

# CRCICA ANNUAL REPORT 2010-2011



The Cairo Regional Centre for International Commercial Arbitration  
(CRCICA)

An International Organization operating in Egypt since 1979

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# Dr. Nabil ELARABY Rooding across Egypt's Foreign Ministry to the Arab League

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.

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 trusts that wherever Dr. Elaraby's destiny will take him, he will always inspire confidence and hope. 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.



# Letter from the Acting Director

Middle Eastern countries have been at the forefront of the world's collective consciousness with inspiring revolutions in Tunisia and Egypt, as well as ongoing uprisings in Libya, Syria and Yemen.

Since the January 25th Revolution, all has been changing in Egypt, the country hosting the headquarters of the Cairo Regional Centre for International Commercial Arbitration (CRCICA).

The Director of the Centre, Dr. Nabil Elaraby, has been made Egypt's Foreign Minister within an interim government tasked with implementing democratic and economic reforms. Less than three months later, he was unanimously elected as the new Secretary-General of the Arab League.

Subject to a smooth and healthy transition to a new government, Egypt could become one of the investment hotspots in the region. The country is likely to benefit from significant economic aid and reform programs and analysts speak of a potential economic take-off post transition.

These developments inspire 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, has 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.

The new CRCICA Arbitration Rules guarantee 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 have been increased to show more respect to the legitimate expectations of parties and arbitrators.



The new Rules aim at confirming CRCICA's position as a leading regional arbitral institution and a major administrator of international arbitration cases.

I am particularly proud of the very positive appraisal the new Rules have received thus far. According to a recent GAR publication, they are regarded as a vital enhancement of CRCICA's apparatus and "are 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". In the same GAR Volume, Benjamin Garel, of Stephenson Harwood in London, found the new costs provisions to be "generally more in line with the practice of other institutions", striking a perfect balance between the expectations of both users and arbitrators.

Pride blends with satisfaction to find the Rules internationally recognized as clearer, in some provisions, than the UNICTRAL Model Rules. In 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."

I am also very proud of the Arabic version of the new CRCICA Arbitration Rules. It is 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 will soon make

this version very popular among other Arab-speaking countries.

It is with absolute appreciation that I owe this significant achievement and prideful international recognition to the strong sense of duty and expert devotion of the Working Group I was privileged to cooperate with. Comprising four leading Egyptian arbitration practitioners in addition to my 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.

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

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.

CRCICA is starting the second half of this 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 is determined to meet them.

# Salient Features of the New CRCICA Arbitration Rules<sup>(1)</sup>



## I. INTRODUCTION

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

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

CRCICA has already amended its Arbitration Rules in 1998, 2000, 2002 and 2007<sup>(2)</sup> to ensure that they continue to meet the needs of their users, reflecting best practice in the field of international institutional arbitration.

The New Rules are based upon the new UNCITRAL Arbitration Rules, as revised in 2010,<sup>(3)</sup> with minor modifications emanating mainly from the Centre’s role as an arbitral institution and an appointing authority.

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 proceedings. 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.

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.

**“Institutional Integrity”,**  
**Jan Paulsson** reflecting on CRCICA leaders’ motivating force: “more important than the new rules is that the centre has leaders who seek to ensure *institutional integrity*.”

## II. BACKGROUND

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.

CRCICA formed a Working Group (“WG”) to revise CRCICA’s Arbitration Rules in light of the new

(1) 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

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

(3) 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>.

UNCITRAL Rules.<sup>(1)</sup> 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.

### III. KEY CHANGES

#### A. COMMUNICATIONS (ARTICLE 2)

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.

#### B. NOTICE OF ARBITRATION (ARTICLE 3)

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.

These requirements seek to make the notice of arbitration as

(1) 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.

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.

#### C. RESPONSE TO THE NOTICE OF ARBITRATION (ARTICLE 4)

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.

