

ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



**REPORT ON THE AALCO'S
REGIONAL ARBITRATION CENTRES**

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REPORT ON THE AALCO'S REGIONAL ARBITRATION CENTRES

I. INTRODUCTION

A. Background

1. The Asian-African Legal Consultative Organization (AALCO), during its Thirteenth Annual 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 conduct an independent study on 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 Fifteenth Annual Session held in Tokyo (Japan) in 1974.

2. At the Tokyo Session, 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 centres in the Asian-African region, to be placed before the Eighteenth Annual Session of AALCO.¹

3. At the Eighteenth Annual Session, held in Baghdad (Iraq) 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 Asian-African region could be minimized. The Integrated Scheme also represented an effort on the part of the developing countries for the first time to evolve a fair, inexpensive and speedy procedure for settlement of disputes.

4. At the Nineteenth Annual Session, held in Doha (Qatar) in 1978, AALCO endorsed the Trade Law Sub-Committee's recommendations on the establishment of two Arbitration

¹ 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, East Africa and West Africa. It was, however, pointed out that scheme could initially work with two centres and other centres could be established in the light of experience and volume of work.

Centres for the Asian and African regions in Kuala Lumpur (Malaysia) and Cairo (Arab Republic of Egypt) respectively. It was envisaged that the two Arbitration Centres would function as international institutions under the auspices of AALCO with the following objectives:

- (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 the enforcement of arbitral awards; and
- (e) Providing for arbitration under the auspices of the centre where appropriate.

5. In pursuance to 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 Centre for Arbitration in Kuala Lumpur. A similar Agreement was concluded in January 1979 with the Government of the Arab Republic of Egypt with respect to the establishment of a Regional Centre for Arbitration in Cairo. The Agreements recognized the status of the Centres 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 Centres. The Centres 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 Centres prompted the Organization to establish two more centres, one in Lagos (Nigeria), which was formally inaugurated in 1989. The other Centre was established in Tehran (Islamic Republic of Iran), 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 (MoU) between AALCO and the Government of Republic of Kenya was signed on 3 April 2006 during the Forty-Fifth Annual Session of AALCO held in the Headquarters in New Delhi to establish a fifth Centre in Nairobi. The Agreement establishing the Nairobi Regional Centre for Arbitration was signed by the then Secretary-General of AALCO and the Attorney-General of the Republic of Kenya during the Forty-Sixth Annual Session of AALCO held at Cape Town, Republic of South Africa from 2 to 6 July 2007.

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

8. AALCO's first Centre for Arbitration was established in Kuala Lumpur, Malaysia in March 1978. This was considered as an important landmark in the movement for promoting Asian-African solidarity in international legal matters and economic relations.

The Centre was established for an initial period of three years by a formal exchange of letters between the Malaysian Government and the then AALCC. The Centre was formally inaugurated by the then Rt. Hon' ble Tun Hussein Onn, Prime Minister of Malaysia on 17 October 1978.

9. Subsequently, an agreement was signed between the Government of Malaysia and the Asian-African Legal Consultative Committee relating to the Regional Centre for Arbitration in Kuala Lumpur on 29th July 1981.² Thereafter, the Headquarters Agreement for Kuala Lumpur Centre for International Commercial Arbitration was signed on 10th August 1989.³

10. In order to formalize the continued functioning of the KLRCA, with effect from 1 January 1992, an Agreement between Asian-African Legal Consultative Organization and the Government of Malaysia relating to the Regional Centre for Arbitration in Kuala Lumpur was signed on 14 February 2004.⁴

12. 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.

13. 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 RACKL Supplemental Rules.

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

14. The first Regional Arbitration Centre in African region, the Cairo Regional Centre for International Commercial Arbitration (“CRICA”) was established in January 1979. The Centre was established for an initial period of three years by a formal exchange of letters

² This agreement was signed by the then Minister of Commerce and Industry H.E. Tengku Ahmad Rithauddeen on behalf of Malaysia and for AALCC the then Secretary-General Mr. B. Sen had signed it.

³ It was signed by the then Attorney-General of Malaysia H.E. Tan Sri Abu Talib Bin Othman and Mr. F. X. Njenga, the then Secretary-General, AALCC.

⁴ This agreement was by signed by H. E. Datuk Seri Utama Dr. Rais Yatim, Minister at the Prime Minister's Department and H.E. Amb. Dr. Wafik Zaher Kamil, the then Secretary-General of AALCO.

between the Government of the Arab Republic of Egypt and AALCO. In 1983, another agreement was concluded between AALCO and the Government of the Arab Republic of Egypt for granting a permanent status to the Cairo Centre.

15. The Cairo Centre offers specialized services to settle trade and investment disputes, through arbitration. It also includes 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, seminars, and training programmes for international arbitrators and legal scholars from the Afro-Asian region by the Centre's Institute for Arbitration and Investment. The Cairo Centre follows the UNCITRAL Arbitration Rules with certain modifications.

16. 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 the Arab Republic of 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) Regional Centre for International Commercial Arbitration-Lagos (RCICAL), Federal Republic of Nigeria

17. In 1980, an Agreement was concluded with the Government of the Federal Republic of Nigeria for the establishment of a third Centre in Lagos. The Centre was formally inaugurated in March 1989. On 26 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 AALCC, signed an Agreement in this connection. Since then, the Centre has been put into operation on the basis of its human resource and capital.

18. The Centre is today a beehive of activities providing venues for both domestic and international arbitration in economic and commercial matters in Africa South of the Sahara, particularly, the West African Sub-Region.

19. On 7 February 2006, the then Secretary-General of AALCO, inaugurated the Advisory Committee of the Regional Centre for International Commercial Arbitration, Lagos. Also present on the occasion were Hon'ble 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

20. 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 Centre for Arbitration in Tehran. At the AALCO's Forty-Second Annual 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.

21. The President of the Islamic Republic of Iran ratified the Agreement for implementation on 10 June 2003. On 31 January 2005, the then Secretary-General of the AALCO approved the TRAC Rules of Arbitration.

(v) Nairobi Regional Arbitration Centre, Republic of Kenya

22. It may be recalled that during the Arusha (Tanzania, 1986) and Bangkok (Thailand, 1987) Annual 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 Preferential Trade Area for Eastern and Southern African Countries (PTA) 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.

23. During the Thirty-Second Annual Session in Kampala (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 then AALCO Secretary-General, H. E. Mr. Frank X. Njenga 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.

24. Accordingly at the Thirty-Third Annual Session held in Tokyo (Japan, 1994), a proposal was put before the Leaders of Delegations of Member States for the establishment of additional Centres 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”.⁵ 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.

25. It may be recalled that during the Forty-Fifth Annual Session of AALCO held at New Delhi (Headquarters) on 3 April 2006, the then Secretary-General of AALCO and the Attorney General of the Republic of Kenya signed the Memorandum of Understanding (MoU) for the Establishment of the Regional Centre for Arbitration in Nairobi, Republic of Kenya.

26. In pursuance to the MoU, an Agreement Establishing the Nairobi Regional Arbitration Centre for Arbitration was signed between the then Secretary-General of AALCO and the Attorney General of the Republic of Kenya during the Forty-Sixth Annual Session of AALCO held at Cape Town, Republic of South Africa from 2-6 July 2007.

B. Activities of the Centres

27. Although in the beginning, the promotional activities of AALCO’s Regional Arbitration Centres were primarily carried out by the AALCO, in view of experience accumulated over the years and the contacts established by these centres with Governments, governmental agencies and international institutions, such promotional activities are now mainly carried out by the Centres themselves. Such promotional activities are highlighted in the Reports of the Directors of the respective Centres.

28. 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.

29. An important function of the Directors of AALCO’s Arbitration 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.

30. 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:

⁵ Minutes of the Meetings of the Leaders of Delegations of Member States held during the Thirty-Third (Tokyo) Annual Session of AALCO in 1994.

(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 Centres, where it is considered expedient for such disputes and differences being settled through AALCO's Regional Arbitration Centres.

