

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 Regional 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 then AALCC relating to the Regional Centre for Arbitration in Kuala Lumpur on 29 July 1981.² Thereafter, the Headquarters Agreement for Kuala Lumpur Centre for International Commercial Arbitration was signed on 10 August 1989.³

10. In order to formalize the continued functioning of the KLRCA, with effect from 1 January 1992, an Agreement between AALCO 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 RAKL 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 between the Government of the Arab Republic of Egypt and AALCO. In 1983, another

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.

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 Amb. Dr. Wafik Zaher Kamil, the then Secretary-General of AALCO.

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.

27. As regards the present status of establishment of such Centre in Nairobi, it was informed by the Head of Delegation of the Republic of Kenya during the deliberation on the agenda item held at the Forty-Ninth Annual Session (2010) in Dar es Salaam, United Republic of Tanzania, that the arrangements to establish the Nairobi Regional Centre had been put on track by constituting a core Committee by the Attorney General in order to implement the Centre’s function at the earliest.⁶ Therefore, it is hoped that the AALCO’s fifth such Centre will be functional very soon in order to cater the needs of East and Southern African region States of Africa.

B. Activities of the Centres

28. 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.

29. 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.

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.

⁶ See, the Report of the Forty-Ninth Annual Session of AALCO, Dar es Salaam, United Republic of Tanzania, 5-8 August 2010, p. 216, available at www.aalco.int.

30. 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.

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

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

(ii) Whilst entering into contracts on behalf of the Government, Public Corporations and other Government Undertakings, consideration may be given to incorporate 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.

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

33. The following part of this Secretariat Report places for consideration the Report of the Director of the Tehran Regional Arbitration Centre (TRAC), Kuala Lumpur Regional Arbitration Centre (KLRCA), Regional Centre for International Commercial Arbitration-Lagos (RCICAL), Cairo Regional Centre for International Commercial Arbitration (CRCICA) highlighting the details of the activities of the Centre in the year 2010 and the foreseen plans for 2011.

II. REPORT ON THE ACTIVITIES OF THE TEHRAN REGIONAL ARBITRATION CENTRE (TRAC), 2010-2011

A. Introduction

34. The present document has been prepared by the Tehran Regional Arbitration Centre (TRAC) for submission at the Fiftieth Annual Session of the Asian-African Legal Consultative Organisation (AALCO) to be held in Colombo, Sri Lanka from 27 June to 1 July 2011. It contains the report of activities undertaken by TRAC in 2010 and the foreseen plans for 2011. It may be noted that Dr. Parviz Ansari Moein was appointed as new Director of TRAC.

B. Activities during 2010

35. During 2010, Tehran Regional Arbitration Centre (TRAC) actively pursued its two 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

36. During 2010, 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, telecommunications and construction.

37. In one case, the arbitral tribunal has declared the termination of proceedings and commenced its deliberation for issuing final award. In other cases, pleadings were exchanged between the parties and the hearing session was held.

38. 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. 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)

41. 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

42. 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.

43. 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.

44. 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.

3. Workshops and Seminars

45. 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.

46. Over 30 workshops have been held at TRAC's premises in Tehran since the beginning of this scheme. 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, 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)

47. 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.

48. In addition, in order to reach out to a wider audience, TRAC also organized several seminars in 2010 in cooperation with other institutes and organizations.

49. 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.

50. 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.

4. Publications

51. 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.

52. In conclusion, over 2010, 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 2011

53. The strategies of TRAC for 2011 will be basically directed towards providing and ensuring high arbitration services and promotional activities.

1. Ensuring Efficient Arbitration Services

54. TRAC will endeavour to uphold the standard of its services and apply the best practice of its rules.

2. Conducting Workshops and Seminars

55. TRAC will also continue to organize workshops and seminars. 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.

56. Workshop programmes will also be carried out on a regular basis during 2011 (Annex 4).

57. 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 2011.

D. Annexure to the 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 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 and Compensation
July 2010	Powers and Duties of Engineer and Managing Contractor

Annex 3 - Seminars Organized in 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 4 - Workshops Scheduled for 2011

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 KUALA LUMPUR REGIONAL CENTRE FOR ARBITRATION (KLRCA), 2010-2011

A. About KLRCA

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

59. 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.

60. 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.

61. 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 2010

62. The year 2010 marked the beginning of significant improvements in the Kuala Lumpur Regional Centre for Arbitration (KLRCA), as the new management initiated programmes to ensure a brighter future for KLRCA to be recognised as the preferred arbitration institution in Asia Pacific.

63. Among the initiatives was the rebranding exercise which was spearheaded by the new Director Mr. Sundra Rajoo. KLRCA was given a much needed facelift; a new logo, a new tagline and even the website was totally revamped. KLRCA's Information Kit was created and distributed to over 20,000 major companies and law firms domestically and internationally. The information kit contains the current KLRCA Arbitration Rules including its new Fast Track Rules 2010, the Mediation / Conciliation Rules and the Arbitration Rules for Islamic Banking and Financial Services. The kit also provided detailed information about KLRCA including the services and facilities offered at the centre. KLRCA also produced its own 8 minute Corporate Video and launched its newsletter.

64. KLRCA embarked on an integrated media relations programme resulting in mainstream press coverage and published articles in print publications, radio and newswires in addition to on-going media briefing sessions. This is to promote its services domestically and internationally, including strategic efforts to engage government agencies, Government Linked Companies (GLC's) as well as private companies to jointly promote the use of KLRCA's services and its arbitration rules throughout the region.

65. In an effort to further improve its services, KLRCA is empanelling more arbitrators to its panel of Arbitrators as well as for its panel for Islamic Banking and Financial Services. These efforts have thus far successfully secured more than 600 arbitrators and mediators and the numbers are steadily increasing as more qualified candidates are identified.

66. KLRCA has actively participated and engaged in international and local conferences/ symposiums to deliver talks about alternative dispute resolutions as well as promote KLRCA in the eyes of the world. The Director of KLRCA has delivered talks at cities including New York, Rio de Janeiro, Sydney, Hong Kong, New Delhi, Tanzania, and Vienna.

C. Annual Report for January to December 2010

67. Given the change of management at KLRCA as of 1st March 2010, we are pleased to present the Annual Report for January to December 2010.

1. Director's Profile

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

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

70. Mr. Sundra Rajoo was a Visiting Associate Professor with University Technology 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.

71. 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

72. Staff numbers have been beefed up from 4 (four) to the current 23 (twenty three) staff by way of recruitment of committed, qualified and experienced people. KLRCA now has a Corporate Communication Unit, Finance and Administration Unit and a Case Management Unit. There is a need to further increase the number and quality of staff particularly if KLRCA is going to be the appointing authority under the Construction Industry Payment Act.

3. Staff Policy Guidelines

73. 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.

74. 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:

NO.	CIRCULAR NO.	HEADING	CONTENTS
1.	1/2010	Leave Application	Leave application Guidelines
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.	5/2010	Authorisation Limit	Petty Cash, Claims, Capital Expenditure and procedure relating to claims and payments
6.	7/2010	Travelling & Other	Reimbursement for mileage, Overnight Allowances and Meal Allowance for local and overseas travel for training, business promotions, conferences etc on behalf KLRCA

7.	8/2010	Work Attire	Guidelines on appropriate work attire
8.	9/2010	Annual Leave/Special Leave, Medical & Hospitalization Leave Benefits	Guidelines, Procedures and entitlement for leave.
9.	10/2010	Overtime Claims	Procedure and rate for computation of overtime claims.
10.	11/2010	Payment of Yearly Professional Membership Subscription	Reimbursement for yearly subscriptions of selected professional bodies.
11.	12/2010	Dealings with External Services Providers	Guidelines and procedures in dealing with external service providers.

4. Improvement to Accounting System

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

5. Administration of Arbitration Cases

76. 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.

77. The statics of KLRCA's file load as at 31st December 2010 is as follows:

Files, Status & Applicable Rules as at 31 December 2010

TYPES OF FILES	NO. OF ACTIVE FILES	NO. OF CLOSED FILES	NO. OF FILES	GOVERNING LAW	
				KLRCA RULES	ARBITRATION ACT 2009
Domestic	18	0	18	4	14
International	1	0		UNCITRAL Rules 1976	
Domain Name Dispute	1	1	2	MYNIC'S DNDR Policy	
Asian Domain Name Dispute	1	0	1	ICANN's Uniform DNDR Policy	

Mediation	1	0	1	0	0
Total No. of files	22	1	22	4	14

Breakdown of Types of Disputes as of 31 December 2010

NO.	AREA	NO. OF CASES
1.	Construction Contract	13
2.	Intellectual Property (DNDR)	3
3.	Sale and Purchase Agreement	2
4.	Rental and Agreement	1
5.	Supply of Goods Agreement	1
6.	Franchise Agreement	1
7.	Repair and Maintenance Contract	1

6. Panel of KLRCA Arbitrators

78. New qualified arbitrators with various expertises from all around the world have been added to KLRCA's Panel of Arbitrators ("Panel") which now number over 600. The updated Panel list is available on KLRCA's website and accessible to users.

7. Rebranding and Business Development

79. KLRCA has undergone a complete rebranding to make it more relevant to the world of arbitration.

80. KLRCA has set up a Corporate Communications Department to support the rebranding public relations exercise and events management.

