

# CRCICA ANNUAL REPORT 2008-2009

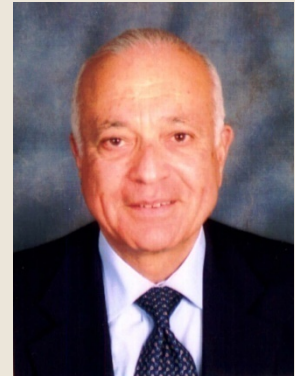


**The Cairo Regional Centre for International Commercial Arbitration**  
(CRCICA)  
An International Organization operating in Egypt since 1979

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# Letter from the Director



**I**t is with great pleasure that I write my first letter introducing CRCICA Annual Report for the period starting from the beginning of 2008 and ending in mid 2009. In the course of this period, CRCICA lost its Director the late Dr. Mohamed Aboul-Enein whose many distinguished contributions are well known and universally appreciated.

There is no doubt that this year was an exceptionally challenging year for the global economy, the business world, the political arena and for CRCICA as well. Turbulences and unprecedented nature of events took place during the preceding months. CRCICA however turned in a very solid performance against this challenging environment. The number of international cases is on the rise and the nationalities and backgrounds of the parties and arbitrators involved in CRCICA cases are very diverse.

CRCICA celebrated during this year its 30<sup>th</sup> anniversary. The celebration took place last March by holding a very successful conference entitled the cross cultural perspectives relating to Arbitration and alternative dispute resolution in a challenging world.

CRCICA has long been known as the “first-mover” in almost all of the alternative dispute resolution developments in the region. I quote from the late Dr. Aboul-Enein’s letter to you last

year, “for nearly 30 years, the Cairo Centre has been a catalyst behind almost every major arbitration breakthrough and advance in many Arab Countries.” CRCICA continues to assume such role. CRCICA is expanding its cooperation with Arab and international institutes. The total number of cooperation agreements and memorandums of understanding that has been signed so far reached 59. The most recent cooperation agreement was signed last spring with the GCC Commercial Arbitration Centre in Bahrain. Another area of cooperation is currently being discussed with the International Council for Sports Arbitration (ICAS) and the Court for Sports Arbitration (CAS). It is hoped that the discussions will lead to introducing a mechanism for sports dispute resolution and promoting sports law and sports arbitration in the region.

CRCICA ran several activities that testify with its mission and corporate social responsibility, ranging from, *first*, training students from around the world through our summer internship programmes, among which students from Egyptian, French and Canadian Law Schools. *Secondly*, offering continuing legal education (CLE) programmes to law school graduates and young Egyptian practitioners. Among the successful courses that were offered by CRCICA, a 2 months CLE programme was offered in cooperation with

the American Bar Association-Rule of Law Initiative (ABA-ROLI). *Thirdly*, collaborating with international institutes to offer further support and development to the field of alternative dispute resolution in the region. Among the projects that CRCICA is currently involved in is a project with the United Nations Conference on Trade and Development (UNCTAD) that is studying the feasibility of establishing a regional advisory facility on international investment law and investment state disputes. *Lastly*, launching the CRCICA Young Arbitration Practitioners Forum (YAPF) which provides an opportunity for practitioners under the age of forty to foster their arbitration and alternative dispute resolution knowledge.

As for the future, CRCICA is studying and closely following the work of the United Nations Commission on International Trade Law (UNCITRAL) relating to amending the UNCITRAL Arbitration Rules, working on promoting mediation in the region, collaborating with significant international organizations such as the International Financial Corporation (IFC) , the UNCTAD and the Organization for Economic Cooperation and Development OECD to further improve alternative dispute resolution mechanisms in the region.

There are so many other interesting and important topics to write about, however I do want to keep my comments as brief as possible.

