

# ADR IN THE AGE OF **INNOVATION**

2021 ANNUAL REPORT



AIAC HIGHLIGHTS



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10+

LLISTS  
S EXPERTISE

300+

IPANTS  
ING & TRAINING



# DIRECTOR'S MESSAGE



Dear Friends,

It gives me great pleasure to present you with the AIAC's Annual Report 2021. This report provides me with the opportunity to fondly reflect upon the Centre's past achievements, and I earnestly believe that we have showcased an indomitable pioneering spirit and extraordinary resilience, qualities which I hope the world recognises as characterising us.

Our world today is changing at an unprecedented pace and we must earnestly follow suit. By studying the shifting patterns of the modern world, I think that the major challenges faced globally may be distilled into the themes of digitalisation, resource mobility, and decentralisation. Therefore, it is simply not enough for businesses today to merely try to adapt to a post-pandemic reality by using tried and true methods. Instead, one must be daring and driven to explore new paths and implement new solutions. After all, we want to thrive and not simply, survive.

Building on the momentum of yesteryears whilst working towards the goal of relevancy, the AIAC has launched its AIAC Arbitration Rules 2021 on 1<sup>st</sup> August 2021. The said Rules, which came into force on 1<sup>st</sup> August 2021, comprises a range of new and revamped provisions that are aimed at providing a more streamlined arbitration process. Notable highlights include the merging of Part I and Part II of the AIAC Arbitration Rules 2018 for a more coherent and harmonious set of procedural rules, revamped joinder and consolidation provisions, a new summary determination mechanism, enhanced clarity on the deposit collection process and the release of interim fees, as well as strengthened confidentiality provisions, amongst others. Subsequently in November, we launched the AIAC i-Arbitration Rules 2021, which is an amalgamation of the conventional



“

*Our achievements in 2021 is a testament to the commitment and dedication behind all our efforts this past year, which can be traced back to the shared passion by those in the AIAC family. I believe all we have achieved thus far is a good omen for what is to come in the following year.*

”

arbitral rules with current Shariah-guided principles. The positive feedback we received after the publication was positive and heart-warming. Moreover, the selection of the AIAC Arbitration Rules 2021 for use in the 29<sup>th</sup> Willem C. Vis International Commercial Arbitration Moot in Vienna, Austria, is certainly a feather in the cap for the Centre.

Naturally, the next big step for the AIAC was to have a functional technical framework, in order to host its very own virtual solutions. With the latest state-of-the-art technology, the AIAC is well-placed to facilitate hearings both in virtual and hybrid settings. This is certainly fundamental to overcome any disruptions to the dispute resolution processes. With that in mind, in October 2021, we released the AIAC Protocol on Virtual Arbitration Proceedings (VAP Protocol) and the AIAC Protocol on Virtual Mediation Proceedings (VMP Protocol). These Protocols aim to assist users by equipping them with all the necessary assistance and know-how for the conduct of virtual hearings. We also concluded a strategic partnership with Opus 2, a market-leader in cloud-based collaboration solutions for the legal sector, to guarantee efficient, effective and fully managed solutions to improve our users' experience with virtual ADR hearing proceedings.

Our 2021 records showcase that we administered an impressive number of cases spanning across the AIAC's suite of arbitration, adjudication, mediation and domain name dispute resolution services. This number highlights the AIAC as the preferred choice for holistic dispute resolution for both domestic and international matters in the region.

In line with our commitment towards global collaboration, the AIAC signed a historic cooperation agreement with the Abu Dhabi

Global Market Arbitration Centre (ADGMAC) and we jointly hosted the ADGMAC & AIAC MESEA Webinar Series 2021 which explored the topics of the i-Arbitration Rules, third party funding, and infrastructure disputes. We are poised at the forefront of the expansive international Islamic finance industry, particularly in the Middle East and Southeast Asia region. It is my hope that this collaboration will serve as a bridge connecting the entrepreneurs and business communities of the Middle East and Southeast Asia.

2021 was the year we virtually hosted the 3<sup>rd</sup> edition of our flagship event, the Asia ADR Week, themed ADR in a Kaleidoscope: Beyond What Meets The Eye. The event was graced with the presence of more than 109 domestic and international ADR practitioners, speaking to over 340 participants in various forums such as presentations, panel discussions, debates, and roundtables, all hosted on the virtual Brella platform – a first for the Centre.

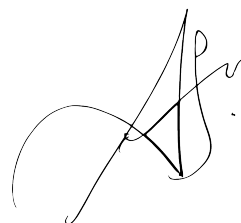
Recognising the importance of a hands-on training methodology to improve the practical knowledge, know-how and skillset of the ADR professional community, the AIAC also set up the AIAC Academy. This is a realisation of the AIAC's vision to expand beyond an offering of its own ADR products and services. We are cognisant that by providing affordable, innovative, and comprehensive ADR education and training, the AIAC is also playing its part in increasing and improving access to justice.