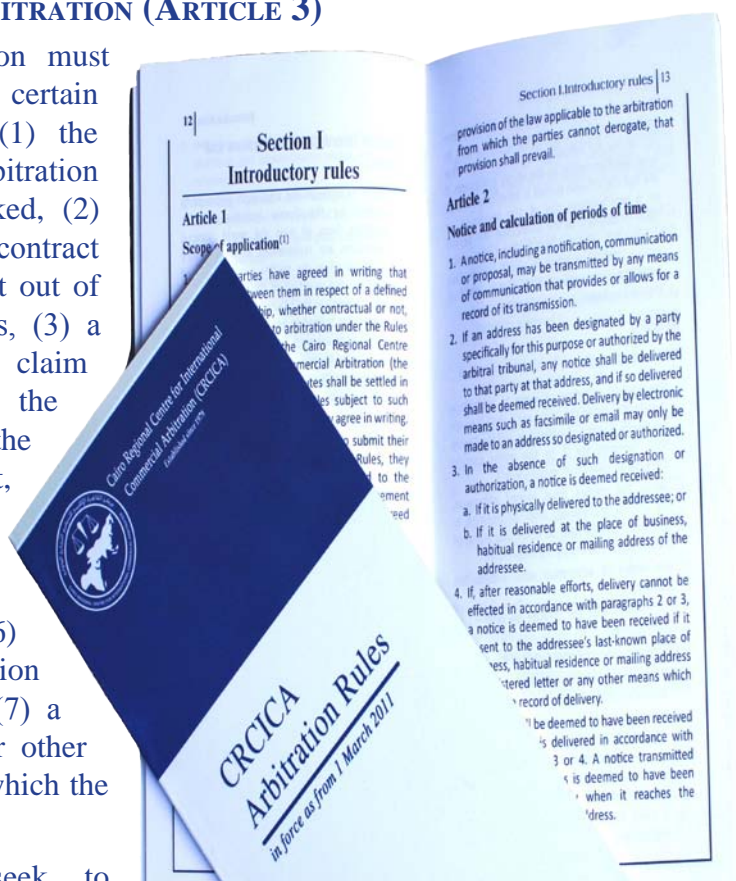
#### D. DECISION NOT TO PROCEED WITH THE ARBITRAL PROCEEDINGS (ARTICLE 6)

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

#### E. THE NUMBER OF ARBITRATORS (ARTICLE 7)

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.



## **F. REJECTION OF APPOINTMENT OF ARBITRATORS (ARTICLE 8/5)**

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.

## **G. MULTIPARTY ARBITRATIONS (ARTICLE 10)**

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.

## **H. REMOVAL OF ARBITRATORS (ARTICLE 12)**

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.

## **I. CHALLENGE OF ARBITRATORS (ARTICLE 13)**

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.

## **J. TRUNCATED TRIBUNALS (ARTICLE 14/2)**

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.

## **K. REPETITION OF HEARINGS (ARTICLE 15)**

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.

## **L. EXCLUSION OF LIABILITY (ARTICLE 16)**

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.

## **M. EFFICIENCY OF THE PROCEEDINGS (ARTICLE 17/7)**

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.

## **N. THIRD PARTY JOINDER (ARTICLE 17/6)**

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.

## **O. INTERIM MEASURES (ARTICLE 26)**

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.





The Members of CRCICA's Advisory Committee ("AC")<sup>(4)</sup>

## P. APPLICABLE LAW (ARTICLE 35)

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.

## Q. COSTS OF THE ARBITRATION (SECTION V – ARTICLES 42-48)

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.<sup>(1)</sup> They have been increased to show more respect to the legitimate expectations of parties and arbitrators.

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.<sup>(2)</sup>

(1) 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.

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

*"a smart move"*

**Benjamin Garel**, describing the adoption of the new costs schedules that according to him "are generally more in line with the practice of other institutions than they were."

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.<sup>(3)</sup>

(3) 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/>)

(4) This photo features eight AC members who are - from left to right - Prof. Dr. Mohamed **Badran**, Prof. Dr. Hossam **Issa**, Coun. Dr. Adel **Koura**, Prof. Dr. Yehia **El Gamal**, Prof. Dr. Samir **El Sharkawy**, Dr. Nabil **Elaraby**, Prof. Dr. Fathi **Waly** and Coun. Mohamed Amin **El Mahdy**. The other non-attending members are Prof. Dr. Aktham **El Kholly**, Prof. Dr. Aly H. **EIghatit**, Prof. Dr. Ahmed S. **El Koshery**, Prof. Dr. Georges **Abi-Saab** and Prof. Dr. Ahmed Kamal **Aboul-Magd**.