81. KLRCA's new logo, taglines, infokits and signages were showcased locally and internationally. The rebranding exercise will spread over at least three years and KLRCA will jointly conduct road shows with other professional bodies to promote Kuala Lumpur as an arbitration destination.

82. Over 20,000 information kits have been mailed to stakeholders, listed companies, government linked companies, missions and large corporate companies to promote KLRCA and its services. The information kits have also been translated into Mandarin and Bahasa Malaysia to attract a wider target audience.

8. New KLRCA Rules

83. KLRCA adopted the latest UNCITRAL Arbitration Rules 1976 with modifications i.e. The Rules for Arbitration of the Kuala Lumpur Regional Centre for Arbitration 2010 with effect on 15th August 2010 ("KLRCA Rules").

84. As of August 2010, KLRCA has updated the KLRCA Rules for Arbitration, adopting the revised UNCITRAL Arbitration Rules 2010. KLRCA is accredited as the first arbitration centre in the world to adopt the UNCITRAL Arbitration Rules 2010. The KLRCA Rules for Arbitration 2010 will enable a more efficient arbitration process and introduces a cost-effective fee structure.

85. In December 2010, KLRCA introduced the KLRCA Fast Track Rules 2010 to be used for smaller disputes. The new rules limits the number of hearing days and caps the arbitrator's fees, and aims to provide an alternative to the Malaysian subordinate courts' whose monetary jurisdiction has been increased tremendously.

86. The KLRCA Fast Track Arbitration Rules 2010 was introduced in collaboration with Malaysian Institute of Arbitrators (MIArb).

87. The KLRCA Fast Track Arbitration Rules 2010 was launched on the 27th January 2011 at the Westin Hotel, Kuala Lumpur, by Y.Bhg. Datuk Liew Vui Keong, Deputy Minister in the Prime Minister's Department and Y.Bhg. Dato' Saripuddin Kasim, Director General of Bahagian Hal Ehwal Undang-Undang (BHEUU).

88. The KLRCA Fast Track Rules 2010 was drafted to suit the contemporary needs, requirement and development of ADR in Malaysia. It is aimed at providing an expedited arbitral procedure, enhance confidence in the arbitral procedure and settle disputes and produce the award within a short time frame. It is intended to be cost effective by offering competitive fixed fees. It targets disputes involving smaller quantum (less than RM1 million).

89. Some of its key provisions are as follows:

Rule 35 & 36: Shorter Duration - Award to be published no later than 90 days from the commencement of arbitration in a document only arbitration and 140 days in a substantive oral hearing.

Rule 8: Sole Arbitrator - Appointment to be made within 7 days of commencement of proceedings.

Rule 10 & 12: Fixed Fees - Administrative fees of RM250.00 and registration fees of RM400.00.

Rule 27 & 30: Duration - Duration of proceedings is for a maximum of 10 days.

Rule 43: Ex-parte Hearings - The arbitrator may proceed with proceedings in the absence of a party and deliver an award based on the evidence before him.

90. KLRCA has also revised its existing rules for mediation/conciliation with the assistance of the Malaysian Mediation Centre and the Malaysian Judiciary. The KLRCA

Mediation/Conciliation Rules 2011 for mediation or conciliation proceeding has be completed and is effective from March 2011.

91. KLRCA is setting up a committee to revise the KLRCA Rules for Islamic Banking and Financial Services Arbitration.

9. Engagement and Publicity Events

92. Among the events participated by KLRCA in 2010 are:-

- International Dispute Resolution Conference & the 4th Regional Institutes Forum (RAIF) Conference held in May, 2010 at the Prince Hotel & Residence, Kuala Lumpur
- ICCA Congress Rio 2010 held in May at Rio De Janeiro, Brazil
- Managing International Investment Disputes – Best Practices for Treaty Negotiation and Case Management held in May at Attorney General’s Chambers, Putrajaya
- MICG National Legal Counsel Forum 2010 held in June at Istana Hotel, Kuala Lumpur
- 43rd Session of the UNCITRAL held in June at New York
- The PAM 2006 Standard Form of Building Contract, held in July at Westin Hotel, Kuala Lumpur
- Half day seminar in Melaka jointly organised by the Medico Legal Society of Singapore and Medico Legal Society of Malaysia with the Mahkota Medical Centre, Melaka held in July.
- Presidents of Law Associations 21st POLA Conference held in July at Kuala Lumpur
- Malaysian Law Conference 2010 held in July at Kuala Lumpur
- 49th Annual Session of AALCO held in August at Tanzania
- Malaysia Labour Law & Compliance held in August at Kuala Lumpur
- Diploma Course in International Commercial Arbitration held in October in Penang, Malaysia
- UNCITRAL – 53rd Working Group II Session (Arbitration & Conciliation) held in October at Vienna
- ICC Arbitration in Asia Pacific and Arbitration Banking & Finance Disputes Workshop held in October at Corus Hotel, Kuala Lumpur
- Financial Review International Dispute Resolution Conference 2010, held in October in Sydney
- ALSA Malaysia National Forum 2010, held in October at University Malaya, Kuala Lumpur
- Mediation Seminar – “The Navigation of Malaysian Mediation – route to Resolution” by Civil Division, Attorney General’s Chambers, held in October in Putrajaya, Malaysia
- Managing Medico-Legal & Medical Ethics Events & Disputes – the Current Challenges, held in October at PWTC, Kuala Lumpur

- SIAC Rules & CIArb 2010 Annual Dinner, held in November at the Westin Hotel, Kuala Lumpur
- HKIAC's 25th Anniversary Celebration held in November in Hong Kong
- ACCCIM Conference, held in November in Kuala Lumpur
- MCCA- KLRCA Business Dispute Resolution Forum, held in December at KLRCA, Kuala Lumpur
- The Personal Data Protection Act 2010 – A Practical Approach Towards Compliance organised by KAS Consulting, held in December in Kuala Lumpur
- Construction Industry Arbitration Council Conference, held in December in New Delhi, India

10 Capacity Building and Knowledge Transfer

93. For the purpose of capacity building and knowledge transfer programmes for ADR-related training, KLRCA partnered with accredited institutions of higher learning, governmental and professional bodies in Malaysia to organise arbitration and mediation courses and forums.

94. Among the programmes held by KLRCA are:-

- Mediation Training Program, jointly organised by KLRCA and Malaysian Institute of Arbitrators (MIArb) conducted at KLRCA premises by experienced lawyers from the Strauss Institute of Dispute Resolution, Pepperdine University, California
- Arbitration Course for Attorney General's Chambers' Senior Officers, conducted at the Attorney General's office in collaboration with the Bar Council, the Chartered Institute of Arbitrators (CIArb) and the MIArb
- Diploma Course in International Commercial Arbitration held in October at Penang, Malaysia, jointly organised by KLRCA, CIArb (Malaysian, Australian and Singapore Branches) together with the CLE Faculty of Law, University of New South Wales
- MCCA- KLRCA Business Dispute Resolution Forum, held in December at KLRCA premises, Kuala Lumpur, jointly organised by KLRCA and Malaysian Corporate Counsel Association (MCCA) in collaboration with International Centre for Dispute Resolution (ICDR) and MIArb

11. Strategic Partnership and Community Engagement

95. Throughout the year, KLRCA received visits from colleges, universities as well as the arbitration community within and outside of Malaysia. Among the visits were:-

- University Malaya (UM) in August
- Centre of Foundation of International Islamic University Malaysia (IIUM) in August
- ADR society of IIUM in August
- Asian Law Students Association Malaysia (ALSA) comprised of law students from UM, Indonesia and China in September
- MIArb secretariat in September

- Judicial and Legal Training Institute (ILKAP) in September
- Department of Irrigation & Drainage, Malaysia, Ministry of Natural Resources and Environment in October
- Law Faculty of Nirwana College in October
- Mr. Wong Yan Lung, Secretary for Justice, Hong Kong Special Administrative Region (HKSAR) in November
- Ms. Youn, Jiyoung, Deputy Director, The Korean Commercial Arbitration Board in November
- Mr Sobri Fayazov, Deputy of Head, Association for Arbitration of Uzbekistan in December
- Belgium Ambassador to Malaysia in December.

12. Other Initiatives

96. 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. The hosting of the prestigious secretariat would without doubt give KLRCA a boost and mileage both in the Asia Pacific region and globally. KLRCA submitted the bid on 7th April 2010. The outcome of the bid has yet to be decided by ICAS.

(2) KLRCA was selected to host the next Asia Pacific Regional Arbitration Group (APRAG) conference which will be held from 9th to 10th July 2011. The previous three conferences were held in Sydney (2004), Hong Kong (2006) and Seoul (2009). KLRCA will thus become the APRAG Secretariat for the next two (2) years. This will enable KLRCA to showcase and lay the foundation for a far greater co-operation and possible collaborative endeavours between APRAG members and KLRCA.

(3) On 16 April 2010, KLRCA accepted MYNIC Berhad's request that the centre will now 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.

(5) In response to Construction Industry Development Board (CIDB)'s Construction Industry Payment and Adjudication Bill (CIDB's CIPA Bill) which proposed to set up an Adjudication Control Authority to take over all construction disputes, KLRCA has drafted its own proposed Construction Industry Payment Act (CIPA) bill which aims at addressing cash flow disputes in the construction for the benefit of all stakeholders of the construction for the benefit of all stakeholders of the construction industry, in a transparent and cost effective manner.