Amongst our various initiatives, one that certainly deserves a special mention is the AIAC Diversity in Arbitration Week 2021 where we partnered with Arbitral Women, CI Arb, the Rising Arbitrators Initiative, and the Racial Equality for Arbitration Lawyers to bring you a series of interviews with eminent arbitral personalities to share their experiences embracing diversity and overcoming adversity.

As part of our social responsibilities, we also launched the Pro Bono Mediation Initiative in January 2021. The underlying purpose of this initiative is to provide easy and affordable access to mediation, through the AIAC's mediation services on a pro bono basis.

Our achievements in 2021 is a testament to the commitment and dedication behind all our efforts this past year, which can be traced back to the shared passion by those in the AIAC family. I believe all we have achieved thus far is a good omen for what is to come in the following year.

For 2022, we look forward to building upon the milestones achieved, and to welcome you to join us in bringing the AIAC to the pinnacle of the global ADR marketplace.



**TAN SRI DATUK SURIYADI BIN HALIM OMAR**  
Director of the AIAC

# ABOUT AIAC







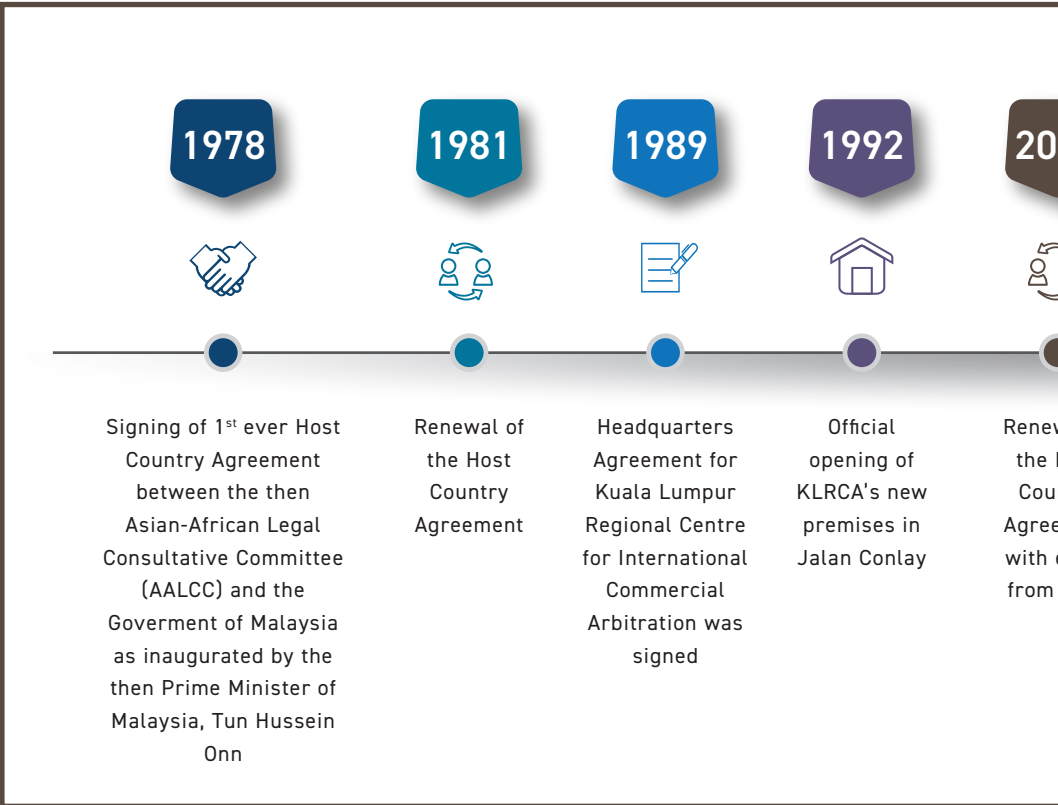
# ABOUT AIAC

The Asian International Arbitration Centre ("AIAC"), was established in 1978 pursuant to a Host Country Agreement between the Asian-African Legal Consultative Organization ("AALCO") and the Government of Malaysia, signed by Tun Hussein Onn, third Prime Minister of Malaysia.

In conjunction with its 40<sup>th</sup> Anniversary, the Centre undertook an official name change in 2018, from Kuala Lumpur Regional Centre for Arbitration ("KLRCA") to the Asian International Arbitration Centre ("AIAC"). The name change was part of a holistic rebranding for the Centre, celebrating its impressive milestones along the years and signifying its now global outreach.

The AIAC has always endeavoured to keep a finger on the pulse of the arbitral community while keeping true to its aspiration of reaching for the skies. In this spirit, the Centre published its brand-new suite of Arbitration Rules which formally came into effect on 1<sup>st</sup> August 2021. The new Rules incorporate improvements specially tailored to streamline the administration of arbitrations. Alongside these new Arbitration Rules, the AIAC also revamped the i-Arbitration Rules, formulated for matters set within the Islamic law, and launched the same on 1<sup>st</sup> November 2021.

