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**CAIRO REGIONAL CENTRE FOR
INTERNATIONAL COMMERCIAL ARBITRATION**

REPORT ON
THE ACTIVITIES OF THE
CAIRO REGIONAL CENTRE FOR
INTERNATIONAL COMMERCIAL ARBITRATION
1997

PRESENTED BY

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ABSTRACT

This report is meant to highlight the works and activities of the Cairo Regional Centre for International Commercial Arbitration (CRCICA) from March 1996 till April 1997. Beside the role of the Centre as an international arbitration forum, other items are discussed regarding its contributions to national and international legislations, cooperations with international organizations as well as the works of its affiliates and the way they contribute to the CRCICA's Broader scheme. Details are itemized as follows.

I) THE ROLE OF THE CAIRO CENTRE AS A REGIONAL ARBITRATION FORUM :

IA) MORE CASES FILED MORE MOMENTUM GAINED :

Stepping into the threshold of the twenty-one Century, the Cairo Regional Centre for International Commercial Arbitration is taking a well established seat among important national and international fora. Since the issuance of the last report, the cases filed with the Centre have scored a considerable lap from 72 till **99 international cases**. Beside disputes in construction, export, import and supply contracts - forming the core point of the majority of cases administered by the Centre, new types of cases are being introduced involving, for instance, management and operation contracts, insurance issues and spatial emission disputes.

It is noticeable that conciliation as an alternative dispute resolution means is getting well under way of regional promotion as more disputes are filed with the Centre for conciliation. It seems that parties - as varying their nationalities may be - are getting more aware of the flexibility the **conciliation technique** involves. What is remarkable in this concern is that parties start requesting referring their respective disputes to conciliation not only before the commencement of arbitration procedures but also after the arbitration commences. An important example of this is an Arbitration Construction Case filed with the Centre under Case no. 39/93 involving an Italian Consortium and the Egyptian Ministry of Public Works and Water Resources as early as 1993. After three years of arbitration - with some periods of suspensions in the intervals - the parties agree to refer the dispute to conciliation under the auspices of the Cairo Centre and - out of the respective importance of the case in question¹, it is taken as an esteemed asset in the professional history of the Centre that the dispute has almost been resolved.

I.B) THE CAIRO CENTRE AS AN APPOINTING AUTHORITY :

Viewing the multi-lateral dimensions an arbitration process involves, it is now remarkable that the Centre is acquiring a more dominating aspect as an **appointing authority**. In the light of the Centre's experiences and practices, an institutional interference to

1) The dispute involves the construction of an important public utility being a closure dam and a navigation lock, the project is considered as the second most important construction on the River Nile after the Aswan Dam and the amount of the investment is about 600 million USD.

nominate an arbitrator would involve the appointment of either the second arbitrator or the presiding one. In the latter case, sometimes when parties are required to settle upon a mutually-agreed upon chairperson, a state of mutual consent fails to prove reachable. At this point of procedural complexity, by virtue of a contractual provision or a post-contractual agreement², they resort to the Centre with express authorization to proceed ahead with the appointment of the chairperson. The reasons behind parties' readiness to deputize the Centre in such a matter of real importance can be summarized as follows :

1- The adoption of the UNCITRAL Arbitration Rules with special reference to articles (6,7,8) related to the appointment of the sole, the second or the presiding arbitrator. The list-procedure detailed in article 6 secures the smoothness and the well-sequenced procession of the appointment proceedings .

2- The Centre adopts as a strict commitment "*the advisability of (appointing) an arbitrator of a nationality other than the nationalities of the parties*" (UNCITRAL Arbitration Rules , Article (6), para. (4)). This secures the independence and impartiality of the would-be arbitrator.

3 - More than two thirds of the Centre's list of arbitrators are foreign arbitrators from different parts of the world³ , a privilege that opens wider opportunities of choice .

2) Sometimes , in ad hoc cases, contracts nominate the Centre only as the appointing authority.

3) The overall number of arbitrators enrolled in the Centre's list approx. amount to 500 arbitrators. For more details about the CRCICA's panel of arbitrators see the 1996 Report submitted to the AALCC on the occasion of holding its 35 Session. (P.10 item (IV)).