97. Some of the positive key-note points of KLRCA's CIPA Bill include:
- KLRCA is a neutral international body and will provide a neutral venue to settle disputes as it has been doing since 1978. Hence, there will be no conflict of interest if KLRCA offers its services for construction disputes resolution in Malaysia.
 - KLRCA has the capacity and expertise to set accreditation standards for empanelling adjudicators as well as appointing adjudicators if so required by disputing parties.
 - KLRCA opposes the setting up of an Adjudication Control Authority as proposed by CIDB which will accreditate adjudicators. Such accreditation of adjudicators is redundant and duplicates the role and functions of KLRCA.
 - Parties would be free to designate an institution or body of its choice to appoint adjudicators. There would be no monopoly in the appointing of adjudicators. When parties fail to agree or when the agreed procedure fails, KLRCA will act as the default appointing body to facilitate the appointment of adjudicators.

98. Both the KLRCA CIPA Bill and the CIDB's CIPA Bill have been submitted to the Malaysian Attorney General's Chambers and are currently under consideration.

(6) KLRCA is entering into cooperation agreements with arbitral institutions to promote use of the KLRCA facilities, for example, the recent initiative of linking the Permanent Court for Arbitration (PCA) in Hague with AG Chambers for a country agreement with Malaysia. This agreement allows the PCA to hold their hearings within the KLRCA premises.

13. Relocation of KLRCA Premises

99. The Malaysian Government has requested that KLRCA relocate from its present premises to the Sulaiman Building on Jalan Damansara, Kuala Lumpur expected by end of 2011 and has provided funding to facilitate the move. KLRCA aspires to improve the level of services by having a new premise with world class facilities that are on par, if not, better with the other arbitration centres. The proposed new building will have the state-of-the-art facilities with 23 hearing rooms, meeting rooms, a library, business centre for secretariats and an auditorium.

D. Conclusion

100. As the oldest regional arbitral centre under the auspices of AALCO, KLRCA firmly believe that continued success is achievable by employing an appropriate marketing strategy and enhancing the level of service. KLRCA extends its gratitude to the Malaysian Government and AALCO for their continuous support in transforming KLRCA into the preferred arbitration centre in the Asia Pacific region.

IV. REPORT ON THE ACTIVITIES OF THE REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION-LAGOS, NIGERIA 2010 - 2011

A. Introduction

101. This Report has been prepared by the Regional Centre for International Commercial Arbitration - Lagos, Nigeria for submission at the Fiftieth Annual Session of AALCO. It contains the report on the Centre's activities during 2010 and the anticipated activities in the remaining segment of 2011.

B. Case Load in the year 2010-2011

102. In the period under review, 5 (five) new cases were added to the current disputes/cases registered at the Centre. All the fresh cases newly added to the Centre's case load are still on –going. Apart from the regular cases relating to oil and gas as well as construction, there are also aviation and oil waste management contract cases.

103. Although some of the cases are ad hoc arbitrations, there is an interesting increase in the use of the Centre's arbitration rules in a number of other cases; and more importantly the cost schedule contained in the Centre's rules are resorted to especially by arbitrators who prefer to conduct their arbitrations ad hoc.

104. Generally, many more arbitration cases conducted in Nigeria partly use the Centre's rules; although these arbitrations are not necessarily conducted under the auspices of the Centre.

105. The discretion given to parties by the arbitration law of Nigeria to exercise their choice on a number of issues such as choosing an appointing authority is now being exercised in favour of the Centre. This in itself adds to the number of arbitrations that the Centre has facilitated.

C. Acceptance of the Newly Revised Arbitration Rules by Arbitration Users

106. The current Arbitration Rules of the Centre took effect from July, 01 2008. The reception of the rules is encouraging; and that is attributable, perhaps, to its pro-active nature. The Rules are pro-active because they are geared towards actively initiating change in anticipation of future developments, rather than merely reacting to events as they occur. To this extent similar provisions as have been currently added to the newly revised UNCITRAL Rules have longed formed part of the Centre's Rules, even before the UNCITRAL Revised Rules were launched on August 15, 2010.

107. Other provisions in the Centre's Rules are in *pari materia* with the Rules of other major Arbitration Centres, such as LCIA, the ICC as well as WIPO Rules; an example is the similarity of incorporating an International panel of arbitrators, in each organizations' Arbitration Rules.

D. Participation in Arbitral Events

1. International Bar Association (IBA) Conference held in Vancouver, Canada 3rd – 8th October 2010.

108. The Centre was represented at the arbitration sessions of the following committees of the International Bar Association (IBA) Conference held in Vancouver, Canada, 3rd – 8th October 2010.

- i) International arbitration section;
- ii) Construction arbitration;
- iii) International Centre for Settlement of investment Disputes-Arbitration; and
- iv) Oil and gas.

109. Issues discussed included an instant survey on a number of procedural practices that either facilitate or delay the smooth conduct of international arbitration such as the choice between the use of institutional or ad hoc arbitration rules and party appointed arbitrator or empowerment of a third party to appoint arbitrator on behalf of the parties.

110. The survey suggested that ad hoc arbitration rules seem to be preferred to institutional arbitration rules by international arbitrators' in spite of the numerous advantages of institutional arbitration.

111. To our minds at the Lagos Centre, this would suggest that institutional arbitration providers need to deepen the penetration of the use and advantages of institutional arbitration amongst diverse international arbitrators.

2. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention) was also discussed.

112. The importance of this Convention in the field of international arbitration was well emphasized.

3. Construction Industry Arbitration Council on: International Trends in International Arbitration- 18th – 19th December, 2010, New Delhi, India.

113. The Director and General Counsel of the Lagos Centre attended the workshop organized by the Construction Industry Arbitration Council, India held in New Delhi on 18th and 19th December, 2010.

114. The Society for Construction Industry Arbitrators, Nigeria has collaborated with the Centre in organizing arbitration promotional events over the years including the year 2010.

4. FIDIC Claims Workshop, Johannesburg, South Africa March, 2011

115. In an effort to consolidate its construction arbitration grip in the sub-region, the Centre attended a FIDIC workshop on construction claims in Johannesburg, in March 2011.

116. FIDIC is an important organization in the field of construction arbitration. A good understanding of FIDIC standard form contracts is necessary to be able to administer FIDIC based arbitrations as well as organize FIDIC based workshops in the sub-region.

5. Transnational Arbitration Issues in Emerging Markets : A Focus on Nigeria-Lagos, Nigeria- 3rd February, 2011

117. The Centre supported this workshop held at the Lagos Oriental Hotel, Victoria Island, Lagos where the Director of Centre also delivered a paper titled-“The Regional Centre for International Commercial Arbitration”-Lagos, in Nigeria.

118. The paper highlighted the role and impact of the Centre in making Nigeria an international arbitration destination in the emerging markets.

E. Educational Activities

1. ADR Moot Competition

1119. 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 carrying on ADR Moot Competitions among Universities within the sub-Sahara African region has come up with some interesting developments.

120. The Centre prepared for two international moot arbitration competitions in the period under review. The first competition wholly organized by the Centre, was-“the African international arbitration moot competition”-which was to be held in an African country in December 2010 and meant for African universities only.

121. The second competition organized by a group of international arbitrators in Vienna was the Williem C. Vis international arbitration moot competition; held in Vienna, in April 2011.

122. The arrangement was for the two universities who emerge winners from the African arbitration moot to be fully sponsored by the Centre to the Williem C. Vis international arbitration moot, in Vienna-Austria.

123. Owing, however, to the intensity of preparations for the two competitions at the same time and the demands of academic work on the students, the participating

universities and the Centre stepped down the African moot, to enable participants concentrate fully on the Vienna moot.

124. To this end, two Nigerian universities namely; the University of Ilorin and the Delta State University were selected and prepared extensively for not less than six months for the Vienna Moot.

125. The Centre was actively involved in the preparations. It engaged a three-man Panel of Assessors to assist in assessing the performances of the teams before presenting them to the rest of the world in Vienna and a Consultant from the School of African and Oriental Studies, London.

126. We are sad to report, however, that less than 48 hours to the proposed departure date to Vienna, the Austrian Embassy in Nigeria refused all the student team members visas to Vienna based on some curious reasons; while granting entry visas to the coaches responsible for the students. This made it impossible for the students to participate in the Vienna moot.

127. The Centre has now revived the African moot and has almost concluded plans to hold the competition in July, 2011 in any of the following African countries; Kenya, South Africa or Nigeria.

F. Future Activities of the Centre

128. The underlisted events are slated for 2011 and beyond.

1. Quarterly training on Arbitration for Law Officers 3rd Quarter, 2011
Duration : 3 weeks
Venue : Hilton Hotel, Abuja
2. Moot Arbitration for African Universities: ongoing from 2008/2009
Duration : 2 Weeks
Venues : Nigeria/Vienna

F. Conclusion

129. The Centre is desirous of achieving the twin objectives of ALCCO in setting up the Regional Centre for International Commercial Arbitration-Lagos, which are to conduct international arbitration under fair and efficient procedure and to retain arbitrations in the region where the contract giving rise to the dispute is performed.