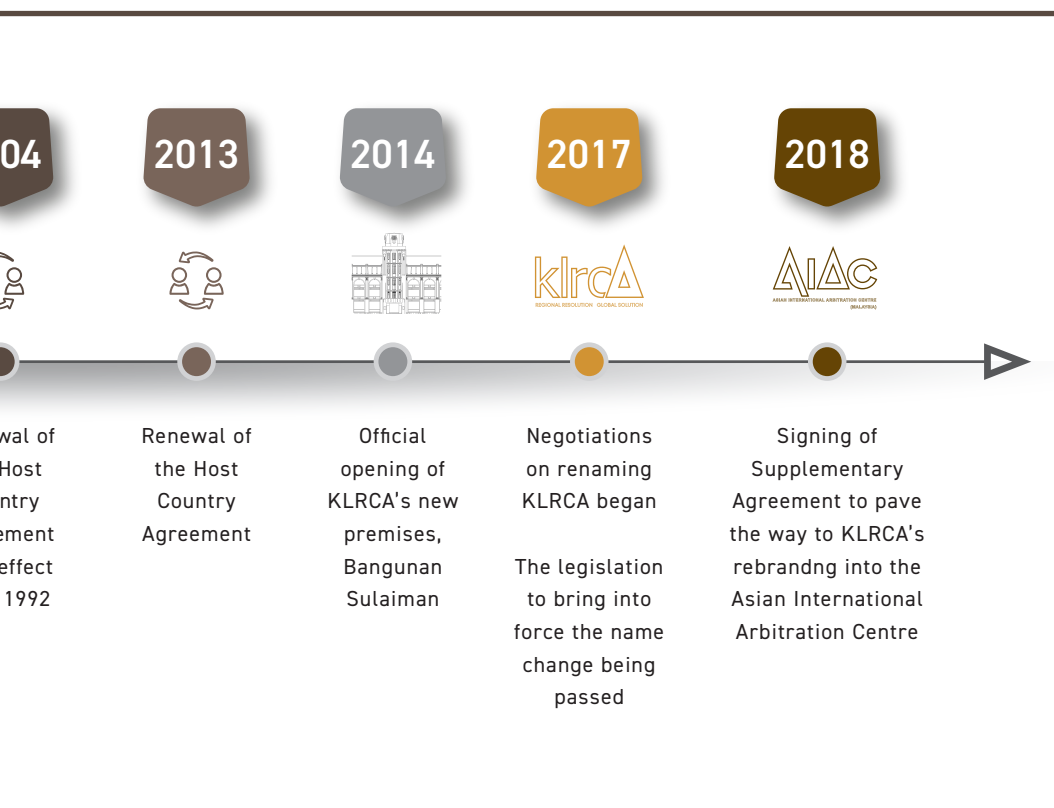
The AIAC has made visible leaps within the ADR society, administering arbitrations, adjudications, mediations, and domain



name dispute resolutions.

The Centre is both humbled and honoured by the utilisation of the AIAC Arbitration Rules 2021 for the 29<sup>th</sup> Vis Moot, marking global acceptance and recognition for the same. Additionally, the Centre continues to manage matters under the present Mediation Rules 2018 and the AIAC Adjudication Rules & Procedure. The Centre remains the sole administrative authority authorised by statute for the management

of adjudications under the Construction Industry Payment and Adjudication Act 2012. The Centre provides domain name dispute resolution services under the auspices of the Asian Domain Name Dispute Resolution Centre ("ADNDRC") for UDRP matters and the Malaysian Network Information Centre ("MYNIC") for MYDRP matters. Clearly evident is the Centre's commitment towards managing disputes effectively and efficiently.



As one of the largest hearing venues internationally, the AIAC is always available to host large hearings, including ad hoc matters and matters administered by its partner institutions. The building is fully modernised to include the latest in IT technology for the ease of its visiting users.

The Centre focuses on its relationship with its stakeholders by engaging in various initiatives such as conferences, talks and pledges, aimed at promoting equality and diversity in ADR. Further, under the umbrella of the newly launched AIAC Academy and with the aid of its Faculty Members, the Centre aims to organise many educational and informational programmes catering to the needs of the ADR community such as workshops, lectures, and certifications.

The AIAC is presently led by its Director, Tan Sri Datuk Suriyadi bin Halim Omar. The AIAC also has a Council of Advisors, chaired by the former Chief Justice of Malaysia, Tun Arifin bin Zakaria, and comprises renowned domestic and international arbitrators, senior legal practitioners as well former members of the Bench.

Also committed to its twin-purpose of holistic dispute management and dispute avoidance, the AIAC launched a new standard form contract but this time within the technology industry, with the assistance of the AIAC Tech-Expert Advisory Committee. The Standard Form – Software Development Contract ("SFs-SDC") is a ready for use, easily customisable, draft contract template. The AIAC also continues to make relevant updates to its Standard Form of Building

Contracts ("SFCs"). For the facilitation of better understanding of its procedures, rules and guidelines, the AIAC also publishes circulars from time to time.

