

**SILVER JUBILEE CONFERENCE OF THE REGIONAL CENTRE FOR
ARBITRATION, KUALA LUMPUR, 13 – 15 OCTOBER, 2003**

**STATEMENT OF AMB.DR.WAFIK ZAHER KAMIL, SECRETARY GENERAL,
ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANISATION (AALCO) AT
THE INAUGURAL SESSION**

Hon'ble Dato' Adam Kadir, Excellencies, distinguished experts, Representatives of the Governments, Dato' Dr.Zakaria Yatim, Director of the Regional Centre for Arbitration Kuala Lumpur, Ladies and Gentlemen,

It is indeed an honour and privilege for me to address this august meeting on behalf of the Asian-African Legal Consultative Organization (AALCO). I would like to join Dr.Zakaria in expressing my deep gratitude to you Hon'ble Dato' Adam Kadir for sparing your valuable time to grace this historic occasion to commemorate the Silver Jubilee of the Kuala Lumpur Centre. The establishment of the Regional Centre for Arbitration 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. Indeed, it 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.

To begin with, allow me to recapitulate briefly the history of AALCO's involvement with arbitration matters. 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. Its establishment coincided with the beginning of the process of decolonization which resulted in emergence of several new independent states in the Asian and African regions.

From its inception, apart from consideration of international law issues of common concern referred to by its Member States, one of the main tasks of AALCO as envisaged in its Statutes was to take up matters concerning international law being considered by the International Law Commission, the principle legal body established under the auspices of the United Nations and entrusted with the task of the development and codification of international law. AALCO had to pick and choose from the large canvass of international law issues which were of direct and prime concern to the States from the Asian and African region. However, in late sixties with the establishment of its relation with UNCTAD, UNCITRAL and other international organizations engaged in the development of international trade law, economic and international trade law issues found place in AALCO's work programme. An area which was taken up as a priority item was the matters concerning settlement of disputes in international commercial

transactions especially recourse to 'international arbitration'. There were hardly any permanent arbitral institutions in the Asian-African region in the 60's or 70's. Therefore the only alternative was to go to arbitral institutions established in the West, meeting high cost of the arbitration proceedings and the remuneration of the arbitration experts available mostly from the western countries. It was an unsatisfactory situation, which needed to be improved that AALCO took upon this challenge.

At its Tokyo Session held in 1974, it considered a detailed study on International Commercial Arbitration prepared by the Secretariat. At its Kuala Lumpur Session in 1976, further consideration was given to a draft scheme on Settlement of Disputes on international commercial transactions. The Secretary General was requested to explore the feasibility of establishing regional centres for arbitration to meet the need for adequate and fair machinery for settlement of disputes in international transactions in the economic field. The detailed study prepared by the Secretariat was placed for consideration at AALCO's Baghdad Session held in 1977.

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. It welcomed the adoption of the International Convention on Settlement of Investment Disputes in 1965 under the auspices of the World Bank as well as the UNCITRAL Arbitration Rules in 1966, which provided for the first time a uniform but flexible set of procedures applicable universally in international commercial arbitration.

The scheme further 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 conceived of such centres at government level different from the available institutions which were mainly private institutions or institutions affiliated to Chambers of Commerce located in the West. It was a novel idea which attracted wide support from AALCO Member States.

At its Doha Session held in January 1978, AALCO decided, to begin with, to establish its first Regional Centre at Kuala Lumpur for Asia, the second one in Cairo for Africa. 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.

There were many skeptics who thought this grand initiative and its objectives would not see the light of the day and they proved to be wrong.

Thanks to the generous offer of the Government of Malaysia to host AALCO's first Regional Centre for Arbitration in Kuala Lumpur, a beginning was made. The

Government provided a beautiful furnished premises, annual grant to meet the running cost and deputed a senior official as a Director and other necessary administrative staff. The Government of Malaysia amended its Arbitration Law and created a special category of international arbitrations conducted under the auspices of the Kuala Lumpur Centre. This helped the Centre to grow as a neutral and independent international organization.

Today, the Kuala Lumpur Regional Arbitration Centre has achieved a unique status among the family of international arbitral institutions. Although, it has been established under the auspices of AALCO, it functions as an independent and autonomous international Arbitral Institution. It enjoys privileges and immunities akin to any diplomatic organization. The Centre conducts and provides facilities for both domestic and international arbitrations. It has been designated as an appointing authority in many cases, including those conducted under the Permanent Court of Arbitration in the Hague. It has established Co-operation 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 region.

I take this opportunity to 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.

Another instance where the AALCO family is proud to remember is the establishment and the raising significance of the Center for International Commercial Arbitration (CRCICA) in Cairo. This Center was established in 1979 under the auspices of the AALCO in cooperation with and with the assistance of the Government of the Arab Republic of Egypt, to cater to the interest of the African continent and West Asia. Over the period of years of its existence, the Cairo Center had witnessed a steady increase in the number of cases that has been field before it. The total number of international cases has reached 327 in 2002, with an average of 50 cases per year and the expected annual average is envisaged to reach 100 cases by the year 2011.