I.C) UNIVERSAL RECOGNITION ... *GAINED*

Reviewing the works of the Centre in general and its recent practices over the previous year in particular, one would claim that it has well acquired **a state of universal recognition**. A considerable percentage of commercial and investment contracts involving foreign parties nominate the Cairo Centre as the competent arbitration institution⁴. In the light of the overall number of cases submitted to the Centre, disputes involving foreign parties constitute the following percentages :

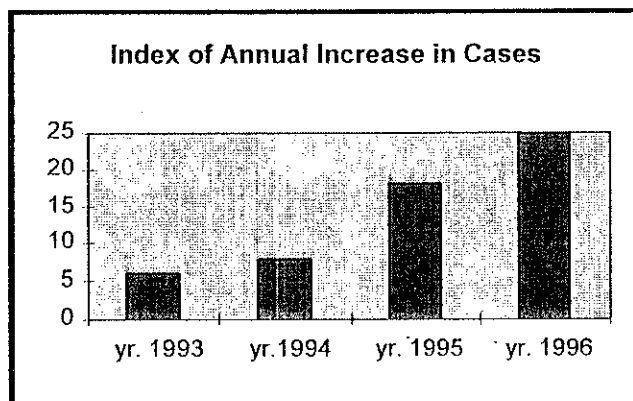
Continent	Countries	Percentage
Europe	England - Portugal - Italy - France - Germany - Hungary - Austria - Switzerland- Holland - Greece - Ireland - Russia .	42.2%
Asia	Saudi Arabia - Lebanon - Japan - Korea - Singapore - Emirates - Thailand	11.3%
America	Washington - California	3%
Africa	Sudan	2%

It is expected that the percentage of the representation of foreign parties in the international commercial cases administered by the Centre would keep progressing forward because of the following stimuli :

- 1) The issuance of the Egyptian Arbitration Law no. 27/1994 patterned on the UNCITRAL Model Law. The New Law has entered into force on the 22nd of May 1994 drawing to a close what seemed to have

4) See P. (6) below Para. (2.a) : Petroleum Concession Agreements Item.

formed endless complexities concerning arbitration⁵. It is here worth mentioning that since the said Law has entered into force the number of cases filed with the Centre is in remarkable annual increase (see chart below). It has been statistically proven that since that time the number of cases filed has increased by a percentage of 106% .



Year : no. of Cases
Case

1993 : 6 Cases

1994 : 8 Cases (year of entry into force)
filed

Year : no. of

1995 : 18 Cases filed

1996 : 25 Cases

2a) If the issuance of the new Egyptian Arbitration Law has helped promoting arbitration since 1994 , the present economic status of the whole region is expected to contribute to the nourishment of the role of the Cairo Centre in the approaching decades as there is always a sound relation of parallelism between the emergence of trade and investment transactions and the promotion of arbitration - or any other alternative dispute technique .

In Egypt - the Hosting Country-, for instance, the current economic stage is characterized by being prosperous and more open

5) For more details on the effect of the New Law on the the promotion of arbitration , see the 1996 Annual Report submitted to AALCC on the occasion of holding its 35 Session. (P.3 item (II)).

than earlier for foreign investments. According to a ministerial report, Egypt is in annual need of investments valuing up to **one hundred milliards Egyptian pounds (approximately equivalent to 30 milliards US. Dollars)**, an overall figure out of which only **20 milliards pounds** are fixed for governmental investments leaving the remaining **80 milliards** for private and foreign investors. On parallel lines, an IMF (International Monetary Fund) Report indicates that over the coming four years there will be "*a flow of foreign investments to Egypt*" with capitals amounting up to many milliards of Dollars . It was reported that over the last five years, the Egyptian Government entered into one hundred and seventy (170) concession agreements with thirty nine (39) international petroleum companies⁶ . *The most interesting point about this is that all arbitration clauses in these agreements nominate the Cairo Centre without the least exception .*

Thus, the surrounding economic variables and the prospective trade and investment prosperity positively act, and is still expected to, on the role of the Centre .

3) The considerable existence of foreign liaison offices representing, and acting on behalf of, overseas commercial entities , an advantage capable of eliminating likely controversies over conducting an arbitration procedure in Cairo where the Centre is seated . It is being remarkably noticed that almost all the foreign parties represented in the Cases administered by the Centre have seated liaison offices in Cairo , a facility that gets over distances difficulties and helps run administrative procedures in a quite smooth way .

6) AL AHRAM AL-IKTISADY , 13 January 1997, issue no. 1463

4) The remarkable responsiveness of the competent bodies of the countries of the region - as well as public and private sectors' entities - to recommend the inclusion of the Cairo Centre's Model Arbitration Clause in contracts involving foreign parties. Early at the beginning of the year 1996, the Centre launched a move inviting the governmental entities and private lawyers and business men to consider, while concluding an international commercial contract, the inclusion of the Centre's Model Clause as a further promotion of its arbitral role in the region. In response, public attention was more attracted towards the Centre and it was reported that the number of contracts including the name of the Centre as the competent arbitration forum is keeping on constant and gradual rise.