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

32. The following part of this Secretariat Report places for consideration the Report of the Directors of the Tehran, Lagos, Kuala Lumpur and Cairo Regional Arbitration Centres, highlighting the details of the activities of the Centres in the year 2009 and the foreseen plans for 2010.

II. REPORT ON THE ACTIVITIES OF THE TEHRAN REGIONAL ARBITRATION CENTRE (TRAC), 2009-2010

A. Introduction

33. The present document has been prepared by the Tehran Regional Arbitration Centre (TRAC) for submission at the Forty-Ninth Annual Session of the Asian-African Legal Consultative Organisation (AALCO) to be held in Dar es Salaam, United Republic of Tanzania, from 5 to 8 August 2010. It contains the report of activities undertaken by TRAC in 2009 and the foreseen plans for 2010.

B. Activities during 2009

34. During 2009, Tehran Regional Arbitration Centre (TRAC) actively pursued its main objectives, i.e., conducting arbitration in accordance with Rules, and promotion of international arbitration.

1. Conducting Arbitration and Providing Efficient Services

i. Arbitration Cases

35. During 2009, three arbitration cases were initiated on the basis of TRAC's arbitration clause and were referred to the Centre. The cases involved parties of different nationalities and concerned disputes with respect to contracts concluded with respect to oil services, telecommunication and construction.

36. TRAC endeavoured to provide an efficient and prompt service to the parties. Where one of the parties was found in default, TRAC took action in accordance with its Rules to prevent impediments in arbitration proceedings. In determining, the time periods allocated to the parties, TRAC would also act cautiously to strike a balance between the elements of speed and due process.

37. Furthermore, TRAC found that the List of Arbitrators available on its website provided a very useful tool to the Parties to the choice of the arbitrators.

38. One case was finally terminated by an arbitral award issued by a sole arbitrator. In the two other cases, pleadings were exchanged between the parties. A number of interested entities have also contacted TRAC inquiring about the possibilities of referring their disputes to TRAC Rules.

ii. New Arbitrators

39. The List of Arbitrators available in TRAC's website, while it does not limit the freedom of the parties to select the arbitrator of their choice, has proven to be a good source of reference at the time of selection of arbitrators by the parties.

40. On this basis, TRAC welcomed the applications of experts and practitioners in the field of international arbitration wishing to join the List. On the basis of their outstanding experience and qualifications, some prominent figures of international arbitration have been included in the List during 2009.

41. TRAC's List of Arbitrators now boasts the details of 46 outstanding lawyers of 22 different nationalities with wide experience in international arbitration. (Annex 1)

42. TRAC expects that its List will continue to serve well and become more diverse to offer a wider choice to the parties willing to select an arbitrator.

2. Promotion of International Arbitration

43. Making known available arbitration services in the Region has an undeniable importance in the promotion of arbitration amongst various industries and companies. TRAC has thus paid special attention to activities that would be useful for the promotion of arbitration as an alternative mechanism.

44. A number of leaflets and brochures containing an introduction to international arbitration, an overview of TRAC's services and facilities have been prepared and distributed to a number of local, regional and international companies in oil, gas, construction and trade sectors. Industrial and trade exhibitions and events were also a unique opportunity to make contact with relevant representatives of companies. TRAC also used such opportunities to hold discussions and promote its arbitration services.

45. By holding meetings with general directors and heads of a wide range of companies working in the region, TRAC has further advanced its promotional and marketing strategies.

46. TRAC also organized a meeting in Paris in collaboration with Derains & Gharavi, one of the most renowned French law firms specialized in international arbitration. A number of major French companies in the Region together with lawyers of French and other nationalities attended the meeting. The presentations were focused on the TRAC Rules of Arbitration and its activities, and also various subjects such as enforcement of TRAC's awards were thoroughly discussed.

3. Workshops and Seminars

47. Another scheme TRAC has been pursuing since 2007 for the promotion of arbitration is the organization of seminars and workshops, addressing the most salient issues pertaining to the regime of international commercial arbitration and trade law.

48. Over 21 workshops have been held at TRAC's premises in Tehran since the beginning of this scheme, 9 of which were held in 2009 alone. The issues discussed in these workshops include the notion of international contracts, means of payment, guarantees and warranties, applicable law, consequences of *force majeure* and change of circumstances, determination of a suitable means for settlement of disputes, arbitration clause and arbitration agreement, recognition and enforcement of arbitral awards, recognition and enforcement of judicial decisions.

49. However, during 2009 TRAC took the initiative of addressing the essential elements of each specific international commercial contract. The type of contracts discussed so far include production sharing agreement, license, agency and distribution agreements, technology transfer, construction contracts, sales and purchase, engineering, procurement, services and finance agreements. Moreover, specific clauses commonplace in these contracts such as insurance, payment, confidentiality, termination, guarantee and contract transfer constituted the subject matter of the more recent workshops (Annex 2)

50. The participants in the workshops were, for the large part, legal advisers of companies in the fields of oil and gas, telecommunications, import and export and general trade. Practitioners and experts highly acquainted with the subject matter of each workshop were invited to run the discussions accordingly. Feedbacks received from the participants reveal a positive response and a very promising satisfaction rate.

51. In addition, in order to reach out to a wider audience, TRAC also organized several seminars in 2009 in cooperation with other institutes and organizations. Thus, five seminars were held in association with the Iranian Branch of International Law Association and one seminar with the Organisation for Investment, Economic and Technical Assistance of Iran (OIETAI). (Annex 3)

52. The Panellists included high profile legal advisors, professors, international arbitrators, heads of legal departments and experts. The participation of experienced

lawyers in the field of international arbitration but also of young lawyers and students was welcomed.

53. The aim of the seminars was to address, in depth issues pertaining to international arbitration and to reflect the new developments and provide different viewpoint in this respect. The subjects dealt with in seminars held in 2009 concerned interim measures in arbitration, rights, responsibilities and conditions of arbitrators, and third parties and arbitration. Yet, in the most recent seminar held in association with the Organisation for Investment, Economic and Technical Assistant (OIETAI), the Role of Investment Treaties in the Protection of Iranian Investments Abroad was at the heart of the discussion, where in several lawyers, experts and prominent figures including the Vice-Minister for Economic Affairs and Finance and the President of OIETAI, presented their contributions. There were, on average, one hundred participants for each event.

4. Publications

54. With the aim of promotion of international arbitration and making arbitration materials more accessible, TRAC launched in 2009 its publication section. In April 2009, a collection of essential and most commonly referred to rules and laws concerning international arbitration were published as a handbook. The speeches offered at the seminars were also collected and published in two volumes.

55. In conclusion, over 2009, besides conducting arbitration and ensuring the efficiency and a high standard for its services, TRAC diligently took measures for the promotion of international arbitration in the Region. The overall work and activities of TRAC, apart from creating an active and well-established image, has enabled it to preserve its financial independence from Government contributions.

C Foreseen Plans for 2010

56. The strategies of TRAC for 2010 will be basically directed towards providing and ensuring high arbitration services and promotional activities.

1. Ensuring Efficient Arbitration Services

57. TRAC will endeavour to uphold the standard of its services and apply the best practice of its rules. Besides arbitration services, it will endeavour to finalise its rules on conciliation and to provide other alternative dispute resolutions such as conciliation. It will further pursue its aims by making its Rules available in other languages, such as Arabic.

58. TRAC will also continue to organize workshops and seminars. It has already planned a seminar entitled Awarding Late-Payment Damages in International Arbitrations, which will be held in the first quarter of 2010. Further topics on international investment law will be the subject matter of prospective seminars. TRAC has also envisaged holding seminars in association with other international institutes active in international trade and commerce, as well as Regional Arbitration Centres. (Annex 4)

59. Workshop programmes will also be carried out on a regular basis during 2010 (Annex 5). The publications section is also considering the eventuality of publishing a newsletter regarding new developments and arbitration cases besides its regular work.

60. TRAC will not fail to carry on its promotional activities by holding meetings and attending prospective events and enlarging its list of arbitrators. Effective communication and cooperation with Regional Arbitration Centres under the auspices of AALCO is also one of the objectives in which the TRAC will attempt to advance in the course of 2010.