## The Loss of Dr. Mohamed Aboul-Enein



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**I**t is with profound sadness that CRCICA lost its former Director Dr. Mohamed Aboul-Enein who died in a car crash on 14 November 2008 in Washington, D.C. Dr. Aboul-Enein served as CRCICA's Acting Director and Director successively from 1984 till 2008. Throughout nearly 25 years of devotion and hard work, Dr. Aboul-Enein raised CRCICA's profile worldwide and ranked it among the most recognized arbitration institutions in the world of arbitration. Dr. Aboul-Enein was the first to ground institutional arbitration in Egypt and the Arab World. Amidst various challenges, he pioneered in diluting given taboos that used to support absolute resort to litigation in commercial disputes for decades. Dr. Aboul-Enein pioneered in creating an arbitration-friendly environment by adopting the UNCITRAL Model Arbitration Rules in 1979 and encouraging the adoption of the UNCITRAL Model Arbitration Law in 1994. These achievements came into light only by the tremendous and most appreciated support of the Egyptian champions of ethics and law : Dr. Ahmed Esmat Abdel Meguid, the Chairman of CRCICA Board of Trustees, Prof. Mohsen Shafik, the Godfather of Egyptian Arbitration, H.E. Coun. Mamdooh Attia and H.E. Coun. Farouk Seif El Nasr, the ex-Ministers of Justice and others.

Dr. Aboul-Enein's mission and contributions extended far beyond the boundaries of Egypt as he took regional lead in promoting the use of arbitration in other Arab Countries. His efforts were widely noted as extremely instrumental in increasing the adoption of the UNCITRAL Model Arbitration Law in various Arab countries. He also supported non-UNCITRAL patterned Arab Arbitration Laws as in the Moroccan case. In his endeavors to establish the culture of institutional arbitration in the Arab World, Dr. Aboul-Enein provided technical assistance to nearly all the Arab Arbitration Centres established since the early 1990's. His regional contributions culminated in 1997 when he founded with other Arab eminent figures the Arab Union of International Arbitration ( AUIA) and acted as its elected Secretary-General. In appreciation of all his efforts, he was widely acknowledged as the Godfather of Arab Arbitration.

Dr. Aboul-Enein left a wealth of constitutional and arbitration legacy that will stand as an everlasting token of his knowledgeable wisdom. Quoting Dr. Jernej Sekolec, ex-UNCITRAL Secretary , Dr. Aboul-Enein was *a great Egyptian and an Arab patriot and a passionate internationalist and we will best honor him if we continue to work for the ideas that he so ably promoted* .

On the evening of the 29<sup>th</sup> of March 2009, “CRCICA at 30: Celebrating the Life and Work of Dr Mohamed Aboul-Enein”, a widely attended commemorative event, was an expression of gratitude for Dr. Aboul-Enein’s contributions to international arbitration. Seventeen eminent commemorators representing international arbitration and international trade law communities delivered speeches honoring the name of Dr. Aboul-Enein. Commemorators include the President of the Egyptian Parliament and presidents/chief officers of the UNCITRAL, the International Federation of Commercial Arbitration Institutions (IFCAI), the American Arbitration Association (AAA) and the Arab Union of International Arbitration (AUIA).



Dr. Nabil Elaraby presenting CRCICA's Emblem of Honor



Mr. William Slate presenting AAA's Peacemaker Award

The closing ceremony witnessed presentation of two top awards honoring the name of Dr. Aboul-Enein, one was CRCICA's own Emblem of Honor and the other was the Peacemaker Award presented by Mr. William Slate on behalf of the American Arbitration Association (AAA). The Peacemaker Award is the AAA's highest award and was only bestowed twice in the history of the organization. First, to Senator George Mitchell for his successful peacemaking efforts in Northern Ireland and secondly, to the Honorable Howard Holtzmann, a member of the Iran-U.S. Claims Tribunal and one of the most distinguished international arbitrators in the world.

Through out 2008 and early 2009, various commemorative events honoring Dr. Aboul-Enein posthumously were held in different countries of the region. The most significant of these were the event organized by the Arab Union of International Arbitration in December 2008 and that organized by the Tunisian Arbitration and Conciliation Centre and the IFCAI in 2009.



H.E. Mr. Mohammed Al-Ghannouchi, the Tunisian Prime Minister presenting an official Award of Honor to the name of Dr. Aboul-Enein



# Establishment of CRCICA Advisory Committee



According to the Chairman of the Board of Trustees Decision no. (1) of 2009 dated 31 March 2009, an Advisory Committee composed of twelve eminent jurists and practitioners was constituted to carry out the tasks assigned to the High Legal Committee under Articles 7 (bis) and 12 (bis) of the CRCICA Rules. The tasks aim at ensuring the sound administration of justice and the proper conduct of arbitral proceedings. According to the relevant articles, the Director of CRCICA may request the Committee to provide reasoned opinions in matters related to *inter alia* rejecting the appointment of an arbitrator subject to the existence of substantial evidence confirming his/her lack of legal or contractual requirements or breach of CRCICA's Code of Ethics in a previous case. The Committee's approval is also required before removing an arbitrator who fails to act or deliberately delays the commencement or the continuation of the arbitral proceedings.



