

THE CAIRO REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION (CRCICA)

An international organization operating in Egypt since 1979

Progress Report

September 2004

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CRCICA ... Celebrated its 25th anniversary

the CRCICA celebrated its Silver Jubilee, I look back with pride and satisfaction to the long and challenging way we passed by, having struggled through many hardships, reluctances and hostilities to seed the kernel of arbitration into a soil that had not by then attained fertility. Over many years and amidst many difficulties, the embryo grows into maturity, and now the matured is well through its third decade.

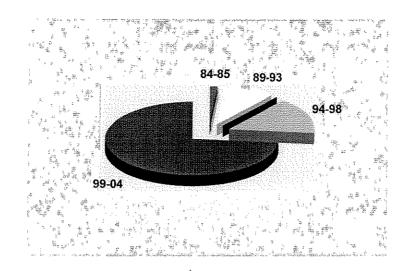
Mohamed Aboul Enein

On 20 January 2004, by the side of the River Nile, CRCICA celebrated its 25th anniversary. The celebration was attended by key figures from Egypt, some Arab countries and international institutions, some of them are :H.E. Farouk Seif Al Nasr, Egyptian Ex-Minister of Justice; Dr. Esmat Abdul-Meguid, Ex-Secretary General of the Arab League; Dr. Abdul-Hamid Al Ahdab, President of the Arab Arbitration Association, Paris-France; Dr. Hamza Haddad, Ex-Jordanian Minister of Justice and Director of the Law and Arbitration Centre; Mr. Shaher Al Salhy, Secretary-General of the Yemeni Arbitration Centre; Mr. Mark Appel, Vice President of the American Arbitration Association.

During the celebration, CRCICA Director presented medals of honor to some key figures for having boosted forth the works of the Cairo Centre: H.E. Farouk Seif El Nasr; Dr. Esmat Abdul-Meguid; the name of Coun. Mamdouh Attia, Late Egyptian Minister of Justice; the name of Dr. Mohsen Shafik, father of commercial law in Egypt; the name of Mr. Michael Hoellering, Late President of the International Federation of Commercial Arbitration Institutions (IFCAI) and General Counsel of the American Arbitration Association (AAA).

Case Report

The total number of international arbitration cases filed before the CRCICA reaches **411** international cases. It is notable that the average annual increase significantly rises from some ten cases till more than 50 cases per year and the expected annual average is envisaged to reach 100 cases by 2011 (see the illustrating diagram).



Generally speaking, construction arbitration still ranks top among the types of arbitrations administered by the Cairo Centre. Other types of cases submitted to the Centre in 2003/2004 are related to media communications, rental contracts, hotel management, software contracts, oil contracts, insurance contracts, credit risk management contracts, intellectual property rights, distribution, investment and services agreements.

In 2003/2004, beside multinational corporations, parties to CRCICA arbitration proceedings have been business entities from a broad span of countries, including Egypt, Lebanon, Jordan, Saudi Arabia, the United States, Korea, Austria, Belgium, Germany, France, England, Switzerland, Spain and Romania. This variety in parties' nationalities is normally correlated by a similar variety in arbitrators'. In 2003/2004, CRCICA arbitral tribunals have been composed of different nationalities from Egypt, Jordan, United Arab Emirates, Ireland, Italy, Spain, Switzerland, France, the Untied Kingdom and others.

In 2003/2004 CRCICA Construction Arbitrations, it has been obviously recurrent that arbitrators tend to employ some features of case management⁽¹⁾ in the proceedings to achieve both economy and expediency taking into consideration the complexities construction-related arbitrations usually involve. The most popular among these features is the Scott Schedule^(Υ) which is generally prepared after the first exchange of evidence to assist both the parties and the tribunal in various ways, including the ability to focus on the issues involved and the relevant strengths and weaknesses of each party's case. Furthermore, it helps to identify

⁽¹⁾ For more details about case management in construction arbitrations, see Dr. Nael Bunni, "Pre Hearing Case Management in Construction Arbitrations", Newsletter of the Cairo Regional Centre for International Commercial Arbitration, January 2004.

⁽⁷⁾ A Scott Schedule is a working document prepared by both parties in the form of a schedule composed of a number of columns, usually compiled first by the claimant. It defines the positions of the parties with reference to their pleadings and records quite briefly the essential elements of each party's case.

