



4/24  
OK

**REPORT**

**BY**

*Dr. / Mohamed About Enein*

**ACTING DIRECTOR OF THE CENTRE**

**for**

**International Commercial Arbitration  
on the progress made by the Cairo Centre,  
since the 27th Session of the AALCC,  
held in Singapore in March 1988.**

**SUBMITTED TO**

**THE ASIAN AFRICAN LEGAL CONSULTATIVE COMMITTEE**

**TWENTY EIGHTH SESSION**

**NAIROBI**

**FEBRUARY 1989**



Report  
of Dr. Mohamed Aboul-Enein  
Acting Director of the Cairo Regional Centre  
for  
International Commercial Arbitration  
on the progress made by the Cairo Centre,  
since the 27th Session of the AALCC,  
held in Singapore in March 1988.

*Handwritten note:* Director of Centre - report

It is indeed a matter of gratification to give me ~~this year as you did in the previous years,~~ the opportunity ~~to report to you,~~ on the progress made by the Cairo Regional Centre for International Commercial Arbitration.

*Handwritten note:* and J. Smith  
My report will focus mainly, on the activities and achievements of the Cairo Centre during the last ~~twelve months,~~ which ~~elapsed~~ since the 27th Session of the AALCC, held in March 1988 in Singapore.

I. The philosophy of the Cairo Centre.

As part of the AALCC's integrated scheme for settlement of disputes arising from economic and commercial transactions, the Cairo Centre was entrusted with the following duties:-

- Promoting international commercial arbitration in the Region
- Coordinating and assisting the activities of the existing arbitral institutions;

*Handwritten notes:*  
to deliver to you a statement about  
is available  
to the English speaking participants with the Sec  
retrieval. Some  
copies  
are available  
in Arabic  
and English

*Handwritten notes:*  
As I am going to deliver this statement in Arabic a translation to English is available to the English speaking participants with the Sec retrieval. Some copies are available in Arabic and English.



-2-

particularly among those within the Region.

- Rendering assistance in the conduct of ad hoc arbitrations, particularly those held under the UNCITRAL arbitration rules;
- Assisting in the enforcement of the arbitral awards;
- Providing for arbitration under the auspices of and the rules of the Centre;
- Rendering advice and assistance to parties who may approach the Centre.

In other words the Cairo Centre had to make available for Afro/Asian parties involved in commercial disputes, an efficient, expeditious, fair and inexpensive system of settlement of disputes under the UNCITRAL rules, in order to save them recourse to arbitral institutions located outside our Region. It was entrusted with the implementation of the overall objectives of the AALCC scheme which evolved ever since the Havana Conference of 1947/1948 for the realization of the legitimate aspirations of the developing countries.

It is worth-noting that the Cairo Centre is Regional only in structure, but Universal in arbitral jurisdiction. It is concerned with all kinds of international commercial and economic disputes regardless of the country



-3-

of origin of the dispute and the nationalities of the parties. It administers arbitrations of all kinds. Its Jurisdiction extends to all disputes, whether between Governments, individuals, or corporates. The Cairo Centre is a non-profit making institution, neutral and impartial towards parties concerned. It guarantees for them, full freedom in selecting their counsels, arbitrators, place of arbitration, applicable law, language and procedural law. Its institutional arbitration has all the advantages of the ad-hoc arbitration. Nevertheless, the Centre supervises its arbitrations, screens their development and assures the application of its rules by the tribunal performing its mission.

Though it is customary for arbitral institutions to wait several years after their establishment, before receiving a request for their arbitral services, I state with honour, that the Cairo Centre was born fully developed. Not only has it fulfilled the original functions assigned to it, but it has also committed itself to more ambitious objectives. It is now indulging in the formation of a new generation of African and Asian arbitrators, in the updating and modernization of the national legislations of some African and Asian countries, in providing assistance for the administration of arbitrations under the rules of other institutions, in providing conciliation besides arbitration as another means for amicable settlement of disputes, and in making available for the first



-4-

time in our Region a Computer System for storage of arbitral information in Arabic, English and French.

## II. The importance of the year 1989 in the evolution of the Cairo Centre.

The year 1989 marks the Tenth Anniversary of the Agreement of January 28th, 1979 between the Government of the Arab Republic of Egypt and the AALCC, which established the Cairo Centre.

According to paragraphs 2 and 5 of that Agreement, the Cairo Centre was established for only an initial experimental period of three years. The question of its continuation was to be examined after the expiry of that experimental period. The Cairo Centre continued functioning as an international institution, having its independent international status was the subject of a second Agreement signed in Cairo on November 15th 1983 between the then Egyptian Minister of Justice, on behalf of the Government of the Arab Republic of Egypt, and the Secretary General of the AALCC.