**YAPF Founding Members**

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**I**n 2008, CRCICA started working on establishing under its auspices a forum for practitioners under the age of 40 working in the fields of arbitration and ADR. The CRCICA Young Arbitration Practitioners Forum (“YAPF”) was launched in March 2009, aiming to realize the following:

1. Provide a forum for young (under 40 years of age) professionals to learn from more experienced practitioners about career development and issues of interest in the field.
2. Provide opportunities for young professionals to network, identify and develop mutual beneficial relationships.
3. Encourage members to research and write papers of interest for distribution amongst CRCICA YAPF members and the broader international arbitration community.
4. Organize educational programs, receptions and social events co-hosted by participating firms or other organizations internationally.
5. Work with other groups of young arbitrators and other professionals.
6. Educate and expose members to CRCICA dispute resolution services.
7. Establish, maintain, utilize, and develop solid relations with similar associations worldwide.

It is expected that the first YAPF event will take place this November at Sharm El Sheik on the occasion of CRCICA's conference on the Role of State Courts in Arbitration.



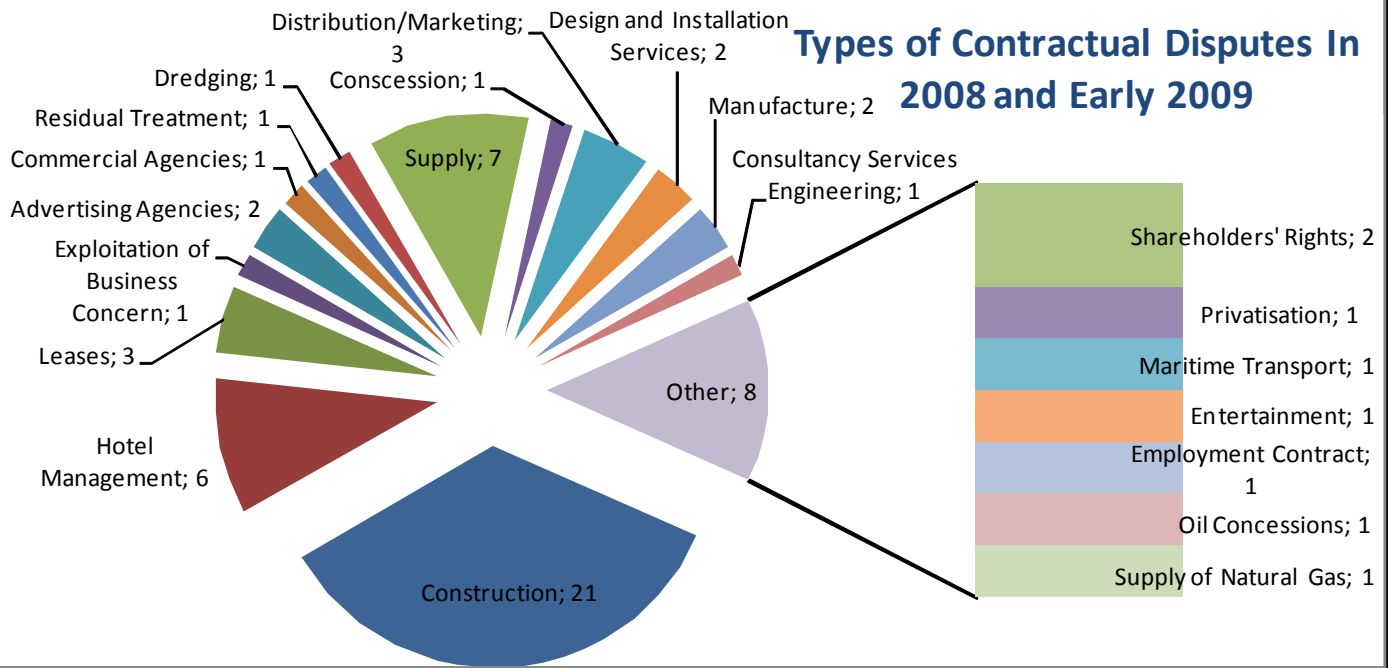
# CRCICA CASE REPORT

**T**he total number of domestic and international cases filed before CRCICA reached 637 cases among which 582 cases are already settled (whether by final arbitral awards, including awards on agreed terms, or by subsequent conciliation or mediation), while 55 cases are still pending before the Centre. It is noteworthy that case referrals in early 2009 until mid-July are 27.