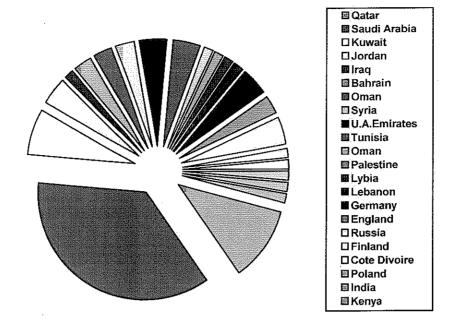
points which are not in disputes or which are irrelevant and in turn it exposes the points which have to be decided.

The administrative flexibility that underlies the whole CRCICA Rules and Procedures actually invites the use and adoption of the different case management techniques as seen useful and appropriate. Article 15 leaves it up to "the arbitral tribunal (to) conduct the arbitration as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity of presenting his case"

CRCICA Events

Well cognizant of the various challenging changes in law, trade and investment and the direct influence they are likely to have on the economies of the region, the Centre develops a comprehensive scheme of events meant to intersect the international with the regional and to create a contact point between the various approaches in the said fields in spite of geographical barriers.

One of the outstanding archetypicals in this concern is the series of Conferences the Centre has held since 1998 on the Impact of WTO Agreements on the Economies of the Third World Countries. Viewing the influence the WTO agreements is envisaged to have on international trade practices - and accordingly on dispute-settlement mechanisms - after the experimental application of the Uruguay Results scheduled to end by the year 2005, it has grown necessary to expose the pros and cons involved and attempt creating a comprehensive vision to face all future challenges. The CRCICA series of WTO Conferences comes responsive to this demand bringing to dialogue key WTO representatives and regional governmental officials and businessmen from different developing countries. The underlying motive backing such conferences is to stress the importance of having more public awareness of all rights developing countries are entitled to – but in many instances seem unaware of – within the framework of the WTO. The CRCICA calls upon developing countries to perceive the mutuality of rights and obligations in WTO Agreements. CRCICA held the fifth WTO Conference in cooperation with the Egyptian Ministry of Foreign, the Arab League and the WTO Secretariat and plans to establish a CRCICA Unit to exclusively deal with WTO matters and design training programs in this field.



Nationalities of participants in the CRCICA Series of WTO Conference 1998 – 2003

The period under reporting well reflected the wide-ranging aspects of CRCICA events.

On 19 April 2003, the Centre held a one-day seminar on Construction Arbitration jointly with the Cairo Branch of the Chartered Institute of Arbitrators and the Arab-African Arbitrators Association (An affiliate of the Cairo Centre). The agenda tackled the most salient aspects of construction arbitration and addressed the controversial issues related to this type of arbitration. This includes the emergence of hybrid procedural patterns (mixing the common law and civil law cultures), interim measures in construction arbitration and an evaluation of the factors leading to the success of construction arbitration. Consumed over five concessive sessions, the Seminar ended up by a number of recommendations handling, among other things, the howabouts of reconciling Arab construction rules and regulations with international norms and contracts.

Also, the Cairo Centre has organized an international conference on "Banking Risk Management, Restructuring and Settlement of Relevant Disputes" on December 6–8, 2003 jointly with the World Bank, the Central Bank of Egypt and some Egyptian and Arab Banks.

Moreover, The Cairo Centre held on December 20-22, 2003 the fifth WTO Conference entitled "Beyond Cancun 2003: The Trade Future of the Developing Countries at the Crossroads" in cooperation with the Egyptian Ministry of Foreign Affairs, the League of Arab States and the WTO Secretariat.

Also, The Cairo Centre held on January 17 and 18, 2004 at the League of Arab States, Cairo, the Third International Electronic Commerce Conference, in cooperation with the United Nations Commission on International Trade Law (UNCITRAL), The Egyptian Ministry of Communications and Information.

The Conference was followed by the Third Arab Judicial Colloquium on January 19, 2004.

The Cairo Centre also held on March, 6 to 9, 2004, Cairo, the Training Programs on Arbitration leading to the Membership of the Chartered Institute of Arbitrators of London (CIArb).