The AIAC is privileged to be situated in one of Malaysia's most iconic colonial buildings, recognised as a heritage treasure, Bangunan Sulaiman. Completed in 2014, the AIAC's Pavilion was built to complement the existing facilities and complete its unparalleled hearing facilities.

## ABOUT AIAC

### ABOUT THE DIRECTOR

Tan Sri Datuk Suriyadi bin Halim Omar was appointed as the Director of the AIAC by the Government of Malaysia, following its consultation with the Asian African Legal Consultative Organization ("AALCO") on 1<sup>st</sup> December 2020.

In a press statement accompanying Tan Sri Datuk Suriyadi's appointment as Director of the AIAC, the then Minister in the Prime Minister's Department (Parliament and Law) The Honourable Datuk Seri Haji Takiyuddin bin Hassan stated, "With this appointment, I hope that The Honourable Tan Sri Datuk Suriyadi bin Halim Omar will continue his distinguished record, by leading the AIAC as a renowned arbitration centre in the Asian region".

During his term on the Bench, Tan Sri Datuk Suriyadi sat on numerous cases which involved matters relating to arbitration including the interpretation and application of arbitral clauses, the effect of the statute of limitation on arbitrations, the effect on insolvency on parties to an arbitration, and complex procedural issues such as stay of court proceedings and challenges to or the enforcement of arbitral awards. Tan Sri Datuk Suriyadi also sat on multiple matters relating to adjudication and construction disputes in Malaysia during his tenure with the apex court, and takes a highly proactive approach to the Centre's administration of adjudications under the Construction Industry Payment and Adjudication Act 2012.

### ABOUT THE AIAC ADVISORY COUNCIL

The Director of the AIAC is assisted by a 13-member board of advisors known as the AIAC Advisory Council, consisting of highly renowned Malaysian and international ADR practitioners as well as respected members of the legal industry. The Council supports the Centre with advisory services which are instrumental to the quality, relevance and success of the growth and development of the AIAC. The Council also works with the Director of the AIAC to further the Centre's strategic direction in positioning Malaysia as an arbitration-friendly jurisdiction and multi-purpose global ADR hub.

The Chairman of the AIAC Advisory Council is the former Chief Justice of Malaysia, Tun Arifin bin Zakaria. Members of the AIAC Advisory Council are as follows:





## ABOUT THE AALCO

The AIAC, then known as the Regional Centre for Arbitration in Kuala Lumpur ("RCAKL") was the first arbitration centre in Asia to be established under the auspices of the Asian-African Legal Consultative Organization ("AALCO"). AALCO's main functions include assisting the member states in drafting constitutions, model

legislations and bilateral agreements, as well as providing expertise and assistance to member states in the appointment of arbitrators and other matters relating to arbitral proceedings. AALCO also monitors the development of regional centres for arbitration and provides training to fellow arbitrators.

AALCO comprises 47 member states from across the regions. The AIAC is one amongst five regional arbitration centres, the other four being located in Egypt, Nigeria, Iran and Kenya.

## ABOUT THE MINISTER IN THE PRIME MINISTER'S DEPARTMENT (PARLIAMENT & LAW)

The AIAC is a non-governmental and not-for-profit international organisation. By virtue of its primary role and function as an ADR service provider and its affiliation with the legal industry, it thus falls within the purview of the Minister in the Prime Minister's Department in charge of Legal Affairs. The current Minister in Charge of Law in the Prime Minister's Office is The Honourable Dato Sri Dr. Haji Wan Junaidi Tuanku Jaafar.



## ABOUT THE TEAM

The AIAC comprises over 50 professionals of diverse backgrounds and cultures across the Centre's Business Development, Finance, Legal and Operations departments, who commit the best efforts to deliver effective and efficient ADR services to our users. Their dedication to excellence speaks for itself when counting the Centre's successes in the ADR landscape.