5) The Centre's growing awareness of the importance of the educational role in the promotion of arbitration and other ADR techniques and its' subsequent eagerness, in this concern, to hold relevant conferences and training courses with the prospect of introducing the internationally acknowledged scientificities of dispute resolution techniques (See Item III below)

II) CRCICA'S AFFILIATES PROGRESSING :

II.A) ALEXANDRIA MARITIME ARBITRATION CENTRE

..... UNDER WAY OF EXPANSION :

Founded in 1992, the Alexandria Centre for International Maritime Arbitration (ACIMA), an affiliate of the Cairo Arbitration

Centre , was meant to deal exclusively with marine trade disputes . What adds to the significance of ACIMA is that it enjoys a geographically strategic status as it is seated at the core heart of Alexandria , one of the most significant ports on the Mediterranean , and only some kilometers Northwards away from the Suez Canal that historic maritime route connecting between the Mediterranean and Red Seas and on both shores of the African and the Asian Continents. In further promotion of this status and in enhancement of pan-regionalism concept, it was decided to re-form and expand the membership of ACIMA's Board of Director introducing therein a number of specialists from all around. In attempting to bring the prospect into realization, President of the Arab Academy for Science and Technology (AAST) ⁷ (previously named the Arab Academy for Maritime Transport) presides over the Board ⁸ while a number of imminent heads of regional maritime companies joins its membership, *a feature meant, and is expected to promote the role of the Centre in the years-to-come .*

In its extra ordinary Meeting of 11 November 1996 , the New Board launched a move towards further promotion of Maritime Arbitration in the region through the following steps :

- 1) Propagating and introducing the advantages of Regional Maritime Arbitration especially in some foreign Maritime milieux which

7) A specialized educational institution of the Arab League engaged in teaching, training, research work, community services, and projects. The Academy is a multifaceted institution with a diversity of functions serving a multinational body of students coming mainly from Arab and African Countries.

8) Former President of the Board was the late Dr. Mohsen Shafik, the reputed commercial and maritime law Professor .

still fear arbitrating in Third World Countries .

2) Providing adequate academic basis in the field to eliminate what might still seem to some as “ the obscurities of maritime arbitration .” In this concern, it was unanimously recommended that the Centre would keep up the practice of organizing international maritime conferences and programs on annual or semi-annual basis. (See Item III)

3) Establishing a Maritime Information Resource Centre to provide a sufficient and adequate theoretical background and to help conduct relevant research . As a key step-forward in this concern, the Centre in last April negotiated buying a Lloyd’s full set Bound Volumes -comprising 178 volumes - providing verbatim reports of maritime judicial decisions issued as early as 1919 down to 1997, at the price of GBP 4,995 approximately equivalent to 27500 Egyptian Pounds .

It was important for the Board to discuss the financial means needed to realize these ends and the following last item comes to clear the point :

4) Both the CRCICA and the AAST, the first being the mother-Institution of the ACIMA and the second being one of the most significant maritime academic entities in the region, will allot an overall amount of 200.000 Egyptian Pounds (approx. equivalent to US \$ 60.000) - divided equally - to meet up the estimated expenditures of the first phase of the ACIMA's future development scheme highlighted in the aforesaid items.

II.B) SOCIETY OF ARAB AND AFRICAN ARBITRATORS

..... CONTRIBUTING TO THE CRCICA'S BROAD SCHEME :

The society's membership is getting broader than it used to be as it is now composed of members from different countries of African and Arabo-Asian Regions, the last of which constitutes a quite considerable percentage of the overall continental area .

• Educational and ethical elevation of the qualifying backgrounds of regional arbitrators and arbitrators-to-be as well as the origination and maintenance of a powerful contact point among arbitrators of the region are the Society's two target objectives . Since the issuance of the last report up to the present time, the Society :

1. Contribute to the organisation of specialized arbitration training programs held by the CRCICA .

2. Hold regular meetings for its members in enhancement of inter-regional arbitral ties and relations and for discussion of recent arbitration problems . In its next meeting , the Society is expected to take into consideration an official proposal recently submitted by the Arab Association for International Arbitration - seated in Paris - recommending the tackling of two "urgent" agenda items , these are :

- a) The increasing and contrived monopoly of some arbitrations involving Arab parties by certain non-regional arbitral fora .
- b) Possible ways for promoting the role of regional arbitration fora as appointing authorities⁹ .