130. The Lagos Centre has endeavoured in the past and continues to endeavour to achieve both objectives by the pro-active revision of its arbitration rules and sensitization of arbitration users within the sub-region of the need to conduct arbitration within the region where the contract is performed.

V. REPORT ON THE ACTIVITIES OF THE CAIRO REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION (CRCICA), 2010-2011

A. Dr. Nabil ELARABY Roading across Egypt's Foreign Ministry to the Arab League

131. In March 2011, the Director of the Centre, Dr. Nabil Elaraby, was appointed as the Foreign Minister of Egypt in an interim government. In this post-revolution capacity, Dr. Elaraby has made various dramatic changes in Egypt's foreign policy and has carved a fresh diplomatic track for Egypt since taking over the ministry. Few months later, Dr. Elaraby's exceptional reputation led to his unanimous election as the Secretary General of the Arab League and he is due to take over as of July 2011.

132. Dr. Elaraby was a judge at the International Court of Justice from 2001 to 2006 and took up his role as the Director of the Cairo Regional Centre for International Commercial Arbitration in December 2008. CRCICA is so proud for having been led by Dr. Elaraby for more than two years and wishes him all success in his professional life to come.

B. Summarized version of the Message of the Acting Director

133. It has been stated by the Dr. Abdel Raouf, Acting Director that his country is likely to benefit from significant economic aid and reform programs and a potential economic take-off in the post transition period. Those developments had inspired both hope and confidence in a brighter future for Egypt and the region. They come at an important time for CRCICA, which, as of 1 March 2011, had adopted a new set of Arbitration Rules based on the new UNCITRAL Arbitration Rules, as revised in 2010, with minor modifications emanating mainly from CRCICA's role as an arbitral institution and an appointing authority.

134. The new CRCICA Arbitration Rules guaranteed collegial decision-making with respect to several vital procedural matters. They seek to promote greater efficiency in arbitral proceedings and comprise a new section on costs adjusting the original tables of costs to ensure more transparency in the determination of the arbitrators' fees, which had been increased to show more respect to the legitimate expectations of parties and arbitrators. The new Rules aimed at confirming CRCICA's position as a leading regional arbitral institution and a major administrator of international arbitration cases.

135. He was particularly proud of the very positive appraisal the new Rules had received so far. According to a recent GAR publication, they were regarded as a vital enhancement of CRCICA's apparatus and "were expected to bring its arbitration offering in line with international best practice and make it better equipped to handle complex and multi-party international disputes and to attract the best international arbitrators".

136. He has referred to an Article recently published in the Transnational Dispute Management, the CRCICA Rules are seen in some cases clearer and more definitive than the New Model Rules. The standard of equity between parties in presenting their cases,

“appears more vague in the Model Rules than [in] the new CRCICA Rules and may lead to more due process-related challenges”, a matter that CRCICA Rules seem to avoid. Similarly, it is stated that “the Centre’s Rules create strict privacy requirements not directly contemplated under the new Model Rules.”

137. It was also mentioned that the Centre had brought in the Arabic version of the new CRCICA Arbitration Rules. It was neither a replica of the UNCITRAL’s Arabic version nor a mere translation of the English version, but rather another original version of the Rules applicable to proceedings conducted in the Arabic language. The time spent in selecting the right legal term, the correct verb and the most commonly used legal Arabic would make the version very popular among other Arab-speaking countries.

138. He was also appreciative of the strong sense of duty and expert devotion of the Working Group I which had cooperated with the Centre. It was comprised of four leading Egyptian arbitration practitioners in addition to his colleagues at CRCICA, the Group was formed by CRCICA to draft the new Rules that was subsequently discussed and approved by CRCICA’s Advisory Committee.

139. The year 2010 was an exceptional year as far as CRCICA’s caseload was concerned (66 new cases). In spite of the recent events in the region, the first half of 2011 had witnessed the filing of 30 new cases. It was expected that the recent disruption caused to the performance of some contracts would rise to force majeure and insurance related claims. Mediation and other ADR mechanisms were also expected to play an important role in the near future in order to peacefully resolve commercial disputes.

140. CRCICA’s activities in 2010 and early 2011 were focused on highlighting the role of state courts in arbitration and discovering the latest developments in the FIDIC contracts. CRCICA also continues to play a pivotal role in offering first class training programs and workshops for young and more experienced practitioners.

141. CRCICA has started starting the second half of the year of revolution with an increasing number of ideas and options that it intends to implement, a far-reaching calendar of future projects that includes holding a pan-regional conference on inter-Arab investment disputes; continuation of CRCICA 1st four-phased Arbitration Training Program; drafting Guidelines to CRCICA Arbitration Rules...etc. Change brings new opportunities and CRCICA has been determined to meet them.

C. Salient Features of the New CRCICA Arbitration Rules⁷

1. Introduction

142. The Cairo Regional Centre for International Commercial Arbitration (“CRCICA”) or the “Centre”) has amended its Arbitration Rules. The new CRCICA Arbitration Rules

⁷ A slightly shorter version of this article drafted by Dr. Mohamed Abdel Raouf is published in the IBA Arbitration Committee Newsletter, Arbitral Institutions Section, 2011

("New Rules"), including the revised tables on costs, have entered into force as from 1 March 2011 and shall apply to arbitral proceedings commencing after this date.

143. Since its establishment, CRCICA has adopted, with minor modifications, the Arbitration Rules of 1976 of the United Nations Commission on International Trade Law ("UNCITRAL").

144. CRCICA has already amended its Arbitration Rules in 1998, 2000, 2002 and 2007⁸ to ensure that they continue to meet the needs of their users, reflecting best practice in the field of international institutional arbitration.

145. The New Rules are based upon the new UNCITRAL Arbitration Rules, as revised in 2010,⁹ with minor modifications emanating mainly from the Centre's role as an arbitral institution and an appointing authority.

146. The revision of CRCICA's Arbitration Rules builds on the amendments introduced in 2007 and serves four basic purposes. First, it guarantees collegial decision-making with respect to several vital procedural matters, including the rejection of appointment, as well as the removal and the challenge of arbitrators. Second, it seeks to modernize the Rules and to promote greater efficiency in arbitral proceeding. Third, it fills in a few holes that have become apparent over the years. Finally, it adjusts the original tables of costs to ensure more transparency in the determination of the arbitrators' fees.

147. The New Rules give expression to the Centre's long-standing commitment to offer users an arbitral procedure substantially modeled on the UNCITRAL Arbitration Rules and aim at confirming the Centre's position as a leading regional arbitral institution.

2. Background

148. The original UNCITRAL Rules of 1976 were the subject of extensive consideration and discussion from July 2006 till July 2010 when the new UNCITRAL Rules were adopted to come into effect on August 15, 2010.

149. CRCICA formed a Working Group ("WG") to revise CRCICA's Arbitration Rules in light of the new UNCITRAL Rules.¹⁰ The WG held eight sessions between August 26, 2010 and October 28, 2010, after which a second reading of the draft amendments was concluded. The draft amendments were then discussed among the members of CRCICA's Advisory Committee ("AC"), which approved the final draft in its session of January 19, 2011.

⁸ These amendments became effective as from 1 January 1998, 1 October 2000, 1 November 2002 and 1 June 2007, respectively.

⁹ The new UNCITRAL Arbitration Rules entered into force as from 15 August 2010 and are available at: <http://www.uncitral.org/pdf/english/texts/arbitration/arb-rules-revised/arb-rules-revised-2010-e.pdf>.

¹⁰ The WG was composed of the following arbitration experts: Dr. Mohamed Salah Abdel Wahab, Mr. Yasser Mansour, Dr. Karim Hafez and Dr. Mohamed Gomaa, in addition to Dr. Mohamed Abdel Raouf, Ms. Laila El Shentenawi, Ms. Heba Ahmed, Ms. Inji Fathalla and Ms. Nassimah Francis from CRCICA.

3. Key Changes

i. Communications (Article 2)

150. The former versions of the Rules required notices to be physically delivered, while under the New Rules, notices and other communications can be sent by any means, including electronic ones, “*that provides or allows for a record of its transmission.*” Delivery by electronic means such as facsimile or email may only be made to an address designated by a party specifically for such purposes. A notice transmitted by electronic means is deemed to have been received on the day it reaches the recipient’s electronic address.

ii. Notice of Arbitration (Article 3)

151. The notice of arbitration must henceforth include certain requirements such as (1) the identification of the arbitration agreement that is invoked, (2) the identification of any contract or other legal instrument out of which the dispute arises, (3) a brief description of the claim and an indication of the amount involved, (4) the relief or remedy sought, (5) a proposal as to the number of arbitrators, language and place of arbitration, and (6) a copy of the arbitration agreement, as well as (7) a copy of any contract or other legal instrument out of which the dispute arises.