In June 28 and 29, 2004 the Cairo Centre held an international conference on "Euro-Arab Association Agreements ...Challenges and Opportunities" in cooperation with the League of Arab States and the Arab Investors Association.

This Conference was preceded by a seminar held jointly on June 27, 2004 between the Cairo Centre and the Chamber of National and International Arbitration of Milan.

On July 1 and 2, 2004 the Arab Union of International Arbitration held its biennial fifth conference in Rabat, Morocco

The International Trade Centre ITC UNCTAD/WTO held its 1st Symposium on "Strengthening Mediation and Arbitration Centres" on 2 – 3 September 2004 in Chamonix, France. The Event is seen to be the first in a series of symposia planned to help institutions to face the increasing challenges of arbitration. CRCICA Director was invited to provide the opening lecture on: "The Patient work of building an arbitration Centre" and to represent the International Federation of Commercial Arbitration Institutions (IFCAI) at the inaugural session. Being attended by about 70 arbitral institutions from different parts of the world, the Symposium helped raise the profile of the Cairo Centre in a multi-cultural arbitration arena.

CRCICA Key Activities September 2004 – December 2005

• Overview:

CRCICA current and near future calendar of events features some various interesting aspects that stand as clear tokens of an increasingly flourishing international status. Both the UNCITRAL and the WTO approached CRCICA to host and organize exceptionally and exclusively significant commemorative regional events. Similarly significant, the Queen Mary School of International Arbitration

(SIA) chose to introduce its International Arbitration Diploma to the region through CRCICA organizational mechanism. The current summary is meant to shed fleeting light on some of CRCICA activities from September 2004 till December 2005.

2 – 3 September 2004, Chamonix - France: ITC 1st Symposium on "Strengthening Mediation and Arbitration Centres"

Out of its global role to enhance institutional capacity building, the International Trade Centre ITC UNCTAD/WTO held its 1st Symposium on "Strengthening Mediation and Arbitration Centres" on 2 – 3 September 2004 in Chamonix, France. The Event is seen to be the first in a series of symposia planned to help institutions to face the increasing challenges of arbitration. CRCICA Director was invited to provide the opening lecture on: "The Patient work of building an arbitration Centre" and to represent the International Federation of Commercial Arbitration Institutions (IFCAI) at the inaugural session. Being attended by about 70 arbitral institutions from different parts of the world, the Symposium helped raise the profile of the Cairo Centre in a multi-cultural arbitration arena.

17 September 2004, Milan – Italy : CRCICA CAM 3rd Arbitration Seminar

Within the framework of the Cooperation Agreement concluded between the Chamber of National and International Arbitration of Milan (CAM) and the Cairo Regional Centre for International Commercial Arbitration (CRCICA), CRCICA and CAM will hold the third joint Arbitration Seminar on 17 September 2004 in Milan, Italy. The Seminar aims at introducing the Cooperation Agreement and its scope of application to business and law communities in Italy.

The CRCICA/CAM Agreement was signed on 16 December 2003 under the auspices of H.E. Dr. Atef Ebeid, the Ex-Egyptian Prime Minister during the Italian Egyptian Investment Forum held on December 15-16, 2003 and it is seen to be a materialization of the Egyptian-Italian Governmental Action Plan (2003-2004) that recommends cooperation between the Cairo Arbitration Centre and the Chamber of Milan. In fact, the CRCICA/CAM Agreement presents a unique model of cooperation in the field of arbitration as it includes a great deal of integrity between the two parties with the ultimate purpose of encouraging trade and investment.

9 – 10 October 2004, Cairo – Egypt : An International Conference on Legal Culture and the Development Process

The London Forum for International Economic Law and Development / University of London will hold an international conference dedicated to the memory of Dr.

Ibrahim Shihata under the title "Legal Culture and the Development Process". Scheduled to be held on 9-10 October in Cairo – Egypt, the Conference will be hosted by the American University in Cairo and René-Jean Dupuy Centre for Law and Development. Being dedicated to the Role of Cultural Norms in the Settlement of Transnational Disputes, the Third Working Session will feature Dr. Antonio Parra, Deputy Secretary-General of the International Centre for the Settlement of Investment Disputes (ICSID), as Chairman, Dr. Mohamed Aboul-Enein , CRCICA Director as Speaker and Prof. Georges Abi-Saab, President of the WTO Appellate Body as Commentator.