3. Cooperate with different regional and international entities and associations having same or similar objectives. In its September 1996 Meeting, the Society's General Assembly announced as a top priority future working out of wide-scaled communications with different arbitral entities worldwide for enhancement of cross-border cooperation.

9) The proposal further suggests considering the possibility of handing down a recommendation nominating the Cairo Regional Centre for International Arbitration to be the competent appointing authority in regional arbitrations, if no such authority was previously designated by parties involved.

II.C) THE INSTITUTE OF INVESTMENT AND ARBITRATION

..... *IN A YEAR :*

Established in 1989 , the CRCICA Institute of Investment and Arbitration was meant to take the Cairo Centre's schemes of achievements far beyond mere administration of commercial arbitrations. In such a region of burgeoning commercial capabilities, there was , *and would ever be*, a dire need to channel all international commercial trends regionwards for the survival of future challenges .

To attain such a goal , the institute conducts research related to arbitration in particular and to investment in general and organizes in-region international conferences and training programs .

Over one year (from March 1996 through March 1997), the Institute prepared various arbitration-related research papers , some of these are :

Paper Title	Occasion	Place	Date
Arbitration according to the United Nations Conventions on the Carriage of Goods by Sea .	Twelfth Meeting of the International Congress of Maritime Arbitrators .	Paris , France	June 1996
A Brief Comparative Study Regarding Complex Arbitration in Some Arab States	International Law Association Conference on "Complex Arbitrations"	Helsinki, Finland	August 1996

Arbitration in Euro-Arab Partnership Agreements	International Conference on Euro-Arab Relations	Cairo, Egypt	Sept. 1996
- Recent Trends in Interim Measures - Composition of the Arbitral Tribunal	International Conference on Settlement of Commercial and Investment Disputes in Africa	Johannesburg, South Africa	March 1997
A Published codification of twenty six legal principles recently adopted by different arbitral tribunals in cases administered by the Cairo Centre			Pub. in January 1996

As for the organisation of international events, the year 1996 was prosperous in this concern as discussed below .

III) Organisation of International Events

The CRCICA preserves the status of being a regional passageway for up-to-date international changes and occurrences in different fields of trade and investments. An instrumental tool for realizing such a goal is the annual organisation of international events tackling issues of prime priority in trade and investment transactions. In the light of the 1996 / 1997 Calendar of Events , the CRCICA organized the following events :

III.A) IN THE FIELD OF : CONSTRUCTION CONTRACTS :

Well cognizant of the increasing interest in constructional investments, the CRCICA organized two conferences in construction contracts. Held jointly with the INTERNATIONAL FEDERATION OF CONSULTING ENGINEERS (FIDIC), the UNCITRAL, the WORLD BANK and the INTERNATIONAL TRADE CENTRE, **the first conference of these (17-22 March 1996, Nile Hilton Hotel)** discussed

the FIDIC Contracts and handled the chances and challenges for consulting engineering in developing countries. It was an unprecedented remark that the event attracted a wide range of attendees from African countries e.g. Uganda, Nigeria, South Africa and other FIDIC-member countries and helped open, in consequence, inter-African business opportunities.

Some months later, the international arena showed a strategical move towards privatization and the Build-Own-Transfer types of contracts started, subsequently, attracting more and more attention. With this background, the CRCICA - jointly with the INTERNATIONAL LAW INSTITUTE OF WASHINGTON, the WORLD BANK and the UNCITRAL - took the lead in organizing a **timely International BOT Conference (22-24 October 1996, Inter-Continental Hotel, Hurghada)** succeeding the Meeting of the UNCITRAL BOT Expert Group which was held in Vienna few weeks before the CRCICA Conference. It can be safely claimed that the Conference was the first of the kind in the African, the Arab and the Middle Eastern regions, as it presented an all-inclusive agenda operating on two complementary levels, the first of which dealt with the views and respective experiences of the three major international entities working in the field, these are the UNCITRAL, the United Nations Industrial Development Organization (UNIDO) and the World Bank. The angle of focus then got closer on different national experiences in both public and private sectors. Out of this remarkable comprehensiveness, the Conference witnessed a considerable number of delegates from the whole Arab world, especially the Arab Peninsula, and it was recommended that a second BOT conference, patterned on the first, would be organized in

October 1997 to trace recent occurrences over one whole year (See Item IV : Future Events) .