# Echoes of the New Arbitration Rules in a Quarter

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*.

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 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.

“The Cairo Centre now appears to be on a drive to become a major administrator of international cases relating to the Arab World”, Revolution and Arbitration, GAR, Volume 6, issue 2,

[www.GlobalArbitrationReview.com](http://www.GlobalArbitrationReview.com)



## New arbitration rules in Cairo

The Cairo Regional Centre for International Commercial Arbitration has announced a new acting director while Nabil Elaraby serves as foreign minister, and unveiled revised rules on procedure and costs

**M**OHAMED Abdel Raouf – a well known arbitrator and academic and the centre's secretary general – will lead the centre in Elaraby's absence. Karim Yousef, the head of Middle East arbitration at Amereller in Cairo and Dubai, says that for several years Abdel Raouf has been “a dynamic force behind the centre's local and regional success and played a major role in the reform of case management.” He adds, “I think of him as the natural choice for the current period.” The change in leadership comes at an important time for the Cairo Centre, which unveiled a new set of rules on 1 March following the completion of a drafting process orchestrated by Abdel Raouf Yousef says



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### Arbitration Centre Adopts UNCITRAL Arbitration Rules (as revised in 2010)

VIENNA, 14 March (UN Information Service) - The Cairo Regional Centre for International Commercial Arbitration (CRCICA) has adopted, on 1 March 2011, new arbitration rules incorporating the UNCITRAL Arbitration Rules as revised in 2010. CRCICA was established under the auspices of the Asian-African Legal Consultative Organization (AALCO), an inter-governmental organization comprising 47 governments of the Asian and African region, in cooperation with the Government of Egypt. The rules are available in both Arabic and English.

*Incorporating both substantive and procedural revisions, the new CRCICA rules promise to provide a more streamlined and efficient experience for parties choosing to arbitrate under them”, Samaa Haridi, Meriam Alrashid and Amal Bouhabib, The Cairo Regional Centre for International Commercial Arbitration (CRCICA) Newly Revised Arbitration Rules, TRANSNATIONAL DISPUTES MANAGEMENT, [www.transnational-dispute-management.com/](http://www.transnational-dispute-management.com/)*

http://www.transnational-dispute-management.com/article.asp?key=1711

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**The Cairo Regional Centre for International Commercial Arbitration (CRCICA) Newly Revised Arbitration Rules: Incorporating the New UNCITRAL Model Rules of 2010 and Expanding the Centre's Role as an Appointing Authority**

