compelled to make a contribution to this notable development.

In drafting its Rules, TRAC has taken substantial inspiration from the UNCITRAL Rules of Conciliation. However, it adopted an incorporative approach in the sense that it has applied a degree of modifications and adjustments, which makes it more consistent with TRAC's institutional characteristics. It has, moreover, largely benefited from the experience of other specialised international institutions. In addition, the Rules of Conciliation of TRAC contain some subtle innovations, which aim to fashion a fair degree of simplification and, hopefully, induce a better convenience for the use of business partners.

##### **2. Farsi Translation of Rules of Arbitration**

In December 2006 the Rules of Arbitration of TRAC were translated into Farsi. This scheme was in pursuance of three main objectives:

- To assist companies who have a preference for using the Farsi version of the Rules of Arbitration;
- To further facilitate and promote arbitration in Iran, with regard to domestic or transnational disputes, and

- To provide more reassuring grounds for the protection of business relations in particular, those which involve Farsi speaking communities in other countries.

However, in order to avoid disparities in the implementation and application of the Rules, in the event of discrepancy between Farsi and English texts, the English text would prevail.

### **3. First Case at TRAC**

In May 2006 two parties, an Iranian company in charge of the construction of a residential building in Tehran and an European engineering company, requested TRAC to assist them in settling their contractual based dispute arising out of the failure of one party to meet the stipulated time limits for payment of invoices and the consecutive unilateral termination of the contract by the other party.

This was the first case referred to TRAC since its establishment. This case was of important significance for TRAC, since it could observe the function of its own institution in practice. Much to its content, TRAC was able to establish an effective and continuous communication between all concerned during the proceedings. Several meetings and discussions were held at TRAC's premises with the participation of the parties' representatives, counsel and an outstanding array of legal experts.

The case in question was referred to TRAC after several rounds of fruitless negotiations between the parties. The five-member Committee envisaged under the Contract rendered a well-rounded decision in early December 2006, which was communicated to the parties and implemented by them.

### **4. Newsletter**

The first issue of the TRAC Newsletter was released in January 2007. The TRAC Newsletter contains a concise overview of TRAC's activities and serves as its main forum of communication with a wider audience, companies and all those involved or interested in arbitration.

Aside from its prevailing promotional function, the Newsletter's wider outlook is to familiarise more people of the Region with international commercial arbitration and bring into light its advantages and convenience. TRAC is hoping to carry on publishing its Newsletter on a quarterly basis.

### **5. New Staff and New Arbitrators**

To deal with the new challenges and the increasingly heavy workload, TRAC has initiated a new round of recruitment.

In addition, and as a result of the promotional activities during the past year, a good number of prestigious arbitrators have expressed their desire to be included in the list of the TRAC's recommended arbitrators which, for the time being, boasts some twenty members, covering a range of different nationalities. TRAC is nevertheless considering the placement of more arbitrators in the list for the next year.

## **6. Further Steps towards Cooperation**

One of TRAC's long-standing objectives has been the pursuit of developing its relationship with other international and regional arbitration centres, in particular the Regional Arbitration Centres functioning under the auspices of AALCO. During last year some concrete steps have been taken towards fulfilling this objective.

TRAC used the opportunity of the Conference held in Kuala Lumpur in November 2006 for the Commemoration of the UNCITRAL Rules of Arbitration, to discuss with other Regional Arbitration Centres the areas of cooperation and the ways by which the Member States of AALCO can be encouraged to resort to arbitration under the administration of the Regional Centres on a more frequent basis.

## **7. Finance**

One of the outstanding achievements of TRAC during last year was its financial independence from governmental resources. Although, under the Seat Agreement concluded between the Government of Islamic Republic of Iran and AALCO in 1996, the Iranian Government had undertaken to grant annual financial assistance, TRAC has done its best to become financially independent.

## **8. Promotional Activities**

The Director and members of the Secretariat of TRAC continued to hold meetings with many companies, lawyers and people who could assist the promotion of the TRAC Rules of Arbitration among Regional business communities. Based on data received by TRAC, more and more contracts with a wide array of different subject matters, including general trade, gas and oil, offshore and on-shore oil well drilling, bank guarantees and telecommunications have stipulated a TRAC arbitration clause.

The publication of the TRAC Newsletter, beyond doubt, has remarkably contributed to its promotional objectives.

## **B. ACTIVITIES FORESEEN FOR 2007**

The foreseen activities of TRAC cover not only events of a purely promotional nature, but also those aimed at enhancing the quality of its institutional work magnifying the positive factors of international arbitration.

## **1. Promotional Activities**

The promotional activities of TRAC in 2007 are mainly divided into holding regular meetings with companies operating in the Region, their legal departments and lawyers and other people interested in arbitration, and arranging activities such as different workshops and conferences which, aside from their promotional function, would raise wider awareness about the practical aspects of international arbitration and relevant issues.

## **2. Translation of the Rules into Arabic**

The advantage of making available the rules of Arbitration and Conciliation in the predominant regional languages would undoubtedly facilitate their use by entities, which have a preference for applying a specific language and thereby, result in the prevalence of recourse to international arbitration in the Region. Bearing this in mind, TRAC is contemplating the translation of its Rules into Arabic during the course of next year.

## **3. Further Cooperation**

In line with the efforts made during last year for advancing further cooperation with regional and international arbitration institutions and specifically with the Regional Centres of Arbitration born under the auspices of AALCO, TRAC will continue to pick out areas of cooperation and common ideals and work to materialise such constructive and practical cooperation in the field of commercial arbitration.

## **4. Newsletter**

In order to fortify the informative function of the Newsletter, a section will be dedicated to the publication of articles on arbitration, in particular from the perspective of different legal systems. For this reason TRAC has invited a number of esteemed international commercial arbitrators and lawyers from different national backgrounds to contribute their articles, which will be inserted in the future issues of the Newsletter.

TRAC is also envisaging a section for new publications on international commercial arbitration. It has, therefore, contacted several recognized publishers for introducing their new publications in the area of international arbitration in its Newsletter.

## **5. Change of Office**

The Director of TRAC has been broaching the Government of the Islamic Republic of Iran with requests for allocating it with independent and more spacious premises. TRAC will continue discussing the issue during the coming year.