The Conference rings sound resonance in the region , a matter that urge some representatives of the Saudi Construction and Engineering Sector to co-organize with the Cairo Centre an interim regional BOT Conference before holding the next October International one. From 8th till 12th April , 1997, the said Conference was held at the Premises of the Cairo Centre to re-introduce and handle basic BOT issues from different perspectives. The resolutions and views reached in this Conference were meant to provide preliminary input for the preparation of the October Conference which is expected to witness wide range of representations from most of the countries involved in the BOT type of projects .

Presenting the technicalities of construction contracts called a concomitant need for the provision of educational training in the conduct of relevant arbitrations. Viewing the importance of the parallelism involved, the CRCICA organized an international arbitration program in construction cases as detailed in item (III.E, para.1) below .

III.B) IN THE FIELD OF : MARITIME ARBITRATION :

Out of the remarkable peculiarity of marine trade regulations and the concurrently growing importance of maritime arbitration, the CRCICA organized an **International Maritime Arbitration Conference** under the auspices of its Maritime Branch (**1-3 October 1996 , Alexandria Helnan Hotel**). The Conference was organized in cooperation with the Mediterranean Maritime Arbitration Association, the Maritime Arbitration Commission of the Russian Chamber of Commerce and Industry , the Spanish Maritime Arbitration Association

and other eminent international experts representing the English, the American and the Swiss Maritime schools. The originality of this Conference lies in the point that it set forth an analytic presentation of the different and international characteristics of maritime arbitration cross the border of the top international maritime organizations. In this concern, various number of international experts participated and handled the different trends and approaches of the English, the American, the Spanish, the Greek, the Swiss and the Russian Schools of Maritime Arbitration . As such, the delegate was given the privilege of having an open and panoramic vision of international occurrences within a comparative framework, an element adding much to the success of the whole Conference .

III.C) IN THE FIELD OF :

EURO-ARAB ECONOMIC RELATIONS :

The year 1996 rang in the CRCICA's Third Biennial Conference on the Impact of the European Union on the economics of the Arab World held jointly with the LEAGUE OF ARAB STATES under the title " Arab Countries-European States Relations Euro-Arab Partnership Agreements" (22-23 September 1996, Ramsis Hilton Hotel/Cairo) . In biennially organizing this type of economic-political conferences, the Centre keeps under spot one major target principle, which is, to trace and register recent changes occurring in Euro-Arab relations on regular basis with the prospect of avoiding probable complications and drawing out a conceivable overview of future bonds .

In the wake of the Barcelona Declaration adopted at the Euro-Mediterranean Conference (27-28 November, 1995), there emerges a wide regional tendency towards concluding partnership agreements with

the European Union. This was well reflected in the noticeable presence of men of law , business men and economists from different Arab States, whether the States having already concluding partnership agreements e.g. Tunisia and Morocco, the Countries which are still in the process of negotiating them e.g. Egypt or these that might be having a future initiative in this concern e.g. Saudi Arabia, Kuwait , Mauritania. Similarly, the Conference succeeded in attracting vast public attention ; an approximate number of forty regional and local news agencies undertook the coverage of the Conference's sessions . At the closing session, participants unanimously recommended forming a follow-up committee to trace regional occurrences and provide comprehensive data base for the 1998 Conference . (See Section III below : Future Events no. (9)).

III.D) IN THE FIELD OF : THE WORK OF THE UNCITRAL

With the increasing complexities of trade and investment transactions, the UNCITRAL manages to provide harmonized model laws and regulations likely to eliminate relevant problems and obscurities. Out of the importance of these texts for national legislations, the CRCICA organized jointly with the UNCITRAL and the LEAGUE OF ARAB STATES a four-day Conference on **the Recent Trends in International Trade and Investment Laws** (1-4 December, the Premises of the League of the Arab States, Cairo).

A tripartite UNCITRAL Expert Panel discussed the Commission's different model texts. This include the United Nations Convention on Contracts for the International Sale of Goods, the UNCITRAL Model Law on International Credit Transfers, the UNCITRAL Model Law on

Procurement of Goods, Construction and services, the UNCITRAL Model Law on International Commercial Arbitration, the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards . Against this international basis, different Arab legislations were analyzed horizontally and the delegates were in position to register the effect of the UNCITRAL model texts on national legislations and the way they affect, or promises to affect, inter-states transactions. Only with the slightest exceptions possible, all Arab Countries over and along the two continental poles participated at the Conference .