11 – 12 December 2004, Cairo – Egypt : Fifth International Procurement Conference

On 11-12 December 2004, CRCICA will hold its Fifth International Procurement Conference jointly with the Egyptian Ministry of Finance, the World Bank (WB), the United Nations Commission on International Trade Law (UNCITRAL), the International Law Institute of Washington (ILI), the World Trade Organization (WTO) and other regional and local entities. Held since 1994, the CRCICA Series of Procurement Conferences has provided a token of non-governmental endeavors up the way of increasing the efficiency of public procurement. Speaking of the fourth conference held in December 2002, it was structured to evaluate the Egyptian Procurement Law with the contribution of WB and WTO experts, key governmental officials from the Ministry of Finance, contractors, lawyers, academicians and other specialists.

16 - 22 December 2004, Cairo – Egypt : Diploma in International Arbitration Offered by Queen Mary School of International Arbitration

For the first time in the region, the Queen Mary School of International Arbitration (SIA) of the London University jointly with CRCICA will hold an International Arbitration Diploma on 16-22 December 2004 in Cairo / Egypt. The Diploma will be held in association with the Chartered Institute of Arbitrators and will be locally co-organized by the American University in Cairo (AUC). Beside prominent Egyptian professors, a group of key SIA professors will contribute to the Program , including Prof. Julian Lew , SIA Head and Prof. Loukas Mistelis who will act as the Course Director.

Early January 2005, Beirut – Lebanon :

Seminar on: "The Role of State Courts in Arbitration", Beirut - Lebanon

Jointly with the Arab Arbitration Association, the Beirut University and various regional institutions, CRCICA will hold an international Seminar addressing the relation between national courts and arbitration at the early beginnings of January 2005 in Beirut / Lebanon. The Seminar is being designed to bring into dialogue

representatives of key arbitral institutions and chief justices, justices of high courts in different countries. This is meant to highlight not only regional experiences but also international ones.

14-15 January 2005, Cairo — Egypt : Second International Banking Conference

On 14-15 January 2005, CRCICA will hold its second international conference on Banking Risk Management and Dispute Settlement jointly with the World Bank, the Central Bank of Egypt, the Egyptian Banks Union and the International Financial Law Unit of the Centre for Commercial Law Studies – University of London. Held in December 2003, the first CRCICA Banking Conference was a real success and was attended by representatives of 14 countries.

April 2005, Cairo – Egypt* : CRCICA hosts Two Regional UN Conferences

The United Nations Commission on International Trade Law (UNCITRAL) chose CRCICA to host and organize two significant regional conferences planned to be held on the occasion of the 25th anniversary of the UN Convention on Contracts for the International Sale of Goods and the 20th anniversary of the UNCITRAL Model Law on International Commercial Arbitration. The UNCITRAL plans to hold similar regional conferences in different parts of the world , the first of which will be held in Vienna in March 2005 and will be immediately succeeded by the Cairo Events as the second regional conferences of the kind in the whole world. It is noteworthy that two UNCITRAL Digests of Case Law – currently under preparation – one on the Sales Convention and the other on the Model Arbitration Law will form the basis of the conferences and CRCICA plans to stimulate regional research initiatives as based on these Digests.

11-12 December 2005*,

A key regional Conference: The Experience of Developing Countries Before the WTO Appellate Body : The First Ten Years

December 2005 is scheduled to witness CRCICA masterpiece of the year. In commemoration of the Tenth Anniversary of the WTO and its Appellate Body , the WTO Appellate Body approached CRCICA to organize a key regional conference in a series of regional conferences the WTO plans to hold in different parts of the world in 2005 and 2006. The series of conferences are being organized under the broad title: "The WTO Appellate Body at 10" and each regional event is being

^{*} Dates will soon be determined

^{*} The dates are still tentative

designed to tackle the specifications of each region. Within the bounds of this, the Cairo Event will address "the Experience of Developing Countries Before the WTO Appellate Body: The First Ten Years".

The total number of conferences in the series will not be more than seven and the Cairo Event features the only one of its kind in the whole African and Arab region. Other conferences will be held in Italy, Brazil, the United States and Japan. It is also worth noting that among the regional institutions organizing the conferences in the mentioned countries, CRCICA is the only arbitral institution involved.