The Cairo Centre is presently a fully recognized independent institution of an international character, enjoying all diplomatic privileges and immunities, as an Independent International Organization. Gratitude is due, to the Government of the Arab Republic of Egypt



which conferred upon it this unconstrained international status in the Headquarter's Agreement signed in Cairo on December 29th 1987.

### III. Arbitral Adjudication Under the auspices of the Cairo Centre.

During the last twelve months, the arbitration clause of the Centre has been incorporated in hundreds of more international contracts, reflecting the increasing confidence in its proficiency. Eleven cases were registered for settlement under its rules.

The Cairo Centre was also requested during these last twelve months to administer the settlement of a certain number of commercial disputes through CONCILIATION. It willingly undertook this duty, although conciliation was not anticipated in its rules, to spare the parties the relatively complicated arbitral procedures. This was also motivating for the Cairo Centre to start applying the UNCITRAL Conciliation Rules. Conciliation could be an alternative to arbitration and could also be just its prior phase in the event of its failure. Conciliation should be applied only when the parties explicitly opt for it. When disputes are not settled through conciliation the parties still have the freedom of submitting them for arbitration.



#### IV. Other Arbitral Services Made Available by the Cairo Centre

The Cairo Centre, within its jurisdiction, made all arbitral facilities, services, assistance, technical expertise and guidance available to all parties involved in commercial disputes, at all stages of the arbitral process. This was also made available for disputes at the stage prior to arbitration. The Centre's premises were made available, as a venue for meetings for the parties and their counsels. In addition to that, the Cairo Centre offered various kinds of services to interested institutions in conformity with the cooperation agreements to help these institutions achieve successful adjudications under their rules.

#### V. Organization of Seminars.

The Cairo Centre was able, in 1988 to further improve its role in the promotion of international commercial arbitration by the organization of an international Seminar on, INTERNATIONAL COMMERCIAL ARBITRATION & PROMOTION & PROTECTION OF FOREIGN INVESTMENTS IN THE AFRO/ASIAN REGION. It was organized in Cairo, from the 28th to the 31st of March 1988, in collaboration with the Secretariat of the UNCITRAL. It was the third International Seminar of its kind to be organized by the Cairo Centre, since its inception in 1979. The Seminar was attended by more than three hundred experts, judges, university professors, Lawyers,



businessmen and high officials. The lecturers represented all schools of thought and practice in legal, financial, investment and commercial fields, from all over the world. It was a great demonstration of the vitality of the Cairo Centre, its dedication and its devotion to the cause of arbitration.

#### VI. Training Programs.

The Cairo Centre in collaboration with the International Development Law Institute, organized a TRAINING WORKSHOP FOR ARAB AND AFRICAN ARBITRATORS, at its premises in Cairo, from the 13th to the 24th of November 1988. This training program for arab and African Arbitrators was the first of its kind in Africa and Asia. It marked a major step towards providing our Region with a new generation of qualified arbitrators of an international standard. The Cairo Centre felt it a prerequisite to have in our Region able arbitrators capable of performing their responsibilities and mastering the arbitral procedures. It, thus, acknowledged its responsibility in this regard. Several international institutions such as; The American Arbitration Association, The International Centre for the Settlement of Investment Disputes, The London Chartered Institute of Arbitrators, The International Development Law Institute and the German Arbitration Institute contributed to the success





of this training workshop by providing it with distinguished lecturers and experts.

The training program was conducted in small groups through practical exercises and discussions with emphasis on simulation and drafting. Nineteen distinguished participants were enrolled in that training program, all passed and graduated. They were all lawyers, university professors, judges and legal consultants. They represented seven Arab and African countries, members of the AALCC. It is indeed, by such perseverance, that the Afro/Asian Scheme for Settlement of Commercial Disputes could really be completed. This training program was the first of its type of continuing education for arbitrators in our Region.

Following the success of the first Training Program, some other International Institutions suggested to cooperate with the Cairo Centre, in the organization of future programs, to be held in Cairo as well as in other countries of our Region.

#### VII. Cooperation with Other Arbitral Institutions.

The Cairo Centre signed this year two Cooperation Agreements with the Beijing-Hamburg Conciliation Centre and the Quebec National and International Commercial Arbitration Centre bringing the number of Cooperation Agreements to nine. Many other proposed cooperation



-9-

agreements are being negotiated to make the arbitral facilities offered by other arbitral institutions all over the world available for the parties of our Region.

On the request of new brother arbitration Centres and Chambers of Commerce in the Afro-Asian Region the Cairo Centre offered all technical and administrative assistance to help in the solid establishment of these institutions and to give them out of its experience in the field of settlement of commercial disputes through arbitration.