D. Annexure of Report of the TRAC

Annex 1 – List of Arbitrators

1. Dr. Zia AKINCI (Turkish)	24. Dr. Laurent LEVY (Swiss/Brazilian)
2. Mr. Francois AMELI (Iranian/French)	25. Mr. Sunil MALHOTRA (Indian)
3. Dr. Koorosh H. AMELI (Iranian)	26. Ms. Yuliya MITROFANSKAYA (Russian)
4. Dr. Homayoon ARFAZADEH (Iranian/Swiss)	27. Dr. Mohsen MOHEBI (Iranian)
5. Ms. Niuscha BASSIRI (Iranian)	28. Mr. Reza MOHTASHAMI (Iranian/British)
6. Ms. Bennar BALKAYA (Turkish)	29. Dr. Allahyar MOURI (Iranian)
7. Mr. Khosrow BARADARI (Iranian)	30. Dr. Mohammad Ali MOVAHED (Iranian)
8. Mr. Daniel BERNBECK (German)	31. Mr. Piotr NOWACZYK (Polish)
9. Mr. Marc BLESSING (Swiss)	32. Mr. Justice Joseph Grego NYAMU (Kenyan)
10. Mr. Ashwinie Kumar BANSAL (Indian)	33. Dr. Colin Yee Cheng ONG (Brunei)
11. Ms. Yas BANIFATEMI (Iranian/French)	34. Mr. Flavio Augusto PICCHI (Brazilian/Italian)
12. Mr. Louis DEGOS (French)	35. Dr. Hossein PIRAN (Iranian)
13. Mr. Siegfried H. ELSING (German)	36. Mr. Henry C.R. Quinlan (British)
14. Mr. Ike EHIRIBE (Nigerian/British)	37. Mr. Kamran RASHIDI (Iranian)
15. Dr. Raed Mounir FATALLAH (Lebanese/Canadian)	38. Mr. R.K. SANGHI (Indian)
16. Mr. Amir GHAFARI (Iranian/British)	39. Mr. S. Ahmed SARWANA (Pakistani)
17. Dr. Hamid GHARAVI (Iranian/French)	40. Dr. Seyed Jamal SEIFI (Iranian)
18. Dr. Karim HAFEZ (Egyptian)	41. Mr. David SELLERS (British)
19. Mr. Richard Harding (British)	42. Mr. Joseph TIRADO (British)
20. Mr. Veeraraghavan INBAVIJAYAN (Indian)	43. Mr. Patrick van LEYNSEELE (Belgian)
21. Ms. Sagheh JAVAHERI SAATCHI (Iranian)	44. Mr. Robert VOLTERRA (Canadian)
22. Mr. A. Francis JULIAN (Indian)	45. Mr. Karim YOUSSEF (Egyptian)
23. Mr. Faruq KHAN (Kenyan/Canadian)	46. Mr. Antonio BRAGGION (Italian)

Annex 2 - Workshops Organized in 2009

January 2009	Recognition and Enforcement of Foreign Judgments in National Laws and International Conventions
February 2009	Recognition and Enforcement of Foreign Judgments in National Laws and International Conventions
May 2009	Joint Venture Agreements
June 2009	License, Agency, Distribution Agreements
July 2009	Transfer of Technology Agreements
September 2009	Construction Contracts
October 2009	Sales Contracts
November 2009	Engineering, Procurement and Service Contracts
December 2009	Financing Agreements

Annex 3 - Seminars Organized in 2009

January 2009	Selected Issues in International Arbitrations
March 2009	Arbitration and Interim Measures
May 2009	Arbitrator: Characteristics, Rights and Liabilities
October 2009	Arbitration and Third Parties
December 2009	The Role of International Investment Treaties in the Protection of Iranian Foreign Investments

Annex 4 - Seminars Scheduled for 2010

March 2010	Late-Payment Damages in International Arbitrations
June 2010	<i>Alter Ego</i>
September 2010	Public Policy in International Commercial Arbitration
December 2010	Uses and Abuses of International Investment Treaties

Annex 5 - Workshops Scheduled for 2010

January 2010	<i>Force Majeure</i> , Insurance, Payment and Termination Clauses
January 2010	Confidentiality, Liability, Warranty and Assignment of Contract Clauses
March 2010	Applicable Law and Dispute Settlement Clauses
May 2010	Notion of Investment and Treatment of Foreign Investor
June 2010	Expropriation & Compensation
July 2010	Powers and Duties of Engineer and Managing Contractor
September 2010	Effects of Delay in Performance, Change Order and Escalation in Construction Contracts
October 2010	Effects of Temporary and Final Acceptance in Construction Contracts
November 2010	Consequences of Termination and Basis for Damage Claims in Construction Contracts
December 2010	Non-Conformity of Goods with the Contract and Price Reduction

III. REPORT ON THE ACTIVITIES OF THE REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION-LAGOS (RCICAL), 2009-2010

A. Introduction

61. This Report has been prepared by the Regional Centre for International Commercial Arbitration - Lagos, Nigeria for submission at the Forty-Ninth Annual Session of AALCO. It contains the report on the Centre's activities during 2009 and the anticipated activities in the remaining segment of 2010.

B. Case Load in the Year 2009

62. In 2009, 8 (eight) disputes/cases were arbitrated at the Centre; 2 (two) International arbitrations and 6 (six) ad-hoc ones involving Nigerian registered companies with subject matter ranging from oil and gas, telecommunications, hospitality services, construction works and more recently, environmental pollution management and aviation. The latter two areas of disputes are new additions to the more traditional disputes encountered at the Centre.

C. Participation in Arbitral Events

1. International Congress of Maritime Arbitrators (ICMA XVII), 5th-9th October, 2009 at Empire Riverside Hotel Hamburg, Germany

63. The Centre's General Counsel delivered a paper on "**Party Autonomy in Arbitration**" as practiced in Nigeria under the Arbitration and Conciliation Act of Nigeria. Practical issues in party autonomy under the Lagos Centre's Arbitration Rules were also addressed.

2. Section on Business Law of the Nigerian Bar Association, 5th Business law Conference 5th - 8th April 2010, Abuja Sheraton Hotel and Towers, Abuja, Nigeria

64. The Centre was represented at the 5th Business Law Conference of the Section on Business Law of the Nigerian Bar Association titled "**Regulating the Business Environment in Emerging Markets**". The Arbitration and ADR Session discussed the topic-"**Nigeria: Arbitration and the States**". The panel of discussants addressed the relationship between the Federal arbitration law of Nigeria, and the arbitration laws of some States. Similarly, the rationale for the establishment of other arbitration and ADR institutions by some States in Nigeria was also discussed.

65. The panel which consisted mainly of Attorneys General of some States agreed that since Nigeria is a federation of States, Nigerian law recognizes the powers of the component States to legislate in areas of State competence. Accordingly, Arbitration and ADR, being among the areas of both federal and state legislative competence, both the

federal government and state governments can make arbitration laws; and also set up parallel arbitration institutions.

3. The Commonwealth Regional Law Conference 2010, 8th – 11th April 2010, Transcorp Hilton Abuja

66. The Centre was well represented at the Conference, which had the theme “**The 21st Century Lawyer: Present Challenges-Future Skills**”.

67. During the session on Arbitration and ADR, the topic “**Model Systems of Dispute Resolution in West Africa**” was discussed by a panel of mixed Arbitration and ADR practitioners from Nigeria, United Kingdom and Canada. The practice of court connected ADR model of the Abuja-(Nigeria) Multi-Door Court House was compared with British civil mediation by court mediator experience based on the Exeter Group of Courts.

D. Educational Activities

1. ADR Moot Competition

68. In last year’s Annual Report, it was reported that the collaboration of the Regional Centre for Arbitration, Lagos with Alternative Dispute Resolution (ADR) Consultants from the School of Oriental and African Studies–University of London, some of who facilitate the Annual Williem C. Vis Arbitration Moot in Vienna Austria; for the purpose of initiating ADR Moot Competitions among Universities within the sub-Sahara African region.

