

KEYNOTE ADDRESS
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(DEPUTY PRIME MINISTER AND MINISTER OF ENERGY
TRANSITION AND WATER TRANSFORMATION, MALAYSIA)
ASIA ADR WEEK 2024
AUDITORIUM, AIAC (17 OCTOBER 2024)

Bismillahirrahmanirrahim

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Chief Executive Officer of the AIAC

Honourable Members of the Judiciary;

Members of the AIAC Board of Directors and the Protem Committee for the AIAC Court of Arbitration;

Representatives from the Attorney General's Chambers and the Government agencies;

Esteemed Panel of Speakers and Moderators;

Excellencies, Distinguished guests, ladies and gentlemen.

Assalamualaikum WBT and a very good morning.

Introduction

1. I am delighted to stand before you today to celebrate the launch of the AIAC's Asia ADR Week 2024, with the theme "SUPERNOVA: Igniting the Transformation of ADR."
2. This vibrant 3-day event recognises that the landscape of dispute resolution is undergoing a transformative journey. To adopt "SUPERNOVA" as a theme for this meeting of minds, is quite apt, for very much like the luminous cosmic event, this shared effort in advancing alternative dispute resolution (or ADR) brings light to new paths toward justice, efficiency, and harmony in our increasingly complex world.
3. The theme encapsulates the dynamic shifts that are constantly unfolding and reshaping the field. As the Asian International Arbitration Centre (or AIAC) leads the charge, it is evolving to better meet the needs of a rapidly changing and increasingly diverse global landscape. As we look to the future, this

transformation is not just about adopting new methods; it is also about redefining the approach to ADR to make it more inclusive, efficient, and responsive, simultaneously presenting an extraordinary opportunity for collaboration across borders and disciplines. By enhancing its frameworks and fostering strong partnerships, the AIAC is positioning itself to be a global leader in ADR. This evolution will empower practitioners and stakeholders to navigate disputes with greater confidence, leading to a more harmonious legal environment in Malaysia, Asia and beyond.

4. Since its humble beginnings in 1978, the AIAC has truly come a long way. As among the pioneering arbitral institutions in Asia, what was then known as the Kuala Lumpur Regional Centre for Arbitration (or KLRCA) was founded in a small office with an expansive vision to promote ADR. Its mandate focused on broadening access to justice through offering fair and efficient mechanisms for parties to resolve their disputes, complementing the conventional court systems.
5. It is a matter of great pride for us all that as it stands today, the AIAC, has evolved and emerged as a respected arbitral institution known for its efficiency, integrity and excellence. It goes without saying of course, that the unwavering collective support of the Government of Malaysia and the Asian-African Legal Consultative Organization (AALCO) have been instrumental in reaffirming this resolve for the past decades. I am hopeful that such collective support will continue well into the future as AIAC grows from strength to strength.

Distinguished Guests, Ladies and Gentlemen,

Regional Developments in ADR

6. The succeeding decades have been marked by rapid advances in technology, environmental changes, and societal transformation. Malaysia and its neighbouring countries have flourished and developed by leap and bounds, driving remarkable development and progress across the Asia Pacific region.

7. Our region now stands as one of the most important global interchange in the flow of economy and culture and, indeed, politics. The blooming reputable arbitration institutions, matched with contemporary and arbitration-friendly legislation, has enhanced Asia's attractiveness as a preferred destination for alternative dispute resolution. This, of course, bodes well for us.

8. Arbitration in Malaysia boasts a rich history. Our solid foundation began with the Arbitration Act of 1952, followed by amendments that harmonized our legislative framework with the UNCITRAL Model Law and international standards. In this regard we must acknowledge the concerted efforts of the Government of Malaysia, the judiciary as well as all relevant stakeholders in promoting ADR as effective and viable alternatives to dispute resolution. Those efforts over the years form the solid foundation upon which arbitration in Malaysia stands today.

9. Fundamentally, Malaysia's leadership for the ASEAN Chairmanship next year will further enhance our role in promoting and shaping an integrated ADR landscape in the region. As we look ahead, the continuous refinement of our arbitration practices will certainly strengthen our position as a leading ADR hub in Asia, ensuring that we not only keep pace with the global landscape but also set benchmarks for innovation and effectiveness.

Overview of the Recent Legislative Amendments: Arbitration and Construction Industry Bills 2024

10. In line with this vision, the Arbitration (Amendment) Bill 2024 and the Construction Industry Payment and Adjudication (CIPAA) (Amendment) Bill 2024 have recently been passed, and these Bills represent significant reforms toward modernising Malaysia's ADR framework. The fundamental advancements of Malaysia's arbitration framework, including the introduction of the AIAC Court of Arbitration and the legalisation of third-party funding in arbitration, reflect our commitment to continuously develop and enhance Malaysia's legal landscape.

11. The overarching aspiration of these enhancements is to position Malaysia as a preferred and safe seat for arbitration. With a robust arbitration framework in place, we believe that these initiatives will, in totality, boost investor confidence and facilitate transnational trade and commerce across diverse sectors.

