

**ARBITRATION AS A DISPUTE RESOLUTION TOOL IN THE
CONSTRUCTION INDUSTRY IN MALAYSIA WITH SPECIFIC
REFERENCE TO THE KUALA LUMPUR REGIONAL CENTRE
FOR ARBITRATION**

By

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the works of others.

ABSTRACTS

In this paper, **ARBITRATION AS A DISPUTE RESOLUTION TOOL IN THE CONSTRUCTION INDUSTRY IN MALAYSIA WITH SPECIFIC REFERENCE TO KUALA LUMPUR REGIONAL CENTRE FOR ARBITRATION** is dealt with. The objectives of the paper are four folds; firstly to give a general overview of the construction industry in Malaysia and it commonly associated disputes; secondly to briefly states the dispute resolution methods available for the construction industry in Malaysia; thirdly to give a literature review as well as method and procedure of the Arbitration as a tool for dispute resolution particularly for the construction industry in Malaysia; and finally to conclude on the application and effectiveness of the Arbitration as dispute resolution tools in the construction industry in Malaysia. Emphasis is given on Arbitration Act 2005 (Act 646) as well as ethic and code as practiced by the Kuala Lumpur Regional Centre for Arbitration.

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CHAPTER 1

INTRODUCTION

Malaysia as a developing country experiences a massive development projects that varies from a small scale domestic to a super mega construction nationwide. Massive development to cater for the infrastructure need of the nation to achieve Vision 2020 involves the construction and upgrading of new and existing roads and highways, bridges, dams, airports, ports and waterways, water and waste water infrastructures, telecommunications, power stations as well as commercial and residential buildings.

The Construction Industry Development Board (CIDB) reported that construction industry boosted a total figure in excess of RM13bil. worth of project for the year 2006 (for a single mega project worth at least RM100mil. for each project).¹ This enormous figure suggests that construction industry makes up an important part of Malaysian economy. As such, more often than not, along the line, it invites many disputes among it players. Looseness of the contract, the stringent need to achieve time, cost and quality factors in delivering the projects, involvement of multi disciplines trade and professional put many constraints and hence makes the industry fragile and more prone to dispute generation.

There are many options to settle dispute. Apart from the formal litigation in the court of law, *The Malaysia Institute of Arbitrators*² by virtue of *Clause 34* and *Clause 35 Rules of The Institute*, states the following methods of dispute resolution :

- (1) Arbitration - Process of dispute resolution carried out under the Law of Arbitration (Clause 34)

¹ CIDB, *Market Watch 2006 – Construction*. Construction Industry Development Board, Kuala Lumpur 2006

² MI Arb., *Rule of The Institute*, The Malaysian Institute of Arbitration, Kuala Lumpur 2004