69. The Centre is happy to report that the Moot Competition is in its concluding stages such that participating students from the African States would be sponsored by the Lagos Centre to future competitions.

70. Expectations are that more universities from the sub-Sahara African countries would indicate greater interest in this Competition, in order to maximize the promotion by the Centre of the Law and Practice of various ADR mechanisms within sub-Sahara Africa and indeed the rest of the African region.

E. Promotional Activities

71. The following promotional activities were embarked upon by the Centre in the period under reference:

1. International Bar Association Conference held on 23rd – 25th June, 2010 at Eko Hotel, Lagos, Nigeria

72. The Centre sponsored an International Bar Association (IBA) Section on Energy, Environmental, Natural Resources and Infrastructure Law (SEERIL) and Arbitration

Conference entitled "**Resolving International Energy and Infrastructural Disputes**" held on 23-25 June 2010 in Lagos, Nigeria.

73. The Director of the Centre delivered a paper at this event titled "**Making Africa an attractive destination for international arbitration**". In her paper, the Director observed that in making Africa attractive to international arbitration; it is critical that business executives and the Lawyers called upon to negotiate an International Contract be familiar both with the process of International Arbitration and with the specialized institutions and rules available for conducting arbitration.

74. According to her, the pre-requisites for the development and attraction of international arbitration to Africa can be classified into five broad categories namely: legal framework, judicial, practice, political and social. The presence and optimum exploitation of these factors will ensure the attractiveness of Africa as an international arbitration destination.

2. The Intellectual Property Alternative Dispute Resolution (IP ADR) Scheme

75. The Project on IP ADR Scheme of the Centre and the Intellectual Property Lawyers Association of Nigeria (IPLAN) aimed at entrenching a dispute resolution scheme for the intellectual property industry in Nigeria is still ongoing.

3. Domain Name Dispute Resolution Scheme

76. In furtherance of the Centre's work in Domain name dispute registration, the Centre is being proposed as the appointing authority for arbitration matters by the newly registered Nigeria Domain name registration body; in addition to making the Centre the dispute resolution centre for the industry.

F. Future Activities of the Centre

77. The under listed events are slated for 2010 and beyond:

1. Training on Arbitration for Law Officers

Duration : 3 weeks

Venue : Regional Centre for International Commercial Arbitration-Lagos

2. Arbitration Workshop for Federal Legislators in Nigeria

Duration : 2 days

Venue : Lagos

3. Moot Arbitration for African Universities: Ongoing from 2009/2010

Duration : 2 Weeks

Venues : Nigeria/Vienna

IV. REPORT ON THE ACTIVITIES OF THE KUALA LUMPUR REGIONAL CENTRE FOR ARBITRATION (KLRCA), 2009-2010

A. About KLRCA

78. The Kuala Lumpur Regional Centre for Arbitration (KLRCA) was established in 1978 under the auspices of the Asian-African Legal Consultative Organization (AALCO).

79. KLRCA was the first regional centre established by AALCO in Asia to provide institutional support in a neutral and independent venue for the conduct of domestic and international arbitration proceedings in Asia.

80. KLRCA is a not for profit non-governmental international arbitral institution. Pursuant to an agreement between the Government of Malaysia and AALCO, the Government of Malaysia supported the establishment of a regional centre for commercial arbitration in Kuala Lumpur and agreed to provide the facilities for the establishment and functioning of such a centre.

81. KLRCA is administered by a Director under the supervision of the Secretary-General of AALCO. The Government of Malaysia has accorded KLRCA independence and certain privileges and immunities for the purposes of executing its functions as an international institution.

B. Annual Report for Period ended 2009

82. The year 2009 saw 30 of years of existence of KLRCA.

83. KLRCA joined in several Malaysian Government sponsored delegations in promoting investment and business opportunities in Malaysia. The cities visited by the delegations included Frankfurt, Milan, London, Melbourne, Los Angeles, Munich and San Francisco.

84. KLRCA was approached to appoint arbitrators and mediators. In 2009, the total number of international arbitration and domestic arbitration was seven (7) and sixty six (66) respectively. In addition to that, there were two (2) mediation cases and four (4) domain name dispute cases.

85. KLRCA entered into two co-operation agreements in October 2009 which were graced by the presence of H.E. Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO, namely:

(1) KLRCA-UKM Agreement - KLRCA and Universiti Kebangsaan Malaysia (UKM) entered into a co-operation agreement to conduct Post-Graduate Diploma course in Arbitration under the “Continuing Professional Development” program (CPD); and

(2) KLRCA-ADNDRC Agreement - KLRCA and the Asian Domain Name Dispute Resolution Centre (ADNDRC) entered into a co-operation agreement wherein a branch of ADNDRC is to be located in KLRCA.

86. KLRCA participated in the Law Asia's inaugural Moot Competition by allowing the use of its premises to host the event. KLRCA also participated in other activities including attending conferences and seminars both locally and overseas.

C. Financial Statements as at December 2009

87. Declaration by Director

I, SUNDRA RAJOO A/L NADARAJAH, being the current Director of KUALA LUMPUR REGIONAL CENTRE FOR ARBITRATION was appointed on 3rd March 2010.

All financial matters prior to 3rd March 2010 was under the control and stewardship of the then Director Ms Dato' Noorasikin Binti Tan Sri Abdul Rahim, and as such any and all matters arising there from during that relevant period shall be the sole responsibility and for the sole account of Ms Dato' Noorasikin. I hereby declare that the balance sheet of the Centre as at 31 December 2009 and the related statements of Income and Expenditure and the Cash Flow statement of the Centre for the financial year ended on 31st December 2009, together with the notes thereto are in the best of the knowledge of external auditors and belief fairly stated based on the documents and information made available by the previous management.



SUNDRA RAJOO A/L NADARAJAH
(Director of Kuala Lumpur Regional Centre for Arbitration)
Kuala Lumpur
Date: 15 June 2010

D. Independent Auditor's Report to the Director of Kuala Lumpur Regional Centre for Arbitration

1. Report on the Financial Statements

88. We have audited the financial statements of KUALA LUMPUR REGIONAL CENTRE FOR ARBITRATION, which comprise the balance sheets as at 31 December 2009 of the Centre, and income statements and cash flow statement of the Centre for the financial year then ended, and a summary of significant accounting policies and other explanatory notes, as set out on pages 14 to 24.

2. Director's Responsibility for the Financial Statements

89. The Director of Kuala Lumpur Regional Centre for Arbitration is responsible for the preparation and fair presentation of these financial statements in accordance with applicable approved Financial Reporting Standards in Malaysia. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatements, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

3. Auditors' Responsibility

90. Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with approved standards on auditing in Malaysia. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

91. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by the Director, as well as evaluating the overall financial statements presentation.

92. We believe that our audit provides a reasonable basis for our opinion.

4. Basis for Qualified Opinion

93. As mentioned in Note 5 to the Financial Statements, other receivables and deposits includes staff claims in respect of expenses totaling RM 88,682 by a former employee of the Centre during the financial year ending 31 December 2009. The current management, on the advice of its solicitors, regards such claims are in breach of the terms of employment. The Centre intends to take necessary action to recover this amount from the former employee. Pending the outcome, the effects, if any, may have a bearing on the Financial Statements of the Centre as at 31 December 2009.

94. Included in the Client's deposits as at 31 December 2009 as detailed in the Note 7 to the Financial Statement, is an amount of RM307,014 and RM382,540 in respect of receipts and payments respectively which has not been reconciled with the respective clients ledgers during the financial year ending 31 December 2009. We are unable to obtain sufficient documentary evidence to satisfy ourselves with regards to the carrying value of this amount.

5. Qualified Opinion

95. In our opinion, except for the effect of adjustments on the financial statements if any, as mentioned in the preceding paragraph, the financial statements have been

properly drawn up in accordance with applicable approved Financial Reporting Standards in Malaysia so as to give a true and fair view of the state of affairs of the Centre as at 31 December 2009 and of the results and operations and of the cash flows of the Centre for the financial year then ended.