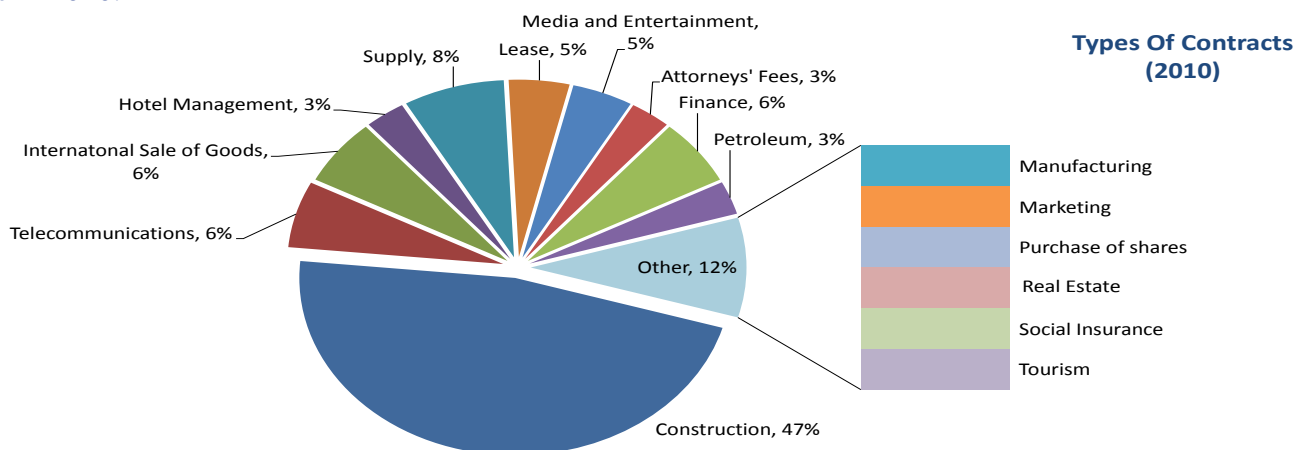
TDM 2 (2011),  
 in Roundup of Articles

# CRCICA's Caseload

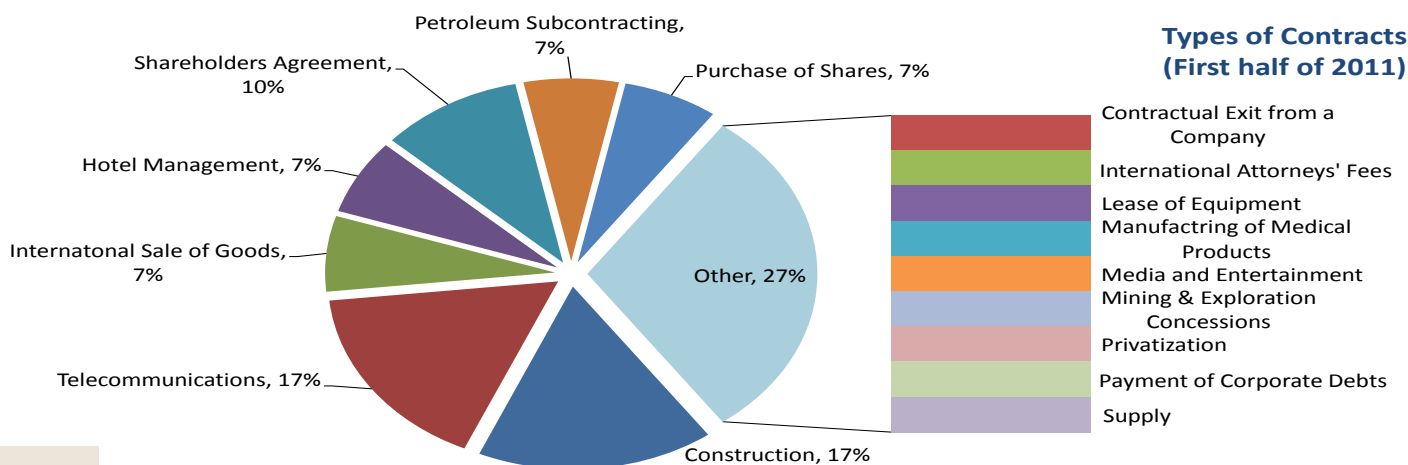


The total number of arbitration cases filed before CRCICA until the end of May 2011 reached 756 cases. In 2010, 66 new arbitration cases were filed before CRCICA against 51 cases in 2009, scoring as such 35 % annual increase. In the first half of 2011, 30 new arbitration cases were filed.

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.

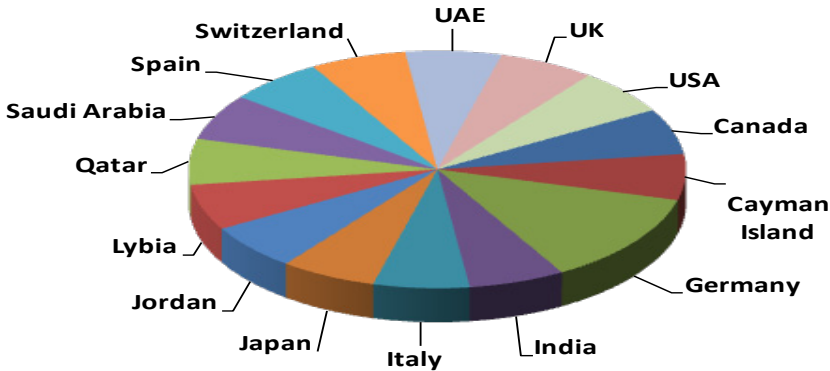


The 2011 arbitration cases filed before the Centre are related to disputes including shareholders agreements, construction, telecommunications, lease of equipment, purchase of shares, privatization, hotel management, petroleum subcontracting, mining and exploration concessions, supply contracts, international 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.