152. These requirements seek to make the notice of arbitration as complete as possible instead of waiting until the filing of the statement of claim after the full composition of the tribunal. It is to be noted that the term “legal instrument” employed in this provision is intended to cover disputes arising out of legal instruments other than contracts, such as bilateral investment treaties.

iii. Response to the Notice of Arbitration (Article 4)

153. According to this amendment, the respondent must file a response to the notice of arbitration within 30 days of receiving the same. The response must respond to items in the notice of arbitration regarding *inter alia* the arbitration agreement, the claimant’s description of its claims and the sought remedy. The response may also include a notice of arbitration against any other party that is a party to the arbitration agreement.

iv. Decision Not to Proceed with the Arbitral Proceedings (Article 6)

154. Another significant change makes it possible for the Centre to decide – upon the approval of the AC – not to proceed with arbitration if it manifestly lacks jurisdiction over the dispute. Such decision will be taken *prima facie* following the response to the notice of arbitration.

v. The Number of Arbitrators (Article 7)

155. This provision retains the default position of having three arbitrators if the parties fail to agree on use of a sole arbitrator. However, Article 7.2 now provides more flexibility. Specifically, the Centre may now appoint a sole arbitrator if one of the parties requests appointment of a sole arbitrator and any party fails to appoint a co-arbitrator, provided appointment of a sole arbitrator is “more appropriate” in view of the circumstances of the case.

vi. Rejection of Appointment of Arbitrators (Article 8/5)

156. The Centre may-upon the approval of the AC- reject the appointment of any arbitrator due to the lack of any legal or contractual requirement or past failure to comply with his duties. The arbitrator in question and the parties should be given the opportunity to express their views before this decision is taken.

vii. Multiparty Arbitrations (Article 10)

157. Where multiple parties are unable to agree upon the constitution of the tribunal, any party may ask the Centre to constitute the tribunal. In such circumstances, the Centre may revoke any appointment already made and appoint or reappoint each of the arbitrators and designate one of them as the presiding arbitrator.

viii. Removal of Arbitrators (Article 12)

158. Pursuant to this provision, an arbitrator may – at the request of a party and by virtue of a decision from an impartial and independent tripartite *ad hoc* committee to be composed by the Centre from amongst the members of the AC – be removed in the event that he fails to act or in the event of *de jure* or *de facto* impossibility of performing his functions, or in the event that he deliberately delays the commencement or the continuation of the arbitral proceedings.

ix. Challenge of Arbitrators (Article 13)

159. The New Rules include an innovation according to which a schedule is added for resolving any challenges. (The former versions of the Rules had a deadline for raising a challenge but no timetable for resolution.) Under the New Rules, if within 15 days the appointing party does not agree to the challenge or the challenged arbitrator does not withdraw, then the challenging party may elect to pursue its challenge. In that case, the challenge shall be finally decided by an impartial and independent tripartite *ad hoc* committee to be composed by the Centre from amongst the members of the AC.

x. Truncated Tribunals (Article 14/2)

160. A particularly noteworthy change is found in Article 14/2 of the New Rules. Under that Article, in exceptional circumstances the Centre can deprive a party of its right to

appoint a substitute arbitrator and may either appoint the substitute arbitrator itself or, after the closure of the hearings, authorize the other arbitrators to proceed with the arbitration and make any decision or award. This new provision was direly needed to deal with “strategic” resignations. It is the first time the Rules have permitted truncated tribunals – the source of much debate in the WG.

xi. Repetition of Hearings (Article 15)

161. According to this provision, if an arbitrator (co-arbitrator, sole arbitrator or presiding arbitrator) is replaced, at least one oral hearing shall be held in the presence of the substitute arbitrator. Under the former versions of the Rules, the repetition of hearings was optional after the replacement of a co-arbitrator.

xii. Exclusion of Liability (Article 16)

162. Article 16 of the new Rules adds an exclusion of liability for the arbitrators and the Centre “save for intentional wrongdoing.” This exclusion also applies to the members of the AC and to any person appointed by the tribunal.

xiii. Efficiency of the Proceedings (Article 17/7)

163. According to this amendment, the tribunal is under an obligation to efficiently conduct the proceedings so as to avoid unnecessary delay and expenses that are likely to increase the costs of arbitration in an unjustified manner.

xiv. Third Party Joinder (Article 17/6)

164. Paving the way for the administration of complex arbitrations, the New Rules permit the joinder of third parties to arbitrations if they are parties to the arbitration agreement. The discussions over this provision gave rise to an extremely interesting debate regarding the possibility of the tribunal making *sua sponte* decisions about joinder, but that option was rejected by the WG.

xv. Interim Measures (Article 26)

165. Under the New Rules, the tribunal’s powers relating to interim measures are amplified so as to include injunctive relief/preservation of evidence, set out the test for the grant of interim measures, and highlight costs/damages consequences in the event that interim measures are subsequently found to have been unjustified.

xvi. Applicable Law (Article 35)

166. Article 35 regarding the law applicable to the merits now refers to “the rules of law” and not just “the law” – which potentially enables the parties to specify, for example, the UNIDROIT Principles of International Commercial Contracts. The tribunal shall apply

the law having the closest connection to the dispute in case the parties fail to designate the applicable law.

xvii. Costs of the Arbitration (Section V – Articles 42-48)

167. In the New Rules, the Centre has implemented a significant change in the way it determines arbitrators' fees. Fees under the previous versions of the Rules were regarded as low.¹¹ They have been increased to show more respect to the legitimate expectations of parties and arbitrators.

168. The New Rules abolish the impractical distinction between fees in international and domestic cases. They also clarify that the sum in dispute, based on which both administrative and arbitrators' fees are determined, shall be the aggregate value of all claims, counterclaims and set-offs. They also fix ascending flat rate fees for disputes under US\$ 3 million in value, and allow the Centre more discretion to determine fees for disputes of greater value, within certain boundaries.¹²

169. The Centre hopes the new Section on costs will help to attract more cases of all sizes, while not depriving the parties of their right to select the best international arbitrators.¹³

D. Echoes of the New Arbitration Rules in a Quarter

170. Although it has been only a quarter year since the CRCICA New Rules have entered into effect, they gain worldwide momentum and have been subject to remarkable international appraisal. The GAR, the IBA and the Transnational Dispute Management feature three interesting articles on CRCICA New Arbitration Rules in their most recent publications. On the individual level, many reputed international arbitrators have rated the new Rules as a vital refinement in the Centre's strategies and *modus operandi*.

171. Practically speaking, twenty new arbitration cases have been filed before the Centre since the new Rules entered into force. This is monitored with satisfaction as a remarkably

¹¹ In their study comparing the costs of various arbitral institutions published in GAR in 2010 (<http://www.globalarbitrationreview.com/news/article/28915/arbitration-costs-compared/>), Louis Flannery and Benjamin Garel found CRCICA to be by far the most affordable of six worldwide institutions for cases of various values. In that study, CRCICA was compared with the DIAC, HKIAC, ICC, MKAS, SCC and the arbitration courts of the Swiss Chambers of Commerce.

¹² An arbitration costs calculator is now available on the Centre's website (<http://www.crcica.org.eg/feescal.html>).

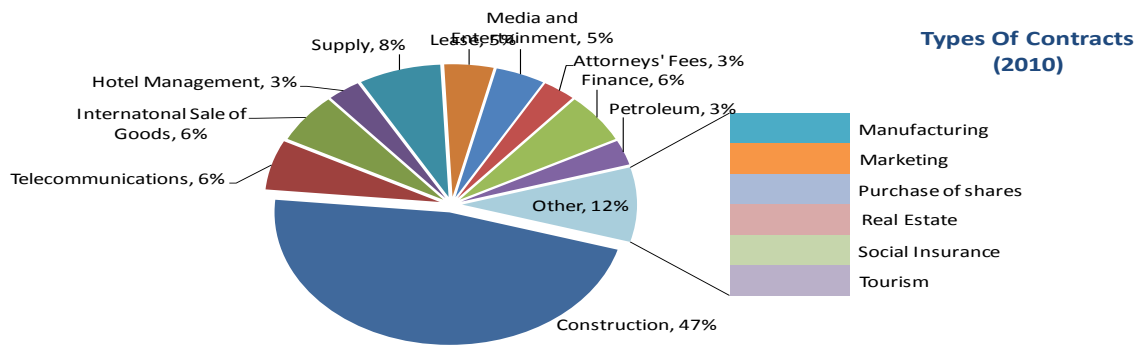
¹³ It is worth noting that one of the two authors of the abovementioned study predicts that the new costs schedules will not deter current users of the Centre and "will certainly persuade more arbitrators to accept appointments, which, in the mid- and long term, will help the Centre's image and reputation." After updating his costs comparisons tables to factor in the changes to CRCICA's costs regime, he concludes that the Centre remains the least expensive institution for smaller disputes (from US\$100,000 to US\$1 million in value) and that it is also the least expensive institution for cases in the US\$500 million to US\$1 billion range, although significantly more expensive than it used to be. He also considers the costs in mid-size cases to be "in the same range as its most affordable competitors." (comments collected by GAR and available at: <http://www.globalarbitrationreview.com/news/article/29328/all-change-cairo/>)

immediate response to the user-friendly nature of the amendments. Also, many conferences and seminars in Egypt, Bahrain, Kuwait and Germany have exposed the Rules and the practical revisions they unfold.