III.E) IN THE FIELD OF : SPECIALIZED ARBITRATION TRAINING PROGRAMS :

The Centre starts adopting the strategy of organizing specialized training programs out of the conviction that the stage of introducing the general characteristics of arbitration has by far well attained most of its goals and that the need is now getting dire to hold training programs in certain specialized spheres. In the field of arbitration in construction contracts, the CRCICA jointly with the AMERICAN ARBITRATION ASSOCIATION, held an **International Arbitration Training Program in Construction Contracts (20-21 May 1996)**. The said program, marking the Centre's eighteenth training course , focused on the American Approach as embodied by and reflected in the rules and regulations of the American Arbitration Association. Beside men of law, native and foreign contributors to American projects proved interested in attending such a sort of programs to get more familiar with the American Arbitration School .

Along the same trend, in late February and early March 1997, the CRCICA organized two successive arbitration training programs of the sort, the first for the Egyptian Military Judiciary (16-24 February 1997) and the second for the Judges and justices of the Egyptian National Courts (2-3 March 1997).

IV) Future Events

In its 1997 plan, the Centre will organize many international events in different specifications. Some of them are:

- 1) Two Successive INTERNATIONAL COMMERCIAL ARBITRATION TRAINING PROGRAMS, leading respectively to the eligibility of joining the Membership and the Fellowship of the Chartered Institute of Arbitrators of London in Cairo (June 12-18).
- 2) A Training Program on "INTERNATIONAL COMMERCIAL ARBITRATION" to be held jointly with the Arab Association for International Arbitration and the Lebanese Arbitration Association in Beirut/ Lebanon on July 21st till the 23rd.
- 3) A Training Program on "INTERNATIONAL MARITIME ARBITRATION" to be held in Alexandria in October.
- 4) The Second Conference on "BUILD-OWN-TRANSFER (BOT) CONTRACTS" to be held in October jointly with the International Law Institute of Washington, the UNCITRAL, the UNIDO and the World Bank.

5) An International Conference on "INTERNATIONAL COMMERCIAL ARBITRATION *WAYS AND MEANS OF PROMOTING COOPERATION BETWEEN REGIONAL ARBITRAL INSTITUTIONS*" to be held in Cairo in November jointly with the League of Arab States and the Jordanian Centre of Law and Arbitration.

6) The "ROUND TABLE MEETING ON EURO-ARAB ECONOMIC RELATIONS" to arrange for the 1998 Conference in this concern. The Meeting is scheduled to take place in late November .

7) The Second Conference on " THE SETTLEMENT OF ENERGY DISPUTES" to be held jointly with the World Bank and Dundee University / Scotland in late December.

8) An International Seminar ON "MARITIME COOPERATION BETWEEN THE MEDITERRANEAN COUNTRIES" expected to be held in December .

V) CONTRIBUTIONS TO NATIONAL AND INTERNATIONAL LEGISLATIVE MATTERS

V.A) AN INITIATIVE TOWARDS FURTHER

EXPOSITION OF THE NATIONAL ARBITRATION LAW :

All over past years of application of national laws in the region especially the present Egyptian Arbitration Law, the Cairo Arbitration Centre was eager to ensure, whenever possible, an effective operation of

the said Laws in substance and spirit and to have a share in eliminating problems likely to handicap its smooth progression .

Towards the end of 1996 , some controversies arose about the applicability of the Egyptian Law in question on administrative contracts, some argued that the Law contains no express mention of its applicability on the administrative contracts while others believed that there are sound and clear legal grounds for this applicability . In December 1996 these two conflicting opinions took a rather official shape when two different judicial authorities ruled differently in this matter , each on its own part, *a matter that posed fears of future discrepancy of opinion and ambiguity of interpretation* .

In approaching a solution for the problem , the Cairo Arbitration Centre filed with the Ministry of Justice a Draft Exegetic Law for Article (1) which deals with the scope of the Law's application, along with an explanatory memorandum thereof . The rationale of the memorandum depends on a dialectic analysis of the wordings of articles (1) and (2) ¹⁰ bringing about the deduction that the Law in question is definitely -

10) Article (1) reads:

"Without prejudice to the provisions of international treaties and conventions applied in the Arab Republic of Egypt, the Present Law shall be deemed applicable on all arbitrations between persons of either private or public laws regardless of the nature of the legal relation upon which the dispute arise provided that the arbitration is processed in Egypt or in other cases where parties agree to settle their disputes according to the provisions of the Present Law ."

Article (2) reads :

An arbitration is commercial within the scope of this Law when the dispute arises over a legal relationship of an economic nature, whether contractual or non-contractual. This comprises for example the supply of commodities or services, commercial agencies, construction and engineering or technical know-how contracts, the granting of industrial, touristic and other licenses , technology transfer, investment and development contracts, banking, insurance and transport operations, and operations relating to the exploration and extraction of natural resources, energy supply, laying of gas or oil pipelines, building of roads or tunnels ... environment protection and establishment of nuclear reactors.

without the least doubt - applicable on administrative contracts . The memorandum then drew up a conclusion by forwarding the suggestion of issuing an Exegetic Law for the controversial Article (1) to include - in express phraseology - the debated-over kind of contracts so that it might come to read : “ *applicable on all arbitrations including arbitration in the disputes arising out of administrative contracts ...* ” .