The Cairo Centre has also been approached by specialized arbitration Centres and Chambers of Commerce to collaborate with them in the organization of Seminars and Training Programs which will take place this current year as well as during the coming year 1990. Between these institution we mention in particular the Maritime Arbitration Centre of Marocco, the Chambers of Commerce and Industry in Saudi Arabia and Kuwait, the American Arbitration Association and the I.C.C. Institute of International Law and Practice, Paris.

#### **VIII. Modernization and updating of national Laws of member countries of the AALCC.**

The Cairo Centre has been engaged, during this last year, in assisting the Egyptian Government in drafting new rules on



-10-

International Commercial Arbitration, in reviewing the Egyptian Civil Procedural Law and in updating the Egyptian Law of Investment.

The Acting Director of the Centre was appointed by the Egyptian Minister of Justice to participate as full member in the national Egyptian Committee entrusted with that responsibility. The National Committee completed and finalized the draft rules on International Commercial Arbitration, which will be promulgated soon by the Egyptian People's Assembly.

The Centre has also been approached and consulted by some other Arab countries, members of the AALCC, for the drafting and updating of their national legislations on domestic and international Arbitration.

#### IX. Participation of the Cairo Centre in International Conferences.

The Cairo Centre has been represented, by its Acting Director, in many international Conferences and Meetings on matters related to arbitration, commerce or investment, such as: The Sixty Third Conference of International Law Association in Warsaw from the 21st to the 28th of August 1988, The Working Group of the Sixth Committee of the General Assembly of the



-11-

United Nations, concerned with the drafting of a new Convention on International Bills of Exchange and International Promissory Notes in New York from the 2nd to the 7th of October 1988, the Working Group of the UNCITRAL concerned with the New International Economic Order, in Vienna from the 17th to the 26th of October 1988, and the Sixth Joint Colloquium on International Arbitration, in Paris on the 27th of October 1988.

The Acting Director presented to these international forums essays on the experience of the Cairo Centre and the Centre's comments on the international instruments under consideration.

X. Important Visits to International Institutions.

The acting Director of the Cairo Centre has also visited many Regional and International Institutions, to discuss cooperation projects and to arrange for joint programs, seminars and technical assistances. The most important of which were: The International Institute for Development, The Arbitration Court of London, The International Chamber of Commerce in Paris, the I.C.C. Institute of International Business Law and Practice. The International Development Law Institute, The American Arbitration Association, The International Centre for Settlement of Investment Disputes.



### XI. New Computer System for Storage of Arbitral Information.

The Cairo Centre, in its continuing efforts to modernize its equipments, introduced a new Computer System for the storage of information about all aspects of arbitration including legislations, Court decisions, published arbitral awards, conventions and arbitration rules, from all the countries of the world. It started operating early this year 1989. It is the first and sole Computer System in our Region that provides this service. Its information is available in Arabic, English and French, to all information seekers from both inside and outside the Region. This new equipment represents an important achievement for the consolidation of our Regional Arbitration Scheme. It is indeed an achievement that the Cairo Centre has ventured into this advanced equipment.

### XII. Publications of the Cairo Centre.

The Cairo Centre continued to issue its publications, in Arabic, English and French and sent them regularly to all concerned arbitral institutions and other international bodies.



-13-

### XIII. The Visit of the Secretary General of the AALCC to the Cairo Centre.

The newly elected Secretary-General of the AALCC made his first visit to the Cairo Centre on the 29th of October 1988, during which he inspected its different sections, reviewed its activities, achievements and latest equipments. It was also an important opportunity for him to discuss with the Centre's Acting Director the future cooperation between the Cairo Centre and the AALCC.

### XIV. Financial and Administrative Matters.

The Agreement of 1986, between the Government of the Arab Republic of Egypt and the AALCC, not only provided for the Centre's independent budget, but also stipulated that its annual expenditure would be met by the following sources:

- 1- A yearly contribution to be provided by the Government of Egypt;
- 2- Fees and receipts for services to be rendered by the Centre;
- 3- Contribution from the AALCC's main budget to be fixed by the Committee, in each year;
- 4- Voluntary contributions by International Organizations, other Institutions and



-14-

### Member Countries of the AALCC.

It gives me great pleasure to state that the budget, for this fiscal year July 1988 - June 1989 was prepared by the Centre on time and sent to the Secretariat of the AALCC in new Delhi in early August 1988.

The budget of the Cairo Centre for the fiscal year 1988/1989, was prepared along the same lines of last years' budget. The main consideration in its preparation was to maintain balance between cutting the expenses to the lowest possible extent and at the same time providing the Centre with efficiently adequate means to enable it to function properly. The sources for the Centre's revenues as well as its main items of expenditure were forecasted for this year 1988/1989 as they were in 1987/1988. The capital expenditure has been reduced in this fiscal year to less than half its credits in last years' budget, in an effort of rationalization. A new item has been introduced for the first time in this year's budget namely: The Provision for the Training Program. This was designed to meet the costs of the training program which was held in November 1988, at the premises of the Centre.