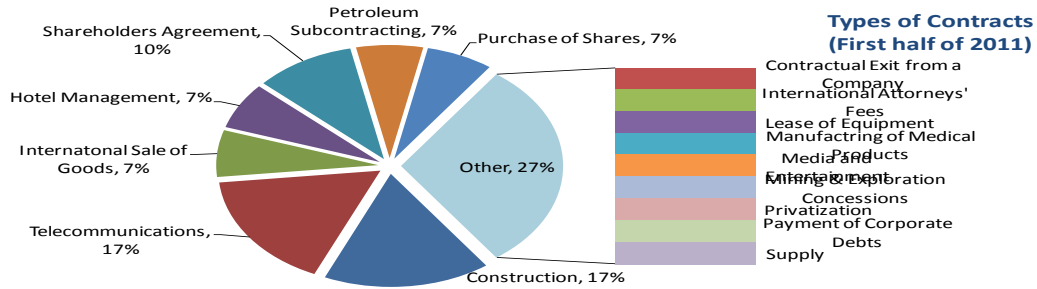
E. CRCICA’s Caseload

172. The total number of arbitration cases filed before CRCICA until the end of May 2011 reached 756 cases. In 2010, 66 new arbitration cases were filed before CRCICA against 51 cases in 2009, scoring as such 35 % annual increase. In the first half of 2011, 30 new arbitration cases were filed.

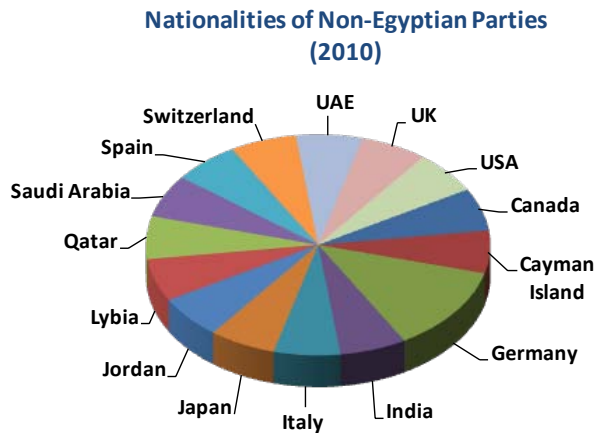
173. The 2010 arbitration cases filed before the Centre are related to disputes in various fields including construction, telecommunications, finance, lease, media and entertainment, international sale of goods, attorneys’ fees, hotel management, petroleum, manufacturing, marketing, real estate, social insurance, supply, purchase of shares and tourism. It is noteworthy that construction cases still rank on top embracing 47% of CRCICA’s arbitration cases in 2010.



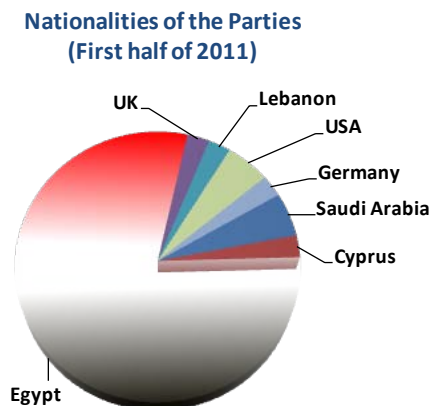
174. The 2011 arbitration cases filed before the Centre are related to disputes including shareholders agreements, construction, telecommunications, lease of equipment, purchase of shares, privatization, hotel management, petroleum subcontracting, mining and exploration concessions, supply contracts, international attorneys’ fees, media and entertainment and manufacturing of medical products. The first half of 2011 witnessed the filing of arbitration cases arising out of three new types of international contracts relating to attorneys’ fees, the exit from a company and the payment of corporate debts for the purposes of an acquisition. This confirms the long standing tradition of arbitration in Egypt and the region as well as the increasing variety of CRCICA’s caseload.



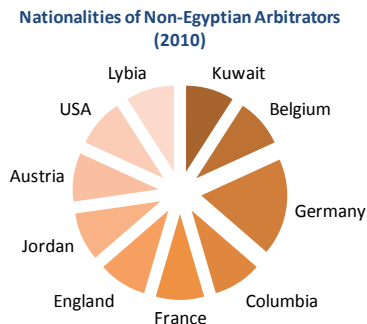
175. In 2010 arbitration cases, and beside the different multinational corporations, CRCICA's arbitration proceedings involved parties from different countries including Egypt, Canada, Cayman Island, Germany, India, Italy, Japan, Jordan, Lybia, Qatar, Saudi Arabia, Spain, Switzerland, UAE, UK and USA.



176. In 2011, arbitration proceedings involved parties from different countries including Egypt, Lebanon, USA, Cyprus, Germany, Saudi Arabia and the UK.



177. Just as the nationalities of parties vary, those of arbitrators do. In 2010, arbitrators acting in CRCICA's arbitration cases are nationals of different countries including Egypt, Austria, Belgium, Columbia, England, France, Germany, Jordan, Kuwait, Libya and the USA.



178. The spatial facilities of the New Offices of the Cairo Centre make room for hosting arbitrations of other institutions. In this course, CRCICA hosted hearings of the International Chamber of Commerce (ICC) and the Gulf Commercial Arbitration Centre (GCC).

F. Sharm El Sheikh III – Role of State Courts in Arbitration

179. Since 2006, CRCICA has kept the tradition of holding a biennial international conference on the role of state courts in arbitration in Sharm El Sheikh, Egypt. Partners in the Sharm El Sheikh Conferences initiative are the United Nations Commission on International Trade Law (UNCITRAL), the International Federation of Commercial Arbitration Institutions (IFCAI), and the Arab Union for International Arbitration (AUIA).

180. Held on 2-4 June 2010, the Conference was the third in the only international series of conferences organized biennially since 2005 on the renovating relation between state courts and arbitration in a cross-cultural context. 26 countries were represented in the conference, these are Austria, Bahrain, Egypt, France, Iran, Iraq, Italy, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Poland, Qatar, Saudi Arabia, Sudan, Sweden, Switzerland, Syria, Tunisia, United Arab Emirates, United Kingdom, United States of America, Venezuela and Yemen. With 35 speakers from 14 Countries representing different legal systems, the event was a tremendous success.

181. The agenda featured comparative analysis of the different aspects of the role of state courts in arbitration in eastern and western countries. Most recent international court decisions including but not limited to decisions of the French, Swiss, Swedish, English and American courts were discussed in a splendid cross-cultural context.

182. On the sidelines of the Conference, the Centre organized an ARBITRAL WOMEN lunch, which was attended by approximately 20 women working in arbitration from Egypt,

Venezuela, England, Switzerland, Poland, Sweden and Lebanon .The meeting was as a remarkable token of women's active role in international commercial arbitration.

183. In implementation of one of SHARM EL SHIEKH III most important recommendations, CRCICA is establishing a working group to act as an institutional discussion forum on the critical relation between state courts and arbitration in disputes arising out of administrative contracts.

G. FIDIC Latest Developments Regional Conference, January 2011

184. The Cairo Regional Centre for International Commercial Arbitration hosted a regional conference on "FIDIC Contracts - Latest Developments". Held on 9-10 January 2011 / Cairo, Egypt, the Conference was jointly organized by the International Federation of Consulting Engineers (FIDIC), CRCICA and the Egyptian Society of Consulting Engineers (ESCONE).

185. The Event marked one of the most important regional conferences organized by FIDIC with the prospect of facilitating best functional use of its contracts under different legal systems. The Conference witnessed wide-ranging international and regional attendance of experts in FIDIC contracts from Switzerland, England, Germany, Egypt, Saudi Arabia, United Arab Emirates, Iraq, Kuwait, Jordan, Lebanon, Syria, Palestine, Libya, Morocco, Sudan, Romania and China.

186. Participants had the chance to learn all about the latest developments of FIDIC contracts including: Updates of the 1999 Suite of Contracts, the main provisions and application of the DBO Contract, the 2010 MDB harmonized Construction Contract, the new Subcontract conditions, suggestions of integrating a Project Manager as a Party to the Contract with specific responsibilities, practical view of Claims challenges in Egypt and the Middle East, dispute Adjudication Board role, mediation and Arbitration.

187. The event was a ripe change for participating practitioners to learn how to choose the appropriate form of contract suitable to their projects and how to use certain FIDIC conditions to ensure compliance with local laws and regulations.

188. The event opened an interactive forum of reciprocity between regional practitioners and the FIDIC update tasks committee. While participants learned much about the future plan of the FIDIC update tasks and the upcoming updates to the current Suite of Contracts were discussed, the FIDIC update tasks committee explored the main challenges parties face in the local market when using the FIDIC conditions.

H. Arbitration Agreement Training Program, 30 May - 2 June 2011

189. CRCICA has recently launched a four-phased training program, a progressive educational ladder designed to cover the main arbitration phases being the writing of the arbitration agreement, the composition of the arbitral tribunal, the arbitral proceedings

and finally the writing of the arbitral award. The program is intended to provide the ideal platform to underpin and support the development of professional experience in arbitration.

190. On 30 May – 2 June 2011, in cooperation with the CRCICA Alexandria Centre for International Arbitration (ACIA) and the Cairo Branch of the Chartered Institute of Arbitrators (CI Arb), an arbitration agreement course was held as a launch of the first training round. The Tutors were Dr. Mohamed Abdel Raouf, CRCICA's Acting Director, and Dr. Mohamed S. Abdel Wahab, Vice President of the Cairo Branch of the CI Arb.

191. The course was delivered over four days, with a balanced combination of lectures and tutorials. It provided candidates with sufficient knowledge of the theory and practice in all the requirements for the writing and understanding of the arbitration agreement. Attendees were a mixture of lawyers, engineers and governmental officials from Egypt, Morocco and Palestine. Upon completion of the course, candidates were invited to progress onto the composition of the arbitral tribunal round scheduled to be held in July 2011.

