

**Report on and Recommendations of
the Seminar
on Intellectual Property Licensing and Dispute Resolution
(Cairo, March 9 and 10, 1998)**

The Cairo Regional Centre for International Commercial Arbitration organized in collaboration with the World Intellectual Property Organization (WIPO) a Seminar on *Intellectual Property Licensing and Dispute Resolution*, at the Cairo Marriott Hotel, on March 9 and 10, 1998.

The Seminar, was opened by Dr. Ahmed Esmat Abdel Maguid, Secretary General of the League of Arab States and President of the Board of the Cairo Regional Centre for International Commercial Arbitration.

Opening statements were also made by Dr. Mohamed About Enein, Director of the Cairo Regional Centre for International Commercial Arbitration, Mr. Vladimir Yossifov, representative of the Director General of the World Intellectual Property Organization (WIPO), and by Mr. Jernej Sekolec representative of the United Nations Commission on International Trade Law (UNCITRAL).

Foreign and local experts in the field of intellectual property and/or arbitration made presentations at the Seminar during which participants, specialists in the subject matters and representatives of different concerned institutions contributed constructively to the discussions which followed each session.

The participants expressed their thanks and appreciation for the excellent presentations made by the speakers and to all those who contributed to the enrichment of the discussions providing clarification to the questions subject of the debates which took place. In addition they expressed their appreciation for the efforts deployed by the World Intellectual Property Organization to raise awareness, of the importance of the protection of intellectual property rights in the Arab Region.

The Participants,

Believing in the importance of constructive transfer of technology between states and preserving simultaneously the interests of both the licensor and the licensee;

Recognizing the vital role of technology in consolidating the economic infrastructure of both developing and least developed countries and in activating the economies of industrialized countries;

Re-affirming the need for a better understanding and assimilation by all interested groups of the new international economic order and technology transfer arrangements during all stages of negotiation, contract conclusion and implementation as well as the potential stages of settling disputes which might arise in the context of such arrangements to protect the interests of the parties concerned;

Confirming the vital role of arbitration and other peaceful means of dispute settlement in encouraging the influx of national and international investments;

Stressing the mutual need of both the licensee and licensor for one another;

made the following recommendations:

First, the need to strengthen the skills of negotiators in the field of technology transfer contracts in order to ensure the balance of rights and obligations between the licensor and the licensee;

Second, to confirm the role of the contracting parties in regulating the relationship between the licensor and the licensee in a manner which does not contradict legitimate commercial practices.

Third, the need to revise the contractual clauses which could be considered as obstacles to commerce in the sense of recognized international commercial practices and to reconsider the classification of white clauses i.e. permitted clauses, black clauses i.e. forbidden clauses and grey clauses which fall in between beneficial and harmful in order to ensure the interests of the licensee.

Fourth, to encourage developing and least developed countries to adopt appropriate measures for ensuring the positive transfer of technology in a manner which does not contradict the Uruguay Round Agreements and in particular the TRIPs Agreement.

Fifth, to diversify the sources of technology in order to provide for the license seeker the most appropriate and economic choices within the framework of legitimate and fair competition between potential licensors.

Sixth, to stress the role of arbitration and other alternative dispute resolution procedures as the most effective means for settlement of disputes emerging from technology transfer contracts and in particular those involving intellectual property rights in accordance with objective, transparent and equitable rules.

Seventh, to confirm the separation between the applicable law chosen by the contracting parties and the competent dispute settlement authority.

Eighth, to recall the international obligation of states to adopt appropriate legislations to fight restrictive commercial practices and in particular in the context of unfair competition.

Ninth, to call on legislators and experts in Islamic Shari'a to stress the importance of resorting to peaceful settlement of disputes as the most time and cost-effective means.

and

Tenth, to confirm the importance of co-operating with internationally recognized centers such as the Cairo Regional Centre for International Commercial Arbitration and the WIPO Arbitration and Mediation Center.

Last but not least, the participants at the Seminar praised the outstanding substantive and administrative conduct of the sessions and extended their thanks to the speakers for their remarkable contributions and to all those who enriched the debate by sharing their opinions and comments rendering thus the dialogue more constructive and fruitful.

Finally, the participants expressed their gratitude to Dr. Mohamed Aboul Enein, Director of the Cairo Regional Centre for International Commercial Arbitration and to Dr. Kamil Idris, Director General of the World Intellectual Property Organization.

