

**KEYNOTE ADDRESS
BY**

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**30TH ANNIVERSARY CONFERENCE OF THE REGIONAL CENTRE
FOR ARBITRATION, KUALA LUMPUR**

**KUALA LUMPUR CONVENTION CENTRE
7-8 APRIL 2008**

Hon'ble Dato' Sri Haji Mohd. Najib bin Tun Abdul Razak,
Deputy Prime Minister of Malaysia,

Hon'ble Datuk Mohd. Zaid Ibrahim,
Minister in the Prime Minister's Department

Excellencies, Distinguished experts, Representatives of the Governments,

Madam Dato' Noorashikin Tan Sri Abdul Rahim,
Director of the Kuala Lumpur Regional Centre for Arbitration,

Ladies and Gentlemen,

It is indeed my honour and privilege to address this august meeting on behalf of the Asian-African Legal Consultative Organization (AALCO). I would like to join the Director in expressing my deep gratitude to you Hon'ble Dato' Sri Haji Mohd. Najib for sparing your valuable time to grace this historic occasion to commemorate the 30th Anniversary Conference of the Kuala Lumpur Centre. The establishment of the Regional Centre for Arbitration in Malaysia on 17 April 1978 was a bold initiative and a dream project of AALCO. The farsighted decision of your esteemed Government to host the Centre helped AALCO to translate its dream into reality. This inspired other Member Governments to make a similar gesture to host such a Centre in their respective regions. Today, AALCO is proud of its four Centres located in Kuala Lumpur, Cairo, Lagos and Tehran, while the fifth one is likely to come into being very soon in Nairobi.

Excellencies, ladies and gentlemen,

AALCO was established on 15 November 1956 as a tangible outcome of the historic Conference of the Asian and African States held in Bandung (Indonesia) in 1955. The basic purpose of the Organization as conceived by the founding fathers was to provide a consultative forum for consideration of legal issues of common concern and thus to promote co-operation on international law matters among the States of the Asian and African regions. From its inception, AALCO considered a number of international law issues which were of direct and prime concern to the States from the Asian-African region. In late sixties with the establishment of its relation with UNCTAD, UNCITRAL and other international organizations, international trade law issues found place in AALCO's work programme. The priority item taken for consideration was the matters concerning settlement of disputes in international commercial transactions through 'international arbitration'.

There were hardly any permanent arbitral institutions in the Asian-African region in the 60's or 70's. The alternative was only the arbitral institutions established in the West. However, parties from the developing countries of Asia and Africa faced a number of disadvantages viz-a-viz the parties from developed countries when they approached these institutions. These disadvantages ranged from cultural disparity, institution and financial constraints and inability to afford best legal experts to represent them. The results were, therefore, often adverse to them.

This unsatisfactory situation of developing countries prompted AALCO to realize the need to develop and improve the procedure for international commercial arbitration, the necessity for institutional support, develop necessary expertise and create environment conducive to conduct arbitration in the Asian

and African regions. This, it was expected, would process and guide the future of international commercial arbitration in a manner which led to the creation of a '*lex mercatoria*' which took into account the needs and concerns of developing countries.

Accordingly, the Secretariat prepared a Scheme on Settlement of Disputes on international commercial transactions which was submitted in the Tokyo Session 1974, and further considered in the Kuala Lumpur Session (1976) and Baghdad Session (1977). The Secretariat study elaborated the two basic objectives of the 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 was made or the place of performance under an international transaction was a country within this region. The scheme also envisaged that establishment of regional arbitration centres under the auspices of AALCO in different locations in the Asian-African region could fill the existing gap for such a machinery. It was a novel idea which attracted wide support from AALCO Member States.

At its Doha Session held in 1978, AALCO decided to establish its first Regional Centre at Kuala Lumpur for Asia and the second one in Cairo for Africa thanks to the generous support by Malaysia and the Arab Republic of Egypt respectively. It was envisaged that the two Centres would promote international commercial arbitration in their respective regions and conduct arbitration and facilitate enforcement of arbitral awards.