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.

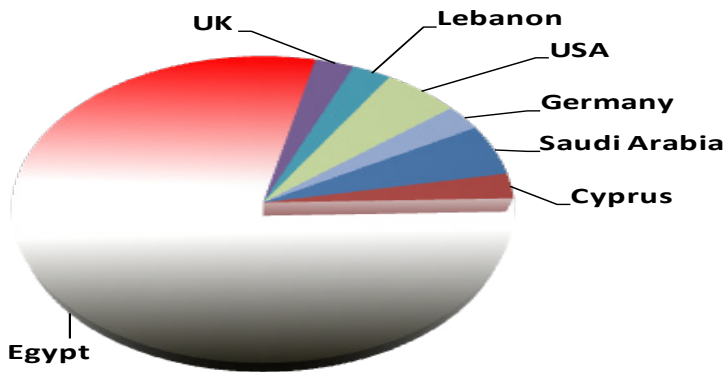
**Nationalities of Non-Egyptian Parties (2010)**



**Michael Schneider** "once again many thanks for (the) competent assistance in a difficult case and a difficult situation. Please convey my thanks also to ... all ( staff members ) who were so helpful and patient day and night."

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

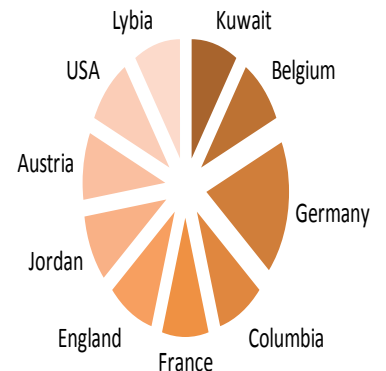
**Nationalities of the Parties (First half of 2011)**



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, Lybia and the USA.

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).

**Nationalities of Non-Egyptian Arbitrators (2010)**



# Sharm El Sheikh III – Role of State Courts in Arbitration



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).

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.

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.

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.

In implementation of one of SHARM EL SHEIKH 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.

# FIDIC Latest Developments Regional Conference , January 2011

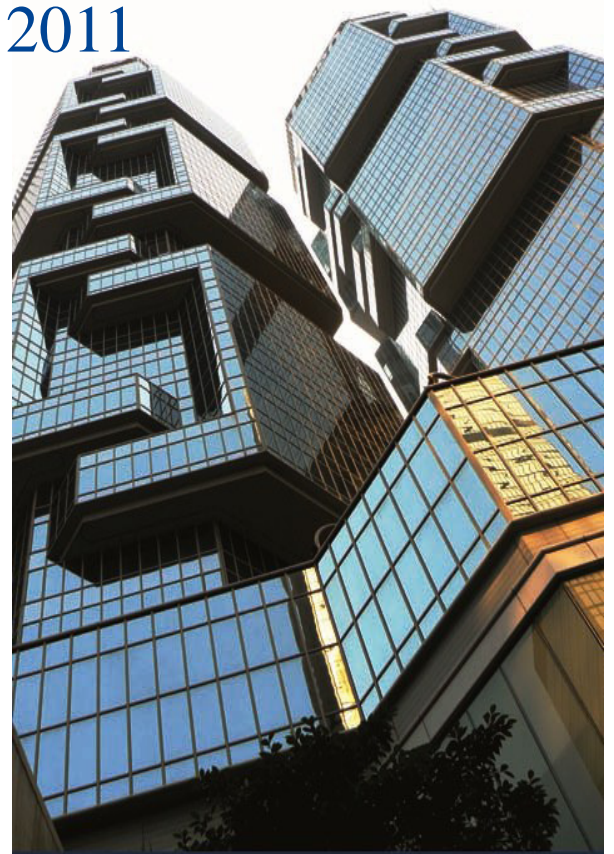
The Cairo Regional Centre for International Commercial Arbitration hosted a regional conference on "FIDIC Contracts - Latest Developments". Held on 9-10 January 2011 / Cairo, Egypt, the Conference was jointly organized by the International Federation of Consulting Engineers (FIDIC), CRCICA and the Egyptian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

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.