-15-

As for the Centre's staff, the Government of the Arab Republic of Egypt made available the services of one part-time Deputy Director, three part-time Counsels, two Secretaries, one financial officer and other service staff.

**XV. The AALCC's Contribution TO The Annual Budget of the Cairo Centre.**

In conformity with paragraph 3/B/111 of the Agreement which took the form of exchanged Letters dated March 30th and Jun 3d 1986, between the Government of the Arab Republic of Egypt and the AALCC, the latter's contribution to the annual budget of the Centre is one of the four main sources of revenues for the Centre. Accordingly the Centre had been receiving the said contribution regularly for the past two fiscal years 1986/1987 and 1987/1988. Therefore, the Cairo Centre expected the same to take place this fiscal year as well and anticipated its remittance. The Secretariat of the Committee informed the Centre, in September 1988, that it was not in a position to arrange any remittance this year 1988/1989 because no specific amount had been allocated for that purpose in the Committee's budget and added that the situation would be rectified in Nairobi.

The Cairo Centre would appreciate such rectification, to avoid any loss of revenues





-16-

for this current fiscal year.

Besides, the Agreement of 1986, providing for the financial contribution of both the Government of the Arab Republic of Egypt and the AALCC to the annual budget of the Centre will expire by June 30th 1989. However, the Centre shall continue to need that financial support for some more years to come, because the receipts for its services including the fees for its arbitrations are expected to be short of meeting its expenses.

Therefore, it might be appropriate to advise the Secretary-General to take the necessary steps for reaching an agreement with the Government of the Arab Republic of Egypt to that effect. It is essential and imperative that the financial support offered by both the Government of the Arab Republic of Egypt and the AALCC continue until the Cairo Centre can provide for its own financial selfsufficiency.

A draft resolution is attached herewith for the consideration of the Committee at its 28th Session held in Nairobi from the 13th to the 18th of February 1989.

### Draft Resolution

The Asian/African Legal Consultative Committee convened for its 28th Session in Nairobi from the 13th to the 18th of February 1989:

- 1 - Recalling its decisions taken at its Baghdad and Doha Sessions, held in February 1977 and January 1978 respectively, which brought into existence an Asian/African integrated scheme for settlement of disputes arising from economic and commercial transactions.
  
- 2 - Noting that, as part of the Asian/African integrated scheme, the Cairo Regional Centre for International Commercial Arbitration, has been established, for an initial experimental period of three years, by virtue of an Agreement signed in Cairo on January 28th 1979 between the Government of the Arab Republic of Egypt and the AALCC, and thereafter on firm footing, by virtue of a second Agreement signed in Cairo on November 15th 1983 between the Government of the Arab Republic of Egypt

and the AALCC.

- 3 - Recognizing with satisfaction, that the Cairo Centre had made and continues to make great progress, in providing the Countries of West Asia and Africa with an efficient, expeditious, fair and inexpensive system for settlement of commercial and economic disputes under the UNCITRAL rules, saving by the same the parties of the Region recourse to arbitral institutions located outside the Afro/Asian Region.
- 4 - Noting that the Cairo Centre, is presently a fully recognized independent arbitral institution of an international character, enjoying full diplomatic privileges and immunities as a non-governmental organization, by virtue of a Headquarter's Agreement signed in Cairo on December 29th 1987, between the Government of the Arab Republic of Egypt and the AALCC.
- 5 - Noting that the Administrative and Financial Arrangements for the functioning of the Cairo Centre as stipulated in paragraph 3 of the Agreement of March 30th and June 3d 1986, between the Government of the Arab Republic of Egypt and the AALCC, which

were applied from July 1st 1986 will come to an end by June 30th 1989.

- 6 - Calls on the Secretary-General of the AALCC to continue, on behalf of the Committee, to support by all means the promotional activities of the Cairo Centre.
- 7 - Requests the Secretary-General of the AALCC to take the necessary steps for reaching an agreement with the Government of the Arab Republic of Egypt so that the financial support offered by both the Government and the AALCC to the Cairo Centre, by virtue of paragraphs 3 (B) I and III, under the subtitle "Financial Arrangements", of the Agreement of March 30th and June 3d 1986, should continue and even be further consolidated, after the expiration of the said "Financial Arrangements" on the 30th of June 1989, and until the Cairo Centre can provide for its own financial selfsufficiency.
- 8 - Asks the Secretary-General and the Directors of the Regional Centres to report to the coming 29th Session of the AALCC, about the continued progress of the work of the Centres and the situation of their finance..