The WTO will be intensively represented at the Conference as headed by Dr. Kipkorir Aly Azad Rana (DDG), the Director-General and Dr. Georges Abi-saab, the President of the Appellate Body. Other various top WTO Officials will take part at the Event such as Amb. Amina Mohamed , the Chair of the WTO General Council by then, Mr. Hamid Mamdouh, Director of the General Agreement on Trade and Services (GATS) Division and the Coordinator of the African Group of the WTO Technical Assistance Program. CRCICA will in turn invite key regional experts on WTO matters in different fields of Trade in order to create balanced and comprehensive discussions.

Key 2003 Cooperation Agreement : CRCICA/CAM Boosting Forth Egyptian-Italian Cooperation

On December the 16th, 2003, the Cairo Centre and the Chamber of National and International Arbitration of Milan (CAM) entered into a cooperation agreement to formalize the provision of joint arbitration services to parties involved in Egyptian-Italian trade and investment transactions. The Agreement was concluded on the sidelines of the Italian-Egyptian Investment Forum held under the auspices of the then Egyptian Prime Minister, H.E. Dr. Atef Ebeid and organized by the United Nations Industrial Development Organization (UNIDO) and the Egyptian General Authority for Investment and Free Zones. Being concluded under the auspices of the Commercial Representation of the Egyptian Ministry of Foreign Trade and the Italian Embassy in Egypt, the Agreement came to be a materialization of the Egyptian-Italian Governmental Action Plan 2003-2004 signed by the two Governments and bearing the following recommendation:

"In order to facilitate dispute settlements, the two parties (the Egyptian and Italian Governments) welcome a possible understanding between Cairo Centre for International Commercial Arbitration and the Chamber of Commercial Arbitration in Milan"

Within the bounds of this, CRCICA and CAM agreed to hold a series of promotional seminars in Cairo and Milan through 2003/2004 to introduce their services and the

scope of the cooperation agreement. The first one was held immediately after signing the Agreement on December the 16^{th} , 2003, the second one was held in Cairo in June 2004, while the third one is the one which we are attending today (17/9/2004) in Milan.

CRCICA in 2003/2004: A Significant Contributor in the Global Research Centre's Activities

Since the establishment of the Global Centre for Dispute Resolution Research in 1999, CRCICA has been part and parcel of all its activities for having its Director as the only member of the Board from the whole Afro-Asian Region. In 2003/2004, among some selected institutions all over the world, CRCICA has provided guidance to the International Law Institute which carries out a research for the Global Centre on "critical factors in the establishment of a viable arbitration regime".

On April 22 and 23, 2004, the CRCICA Director contributed to the Global Centre's Conference on the "Implications for the Future of International Commercial Arbitration", which was held in the Hague, the Netherlands. In a prestigious panel discussion^(Υ), CRCICA took part in the conclusive session of the Conference entitled "What will the Future Bring?" in which contributors discussed the future of international commercial arbitration against the background of some suggested amendments of the UNCITRAL Model Arbitration Rules^(Σ).

In Phase-One Report on its international research on the viability of international commercial arbitration,

the Global Centre for Dispute Resolution Research certifies:

CRCICA: "A HIGHLY PROFESSIONAL ARBITRATION INSTITUTION..."

Phase-One Report of the above mentioned research was announced at the Hague Conference including initial impressions of the arbitration regimes in nine countries including Egypt. Within this context, it was seen that "In Egypt: There is a highly professional arbitration institution, which handles a significant number of cases, including some involving international disputes."

⁽Chairman), Mr. William K. Slate II, President & CEO, American Arbitration Association, Mr. Tjaco van den Hout, Secretary General, Permanent Court of Arbitration, Ms. Anne Marie Whitesell, Secretary General, International Chamber of Commerce, International Court of Arbitration and Mr. Adrian Winstanley, Director-General and Registrar, London Court of International Arbitration.

⁽⁴⁾ All Conference Proceedings will be soon available online through the Global Centre's website: www.globalcenteradr.org

CRCICA Participation

in the MEDA Program Tender for the Promotion of International Commercial Arbitration and other ADR

The European Union is involved in a Euro-Mediterranean Partnership, the key financial instrument for which is the MEDA program, which seeks to facilitate international commercial arbitration and foreign investment in the MEDA countries. The MEDA program has recently called for tenders for the project: Promotion of International Commercial Arbitration and other ADR Techniques.