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.

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.

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.



FIDIC Contracts - Latest Developments



Cairo Regional Centre for  
International Commercial  
Arbitration



International Federation of  
Consulting Engineers

9 -10 JANUARY 2011

Cairo - Egypt

*"The organisation was excellent  
and the conference itself was a  
huge success."*

**Peter Boswell**

# Arbitration Agreement Training Program, 30 May - 2 June 2011



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.

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.

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.



# IFC/CRCICA Partnership: A Path way to Mediation



**T**he 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.

## ACCREDITATION OF MEDIATORS CEREMONY

**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.

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

## MEDIATION IN INSURANCE DISPUTES WORKSHOP

**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.

## MEDIATION MONTHS

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.





# ABA/ CRCICA Continuing Legal Education Programs 2010-2011



Kathryn Ainsworth & Dr. Charles Davidson amidst a 2010 CLE class

## Program Objectives

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:

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.

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.

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.

*“In great part thanks to the unstinting support of CRCICA, the CLE programs have been a great success and many of the graduates recommend the courses to their colleagues.”* ABA ROLI Report

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

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.

# Collaboration between CRCICA and IFCAI

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.

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.

The 11<sup>th</sup> 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).

Before the Conference, the 17<sup>th</sup> 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.



# CRCICA's Presence in the Sino African Scene Continued



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.

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.

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.

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

“In 2010, 2 arbitration cases were filed under the auspices of CRCICA involving *2 Chinese companies*. The first case related to a dispute arising out of a contract for the *construction of a gypsum plant* in Egypt, while the second case related to the *Sale and Supply of tourism buses* through an Egyptian agent. One of the cases is still pending, while the other has resulted in an award against the Egyptian agent”, **Mohamed Abdel Raouf, Arbitration as a means of Settling Sino-African Economic Disputes**

Experience of Egypt” within the context of the Mechanisms of Dispute Resolution relating to China -Africa Economic Cooperation.

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).

“ *Mohamed Abdel Raouf, introduced the arbitration system in the Cairo Centre and expressed such a view that there are modern arbitration regimes and favorable arbitration facilities in (Egypt)*” , **Concluding Report of the Second FOCAC Legal Forum**

# Institutional Agreements and Overseas Cooperation

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-scaled 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.

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.

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

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."