The Ministry of Justice approved the explanatory approach of the Centre and submitted the matter to the People's Assembly . The People's Assembly of the Hosting Country ratified the Exegetic Law last April.

V.B) CRCICA AND A CLOSE OBSERVATION OF THE UNCITRAL LEGISLATION ON PRIVATELY FINANCED INFRASTRUCTURE PROJECTS :

Since the year 1994 , the United Nations Commission on International Trade Law has undertaken work in the field of Privately-financed Infrastructure Projects (previously known as Build-Own-Transfer Projects) with the target aim of issuing Model Law of Legislative Provisions for the conduct of this kind of projects which have started to gain momentum since the emergence of the worldwide privatization policy in connection with infrastructure projects .

After carrying out preparatory works over a couple of years, the UNCITRAL held a multi-national Group Expert Meeting in October 1996 for in-depth discussion of possible topics proposed to be covered

by the UNCITRAL Legislative Guide . Top Experts from all over the World were invited to participate at the Meeting to give their views and expectations from regional and domestic perspectives .

At that time, CRCICA was just starting its work on the BOT issue, being an important investment mode¹¹ . Well cognizant of the significance of having all national and regional views under spot before reaching a UNCITRAL Model Law that would affect international trade - as did before the UNCITRAL Arbitration Law - , the CRCICA deputized a top legal specialist to attend the Meeting. From among eleven representatives from the U.S.A., Germany , Mexico, Austria, United Kingdom , *the CRCICA Delegate and an Indonesian Individual Expert represented the whole Afro-Asian Region and there was no arbitral institution or organization represented in the Meeting other than the CRCICA* .

Upon the resolutions of the said Meeting , the UNCITRAL prepared a Draft Legislative Guide on BOT Projects to be discussed in its Thirtieth Session expected to be held in May 1997 and attended by a CRCICA Delegate for further work on the issue .

V.C) CRCICA ... REVIEWING THE UNCITRAL DRAFT MODEL LAW ON CROSS-BORDER INSOLVENCY :

11) Since then up to the present times , the Centre has carried out its work in this field in cooperation with the UNCITRAL , the United Nations Industrial Development Organization (UNIDO) and the International Law Institute of Washington and has built its scheme on three complementary phases :

- a) Codification of regional BOT legislations .
- b) Monitoring of relevant practical experiences in different nations
- c) Organizing international conferences on regular basis . (see item III.A above .

With the escalating national, regional and international interests in the BOT type of projects, it is expected that the Centre would exert further and further efforts for regional welfare .

Since the year 1995, the Cairo Regional Centre has kept a watchful eye on the joint work held by the International Federation of Insolvency Practitioners (INSOL) and the UNCITRAL to issue a Model Law on Cross Border-Insolvency¹². Early in the year 1996, the Centre presented to the UNCITRAL /INSOL Expert Committee preliminary observations about the envisaged Law. Starting from that date onwards, the Cairo Centre attended all UNCITRAL relevant Sessions to trace the draft Law early in its cradle and to have accordingly a reliable background adequate enough to ground an overall critique thereof.

On March 23rd 1997, the Second Joint UNCITRAL-INSOL Multinational Judicial Colloquium was held in Louisiana and the CRCICA Director was invited to give his observations about the Draft Model Law. There, in the presence of hundreds of judges from different nations, the Director developed his speech out of the thesis: *"To modalize a law amidst and despite varying economic policies and various legislative environments, a peak point of ultimate harmony needs to be achieved. To reach such a peak, I believe, the UNCITRAL still has further work to go through..."*. The text of the Draft Law was then discussed and briefly criticized from *"an independent point of view having the welfare of the Third World and the interests of local creditors at the background"*, as pointed out by the Commentator.¹³

It is expected that the Cairo Centre will attend the forthcoming UNCITRAL Thirtieth Session from 12 till 30 May 1997 to obtain adequate input for the coming phase of research on the issue.

12) For more chronological details about relevant events - from March 1995 through April 1996 - See the CRCICA 1996 Annual Report presented to the AALCC on the occasion of its 35 Session.

