

SPEECH BY: DATO' SERI DR. MAHATHIR BIN MOHAMAD
(PRIME MINISTER)

EVENT: THE OCCASION OF THE OFFICIAL OPENING OF THE CONFERENCE
ON INTERNATIONAL COMMERCIAL ARBITRATION

VENUE: SHANGRI-LA HOTEL, KUALA LUMPUR

DATE: 04 JUL 1989

TIME:

Puan P.G. Lim;

Excellencies;

Distinguished Guests;

Ladies and Gentlemen.

I am happy to have been invited to open this two-day Conference organised by the Kuala Lumpur Regional Centre for International Commercial Arbitration.

2. When I opened the first Conference on this topic ten years ago, the Regional Centre had just come into existence. It had been established "by way of an experimental measure" to quote the then Secretary General of the Asian African Legal Consultative Committee (AALCC), Mr. B. Sen. Its purpose was to encourage the use of arbitration in the Asia-Pacific Region as an alternative to litigation in the courts for dispute resolution in international commercial contracts. It was to supply a mechanism, especially for developing countries like Malaysia, which do not have the tradition or an adequate and efficient system for the settlement of disputes by arbitration. In a way, the establishment of the Centre was to anticipate the growing need for a fair and expeditious resolution of disputes in the context of rapidly expanding trade between East and West especially in construction contracts.

3. As stated in the introductory notes to the programme of this Conference, because arbitration takes place in private, confidentiality is assured. Businessmen do not like their problems and technical secrets to be aired in public for it sours the relationship between parties who have, if possible, to continue afterwards to carry out a contract to its conclusion. They also do not like their money held up for too long. The wide use of the arbitration process would also ease caseload congestion of the courts and, in this context, a sympathetic attitude of the courts towards the practice of arbitration would do much to promote the use of arbitration in settling commercial disputes as an alternative to litigation.

4. In order to enhance confidence in the arbitral process, arbitrators must conduct the proceedings with impartiality and independence, and I note that these important factors

are to be discussed at this Conference including a Code of Ethics for Arbitrators.

Ladies and gentlemen,

5. In 1979 when I opened the first Conference conducted by the Centre, I said I would be recommending to the Government that Malaysia would be acceding to the 1958 New York Convention for the Recognition and Enforcement of Foreign Arbitral Awards. I also gave an assurance that the Government would respect the independent functioning of the Centre as an international arbitral institution and that we would be examining the relevant national legislation on arbitration to reflect this. Malaysia has indeed acceded to the Convention, and this should mean that awards handed down in arbitration proceedings held under the auspices of the Centre are capable of enforcement both within and outside Malaysia in countries which have acceded to the Convention.

6. We have also amended the Arbitration Act to remove arbitrations conducted under the Rules of the Kuala Lumpur Centre from the supervision of the Courts. This advantage is open to any party from the region or elsewhere who may choose to arbitrate under the Rules of the Kuala Lumpur Regional Centre.

7. I understand that since the Kuala Lumpur Regional Centre was established in 1978, several other national arbitral institutions have been established in the Asia-Pacific region to cater for the needs of businessmen in the context of expanding trade and the opening up of new markets in the Pacific Rim. The new Centres are those of Vancouver, Los Angeles, Sydney, Melbourne, Darwin and Hong Kong.

8. It appears that the establishment of the Kuala Lumpur Regional Centre has spurred the establishment of these Centres which indicate an increased awareness of the usefulness of arbitration and other procedures such as mediation or conciliation or negotiation and the need for speedy dispute resolution in private and away from the glare of publicity. I am glad to know that the Kuala Lumpur Regional Centre has begun to administer arbitrations and is also helping to promote the idea of arbitration in the domestic context as well.

Ladies and gentlemen,

9. The Government of Malaysia has gone a long way to help create a favourable environment for the conduct of international commercial arbitrations at the Regional Centre for Arbitration. Since the Centre was established, we have seen the emergence of other arbitral institutions in the Pacific Rim. In short, the arbitral scenario has changed and is changing rapidly as more and more new players enter the field to

cater for the new markets which are opening up as the newly industrialised countries or the NICs take their places among the industrialised nations and the industrial base of Asia becomes larger and more diversified.

10. This gathering from so many countries will provide a useful forum for the exchange of ideas and experiences on the various methods of dispute settlement. Your response to the changing demands and realities of the international business community, will hopefully reflect the need for fresh approaches to such such alternative dispute resolution techniques.

Ladies and gentlemen,

11. In conclusion, I wish all participants a fruitful deliberation and I have much pleasure in declaring open this Conference.