Training of Syrian Lawyers, **Turkey**, September 2010



Formation of Arbitrators Workshop, **Bahrain**, January 2011

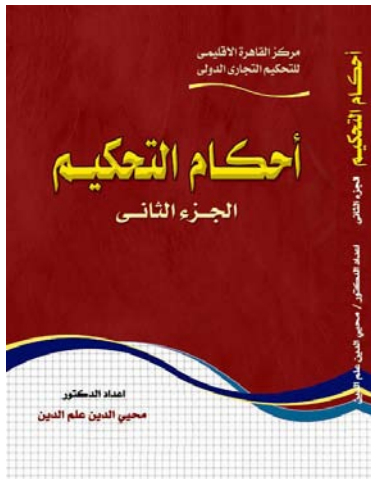


Drafting of Arbitral Awards Workshop, **Kuwait**, April 2011,



The signing of the CRCICA/ACAS Agreement, **Egypt**, June 2011

# CRCICA's Publications



## ARBITRAL AWARDS (VOLUME II)

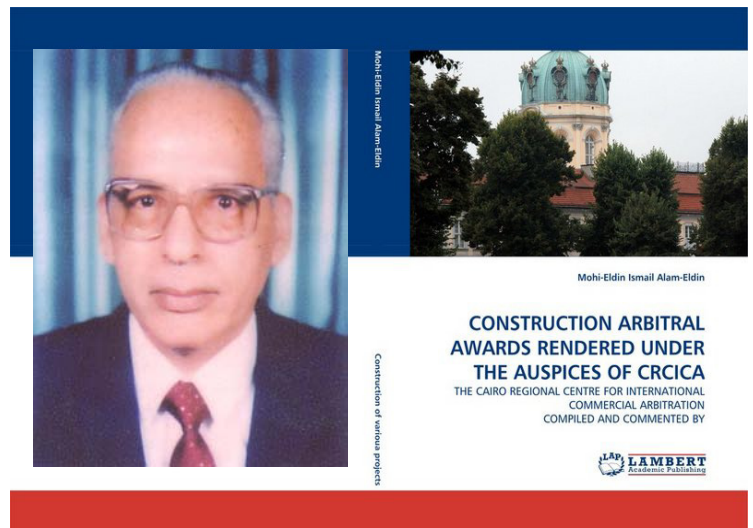
In January 2011, the Centre published the Second Volume of Arbitral Awards prepared in Arabic by **Dr. Mohi-Eldin Alam Eldin**, CRCICA's Senior Legal Counsel. Issued in almost 500 pages, the Book is a classified compilation of 19 final and interim Arbitral Awards rendered under the auspices of the Cairo 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.

## CONSTRUCTION ARBITRAL AWARDS RENDERED UNDER THE AUSPICES OF CRCICA

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**.

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.



## THE JOURNAL OF ARAB ARBITRATION, VOLUMES 14 (JUNE 2010) AND 15 (DECEMBER 2010).

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.

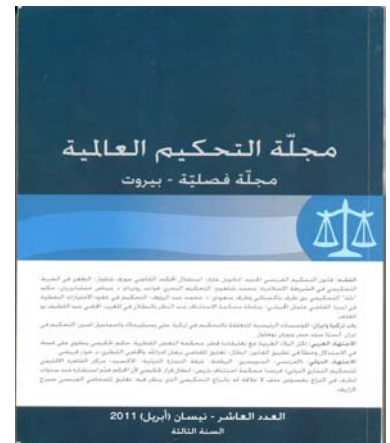
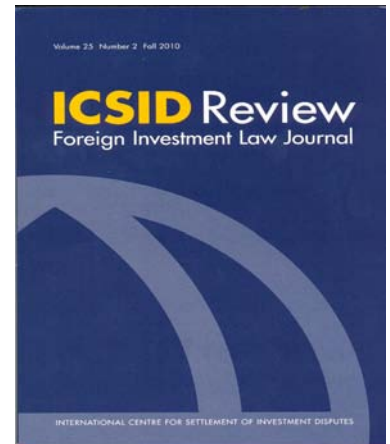
Currently under print, volume 16 (June 2011) contains more analysis on judicial precedents with relevant commentaries.



# CRCICA's Contributions in Specialized Publications

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 .



# Future Events and Projects



## **PAN REGIONAL CONFERENCE ON INTER-ARAB INVESTMENTS AND RELATED DISPUTES**

**C**RCICA 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 7<sup>th</sup> 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.

## **CONTINUATION OF CRCICA 1ST FOUR-PHASED ARBITRATION TRAINING PROGRAM**

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.

## **COOPERATION BETWEEN CRCICA AND THE EGYPTIAN STATE LAW SUITS AUTHORITY (SLSA)**

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.

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.

## **COOPERATION WITH THE MOJ TO REVISE THE EGYPTIAN ARBITRATION LAW NO. 27/ 1994**

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.

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.

## **COOPERATION BETWEEN CRCICA AND OTHER ARBITRAL INSTITUTIONS IN THE MIDDLE EAST**

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.

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.

## **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**

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".

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.

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.

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.

## **THE THIRD FOCAC LEGAL FORUM**

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.

## **CONTRIBUTION TO THE WORKING GROUP OF THE IBA STATE MEDIATION SUBCOMMITTEE**

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.