N.KRISHNAN & CO.
Chartered Accountants
Firm No: AF 1313
Puchong
Dated: 15 June 2010

KRISHNAN A/L NACHIAPPEN
Approval No: 2099/10/10(J)

E. Balance Sheet As At 31 December 2009

	NOTE	2009 RM	2008 RM
Property, plant and equipment	4	591,919	753,434
Current Assets			
Trade receivables		35,182	27,571
Other receivables and deposits	5	122,011	50,650
Fixed deposit	6	4,216,494	4,101,252
Cash and bank balances		6,062,865	2,169,382
		<u>10,436,552</u>	<u>6,348,855</u>
Less : Current Liabilities			
Client's deposits	7	8,204,135	3,698,255
Other payables and accruals		39,214	16,454
		<u>8,243,349</u>	<u>3,714,709</u>
Net Current Assets		2,193,203	2,634,146
		<u>2,785,122</u>	<u>3,387,580</u>
Accumulated Fund :			
Balance at 1 January		3,387,580	3,514,162
Deficit for the financial year		(602,458)	(126,582)
		<u>2,785,122</u>	<u>3,387,580</u>

The annexed notes form an integral part of these financial statements

F. Income and Expenditure Statement for the Year ended 31 December 2009

	2009	2008
	RM	RM
INCOME		
Administration fees	1,600	28,297
Fees for appointment of arbitrators	44,530	26,483
Gain on disposal of motor vehicle	5,000	-
Grants received	993,291	993,291
Interest from fixed deposits	25,543	132,247
Other income	3,383	788
Refreshment income	30,060	11,378
Registration fees	10,450	18,619
Rental of conference/meeting rooms	142,548	66,553
Sundry income	12,167	-
	<u>1,268,572</u>	<u>1,277,656</u>
LESS : EXPENDITURE (page 5 to 6)	(1,871,030)	(1,404,238)
DEFICIT FOR THE YEAR	<u>(602,458)</u>	<u>(126,582)</u>
- Transferred to Accumulated Fund		

The annexed notes form an integral part of these financial statements

G. Schedule of Expenditure for the Year ended 31 December 2009

	2009	2008
	RM	RM
Accounting fees	27,200	27,605
Audit fees	4,000	4,000
Bank charges	6,036	4,554
Books and journals	137,388	77,390
Communications, telephone, telex, faxes etc	24,257	11,835
Conference and seminar charges	217,477	156,583
Depreciation	169,934	147,399
Directors remuneration	203,866	186,000
EPF and Socso	70,349	53,431
Gift and donation	5,175	-
Insurance for motor vehicle	4,723	2,589
Maintenance of office equipment	5,340	8,440
Maintenance, repairs and security charges	150,788	118,150
Medical expenses	923	355
Membership and subscription fees	2,000	14,020
Newspaper and journals	647	706
Office insurance	3,485	6,156
Permit and visa	944	934
Petty cash advance written off	8,140	12,229
Postage and courier	27,653	12,574
Printing and stationery	18,594	7,905
Promotional expenses for centre	-	10,837
Recruitment cost	945	2,478
Salaries, bonus and allowances	370,542	264,017
Staff insurance	7,003	8,897
Staff refreshment	39,790	26,681
Sundry expenses	9,214	6,816
Travelling and accomodation	255,366	133,881
Unrealised foreign exchange loss	28,191	41,045
Upkeep of motor vehicle	8,643	5,888
Utilities charges	40,144	29,534
Wages	-	3,306
Website maintenance	22,273	18,003
	<u>1,871,030</u>	<u>1,404,238</u>

The annexed notes form an integral part of these financial statements

H. Cash Flow Statement for the Year ended 31 December 2009

	NOTE	2009 RM	2008 RM
CASH FLOW FROM OPERATING ACTIVITIES			
Deficit for the year		(602,458)	(126,582)
Adjustments for :			
Depreciation		169,934	147,399
Gain on disposal of motor vehicle		(5,000)	-
Interest income		(25,543)	(132,247)
Cash flow from operation before changes in working capital		(463,067)	(111,430)
Changes in working capital			
Inventories		-	10,837
Receivables		(78,972)	46,271
Payables		4,528,640	1,416,335
Net cash from operating activities		3,986,601	1,362,013
CASH FLOW FROM INVESTING ACTIVITIES			
Interest received		25,543	132,247
Proceeds from sale of plant and equipment		5,000	-
Purchase of plant and equipment		(8,419)	(147,335)
Net cash from/(used in) investing activities		22,124	(15,088)
Net increase in cash /cash equivalent		4,008,725	1,346,925
Opening balance of cash/cash equivalents		6,270,634	4,923,709
Closing balance of cash/cash equivalents	8	10,279,359	6,270,634

The annexed notes form an integral part of these financial statements

I. Notes to the Financial Statements - 31 December 2009

1. General Information

96. The centre is principally engaged in providing a neutral system for the settlement of disputes in trade, commerce and investment within the Asia Pacific Region.

97. The registered office of the Centre is located at No. 12, Jalan Conlay, 50450 Kuala Lumpur.

2. Basis of Preparation of the Financial Statements

98. The financial statements of the Centre have been prepared in accordance with applicable approved Financial Reporting Standards.

3. Significant Accounting Policies

i. Basis of Accounting

99. The financial statements of the Centre have been prepared under the historical cost convention unless otherwise indicated in the accounting policies.

100. The preparation of financial statements in conformity with applicable approved Financial Reporting Standards in Malaysia requires the Director to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

ii. Financial Instruments

101. Financial instruments carried on the balance sheet include cash and cash equivalents, fixed deposits, receivables, and payables. The particular recognition methods adopted are disclosed in the individual accounting policy statements associated with each item.

iii. Property, Plant and Equipment

102. Property, plant and equipment are stated at cost less accumulated depreciation and impairment losses.

103. The carrying amounts of property, plant and equipment are reviewed at each balance sheet date to determine whether there is any indication of impairment. An impairment loss is recognised whenever the carrying amount of an item of property, plant and equipment exceeds its recoverable amount. The impairment loss is charged to the income statements unless it reserves a previous revaluation in which case it is treated as a revaluation decrease.

104. Depreciation on property, plant and equipment is calculated to write off the cost of the assets on a straight-line basis over their estimated useful lives. The principal annual rates are as follows: -

Motor vehicle	20%
Furniture and fittings	10%
Office equipment	10% - 33 1/3%
Computer and accessories	10%
Renovation	10%

iv. Impairment of Assets

105. The carrying amount of assets other than inventories, assets arising from deferred tax assets and financial assets are reviewed for impairment when there is an indication that the assets might be impaired. Impairment is measured by comparing the carrying values of the assets with their recoverable amount. The recoverable amount is higher of an asset's net selling price and its value in use, which is measured by reference to discounted cash flows. Recoverable amounts are estimated for individual asset, or if it is not possible, for the cash-generating unit.

106. An impairment loss is recognized as an expense in the income statement immediately, unless it reverses a previous revaluation, in which case it is treated as a revaluation decrease.

107. Any subsequent increase in the recoverable amount of an asset is treated as reversal of the previous impairment loss and is recognized to the extent of the carrying amount of the asset that would have been determined (net of amortization or depreciation) had no impairment loss been recognised. The reversal is recognised in the income statement immediately, unless the asset is carried at revalued amount. A reversal of an impairment loss on a revalued asset is credited directly to revaluation surplus. To the extent that an impairment loss on the same revalued asset was previously recognized as an expense in the income statement, a reversal of that impairment loss is recognised as income in the income statement.

v. Receivables

108. Trade and other receivables are carried at anticipated realisable values. Bad debts are written off when identified. An estimate is made for doubtful debts based on a review of all outstanding amounts as at the balance sheet date.

vi. Payables

109. Trade and other payables are stated at cost, which is the fair value of the consideration to be paid in the future for goods and services received.

vii. Revenue Recognition

110. Advisory and coordination income are recognised based on the services rendered. Interest and rental income earned are recognised based on accrual basis.

viii. Cash and Cash Equivalents

111. Cash and cash equivalents comprise cash in hand, cash at bank, fixed deposit, bank borrowings and in hand highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of change in value.

ix. Currency Conversion and Translation

112. Transactions in foreign currencies during the year are converted into Ringgit Malaysia at rates of exchange approximating those ruling at the transaction dates. Foreign currency monetary assets and liabilities at the balance sheet date are translated into Ringgit Malaysia at rates of exchange approximating those ruling at that date. All exchange gains or losses are dealt with in the Income statements.