Distinguished guests, ladies and gentlemen,

12. At this juncture, I wish to pay particular recognition to the pivotal role and contribution of our judiciary in reinforcing Malaysia's stature as a reputable hub for arbitration and ADR. It merits noting that the judiciary consistently demonstrates a pro-arbitration stance through preserving party autonomy in arbitration agreements as well as upholding the finality of awards.

13. In the same vein, I must acknowledge the importance of the Construction Industry Payment and Adjudication Act 2012 (CIPAA), a robust legislation introduced during my previous tenure as the Minister of Works, aimed specifically at resolving payment-related disputes plaguing the construction industry in Malaysia. The growing CIPAA caseload recorded by the AIAC, as the adjudication authority, proves the effectiveness of this legislation in alleviating payment-related challenges while minimizing disruptions to the construction industry.

14. This year, as we celebrate the tenth anniversary of the implementation of CIPAA, I am proud to say that Malaysia is one of the few legal systems with a statutory mechanism tailored for resolving construction disputes. Today, our adjudication framework has achieved a level of sophistication, dynamism, and efficiency that becomes an inspiration and reference for other jurisdictions.

15. Such remarkable progress and achievements certainly gives encouragement to us all to continue to embrace the legislative reforms and advancements. Together, we shall advance towards

promoting and solidifying Malaysia's position as a premier hub for ADR, both regionally and globally. In this spirit, the AIAC's vision, as a not-for-profit institution, should extend beyond emerging and remaining as the gold standard in the field, and focus as well on creating a thriving ecosystem that supports the development of the ADR fraternity in Asia, Africa and across the globe.

Distinguished Guests, Ladies and Gentlemen,

Interplay between ADR and Energy Transition and Water Transformation

16.As the Minister responsible for Energy Transition and Water Transformation, allow me to touch briefly on the role of ADR in facilitating progress in both energy transition and water transformation.

ADR and Energy Transition

17.The Government of Malaysia has recently announced the establishment of the Energy Exchange Malaysia (ENEGEM) for cross-border green electricity sales to neighbouring countries. In furthering our goals of energy transition, it is notable that Malaysia has instituted the Corporate Renewable Energy Supply Scheme, expanding access to green electricity for corporate entities.

18.As the energy sector undergoes transformative changes, the diverse interests and concerns among various stakeholders such as government entities, energy companies, local communities, and

environmental groups often lead to conflicts over resource allocation, project execution and regulatory compliance. As such, a comprehensive framework and system is vital in ensuring swift resolution of these issues, facilitating continuous progress and collaboration towards a more sustainable energy future.

ADR and Water Management

19. Similarly on the crucial matter concerning our water, as climate change and population growth increasingly strain our water resources, the competing demands and interests may lead to heightened tensions among various stakeholders, including the local communities, industries and local authorities.

20. In this context, ADR serves as a viable avenue for fostering dialogue and negotiation, encouraging stakeholders to develop equitable solutions for an effective distribution and management of water resources. Beyond mitigating conflicts, open communications facilitated through ADR platforms promote sustainable practices that address both environmental concerns and community needs, cultivating a shared commitment towards achieving beneficial solutions for all.

Distinguished Guests, Ladies and Gentlemen,

ADR in Emerging Fields: Environmental, Social and Governance (ESG)

21. amid the challenges posed by climate change and energy transition, ADR is poised to play a significant role in resolving environmental issues and other ESG-related disputes. This is evidenced by a steady rise of related cases reported by arbitral institutions worldwide, notably, the International Centre for Settlement of Investment Disputes (ICSID).

22. While arbitration offers procedural flexibility and confidentiality, the arbitral tribunal's expertise in navigating the technicalities and expectations of the parties enhance its appeal as a preferred dispute resolution mechanism. Above all, the broad recognition and enforceability of the arbitral awards under the New York Convention 1958 significantly add to the value of arbitration in this context.

A Call to Action

23. To achieve the fruition of Malaysia's aspiration in becoming a global hub for ADR, it is vital to establish and maintain a robust legal framework that supports its development while ensuring inclusivity in the notion of access to justice. The recent amendments to the Arbitration Act 2005 prove our staunch commitment to creating a more accessible and globally competitive environment for dispute resolution.

24. In addition to bolstering our legal cushions, fostering partnerships between the government, businesses, and communities are essential for achieving progressive development in ADR. Such collaborative efforts allow us to draw on the expertise of each stakeholder, contributing to building long-term and sustainable ADR practices that cater to the unique expectations of various industries.

25. The transformation of ADR in Malaysia represents more than procedural changes. It is a strategic initiative that is poised to drive meaningful progress. By embracing ADR, we can foster build a culture of understanding that transcends borders and boundaries.

Distinguished Guests, Ladies and Gentlemen,

Conclusion

26. As we stand at the threshold of this transformation, let us all commit ourselves to working together in shaping a future where disputes are resolved amicably, where partnerships flourish, and where our nation is recognized as a major player in the evolution of ADR.

27. Let us ignite this transformation that will elevate ADR to new heights in line with the spirit of AIAC's institutional reform initiatives. Together, let us build a Malaysia that reflects our shared

values, aspirations, and dedication to a sustainable future. Thank
you