In 2008/2009, various types of contractual disputes were submitted to CRCICA, these included construction, hotel management, leases, exploitation of business concern, advertising agencies, commercial agencies, residual treatment, dredging, supply, concession, distribution/marketing, design and installation services, manufacture, consultancy services engineering, shareholders' rights, maritime transport, oil concessions, entertainment, TV transmission, supply of natural gas, entertainment business and labor contractual disputes. It is noted that disputes related to privatization are recently introduced and that Information Technology disputes are recurrently referred to the Centre (see the illustrating diagram).

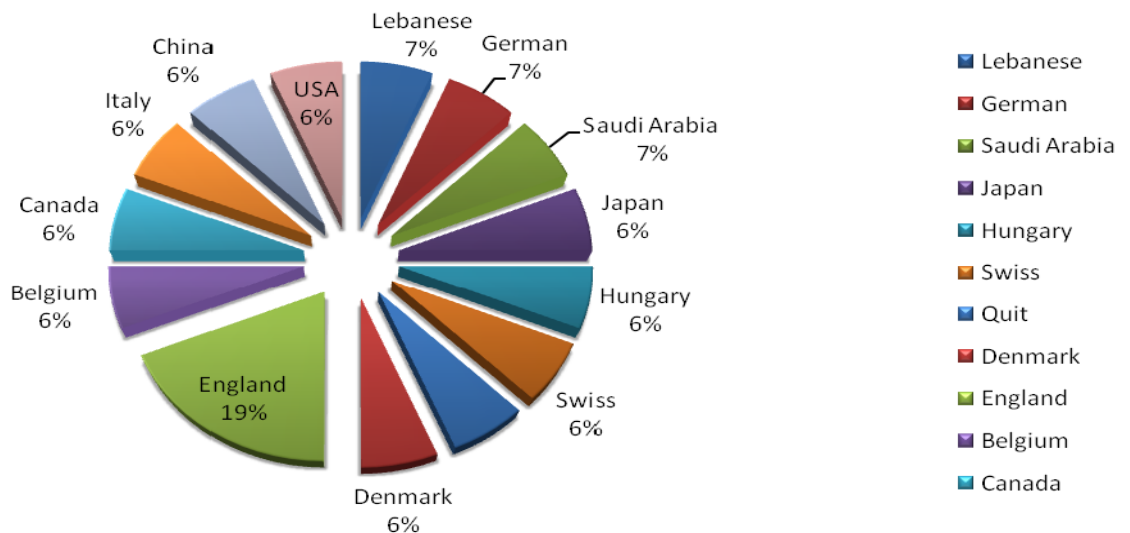


## Types of Contractual Disputes In 2008 and Early 2009



In 2008 and beyond, beside multinational corporations, parties to CRCICA arbitration proceedings have been business entities from a broad span of countries including, but not limited to, Egypt, Lebanon, Saudi Arabia, Kuwait, Japan, Hungary, Greece, Denmark, UK, Germany, Switzerland, Belgium, Canada, Italy, China and U.S.A. (see the illustrating diagram).

## Nationalities of Parties in 2008 and early 2009 (Other than Egyptians)



Just as the nationalities of parties vary, these of arbitrators do. During the period being reported, arbitrators appointed in CRCICA cases are nationals of Egypt, Jordan, Lebanon, Morocco, France, Italy, the UK, Greece, Switzerland, Netherlands and the U.S.A. In various cases, CRCICA acted as an appointing authority whether according to the choice of the disputed parties or the designation of the Permanent Court of Arbitration (PCA).