VI) COOPERATION WITH OTHER INTERNATIONAL ARBITRATION INSTITUTIONS

- The year 1996/1997 witnessed an remarkable increase in the number of cooperation agreements with other international arbitration institutions as;

six more agreements were entered into with :

- | | |
|--|--------|
| - Ghana Arbitration Centre | Africa |
| - Southern Africa Association of Arbitrators | Africa |
| - Commercial Arbitration Centre in Harare | Africa |
| - Indian Council of Arbitration | Asia |
| - Lebanese Arbitration Centre | Asia |
| - Netherlands Arbitration Institute | Europe |

and two more are being under way of conclusion with :

- London Court of International Arbitration
(already signed by either parties)
- Italian Arbitration Association .

The principal target of these agreements is to exchange information and services among arbitral institutions in different parts of the world and to provide cross-border assistance in enforcing foreign arbitral awards. Further, in recent times, some of the cooperation agreements come to develop another important scope of mutuality by including a modal arbitration clause and recommending the incorporation thereof in bi-state trade and investment contracts. It is here worth mentioning that among the initiatory agreements of this type

is the one concluded between the CRCICA and the American Arbitration Association in 1991.

- Cooperation with different international institutions and organizations is not by any means confined to this limit. In organizing international events, the Cairo Centre over the past year reaped further fruitions of already-existing relations with imminent international new legal or investment-related organizations, some of these are : the United Nations Commission on International Trade Law, the World Bank, American Arbitration Association, the Chartered Institute of Arbitrators, the International Federation of Consulting Engineers (FIDIC), the World Trade Organization, the European Union, the League of Arab States, and developed new connections with others, e.g. the United Nations International Development Organization. There are still other relations yet envisaged to be developed in the approaching period with the International Finance Cooperation, the University of Dundee (Scotland) ... etc.

VII) THE NEW PREMISES OF

THE CAIRO CENTRE

The Cairo Centre has moved as from March 1st, 1997 to a new premises in Cairo to cope with its widened activities and development. Moving from a rented premises to an owned one proved to be a step forward marking the beginning of a more prosperous stage. The Centre buys the new premises for 7.200.000 Million Egyptian Pounds (2123894

US Dollars) all paid by the Egyptian Government. Expanding over 800 square meter, the new premises comes to double the previous one, a remarkable change in space capabilities that would definitely help in developing and widening the scope of services offered by the Centre.

VIII) DRAFT RESOLUTION
TO BE CONSIDERED FOR ADOPTION BY
THE THIRTY-SIXTH SESSION OF THE AALCC

1- In lieu of the decisions taken at the AALCC (hereinafter the Committee) Baghdad and Doha Sessions, held in February 1977 and January 1978 respectively, bringing into existence an Asian African integrated scheme for the settlement of commercial disputes.

2- Recalling the agreements concluded between the Government of the Arab Republic of Egypt and the AALCC on January 28th, 1979 and November 15th, 1983, March 30th and the June 3rd, 1986, May 24th, 1987 and July 24th, 1989 concerning the establishment and functioning of the AALCC Centre in Cairo (hereinafter the Centre).

3- Appreciating the report presented by the Director of the Cairo Regional Centre for International Commercial Arbitration (hereinafter the Director) on the progress made by the Centre during 1996/1997.

4- Commending the speedily progress which the Centre has made to provide West Asia and Africa with an efficient, expeditious, fair and cost-effective system for the settlement of commercial disputes, train Asian and African Arbitrators, introduce new means for the settlement of disputes such as conciliation, mediation and technical expertise, make available for the region a new computerized system for a trilingual storage of all arbitral information, and finally found for the first time in the region an Institute of Arbitration and Investment as an autonomous

institution under the auspices of the Centre in charge of organizing seminars, conferences, training programs and conducting legal research, and in the meantime making tremendous financial efforts to appropriate its own Headquarters in Cairo.

5-Encouraging the further promotion of the above mentioned Asian African integrated Scheme for the settlement of commercial disputes.

In Witness thereof;

The Committee requests and expects

1a- All the AALCC Member Governments to recommend to proper entities and parties in their respective countries to include an arbitration clause in each agreement or contract referring the settlement of all disputes related to these agreements or contracts to the Centre in any of the regional arbitration centres of the AALCC, taking into consideration their respective geographical locations ;

1b- To fully support the growing activities of the Centre, to benefit from it and to consider consolidating its finance through regular annual and/or AD HOC contributions to assist and help it implement its ambitious plans of activities, services and expansion and in particular to appropriate suitable premises.

2- The Committee Secretary-General to kindly lend his valuable assistance and dynamic contacts to the Centre to this effect.