# 2021 FIGURES



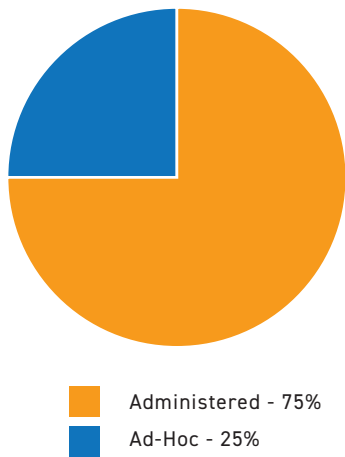




# 2021 FIGURES

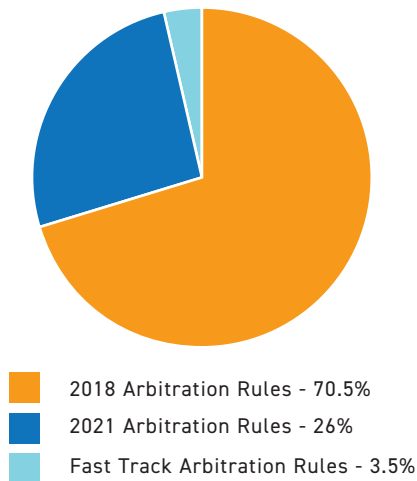
## ARBITRATION STATISTICS

Administered vs. Ad-Hoc



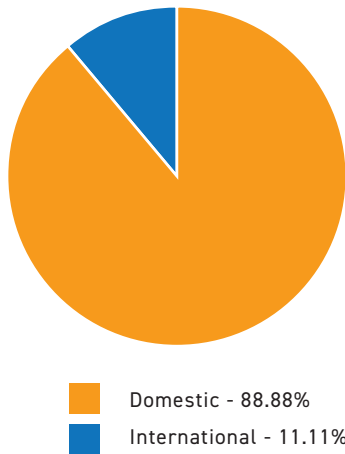
In 2021, the AIAC received a total number of 172 new arbitration cases. Of these, the AIAC proceeded to register a total of 117 cases. The AIAC administered 88 of these under the AIAC Arbitration Rules and the remaining 29 of these were ad hoc appointments under the Arbitration Act 2005.

Applicable Rules



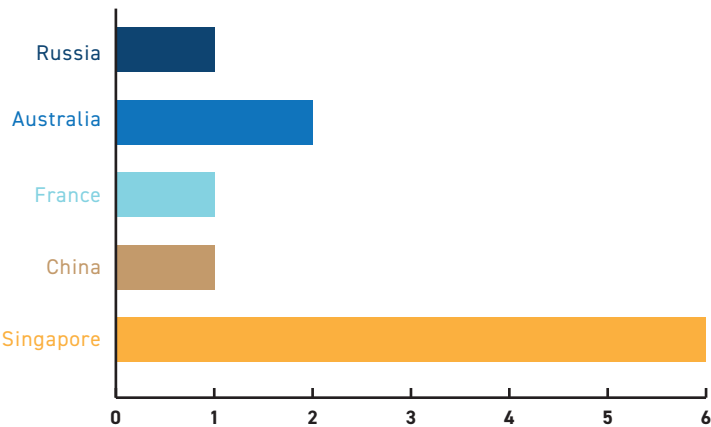
Of the 88-AIAC administered cases registered in 2021, 62 cases used the AIAC Arbitration Rules 2018, 3 cases used the AIAC Fast Track Arbitration Rules 2018, and 23 cases used the newly-launched AIAC Arbitration Rules 2021, despite it only being released in August 2021.

Domestic vs. International Registrations

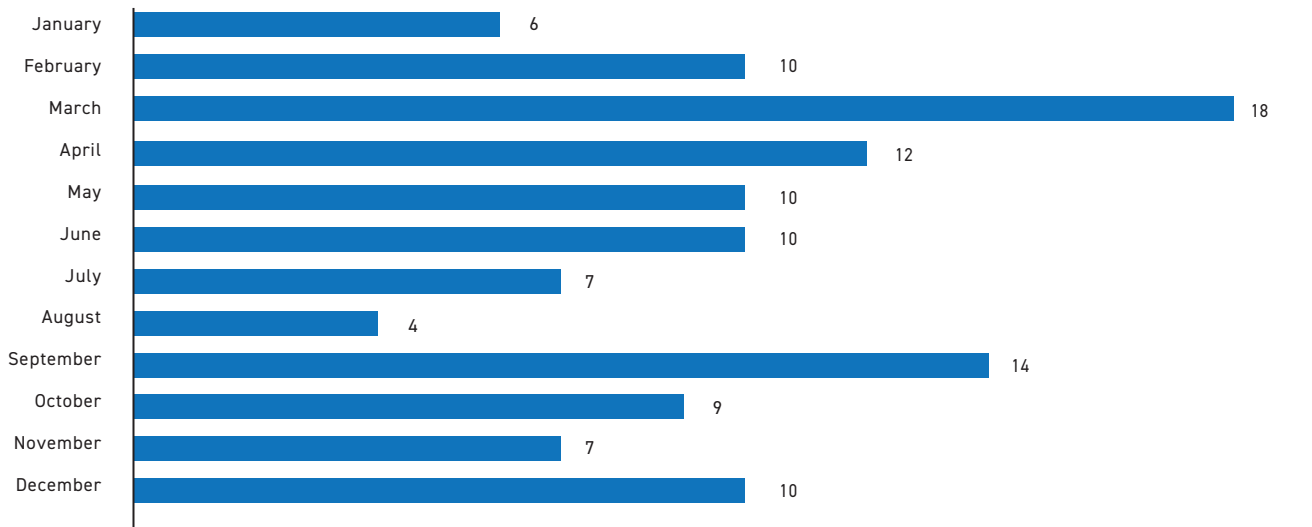


In 2021, similar to the trend of previous years, domestic arbitrations remain to be the largest contributor of cases to the AIAC with the registration of 104 domestic cases (88.88%) and 13 international cases (11.11%). On an international aspect, the AIAC saw participation of foreign parties from France (1), Singapore (6), China (1), Russia (1), and Australia (2).