## CRCICA Events in 2008 and early 2009 :



**I**n 2008/2009, CRCICA organized four conferences and two training courses. According to the chronological order, these were (1) International Arbitration Training Course leading to the membership of the Chartered Institute of Arbitrators (April 2008) ; (2) First Arab-UNCTAD Conference on “Investor-State Dispute Settlement: Challenges and Perspectives for Arab Countries” ( May 2008) ; (3) “Procurement Law and Construction Contract in Egypt” ( June 2008) ; (4) New York Convention : 50 Years...Practical Perspectives on the Recognition and Enforcement of Foreign Arbitral Awards (November 2008) ; (5) International Commercial Arbitration and ADR in a Challenging World....Cross Cultural Perspectives (March 2009) (6) ABA/CRCICA Continuing Legal Education for Young Lawyers in Egypt: Skills, Practice, and Professionalism (April/June); Details of some of the events follow:

*This is the largest event in terms of participation conducted by UNCTAD's work programme on international investment agreements in the Arab world.* **Official UNCTAD Conference REPORT**



*"The organization of the conference was excellent. Focal points were designated by CRCICA at an early stage to coordinate with the UNCTAD team all matters relating to logistical and technical support. Overall, the CRCICA team demonstrated effective organizational skills and ensured a successful meeting. From all of us here at the UNCTAD a big thank you",*  
**Hamed El Kady, UNCTAD**



## In Focus:

### First Arab-UNCTAD Conference on "Investor-State Dispute Settlement: Challenges and Perspectives for Arab Countries".

**O**n 14-15 May 2008, CRCICA took lead in introducing the first ever Arab-UNCTAD Conference on "Investor-State Dispute Settlement: Challenges and Perspectives for Arab Countries". Hosted by the Arab League, the conference addressed the evolving landscape in investment rulemaking and investor-State disputes and the challenges facing Arab countries. It included presentations on the latest trends in international investment agreements and the recent developments in investor-State dispute settlement with a particular focus on Arab countries. It reviewed international investor-State dispute settlement mechanisms. It also addressed alternative ways to settle investor-State disputes, explored issues of dispute avoidance and ADR and looked into the role of international organizations and host States in sharing experiences and providing assistance in dealing with investment disputes.

Participants had different backgrounds and professions (Government officials, academia, and foreign investors). The quality of participants, as reported by the UNCTAD, was excellent and allowed for an in-depth coverage of topics and produced interesting discussions and sharing of experiences among participants and a good dialogue with the resource persons.

Speaking in terms of outcome, the event discussed for the first time the possibility of establishing a regional advisory facility for host Arab countries. The Conference also provided *"an excellent opportunity for the UNCTAD secretariat and the CRCICA to establish a good working relationship to meet requests for further technical assistance work in the region"* (UNCTAD Final Conference Report, June 2008).

## In Focus:

### New York Convention: 50 Years

#### Practical Perspectives on the Recognition and Enforcement of Foreign Arbitral Awards

**O**n the occasion of the 50<sup>th</sup> anniversary of the *New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, the UNCITRAL supported four celebratory events around the world . The *CRCICA New York Convention: 50 Years Practical Perspectives on the Recognition and Enforcement of Foreign Arbitral Awards* ranks the fourth in the Series.

Held on 10-11 November 2008, the conference witnessed the attendance of 202 participants from 21 different countries being Egypt, Saudi Arabia, Jordan, Kuwait, Lebanon, Libya, Morocco, Palestine, Qatar, Sudan, Syria, Tunisia, U.A.E., Yemen, Bahrain, Djibouti, Austria, Italy ,England, France and Canada.

The Cairo Conference agenda revealed two complementary approaches; one tackling the international scope of the recognition and enforcement of foreign arbitral Awards and the other handling regional mechanisms for improving the implementation of the Convention. Within a trans-cultural context, the question whether the New York Convention should be supplemented or revised was posed, exposing in the process possibilities of modifying some provisions of the Convention to further meet evolving needs.

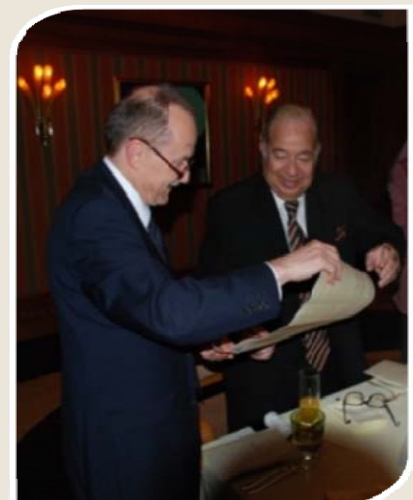
On the sidelines of the Conference, CRCICA celebrated the achievements of Dr. Jernej Sekolec who stepped down as a Secretary of the UNCITRAL in 2008.