Foreign currency	2009 RM	2008 RM
1 US Dollar	<u>3.50</u>	<u>3.45</u>

x. Employee Benefits

(i) Short Term Employee Benefits

113. Wages, salaries, bonuses, and social security contributions are recognized as expenses in the year in which the associated services are rendered by employees of the Centre. Short term accumulating compensated absences such as paid annual leave are recognized when services are rendered by employees that increase their entitlement to future compensated absences, and short term non-accumulating compensated absences such as sick leave are recognized when the absences occur.

(ii) Define Contribution Plan

114. The Centre contributes to the state pension scheme, the Employees Provident Fund (EPF) which is a defined contribution plan regulated and managed by the government. The contributions are recognized as an expense in the income statement in the period to which they relate.

4. Property, Plant and Equipment

Cost	Balance at	Additions	Disposals	Balance at
	01.01.2009			31.12.2009
	RM	RM	RM	RM
Motor vehicle	283,653	-	90,406	193,247
Furniture and fittings	321,899	800	-	322,699
Office equipment	267,740	3,100	-	270,840
Computer and accessories	168,071	1,599	-	169,670
Renovation	603,007	2,920	-	605,927
	<u>1,644,370</u>	<u>8,419</u>	<u>90,406</u>	<u>1,562,383</u>
Accumulated depreciation				
Motor vehicle	178,212	33,021	90,406	120,827
Furniture and fittings	168,129	32,270	-	200,399
Office equipment	220,575	43,891	-	264,466
Computer and accessories	135,369	159	-	135,528
Renovation	188,651	60,593	-	249,244
	<u>890,936</u>	<u>169,934</u>	<u>90,406</u>	<u>970,464</u>
	Net book value		Depreciation	
	2009	2008	2008	
	RM	RM	RM	
Motor vehicles	72,420	105,441	33,021	
Furniture and fittings	122,300	153,770	23,812	
Office equipments	6,374	47,165	36,722	
Computer and accessories	34,142	32,702	-	
Renovation	356,683	414,356	53,844	
	<u>591,919</u>	<u>753,434</u>	<u>147,399</u>	

5. Other Receivables and Deposits

	2009	2008
	RM	RM
Deposits	33,329	33,329
Other receivables	-	3,517
Prepayments	-	13,804
Staff claims	88,682	-
	<u>122,011</u>	<u>50,650</u>

115. Staff claims represent claims paid to the former employee in respect of expenses totaling RM88,682 during the financial year ending 31 December 2009. The current management, on the advice of its solicitors, regard such claims are in breach of the terms of employment. The Centre intends to take necessary action to recover this amount from the former employee.

6. Fixed Deposits

116. The fixed deposits are placed with licensed banks in the name of Centre.

117. The interest rate of deposit with licensed bank that were effective during the financial year were 2.0% to 2.5%.The fixed deposit has maturity period of 1 to 12 months (2008: 1 to 12 months).

7. Client's Deposits

	2009	2008
	RM	RM
Client's ledger balance	8,279,661	3,698,255
Other receipts	307,014	-
Other payments	-	-
	<u>(382,540)</u>	<u>-</u>
	<u>8,204,135</u>	<u>3,698,255</u>

118. Other receipts and payments represent balances that have not been reconciled with the respective client's ledgers due to lack of information or documentation. The current management is taking necessary steps to reconcile these balances.

8. Cash and Cash Equivalents

	2009	2008
	RM	RM
Cash and bank balance	6,062,865	2,169,382
Fixed deposits	4,216,494	4,101,252
	<u>10,279,359</u>	<u>6,270,634</u>

9. Revenue

119. Advisory and administrative support fee are recognised based on the services rendered. Interest and room rental income are recognised based on receipt basis.

10. Directors Remuneration

	2009	2008
	RM	RM
Salary	203,866	186,000
Employees Provident fund and social security costs	27,900	-
	<u>231,766</u>	<u>186,000</u>

11. Employee Information

	2009	2008
	RM	RM
Salaries, wages and bonus	370,542	264,017
Employees Provident fund and social security costs	42,449	53,431
Other staff related expenses	47,716	35,933
	<u>460,707</u>	<u>353,381</u>

120. The total number of employees of the Centre as at 31 December 2009 was 10 (2008: 8).

12. Taxation

121. The Centre is exempt from income tax as provided under the 6th schedule of the Income Tax Act, 1967.

13. Financial Instruments

i. Currency risk

122. The translated un-hedged financial assets and financial liabilities in Malaysian Ringgit of the Company as at the balance sheet date are as follows:-

	Ringgit Malaysia	US Dollar	Total
	RM	RM	RM
Fixed deposits	3,547,299	669,195	4,216,494
Cash and bank balances	5,689,173	373,692	6,062,865

14. Financial Risk Management

123. The Centre's financial risk management policy seeks to ensure that adequate financial resources are available for the development of the Centre's businesses whilst managing its risks. The Centre operates within policies that are approved by the Director and the Centre's policy is not to engage in speculative transactions.

124. The main areas of the financial risks faced by the Centre and the policy in respect of the major areas of treasury activity are set out as follows:-

i. Credit risk

125. The Centre has no significant concentration of credit risk. Cash is held with financial institutions of good standing. The maximum credit risk is represented by the carrying amount of each financial asset in the balance sheet.

ii. Interest rate risk

126. The Centre's income and operating cash flows are subjected to changes in market interest rates. The Centre's significant interest-bearing asset is short term fixed deposits.

iii. Liquidity and cash flow risks

127. To manage cash flows and liquidity risk, the Centre relies on its management of working capital to ensure that the cash flow within the operating cycle are sustainable. In the event of additional funds required to operate the Centre, the financial supports from Government is necessary to meet its short term funding needs.

iv. Foreign currency risk

128. Exposure to foreign currency risk is monitored on an ongoing basis by the Centre to ensure the net exposure is at an acceptable level.

15. Fair Values of Financial Instruments

129. The carrying amounts of financial assets and financial liabilities of the Centre as at financial year-end approximated their fair values because of their short-term maturity period.

16. Comparative Figures

130. Certain comparative figures have been reclassified to conform with the current year's presentation.

17. Currency

131. All amounts are stated in Ringgit Malaysia.

J. Review of the 2009 Accounts

1. Balance Sheet

132. Fixed Assets (Property, Plant and Equipment) for 2009 was RM590,919.00 (2008: RM753,434.00). The decrease was mainly due to the disposal of a motor vehicle for RM90,406.00 and a depreciation of RM169,934.00.

2. Current Assets and Current Liabilities

133. Total Current Assets was RM10,436,552.00 (2008: RM6,348,885.00) due to increased cash and current account bank balances totaling RM6,062,865.00 (2008: RM2,169,382.00) held. The increase is reflected in a corresponding increase in Client's Deposits of RM8,204,135.00 (2008: RM3,698,225.00).

3. Income and Expenditure

134. Total income for 2009 was RM 1,268,572.00 (2008: RM1,277,656.00). Notwithstanding an increase in the rental income of RM75,995.00 for 2009, there is no material increase in the total income as interest income from fixed deposit was reduced to RM25,543.00 against that for 2008 (RM132,247.00) as substantial credit balances were left in KLRCA's non-interest bearing current account.

135. Total expenditure for 2009 saw an increase of RM446,792.00 due to an the increase in (i) Salaries, bonus and allowances (ii) Directors' remuneration and (iii) Traveling and accommodation of RM106,525.00, RM17,866.00 and RM121,485.00 respectively.

K. Interim Report for January to July 2010

136. Given the change of management at KLRCA as of 1st March 2010, it is appropriate that an interim report for the period from January to July 2010 be set out.