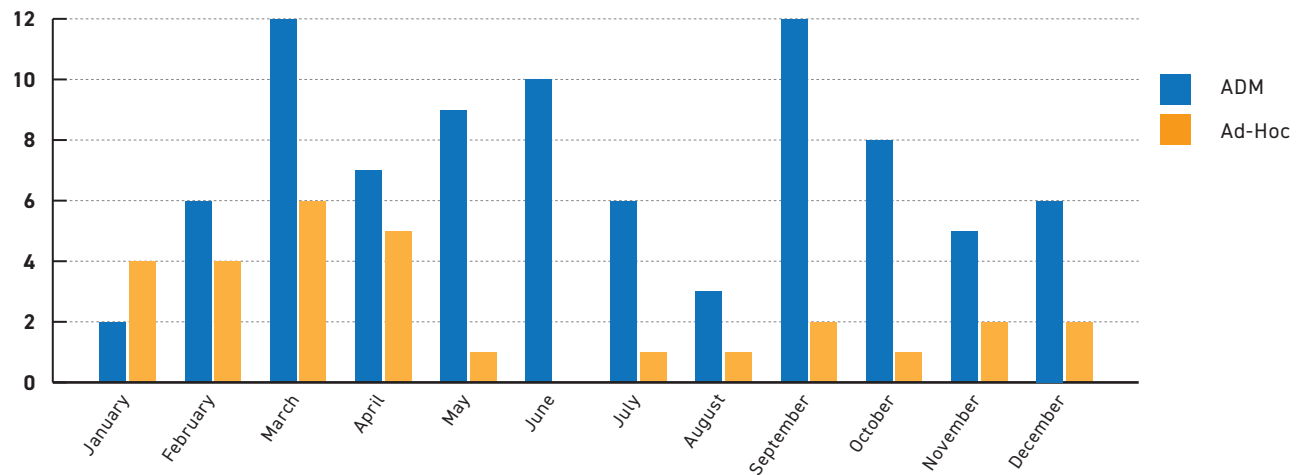
Foreign Nationalities in 2021



### Monthly Case Registrations



### Administered vs. Ad-Hoc Monthly Registrations



March followed by September were the busiest months for arbitration during the calendar year of 2021. Contrastingly, August and January were quieter months with the least number of cases registered.

## 2021 FIGURES

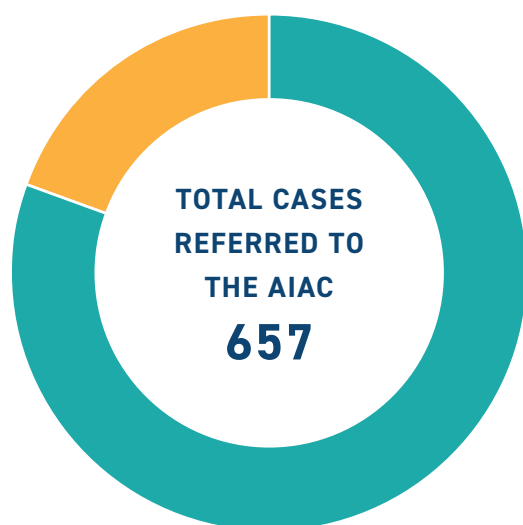
### ARBITRATION STATISTICS

The total amount in dispute for AIAC-administered cases where the arbitral tribunal was constituted in 2021 was USD540,239,548.67 (RM2,308,840,035.07). This means that the AIAC saw a sharp decrease of 75.78% in the dispute quantum compared to the previous year, as the AIAC total amount in dispute for its AIAC-administered cases where the arbitral tribunal was constituted in 2020 was USD2,231,085,364.02 (RM8,963,782,097.29).

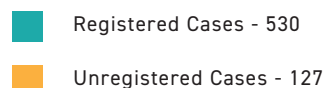
Year	2018	2019	2020	2021
<b>Amount of Claim</b>	USD224,393,795.12 (RM928,653,721.12)	USD759,300,462.15 (RM3,107,437,141.33)	USD2,113,636,522.08 (RM8,491,910,494.51)	USD433,363,301.59 (RM1,852,131,154.24)
<b>Amount of Counter-Claim</b>	USD116,904,068.56 (RM483,807,487.72)	USD293,740,614.79 (RM1,202,133,466.04)	USD117,448,841.93 (RM471,871,602.78)	USD106,861,151.82 (RM456,708,880.83)
<b>Total Amount in Dispute</b>	USD345,134,076.69 (RM1,428,164,809.34)	USD1,053,041,076.94 (RM4,309,570,607.37)	USD2,231,085,364.02 (RM8,963,782,097.29)	USD540,239,548.67 (RM2,308,840,035.07)
<b>Average Amount in Dispute</b>	USD8,987,713.69 (RM37,170,031.81)	USD11,963,955.68 (RM48,972,393.27)	USD79,681,620.14 (RM320,135,074.90)	USD12,563,710.43 (RM53,693,954.30)