As an outcome of the Conference, CRCICA prepared a questionnaire on the enforcement of its Arbitral Awards to further improve its post-arbitration services. Also, CRCICA embarked on codifying case law on the New York Convention for publication in the *Journal of Arab Arbitration* .

*"..a very well attended conference in Cairo commemorating the 50th anniversary of the New York Convention, noting its wide adoption throughout the Arab legal community", Audley Sheppard ,Partner - International Arbitration Group, Clifford Chance LLP*



*Werner Melis , President, Vienna International Arbitration Centre "the seminar was proof of Aboul-Enein's unique capacity to bring together leading arbitration specialists in the Arab World."*







## On the occasion of CRCICA's 30th ANNIVERSARY:

International Commercial Arbitration and ADR in a Challenging World....*Cross Cultural Perspectives*

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On the occasion of its 30<sup>th</sup> anniversary, on 29-30 March 2009, CRCICA held an international conference entitled: “International Commercial Arbitration and ADR in a Challenging World...Cross Cultural Perspectives”. Held in close cooperation with the UNCITRAL, the IFCAI and the League of Arab States, the Conference witnessed remarkably exceptional gathering of key representatives of all major international and regional arbitral institutions as well as a variety of international arbitration and ADR expert-speakers from 17 different countries. The overall attendance signal of the conference marks a total of 248 participants from 31 different countries being Oman, USA, Egypt, Saudi Arabia, Tunisia, Algeria, Syria, Australia, France, Germany, Libya, Sudan, Lebanon, UAE, Jordan, Sweden, Yemen, Serbia, Iraq, Kuwait, Qatar, Palestine, Canada, Morocco, Netherlands, Pakistan, Austria, Bahrain, Switzerland, Spain, England.

The Conference opened up by a historic juxtaposition of the perspectives of the foremost arbitral institutions of the World, the ICC, the ICSID and the AAA. The agenda was thematically designed to screen the latest trends of arbitration and ADR through a balanced exposure of the experiences of major arbitral institutions, the views of international practitioners and the expectations of regional practitioners, all three edges were placed under the broad umbrella of international trade and investment laws and regulations as represented in the UNCITRAL, the United Nations Conference on Trade and Development (UNCTAD) and the International Institute for the Unification of Private Law (UNIDROIT). Mediation and on-line arbitration were given remarkably exceptional attention.



# ABA/CRCICA CLE PROGRAMMES



1<sup>st</sup> ABA/CRCICA CLE Program - Inaugural Session

**C**RCICA has been offering continuing legal educational (CLE) programs since the 80's on different complementary levels with key international law schools and institutions including the Queen Mary School of International Arbitrators (SIA), University of London, the Chartered Institute of Arbitrators (CIArb) and the International Law Institute. This year CRCICA cooperated with the American Bar Association (ABA) to offer its latest CLE program.

The ABA is the world's leading private, non-governmental professional association for lawyers, judges and other legal professionals, with over 400,000 members. One of the ABA's core competencies is the professional development of lawyers. The ABA maintains a continuing legal education center for lawyers in the United States and supports professional development training of lawyers around the world. Since 1990, the ABA has been promoting the rule of law in Africa, Asia, Eastern Europe and the former Soviet Union, Latin America, and the Middle East and North Africa, and now conducts those activities through the ABA Rule of law Initiative. The



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**ABA Rule of Law Initiative has implemented bilateral programs in more than forty countries around the world, including Algeria, Bahrain, Egypt, Jordan, Morocco, Oman, and Yemen.**

**The goal of the CRCICA/ABA CLE program was to develop the practical skills of recently graduated lawyers, helping them to become more effective advocates for their clients. The course was intended to build the skills of young lawyers in legal research, legal writing, advocacy, negotiation, client relations and legal procedure. 25 successfully completed the course. The students were all recent graduates of law schools in Egypt, employed and unemployed.**

**The classes were taught by foreign and Egyptian practitioners and academics. The classes included, advocacy skills, negotiation skills, memos and contracts drafting, core research skills, arbitration and ADR. At the end of the program, a moot arbitration was held whereby students were divided into claimants and respondents and argued a case about international sales of goods before practitioners and arbitrators.**

**Given the success of the program, CRCICA and ABA decided to hold the course again during the next fall.**

# Mediation on the Horizon



**O**ne of CRCICA's prime priorities is to maintain a reliable and well established regional mechanism for the due processing of mediation techniques. This has been insinuated by the increasing global importance of mediation and the relative need of individual as well as institutional mediation capacity-building programs on the regional level.