1. Director's Profile

137. Mr. Sundra Rajoo was appointed as the 5th Director of the Kuala Lumpur Regional Centre for Arbitration effective from 1st March 2010. He is a Chartered Arbitrator, an Advocate & Solicitor of the High Court of Malaya (non-practising) and had earlier practised as an Architect and Town Planner.

138. He has been appointed as chairman, co-arbitrator of three-man panels and sole arbitrator in various ad hoc and institutional international and domestic arbitrations. Some of the institutional arbitrations include those such as the International Chambers of Commerce (ICC), the Chinese International Economic Trade and Arbitration Commission (CIE TAC), Singapore International Arbitration Centre (SIAC), Regional Centre for Arbitration Kuala Lumpur (KLRCA) and Palm Oil Refineries Association Malaysia (PORAM). Thus far, he has had over a hundred and fifty appointments as arbitrator.

139. He was a Visiting Associate Professor with Universiti Teknologi Malaysia. Mr. Sundra Rajoo is the founding President of the Society of Construction Law (KL & Selangor), Past Chairman of the Chartered Institute of Arbitrators and Past Council Member of the Malaysian Institute of Architects.

140. Mr Sundra Rajoo is the author of "*Law, Practice and Procedure of Arbitration*" 2003, "*The Malaysian Standard Form of Building Contract (The PAM 1998 Form)*", 2nd Edition, 1999, Lexis Nexis and the Arbitration title for Halsbury's Laws of Malaysia, 2002, Lexis Nexis. He has also co-authored two books entitled "*The Arbitration Act 2005: UNCITRAL Model Law as Applied in Malaysia*", 2007, Sweet & Maxwell Thomson and "*The PAM 2006 Standard Form of Building Contract*" 2010, Lexis Nexis.

2. Staffing

141. There was a departure of all senior staff personnel between middle to end February 2009. As of beginning of March 2010, there remained only four staff namely, two secretaries, one clerk and a receptionist.

142. As of March 2010, it became necessary to immediately recruit new management, executive and support level staff in order to repair and upgrade the disrupted services offered by KLRCA.

143. Since then, KLRCA now has a team of qualified personnel in their respective fields of expertise. The number of KLRCA staff grew from four (4) as at end February 2010 to sixteen (16) as of July 2010.

144. KLRCA has been focusing on the implementation of several initiatives towards meeting this objective to rebrand, market and promote its services and facilities to regain its rightful place in the Asia Pacific region as the preferred arbitration centre.

145. Several of these initiatives have taken off while quite a few is on the drawing board. Admittedly, the workload on staff members continues to take its toll. In anticipation of this increased workload and the consequent increased of business that the promotional exercises will bring, KLRCA's staff numbers will be increased to ensure that optimum service levels are maintained.

3. Staff Policy Guidelines

146. KLRCA now has set out staff policy guidelines as templates for human resource matters as follows:-

- (i) Job applications forms;
- (ii) Interview assessment forms;
- (iii) Leave application forms;
- (iv) Staff claims forms.

147. Staff salaries and benefits have been rationalised. The objective is to reward hardworking and loyal staff members with confirmations made based on work performance. Policy Instruction Circulars have been issued from time to time to keep all staff informed of their entitlements and obligations. Some examples of Policy Instruction Circulars issued are as follows:

	Circular No.	Heading	Contents
1	1/2010	Leave Application	Leave Application Guidelines.
2	2/2010	Punctuality	Staff Working Hour's Guidelines.
3	3/2010	Telephone Allowance	Staff Mobile Phone Allowance
4	6/2010	Dental Treatment Claims	Staff Dental Claim

			Benefits
5	7/2010	Travelling & Other Allowances in Malaysia and Overseas	Reimbursement for Mileage, Overnight Allowances and Meal Allowance for local and overseas travel for training, business promotions, conferences etc on behalf of KLRCA.
6	8/2010	Work Attire	Guidelines on appropriate work attire.
7	9/2010	Annual Leave/Special Leave, Medical & Hospitalization Leave Benefits	Guidelines, Procedures and entitlement for leave
8	10/2010	Overtime Claims	Procedure and rate for computation of overtime claims.

4. Weekly Staff Meetings

148. A weekly staff meeting was started from April 2010 on every Wednesday mornings with the minutes of the previous meeting circulated to all staff. All staff is now kept informed of KLRCA activities, work in progress, upcoming events and direction. This initiative has boosted staff morale, loyalty and team work.

5. Review of Financial Management

149. KLRCA appointed an independent accounting firm to undertake and provide a financial assessment report as of 28th February 2010 upon the receipt of the findings of the Audit Report by the Malaysian Audit Department. The report made salient findings which can be enumerated as follows:-

- (i) KLRCA's accounts and financial records were poorly maintained;
- (ii) There were numerous instances of wrong classification of transactions;
- (iii) Various documents such as bank-in slips and accounting records could not be located;
- (iv) Unauthorised staff had easy access to confidential records;
- (v) Use of KLRCA Amex Corporate Card for personal expenses; and
- (vi) There was no asset listing or inventory maintained.

6. Financial Management Issues

150. KLRCA managed to procure the early completion of the Audited Accounts of KLRCA for the period ended 31st December 2009 from the External Auditors, Messrs. N. Krishnan & Co. in early June 2010 despite the absence of vital data and the absence of records.

7. Improvement to Accounting System

151. In the past, KLRCA accounting system was by manual book entries. KLRCA has now implemented an UB S system which is a computerised system that eliminates the need to manually do book entries. This system saves management time, costs and provides the much needed financial reports, timely cash and bank balances position and manages the payrolls. KLRCA has also instituted authorization limits and put procedures in place for petty cash claims, other payments, capital expenditure and asset disposal as its Policy Circular 5/2010.

8. Office Equipment, Resource Centre and Facilities

152. KLRCA has selectively replaced outdated office equipment to improve productivity and efficiency including:

- (i) Installation of compactors for Case Management Files;
- (ii) Procurement of new notebooks to replace desktops for selected executive staff;
- (iii) Procurement of three in one Canon color printer, scanner and copier;
- (iv) The Resource Centre has been relocated to the vacant old Director's room for better space utilisation;
- (v) Case Management Department relocated to the previous Resource Centre which has more space;
- (vi) The Arbitrator's Lounge has been upgraded and supplied with additional equipment like microwave ovens, toaster, fridge etc.
- (vii) New caterers have been appointed to provide better quality of food.
- (viii) The maintenance of the Resource Centre has been outsourced with the relisting, retagging and updating of books, journals and resource materials.

9. Administration of Arbitration Cases

153. The administration of arbitration cases is one of the core functions of KLRCA. The emphasis has been on the level of service offered as evidenced by our targeted 48 hours turnaround time to appoint the arbitral tribunal being consistently met to date.

154. The statics of KLRCA's file load as at 30th June 2010 is as appended:

i. Files, Status & Applicable Rules as at 30 June 2010

Type of Files	No. of Active Files	No. of Closed Files	No. of Files	Governing Law	
				KLRCA Rules	Arbitration Act 2005
Domestic	21	0	21	11	10
Domain Name Dispute	3	1	4	N/A (MYNIC'S	DNDR

				Policy)	
International	5	0	5	3	2
Mediation	1	0	1	0	1
Total No. of files	30	1	31	14	13

ii. Breakdown of Types of Disputes as of 30th June 2010

No.	Area	No. of Cases
1.	Construction Contract	14
2.	Intellectual Property (DNDR)	4
3.	Oil & Gas	1
4.	Distributor Agreement	2
5.	Bank Guarantee	1
6.	Tenancy Agreement	2
7.	Maintenance Services Agreement	1
8.	Supply of Goods Agreement	3
9.	Commodities purchase agreement	1
10.	Undertaking agreement	1
11.	Sales Contract	1
Total		31

10. Panel of KLRCA Arbitrators

155. The exercise to update the KLRCA's Panel of Arbitrators now numbered at 273 is now ongoing. Deceased arbitrators and those arbitrators who cannot be contacted have been removed from the Panel. All the Arbitrators have been asked to update their curriculum vitae. New qualified arbitrators have been added to the Panel. The updated Panel of Arbitrators will be uploaded onto KLRCA's website and accessible to users.