### ADJUDICATION STATISTICS

#### REGISTERED VS. PRE-REGISTERED ADJUDICATION CASES IN 2021

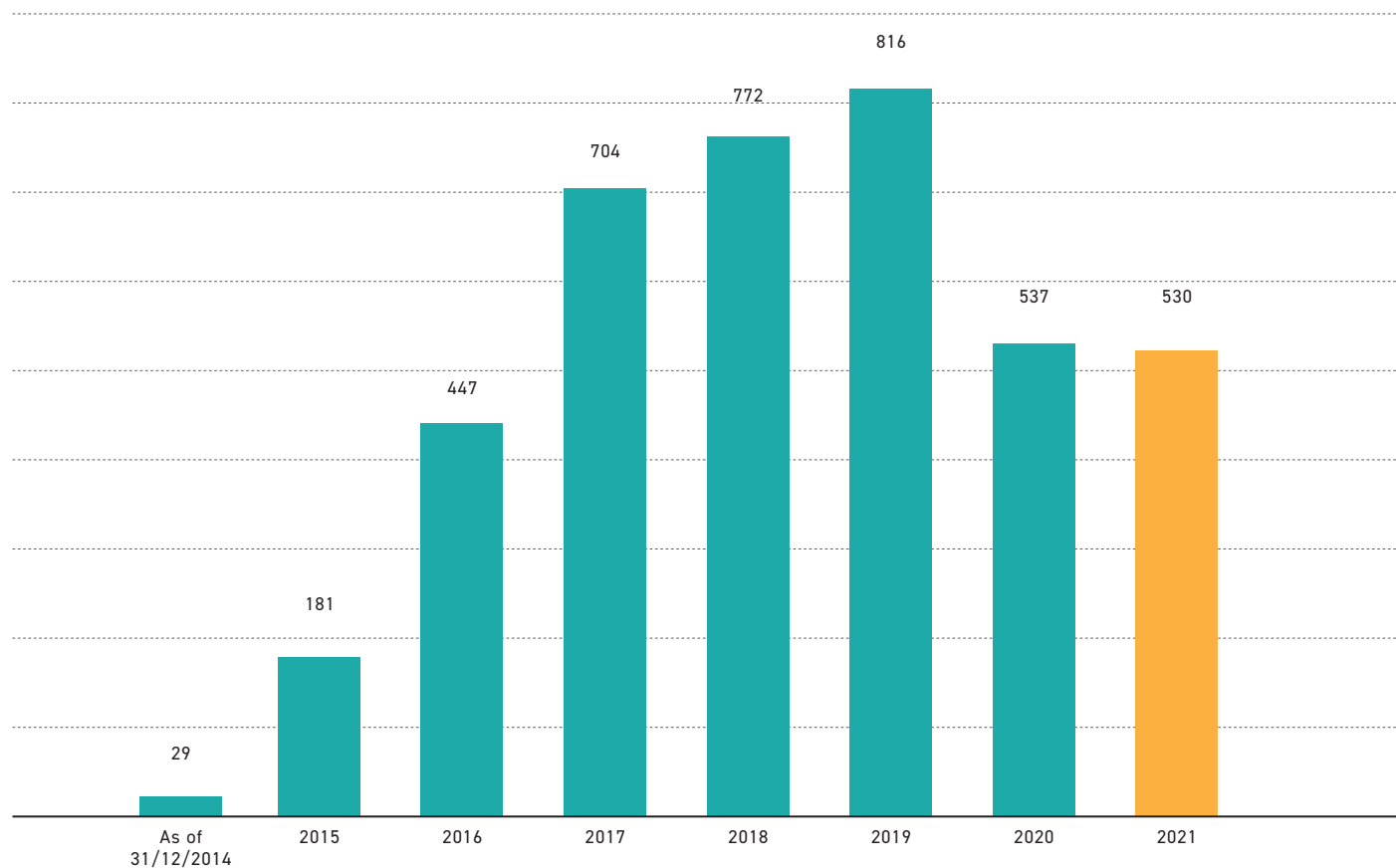


In 2021, the AIAC received a total of 657 adjudication matters for administration. From these, the AIAC proceeded to register a total of 530 adjudication cases.





## HISTORICAL CASE REGISTRATIONS FOR CALENDAR YEARS



During the 2021 calendar year, the AIAC recorded a total of 530 case registrations.