I. IFC/CRCICA Partnership: A Path way to Mediation

192. The International Finance Corporation (IFC) and CRCICA continue to cooperate on the mediation project launched in 2009 to build local capacities and train master mediation trainers in Egypt.

1. Accreditation of mediators Ceremony

193. On 13 October 2010, IFC and CRCICA announced to the business community the accreditation of the mediators who received training in two rounds by the Center for Effective Dispute Resolution (CEDR) in May 2011. The first round consisted of a 5-day Consolidated Mediator Training Course, which is designed for participants with no previous training or experience in ADR. At the end of the course, each participant mediated 2 simulated cases. The second round of training consisted of a 4-day advanced mediator training course, which is designed for participants who had some training in mediation.

194. In this occasion, a renowned international mediator, Bill Marsh, was the keynote speaker and addressed the attendees on the benefits of commercial mediation.

2. Mediation in Insurance Disputes Workshop

195. On 14 October 2010, IFC and CRCICA organized a workshop on Mediation in Insurance Disputes. Delivered by Mr. Bill Marsh, the workshop emphasized on specific mediation examples drawn from the insurance industry and was attended by executives in the insurance sector and lawyers involved in insurance disputes.

3. Mediation Months

196. CRCICA/IFC agreed with the project trained mediators to conduct an initiative entitled "Mediation Months" where the mediators would offer mediation services for free. Exact timing and further details are still under discussion.

J. ABA/CRCICA Continuing Legal Education Programs 2010-2011

1. Program Objectives

197. Since January 2009, ABA ROLI has been partnering with CRCICA to enhance legal education in Egypt by offering young lawyers and law students the opportunity to develop practical legal skills. The CLE programs seek to “bridge the gap” between the participants’ formal legal training and their needs as practitioners. To this end, ABA/CRCICA continuing legal education courses introduce legal research, problem solving, oral advocacy, negotiation skills, and effective legal drafting to trainees, who are expected to perform with increasing levels of skill over the course of the program.

Course structure, content and teaching methodology:

198. In 2010/2011, four new ABA/CRCICA programs were run in January, March, and November 2010, and the most recently completed course in April 2011. All ABA/CRCICA programs took place in CRCICA’s Offices.

199. Each course, regardless of duration, offers participants training in the following areas: Oral Advocacy, Contract Drafting, Statutory Analysis, Drafting of Legal Memoranda, Negotiation, Mediation, Arbitration, and Arbitration Advocacy. Each course culminates in a mock arbitration in which students are asked to make use of the various practical legal skills acquired during the course.

200. Classes are taught in such a way as to give participants the opportunity to make use of lawyering skills that are frequently encountered in practice. Presentations, role-plays, and hypothetical problems are just a few of the methods commonly used by ABA trainers to give these young lawyers “hands-on” experience in various aspects of the practice of law.

K. Future Directions: Memorandum of Understanding between the ABA and CRCICA renewed

201. Building on the success of the ABA/CRCICA CLE Programs over the past three years, the two institutions extended the memorandum of understanding for a third term of operation starting June 1, 2011 till March 2012. Far from being clichéd, the new memorandum unfolds a fresh dimension in the future operation of CLE in Egypt. The Basic CLE model already developed by the parties and that has been into exclusive effect since 2008 is only one of four phases of the extended program to be complemented by

development of a pilot mentoring program for young lawyers who participate in the Basic CLE course ; development of an advanced CLE course for more experienced young lawyer and the establishment of a consortium for continuing legal education in Egypt to develop a framework to support the institutionalization of CLE in Egypt. This would involve the development of CLE capacity within CRCICA on a permanent basis.

L. Collaboration between CRCICA and IFCAI

202. As a founding member, CRCICA has actively participated in the activities of the International Federation of Commercial Arbitration Institutions (IFCAI) as early as the Federation's inception in 1985. 2010/2011 comes to ring in another episode of CRCICA's significant contribution to the Federation.

203. In collaboration with other major arbitral institutions, CRCICA contributed to the IFCAI Institutional Arbitral Awards User Survey which aims at gaining a better understanding on the ultimate efficiency of international institutional arbitration. Within this context, the Centre undertook a study on the enforcement of international arbitral awards rendered under its auspices in 2008. CRCICA contacted its users and requested them to fill an on-line questionnaire. Information regarding the enforcement of 17 arbitral awards out of the 18 awards rendered under its auspices in 2008 were provided to IFCAI. The survey closed on 1 April 2011 and the results will subsequently be made public.

204. The 11th IFCAI Biennial International Conference on "Costs in Arbitration" was held in Berlin from 16 to 18 May 2011. CRCICA made a presentation on "*What happens when respondent does not pay its share in the arbitration costs under the CRCICA Arbitration Rules?*". CRCICA's institutional response to this challenging cost matter was approached in comparative background with the experiences of two other international institutions the Stockholm Chamber of Commerce (SCC) and the Hong Kong International Arbitration Centre (HKIAC).

205. Before the Conference, the 17th IFCAI General Assembly meeting was held and Dr. Mohamed Abdel Raouf, the Acting Director of CRCICA, was appointed as a new IFCAI Council Officer to succeed Dr. Nabil Elaraby who took over as Egypt's Foreign Minister as of March 2011.

M. CRCICA's Presence in the Sino African Scene Continued

206. Standing in the heart of the black Continent, CRCICA has stepped into the Sino-African Scene since December 2009 in contribution to the steady growth of trade and investment relations between China and African countries. Hosting and organizing the First China-Africa Legal Forum (the First FOCAC Legal Forum) in December 2009 was a flashing start.

207. Held in cooperation with the China Law Society, this Forum set up a stable platform for the Chinese and African legal medias to cooperate in furtherance of trade and investment relations between China and Africa.

208. A pioneering Sino-African initiative as it was, the First FOCAC Legal Forum provided a sound infrastructure for holding the second FOCAC Legal Forum on September 15 to 19, 2010 in Beijing, China.

209. The theme of the Forum is “Grasp the opportunities, strengthen the collaboration and push forward the overall development of the China-Africa New-type Strategic Partnership”. Dr. Mohamed Abdel Raouf, CRCICA’s Acting Director, represented the Centre in the Second FOCAC Legal Forum and made a presentation on “Arbitration as a means of Settling Sino-African Economic Disputes: The Experience of Egypt” within the context of the Mechanisms of Dispute Resolution relating to China -Africa Economic Cooperation.

210. In the context of its awareness raising role in the Afro-Asian region, CRCICA will continue to explore the potentials of the Chinese African relations in a legal economic milieu in cooperation with its Chinese partners; the China Law Society and the China International Economic and Trade Arbitration Commission (CIETAC).

N. Institutional Agreements and Overseas Cooperation

211. In 2010/2011, CRCICA entered into three new cooperation agreements as detailed below:

May 2010: cooperation agreement with China International Economic and Trade Arbitration Commission (CIETAC) (CHINA): The agreement frames out an ambitious scope of cooperation between CRCICA and CIETAC furthering bi-institutional exchange of services whenever needed.

February 2011: cooperation agreement with the Kuwait Mediation and International Arbitration Chamber of the Kuwait Society of Engineers. The agreement is multi-scoped and aims at furthering cooperation between the two institutions on both the educational and practical levels.

June 2011: cooperation agreement with the Arab Center for Arbitration in Sudan (ACAS). Given the current official relations between Egypt and Sudan, the agreement is one of special significance as the two countries are tending to officially boost mutual relations in different fields and arbitration is no exception.

212. In 2011, some of the latest agreements have been effected. Within the context of the cooperation agreement concluded with the GCC Arbitration Centre in Bahrain in 2009,

CRCICA's Acting Director contributed to the Formation of Arbitrators Workshop held on 23-26 January 2011 in Manamah- Bahrain.

213. Similarly, in implementation of the Agreement concluded between CRCICA and the Kuwait Mediation and International Arbitration Chamber, the Acting Director contributed to the Drafting of Arbitral Awards Workshop held on 3-6 April 2011 in Kuwait.

214. Transcending the limits of textual cooperation, CRCICA's Acting Director also participated as a Faculty member in the International Commercial Arbitration Seminar organized for a delegation of 20 Syrian lawyers from 20 to 23 September 2010 in Istanbul Turkey by Bahçeşehir University in cooperation with Al Adala Center for Commercial Conciliation and Arbitration, as a part of the regional programs administered by the American Bar Association Rule of Law Initiative (ABA ROLI) for the Middle East and North Africa (MENA) region. CRCICA made two presentations on "the UNCITRAL Arbitration Rules and the settlement of Commercial Disputes: The Experience of CRCICA" and the "Practice of Investment Treaty Arbitration involving parties from the Arab World: The Egyptian Experience."

O. CRCICA's Publications

1. Arbitral Awards (Volume II)

215. In January 2011, the Centre published the Second Volume of Arbitral Awards prepared in Arabic by **Dr. Mohi-Eldin Alam Eldin**, CRCICA's Senior Legal Counsel. Issued in almost 500 pages, the Book is a classified compilation of 19 final and interim Arbitral Awards rendered under the auspices of the Cairo Centre. This involves different types of contracts being military supply, factories operation, construction, transfer of technology, hotel and tourism, food supply, maritime issues, environment, hotel rental. Meeting scholars' demands, volume II is formatted to be more educationally comprehensive than volume I with five complementary categorization of each award being factual summary, legal principles, facts and procedures, tribunal's stance and finally the award. In certain cases, there are expert commentary on awards. "A didactic landmark in arbitration literature", so does the Publication appear to local and regional practitioners. Quite aware of the importance of the regular publishing of arbitral awards in Arabic, CRCICA will soon release Volume III.