11. Translators and Transcribers Services

156. KLRCA is now able to provide a list of translators and transcribers for the use at the request of the parties.

12. Rebranding and Business Development

157. KLRCA is committed to market and develop its services in a more extensive way. Towards this end, KLRCA is undergoing a complete rebranding of the organisation to make it relevant to the world of arbitration by way of three prong exercise of firstly, rebranding, secondly, public relations exercise and thirdly, events management in support of the first two exercises.

158. A perception audit is planned to ascertain arbitrators' current views of the KLRCA and their expectations of it. This should yield on how to fulfil the needs and requirements of target audiences; set the pace and direction for future growth; improve the image of the KLRCA as a credible organization; and acquire the appropriate equipment and facilities to conduct arbitration.

159. The public relations exercise involves an awareness building strategy about KLRCA and its services highlighting the different kinds of disputes handled by the KLRCA, the lower costs involved, party autonomy and the fact that arbitration proceedings are confidential.

160. The idea is to make KLRCA known and recognised amongst the general public and particularly the target audiences, which include the arbitrators, arbitral institutions, Governmental institutions, policy makers, corporate leaders, media and general public.

161. The objective is to draw arbitrators to KLRCA to increase income and revenues, ensuring that applications for additional funds and facilities are given due and immediate attention and gaining their overall support to place KLRCA in its rightful position as a globally recognized arbitration centre in Malaysia.

162. Eventually, KLRCA will be showcased through road shows, new logo, taglines, info kits and signages based on a "local and overseas outreach programme" spread over at least three years, which serves to build ties with foreign Governments, Bar Councils, corporate leaders, the AALCO and other relevant bodies.

13. New Logo and Tagline

163. In order to kick start KLRCA's rebranding exercise, KLRCA has adopted a new logo and tagline.



164. The new logo emphasizes the letter 'A' as a modern triangle with a high peak to resemble KLRCA's high commitment, achievement, stability and reliability as a world class dispute resolution services provider.

165. KLRCA'S new tagline "*Regional Resolution, Global Solution*" was the result of an in house idea contributed by staff. It reflects its commitment towards the promotion of arbitration with a view to fair resolution of disputes through the adoption of fast paced, cost saving and fair procedures by our panel of arbitrators and the efficient enforcement of domestic and international arbitration awards. An official launch of the logo and tagline will be held at the appropriate time.

14. New Information Kit, Website and Corporate Video

166. A new information kit has been finalised and the same will be used to promote KLRCA services to stakeholders, listed companies, government linked companies, missions, large corporate companies etc. KLRCA's website has been upgraded to be more visually arresting and user friendly. A corporate video is also being finalised to be included in the information kit.

15. New KLRCA Arbitration Rules

167. KLRCA adopts the UNCITRAL Arbitration Rules 1976 with modifications i.e. The Rules for Arbitration of the Kuala Lumpur Regional Centre for Arbitration (KLRCA Rules).

168. KLRCA is now reviewing its arbitration rules and fees structure and will be the first of such Centre to adopt the latest UNCITRAL Arbitration Rules 2010 which was just approved by the UN CITRAL Commission in New York on 25th June 2010. The effective date of the new KLRCA Rules will be 15th August 2010 which is the same date as when the latest UNCITRAL Arbitration Rules 2010 comes into force.

169. KLRCA is currently drafting short form arbitration rules for use for smaller disputes which will limit the number of hearing days, cap the arbitrator's fees and aim to provide an alternative to the Malaysian subordinate courts' whose monetary jurisdiction has been increased tremendously. These rules should be ready for use by end of August 2010.

16. Other Initiatives

170. Since March 2010, KLRCA has undertaken several initiatives as follows:

(1) KLRCA's unsolicited bid to host the secretariat for the Court of Arbitration for Sports, Lausanne in late March 2010 when the International Council of Arbitration for Sports (ICAS) was considering the setting up of a Court of Arbitration for Sports (CAS) Branch Secretariat in the Asia Pacific region. As the housing of such a secretariat would without doubt give KLRCA a much need boost and mileage in the international as well as the Asia Pacific region, KLRCA made the unsolicited bid for it on 7th April 2010. The outcome of the bid has yet to be decided by ICAS.

(2) KLRCA's bid to host the next Asia Pacific Regional Arbitration Group (APRAG) conference tentatively scheduled on April 2011. The previous three conferences were held in Sydney (2004), Hong Kong (2006) and Seoul (2009). On 10th May 2010, KLRCA made an application to host the above event.

(3) On 16 April 2010, KLRCA accepted MYNI C Berhad's request that it be the independent administrator of the Sensitive Name Dispute Resolution Policy (SNDRP).

(4) In line with KLRCA's Corporate Social Responsibility (CSR), the staff of KLRCA managed a food stall for the National Stroke Association of Malaysia (NASAM). All proceeds from the sale were donated to NASAM.

17 Relocation of KLRCA Premises

171. The Malaysian Government has informed KLRCA to relocate from its present premises at No. 12, Jalan Conlay, 50400 Kuala Lumpur. No firm alternative premise has been offered so far. KLRCA is working closely with the Malaysian Government to obtain suitable premises to house its activities.

L. Conclusion

172. The KLRCA was established 32 years ago, and is now undergoing a transformation exercise to make itself relevant to the world of arbitration. It has to capitalize on the several advantages available to it. The challenge is now to make KLRCA the preferred arbitration centre in the Asia Pacific region. Success is achievable by employing an appropriate marketing strategy and increasing the level of service. KLRCA is grateful to the continuing support of AALCO and the Malaysian Government in its endeavour to reclaim its rightful place as the most experienced arbitral service provider in the Asia Pacific region.



SUNDRA RAJOO A/L NADARAJAH
Director of KLRCA
20th July 2010

V. ANNEX

SECRETARIAT'S DRAFT
AALCO/RES/DFT/49/ORG 3
8 AUGUST 2010

REPORT ON AALCO'S REGIONAL CENTRES FOR ARBITRATION

The Asian-African Legal Consultative Organization at its Forty-Ninth Session,

Having considered the Report on AALCO's Regional Centres for Arbitration contained in Document No. AALCO/49/DAR ES SALAAM/2010/ORG 3;

Having heard with appreciation the introductory remarks of the Deputy Secretary-General and the report of the Directors of the Regional Arbitration Centres;

Reaffirming the commitment by the Governments of Member States towards enhancing the role of the Regional Arbitration Centres;

Recalling its decision relating to the Integrated Scheme for the Settlement of Disputes in Economic and Commercial Transactions adopted at its Doha Session in 1978;

Expressing its satisfaction over the increasing use of the facilities and the opportunities offered for both domestic and international arbitrations under the auspices of its Regional Arbitration Centres;

Appreciating the efforts and contributions of the Governments of the Malaysia, Arab Republic of Egypt, Federal Republic of Nigeria, the Islamic Republic of Iran, and Republic of Kenya for hosting the respective Regional Arbitration Centres;

Also appreciating the promotional activities undertaken by the Directors of the Centres, including organization of seminars and training programmes, to promote international commercial arbitration in the Asian and African regions;

Reiterating the earlier decision of the AALCO on the necessity for the Governments of Member States to promote and support the use of the Regional Arbitration Centres;

Also reiterating its proposal that after consultation with the Directors of the respective Regional Arbitration Centres, for the holding of International Arbitration Conference biennially, by rotation in each of the Centres, with the support of Member States;

1. **Requests** that, based on the above mentioned commitments for promoting and supporting the use of Regional Arbitration Centres, the Member States to urge their esteemed Governments and private sector to use the AALCO's Regional Arbitration Centres for their disputes and in particular to consider in their contracts, the inclusion of the Arbitration Clause of AALCO's Regional Arbitration Centres; and

2. **Decides** to place this item on the provisional agenda of its Fiftieth Session.