



ARBITRATION CENTRES COOPERATION VS. COMPETITION: BUILDING THE MARKET

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THE DICHOTOMIC ROLE OF ARBITRAL INSTITUTIONS

- Mainstream view: arbitration services provider
- Modern view: serving the public interests

ARBITRATION INSTITUTE AS SERVICES PROVIDER: KEY ELEMENTS

- Location and facilities
- Time and cost-efficiency
- Up-to-date and efficient Rules
- Independence

ARBITRATION INSTITUTE: PUBLIC ROLE

- Capacity building
- Education
- Holistic dispute management

ARBITRATION MARKET: ANALYSIS

- Highly competitive
- Internationalised and globalised
- Vibrant

COMPETITION V COOPERATION

- ❑ **Competition of “services providers” is inevitable**
- ❑ **Public role performance requires collective efforts**

BUILDING THE MARKET: COMPETITIVE ARBITRAL INSTITUTION

- ❑ **At the equilibrium point:** being a services provider and serving the public
- ❑ **Knows its users:** identifies niche areas within the market
- ❑ **Ready and willing to adapt:** to the changing market

KLRC A'S PERSPECTIVE: LOCATION AND FACILITIES

- ❑ KLRCA is focused not only on administration of arbitration proceedings, but, more importantly, on capacity building, dispute avoidance and holistic dispute management
- ❑ Arbitration Act 2005 is based on the UNCITRAL Model Law and is currently undergoing amendment process to implement the latest revision of the UNCITRAL Model Law and the regional best practices (e.g. confidentiality)
- ❑ Malaysian judiciary shows support to arbitration as such and the KLRCA is often asked to provide *amicus curiae* in the arbitration-related proceedings
- ❑ A dedicated training on application of the UNCITRAL Model Law will be organised for Malaysian judiciary in 2018
- ❑ KLRCA offers state-of-the art facilities at the best rates in the region and is the most cost and time efficient centre in the region

KLIRCA'S PERSPECTIVE: KNOW YOUR USER

- ❑ 73% of all arbitration disputes at KLIRCA are from the **construction sector**
- ❑ KLIRCA Arbitration Rules 2017 deal with issues often associated with complex infrastructure project, in particular, joinder and consolidation
- ❑ KLIRCA Standard Form of Contracts: not only improve efficiency of the arbitration disputes in construction sector but also allow for mitigation of disputes at the outset
- ❑ Kuala Lumpur maintains its lead as a global **hub for Islamic finance**
- ❑ In 2012, KLIRCA launched its I-Arbitration Rules catered exclusively to the resolution of disputes arising from commercial contracts governed by Shariah law
- ❑ **Maritime Sector**
- ❑ Fast-Track Arbitration Rules to address the needs of an industry where time and cost of proceedings are of paramount importance

KLIRCA'S PERSPECTIVE: READY TO ADAPT

- ❑ Revival and rebranding – **the Asian International Arbitration Centre (Malaysia)**
- ❑ **Digitalised case management** system improving administration efficiency
- ❑ **The “Belt and Road” Initiative Focus**
- ❑ **Revision of our products:**
 - ❑ Fast-Track Arbitration Rules
 - ❑ Mediation Rules
 - ❑ New suite of standard form of contracts – Design and Build

CONCLUSION: THE BAHAMAS PERSPECTIVE

- ❑ **Niche areas in the market should be identified**, a closer look at Brazil, Mexico and Africa
- ❑ **Know your user:**
 - ❑ Reinforcement and reinstatement of "Switzerland of the Western Hemisphere" status: **focus on financial sector**
 - ❑ **Maritime industry**
- ❑ **Capacity building and education**

THANK YOU



ASIAN INTERNATIONAL ARBITRATION CENTRE
(Formerly known as KLRCA)



KUALA LUMPUR REGIONAL
CENTRE FOR ARBITRATION