The Cairo Centre received several invitations from various European entities to be their eligible local partner in the tender.

The Cairo Arbitration Centre, for some considerations, accepted the proposal of the Milan Chamber of Commerce to be its partner in the tender.

The tender documents of the two partners were submitted to the concerned entity, which short-listed the tenderers, among which figured the Milan Chamber-CRCICA tender.

Representation of the Cairo Centre in International Events

The Cairo Centre was represented in several international events, among them are the following:

- UNCITRAL Working Group on Arbitration, February 2004.
- The conference on "Local and International Commercial Arbitration", Casablanca, Morocco, March 3 and 4, 2004
- The conference on "Implications for the Future of International Commercial Arbitration", the Hague, the Netherlands, April 22 and 23, 2004.
- The IFCAI Institutional Section Meeting, Beijing, China, May 17, 2004.
- The ICCA Annual Conference on "New Horizon in International Commercial Arbitration and Beyond", Beijing, China, May 16 to 18, 2004.
- The 1st Symposium of ITC UNCTAD/WTO held on "Strengthening Mediation and Arbitration Centres" September, 2 and 3, 2004, Chamonix, France.

A New Branch of the Cairo Centre

Port Said Centre for Commercial and Maritime Arbitration

On February 2004, the Port Said Centre for Commercial and Maritime Arbitration, a branch of the Cairo Centre, was established upon an agreement with the Suez Canal Authority.

The Port Said Centre for International Commercial and Maritime Arbitration was meant to deal with commercial and maritime disputes. What adds to the significance of Port Said Centre is that it enjoys a geographically strategic status as

it is seated in Port Said, a vital port as well as one of the Suez Canal Cities, the historic maritime route connecting between the Mediterranean and the Red Sea.

The CRCICA Project of Online Dispute Resolution Service

After organizing preliminary training programs in the filed of online arbitration in cooperation with WIPO, the Cairo Centre, in order to materialize this idea, concluded in November 2000 an agreement with the Arbitration and Conciliation Centre of the World Intellectual Property Organization (WIPO) to establish a dispute resolution service specializing in the on-line settlement of disputes and leveraging state-of-the-art technologies.

Advanced technologies shall be used in order to expedite the dispute resolution process and thus reduce the costs for the parties. This will include internet-based case filing facilities, on-line case management and tracking facilities as well as video-link capabilities.

In this concern, the Cairo Centre took some important steps, where it is now in the process of setting up of a video conference system, a vital element of online arbitration process and also enhancing its internet connections with new faster and non-interrupted ones.

Brief News

A New Extension of the Cairo Centre

The Cairo Centre bought a new extension of 400 square meters. The total area of the premises of the Centre is now 1600 square meters. The expansion in spatial capabilities of the place helps definitely in developing and widening the scope of services offered by the Centre.

Establishment of CRCICA - WTO Unit:

The Cairo Centre will soon establish a WTO Unit to exclusively deal with all WTO-related issues and to design training programs for officials, businessmen and lawyers of developing countries to best cope with the new trade order. Key regional and international organizations and monetary funds will be involved in the project.

Breaking through one more vital field of business:

CRCICA boosts forth arbitration in stock exchange disputes: The Centre negotiates an agreement with the Cairo and Alexandria Stock Exchanges to provide technical and administrative know-how in establishing and operating an arbitration center for

the settlement of stock exchange disputes. Among other activities, the Centre will tailor a number of arbitration training programs in this field.

The Arabic Version of UNCTAD/WTO Publication:

The Cairo Centre entered into an agreement with the International Trade Centre UNCTAD/WTO granting the former exclusive right to reproduce the first Arabic version of the latter's Publication entitled: "Arbitration and Alternative Dispute Resolution – how to settle international business disputes." Distribution scheme extends to include Egypt and Arab-speaking countries of North Africa and the Middle East. *The publication is now available in the market*.

Kluwer Law International published the Second English Volume of the CRCICA Awards, including the most recent awards issued under the auspices of the Centre. It is worth to note that the first Arabic book compiling the CRCICA Awards (2000 – 1984) *is now available on the market*.