Today, the Kuala Lumpur Regional Arbitration Centre has acquired a prestigious status among the family of international arbitral institutions. Though established under the auspices of AALCO, it also functions as an autonomous

regional and international arbitration institution. The Centre conducts and provides facilities for both domestic and international arbitrations. It has established Cooperation Agreements with several Arbitral Institutions all around the world. It has helped establishment of national arbitral institutions in the Asian region. It organizes periodically seminars, workshops and training courses to promote arbitration culture and expertise. It maintains a comprehensive panel of arbitrators; many of them are arbitration experts from the Asian and African regions. Keeping paces with time, KLRCA also offers domain name dispute resolution services.

I take this opportunity to once again reiterate our deep gratitude to the Government of Malaysia for all they did and have been doing to help the Kuala Lumpur Centre to stand firmly on its feet. I also take this opportunity to appreciate the efforts and contributions of the Governments of the Arab Republic of Egypt, the Islamic Republic of Iran, Nigeria and Kenya for hosting AALCO Regional Arbitration Centres.

Excellencies,

Today, international commercial arbitration has been one of the most effective and widely used tools for settling international commercial and trade disputes in the Asian-African region. The adoption of the UNCITRAL Model Law on International Commercial Arbitration by most countries has facilitated the formation of a uniform rules and a conducive environment for the development of arbitration in the Asian-African region. Almost every country has incorporated these rules within their domestic legal system by enacting legislation. The enforcement of arbitration awards have been greatly facilitated by the wider acceptance of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958. The number of national arbitration institutions and the number of practitioners in this area has multiplied many folds, and

international commercial arbitration is becoming one of the main tool for settling disputes among various categories of parties.

The revolution in information technology, globalization and liberalization of the international economy, and many more emerging related issues have widened the scope and application of international arbitration from adjudicating common commercial disputes to disputes relating to E-commerce, E-banking, domain name etc. Our Arbitration Centers have also kept pace with the fast changing concept and scope of arbitration and have framed procedural rules for new types of disputes. Besides arbitration, mediation and conciliation are also gaining ground especially in the Asia-African region. I am glad to note that the Kuala Lumpur Centre is providing facilities for the resolution of ‘domain name disputes’ and also venturing into the field of energy related disputes.

Indeed, the developing countries are now better equipped than before. However, much needs to be done. There are many challenges and opportunities which Asian and African countries should address and explore. Many problems which developing countries faced decades earlier still persist. While the developing countries are convinced of the effectiveness and the need for settling trade disputes through commercial arbitration, there still exist apprehensions that keep them less convinced and committed. Particularly there is a need for the present arbitral setup to recognize and accommodate different cultural and legal traditions. Arbitration still remains, directly or indirectly, dominated by the western institutions and lawyers. Further, the traditional advantages of arbitration such as cost effectiveness and simplicity of procedure seem to have become redundant. These problems and lack of harmonization in arbitral law and practice, have resulted in constant tension with national courts in the recognition and enforcement of foreign arbitral awards. At the same time there is pressure on the

developing countries to make their arbitral and other laws appropriate to attract investments.

If arbitration is to continue to be a preferred means of resolving trade disputes, it has to address the realities and particular needs of the developing countries. There is also a need for harmonization of arbitral law in Asian and African regions. I stress that serious thought must be given to these issues.

The first step in this direction is to further strengthen the AALCO Arbitration Centres which were meant to overcome these problems and provide efficient, expeditious and inexpensive arbitration within the region. On this important occasion, I urge AALCO Member States to consider and to offer their full support to AALCO's Regional Arbitration Centres. I believe, besides soliciting the support of Member Governments in their respective regions, the Regional Arbitration Centres themselves should strengthen cooperation among themselves.

I am sure we will address these issues during the course of this Conference. The agenda identifies many of the challenges and opportunities for the developing countries. On behalf of AALCO, I would like to extend our heartiest congratulations to you, Madam Dato' Noorashikin Tan Sri Abdul Rahim for organizing this Conference and wish all success for all AALCO Centres in general and Kuala Lumpur Centre in particular together with all our congratulations for its 30th Anniversary.

Thank you.