By the establishment of its Mediation and ADR Centre in 2001, CRCICA founded up an international institutional infrastructure for mediation in the region. Since then, the Cairo Centre has held mediation conferences and training courses in cooperation with the German Arab Chamber of Industry and Commerce, the Chartered Institute of Arbitrators ( CIArb ) and the Centre for the Study of the United Nations System and the Global Legal Order (SUNSGLO).

CRCICA maintains a unique list of international mediators from eighteen countries being Egypt, Lebanon, Kuwait, Saudi Arabia, Tunisia, U.A.E, Jordan, Syria, England, Iran, Ireland, U.S.A. , Romania, Bahrain, France, Germany, Belgium and Australia.

2008/2009 marks a period of distinction for CRCICA mediation profile for being selected as a local partner for the International Finance Corporation (IFC) to build local capacities and train trainers in the field of mediation. IFC/CRCICA cooperation is seen to be highly instrumental in qualifying professional mediators and building sound mediation culture in Egypt and neighboring countries. Also, CRCICA Mediation and ADR Centre has recently joined MEDIATION WORLD <sup>(1)</sup> as a country representative.

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<sup>(1)</sup> MEDIATION WORLD is a unique, global initiative involving mediation bodies around the world, and is sponsored by the UK Government, designed to make up-to-date information on mediation developments in every country in the world to resource governments, courts, businesses, mediators, and others seeking to develop mediation in their own part of the world.



## CRCICA and UNCTAD :

### Booming cooperation in Technical Assistance



**C**RCICA and UNCTAD work together to explore possibilities to establish an Advisory Facility on International Investment Law and Investor-State Disputes Settlement (ISDS) for developing countries in the region. The services of such a Facility are being negotiated to include capacity building, technical assistance, mediation and ADR training, access to information, dispute prevention and ISDS advice.

The geographical scope of the Facility is said to *ab initio* include African and Arab Asian Countries. The environmental viability of the Facility, however, might allow for possible extension to non-Arab Asian Countries at a later stage.

Two meetings were held already between UNCTAD and CRCICA to discuss modalities of the Facility. Both institutions will continue to cooperate in exploring the regional feasibility of the project. Within this context, it is being considered to hold a regional seminar surveying the views and expectations of ISDS stakeholders in the region.



## CRCICA in a Year:



### International Outreach and Regional Contribution

**I**n 2008/2009, CRCICA has actively contributed by expert speeches and research papers in various arbitration conferences and meetings in the US, Sweden, Spain, The Netherlands, France, Austria, Jordan and the United Arab Emirates. Relevant events involved the IFCAI, the ABA, the International Bar Association (IBA), the AUIA and QUEEN MARY University of London...etc.

Being one of the prime arbitration and ADR training providers in the region, CRCICA was called upon to vitally contribute in providing training for practitioners in Libya, Kuwait, Iraq on the settlement of international investment disputes, the drafting of arbitral awards as well as on corruption and arbitration. CRCICA develops new relations with international organizations providing regional technical assistance and capacity building programs such as the Organization for Economic Cooperation and Development (OECD).

In 2008/2009, CRCICA concluded two new cooperation agreements with the Qatar International Centre of Arbitration (January 2008) and the GCC Commercial Arbitration Centre in Bahrain raising the total number of cooperation agreements to 59. Another agreement is being negotiated with the Libyan Capital Market, the scope of which expands to include cooperation to establish and provide technical assistance to specialized arbitration Centres in Libya. It is also notable that CRCICA will be soon cooperating with the Organization for Economic Cooperation and Development (OECD) within the context of MENA-OECD Investment Programme. Other modes of cooperations are being projected with the CAS, the China Law Society and the Mongolian Court of Arbitration.