Further, in 2001 the Cairo Center established two new branches being the Alexandria Center for International Commercial Arbitration and the Mediation and ADR Center. Currently the Center is working on similar future projects of expansion including the establishment of a Branch in Ismailia, a vital Egyptian City and the seat of the Suez Canal Authority. I take this opportunity to once again thank the Government of the Arab Republic of Egypt for its constant and continued support to the Center.

It was the success of these two Regional Arbitration Centers, which prompted the AALCO to establish two more centers, one in Lagos, which was formally inaugurated in 1989, and the other in Tehran, for which an agreement was concluded between AALCO and Islamic Republic of Iran in 1997. Apart from these Centers, discussions have been held to establish similar centers in Nairobi, Kenya and Doha (Qatar).

It is a matter of great pride for AALCO that like the Kuala Lumpur Centres, our other Centres have also grown up and achieved maturity. AALCO at its annual session considers the Reports of the Directors of its four Regional Arbitration Centres. This year, at its 42nd Session, held in Seoul (Republic of Korea) in June 2003 the Resolution adopted by AALCO *inter alia* recalled its decision relating to the Integrated Scheme for the Settlement of Disputes in Economic and Commercial Transactions adopted in 1978. It reaffirmed the commitments of the Member States towards enhancing the role of the Regional Arbitration Centres. It expressed its satisfaction over the increasing use of the facilities and the opportunities offered for both domestic and international arbitrations under the auspices of the Regional Arbitration Centres. It appreciated the efforts and contributions of the Governments of the Arab Republic of Egypt, the Islamic Republic of Iran, Malaysia and Nigeria for hosting Regional Arbitration Centres. It also appreciated the promotional activities undertaken by the Directors of the Centres, including organisation of Seminars and training programmes, to promote international commercial arbitration in the Asian and African regions. Last but not the least, it reiterated its earlier decision on the necessity for the Member Governments to promote and support the use of Regional Arbitration Centres. On this historic occasion, I would urge AALCO Member States to consider and 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 would like to suggest that a mechanism or framework for such co-operation among our Centres could be conceived. I would be pleased to develop this idea. In my view, this 'togetherness' would give further impetus to achieve our common objectives in a more co-ordinated and effective manner.

Let me turn to make a few general remarks. International Arbitration has been one of the oldest and most effective tools for settling international disputes in Public international law sphere. It guarantees justice through a peaceful process, even in most impossible situations. Its scope covered commercial-economic-legal-political boundary conflicts etc. The impact of globalization and technological advancement has widened this scope and application of international arbitration from adjudicating common commercial disputes to disputes relating to E-commerce, E-banking etc. One such striking example is the Egyptian-Israeli arbitration by the International Arbitration Tribunal on the dispute over Taba strip in 1988, which adjudged Taba as a purely Egyptian territory.

Our Arbitration Centers must keep pace with the fast changing concept of "Alternative Dispute Resolution System" and frame procedural rules for new types of disputes coming into fore. Besides arbitration, mediation and conciliation are gaining ground especially in the Asia-Pacific region. The revolution in information technology, the globalization and liberalization of the international economics, the on-going negotiations in the World Trade Organisations to deal with the pattern of international trade and many more emerging related issues have opened a new era of disputes of

various kinds and possibility of finding mechanisms for their resolution. I am glad to know that the Kuala Lumpur Centre has taken the initiative to increase its co-operation with the World Intellectual Property Organization to provide facilities for the resolution of 'domain name disputes' and also venturing into the field of energy related disputes.

It may be mentioned that UNCITRAL, the United Nations Organization, concerned with the development of the law of international commercial arbitration, has for the last three years been reviewing certain matters related to international arbitration in the light of experiences gained over the years. The Model Law on International Commercial Arbitration, developed under the auspices of the UNCITRAL, at the initiative of AALCO, provided useful guidelines for enactment of national arbitration laws. I hope the recently adopted "Model Law on International Conciliation" would provide another useful tool for enacting national legislation in this regard. The AALCO Centres could take up this task in co-operation with UNCITRAL to facilitate this objective.

The lesser cost and time consumed are the two most advantageous factors which tilt the balance in favour of arbitration or any other alternative dispute resolution system vis-à-vis the court proceeding. It has been noticed that many a times procedural rules in arbitral procedures like any court proceedings, delay the very purpose of going for arbitration and the consequence is increase in the cost which the parties have to bear. I stress that serious thought must be given to this particular matter.

Enforcement of arbitration awards have been greatly facilitated by the wider acceptance of the New York Convention of 1958. The need for harmony between judiciary and the conduct of arbitration proceedings strictly in accordance with the arbitration laws and rules can hardly be over-emphasized. In this context, effective implementation of the 1958 Convention on Enforcement of Arbitral Awards has great relevance. I am glad to notice that as many as 35 AALCO Member States are parties to this Convention.

I am sure, we will have opportunity to discuss these issues during this Conference. The agenda has been aptly prepared. While there will be time to make an appraisal of the achievements made in this field in the twentieth century, it also projects the future course of arbitration in the 21st century. The Silver Jubilee of the establishment of the Kuala Lumpur Centre is no doubt a momentous occasion. On behalf of AALCO, I would like to extend our heartiest congratulations to you Dr.Zakaria and wish greater success for the Kuala Lumpur Centre.