2. Construction Arbitral Awards rendered under the Auspices of CRCICA

216. Lambert Academic Publishing (LAP) has recently published Construction Arbitral Awards rendered under the Auspices of the Cairo Regional Centre for International Commercial Arbitration (CRCICA). The publication is compiled and commented on by Dr. Mohi-Eldin Alam Eldin.

217. The Book discusses in details 13 construction arbitral awards related to the establishment of airports, construction of hotels and touristic resorts, dredging works in international canals and dredging of international canals, construction of telescopes, construction of media production companies and the construction of Bibliotheca Alexandria...etc. In some cases, the study transcends the arbitral phase to include significant post-arbitration legal actions such as national courts' judgments of nullity, constitutional awards as well as settlement agreements.

3. The Journal of Arab Arbitration, Volumes 14 (June 2010) and 15 (December 2010).

218. In June and December 2010, CRCICA issued volumes 14 and 15 respectively of the Journal of Arab Arbitration. Volume 14 was entirely dedicated to the research papers delivered in Sharm El Sheikh III – The Role of State Courts in Arbitration (2-4 June 2010). Volume 15, however, has a more diverse context with many court decisions and expert commentaries. It also features analytic researches of international court decisions and the lessons they involve.

219. Currently under print, volume 16 (June 2011) contains more analysis on judicial precedents with relevant commentaries.

P. CRCICA's Contributions in Specialized Publications

220. During the reported period, CRCICA, through its Acting Director, has had several research contributions in reputed publications, the most significant of these are as follows:

- a. How should international arbitrators tackle corruption issues?", the ICSID REVIEW—FOREIGN INVESTMENT LAW JOURNAL, Volume 24, Number 1, pp. 116-136.
- b. "The contractual amendment of the scope of judicial review of arbitral awards", Universal Journal of Arbitration, Annex of Volume 8, October 2010, pp.805-816.
- c. Commentary on the ICC Award No. 10515 rendered in June 2002 regarding the capacity and standing of companies under liquidation, Universal Journal of Arbitration, Volume 8, October 2010, pp. 559-565.
- d. "Egypt turns the page on the Shephard Hotel arbitration while concerns arise over the future of the internal review system of ICSID awards", commentary on the decision rendered on 15 June 2010 by the Ad hoc Committee rejecting the annulment application filed against the ICSID award rendered in favor of Egypt in the Helnan v. Egypt ICSID Case, Universal Journal of Arbitration, Volume 9, January 2011, pp.677-682.
- e. "Dallah v. Pakistan and the determination of the scope of the Kompetenz-Kompetenz principle: The arbitral tribunal has the first sight, while the judiciary has the last word", Universal Journal of Arbitration, Volume 10, April 2011, pp.97-105.

f. "Highlights of the new CRCICA Arbitration Rules", Universal Journal of Arbitration, Volume 10, April 2011, pp.106-114 .

Q. Future Events and Projects

1. Pan Regional Conference on Inter-Arab Investments and related Disputes

221. CRCICA will co-organize a pan regional conference on Inter-Arab Investments and related Disputes in Cairo, Egypt on 10-12 October 2011. Other organizers are the Arab Parliament, the Arab Union of International Arbitration (AUIA) and the Arab Investors Union. For AUIA members, this event is the 7th annual conference of the Union. With such a broad scoping involvement of key Arab investment and arbitration institutions, the Arab League will be the host of this timely event.

2. Continuation of CRCICA 1st four-phased Arbitration Training Program

222. CRCICA has recently launched an ambitious arbitration training program that starts with an arbitration agreement course, passes through two other courses on the composition of the arbitral tribunal and the arbitration proceedings then culminates in the last module which is an arbitral award writing course. Having held the first course in May 2011, CRCICA arranges to have the whole round completed by the end of 2011.

3. Cooperation between CRCICA and the Egyptian State Law Suits Authority (SLSA)

223. CRCICA and the Egyptian State Law Suits Authority (SLSA) have recently agreed to cooperate in conducting specially tailored training programs and workshops for the young members of SLSA with special emphasis on the necessary advocacy skills in international investment arbitration. SLSA is the agent for Egypt in all domestic and international arbitrations and has in such capacity requested the CRCICA to train its members in this vital field.

224. CRCICA and SLSA have also agreed to make available CRCICA's library, including recent books, periodicals and database, to the members of the SLSA. CRCICA will also help SLSA in establishing contacts with similar entities in other countries, especially in Latin America, in order to share their respective experiences in the field of representing States in international investment arbitrations.

4. Cooperation with the MOJ to revise the Egyptian Arbitration Law no. 27/1994

225. The Egyptian Ministry of Justice (MOJ) has recently called upon CRCICA to join forces in the revision of the Egyptian Arbitration Law no. 27/1994 as building on CRCICA earlier input in this concern.

226. It is noteworthy that the Cairo Centre had hosted expert discussions of the Law in a series of round table meetings in 1999 through the early 2000s. The concluding report was then submitted to the Ministry of Justice.

5. Cooperation between CRCICA and Other Arbitral Institutions in the Middle East

227. The next few months will witness a very positive change in the leadership of two well established Arbitration Centres in the Middle East. CRCICA's approach has always been to cooperate with credible arbitral institutions in the region and beyond to the benefit of the regional arbitration community.

228. Within this context, CRCICA has launched the idea of organizing an unprecedented Afro-Asian Arbitration Colloquium with the two other International Arbitration Centres. The idea is to establish a mechanism for holding a joint arbitration colloquium by rotation in Cairo and the other Middle Eastern cities hosting such institutions. The event is seen to be a significant tool of boosting institutional relations across continents. The first colloquium is tentatively scheduled for 2012.

6. Future Publications

- Contribution to a book on Arbitration in Africa
- Annex on CRCICA in the IFC's Manual of ADR Guidelines
- Guidelines to CRCICA Arbitration Rules; and
- A book on the setting aside of arbitral awards

229. CRCICA's headquarters are located in Africa and CRCICA is proud of being located in this old and very rich continent. The Acting Director of CRCICA has been recently selected to be the country correspondent for Egypt contributing to the publication of a book to be published in 2012 by Kluwer titled "A Practitioner's Guide to Arbitration in Africa".

230. An Annex on CRCICA and its ADR Rules is to be published in 2011 in the upcoming Manual of the International Finance Corporation (IFC) ADR Guidelines, which is a comprehensive manual containing a series of diagnostic tools designed to guide global practitioners on issues to be considered for any potential ADR project.

231. CRCICA has an ambitious publication plan that involves the issuance of explanatory Guidelines to its Rules to help users put them in their best practice.

232. Another CRCICA publication currently under contemplation and data collection is a book on the setting-aside of arbitral awards that will analyze the Egyptian jurisprudence in the field of judicial review of arbitral awards.

7. The Third FOCAC Legal Forum

233. CRCICA will participate at the third FOCAC Legal Forum, which is going to be held in November 2011 in Kenya. Since the start of the FOCAC Legal Forums in December 2009, CRCICA has liaised regionally between the China Law Society, its Chinese partner, and the legal communities in the Arab African countries. In promoting for the third FOCAC Legal Forum, CRCICA will still be assuming the same regional role.

8. Contribution to the Working Group of the IBA State Mediation Subcommittee

234. CRCICA's Acting Director has recently joined the Working Group of the IBA State Mediation Subcommittee responsible for drafting special rules for investor-state mediation to be approved by the IBA Council in 2012.

VI. ANNEX

DRAFT RESOLUTION ON THE AGENDA ITEM

SECRETARIAT'S DRAFT
AALCO/RES/DFT/50/SP 2
1 JULY 2011

RESOLUTION ON THE SPECIAL MEETING ON “INTERNATIONAL COMMERCIAL ARBITRATION”

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No. AALCO/50/COLOMBO/2011/ORG 3;

Having heard with appreciation the views expressed by the President, the Secretary-General, Directors of the Regional Arbitration Centres, Panelists and the statements of Member States during the Special Meeting on “International Commercial Arbitration”, jointly organized by the Government of Sri Lanka and the AALCO Secretariat on 1 July 2011 at Colombo, Sri Lanka;

Having followed with great interest the deliberations on the item reflecting the views of Member States;

Recognizing the value of arbitration as a method of settling disputes that may arise in the context of international commercial relations;

Noting that the Arbitration Rules, 1976 are recognized as a successful text and are used in a wide variety of circumstances covering a broad range of disputes, including disputes between private commercial parties, investor-State disputes, State-to-State disputes and commercial disputes administered by arbitral institutions, in all parts of the world;

Also noting that the Arbitration Rules as revised in 2010 were adopted by the United Nations Commission on International Trade Law at its forty-third session after due deliberation;

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;

2. **Recommends** the use of the Arbitration Rules as revised in 2010 in the settlement of disputes arising in the context of international commercial relations; and

3. **Decides** to place this item on the provisional agenda of its Fifty-First Annual Session.