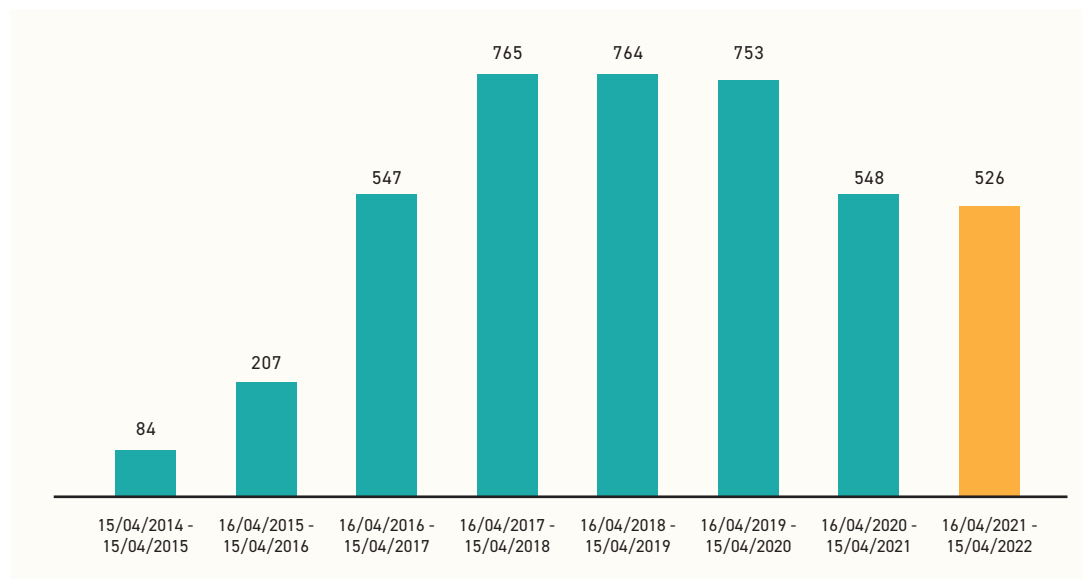
There was a marginal 1.32% decrease from the registrations made in 2020 and a more significant 34.19% decrease from the registrations made in 2019. However, the decrease may be resultant from the increasing sentiments amongst industry players relating to practical difficulties in the Construction Industry Payment and Adjudication Act 2012 (the "CIPAA") for the resolution of payment disputes in the construction industry.

## 2021 FIGURES

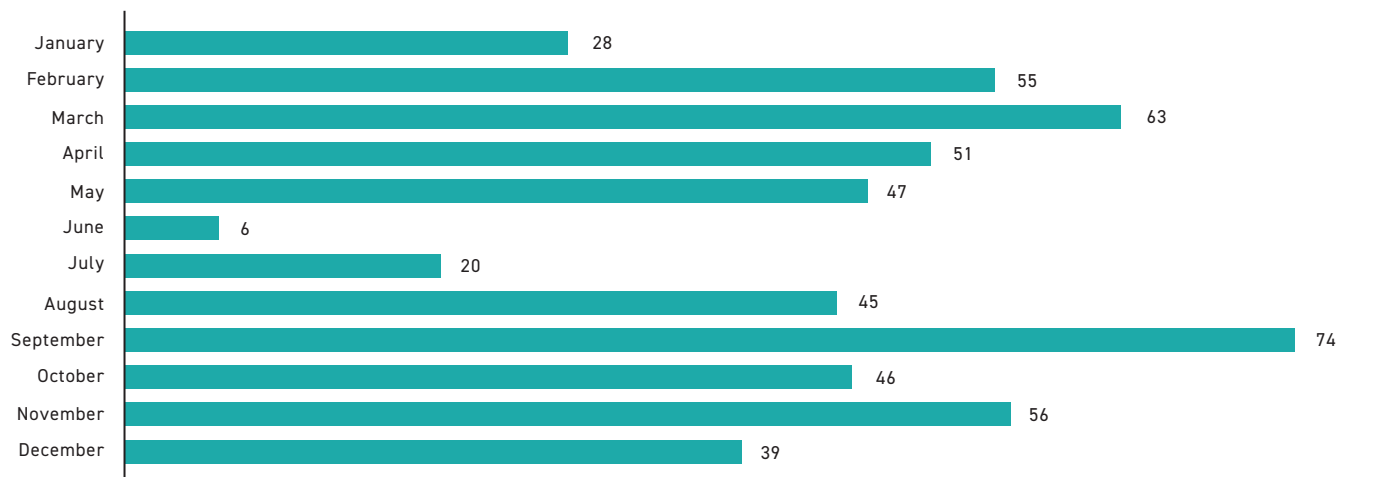
### HISTORICAL CASE REGISTRATIONS FOR FISCAL YEARS

For the CIPAA Fiscal Year between 16<sup>th</sup> April 2021 and 15<sup>th</sup> April 2022 (that is, the "2022 Fiscal Year"), the AIAC recorded a total of 526 cases.

This is more or less on par with the case registrations during the 2021 Fiscal Year which totalled 548 cases being recorded between 16<sup>th</sup> April 2020 and 15<sup>th</sup> April 2021.



### MONTHLY CASE REGISTRATIONS IN 2021



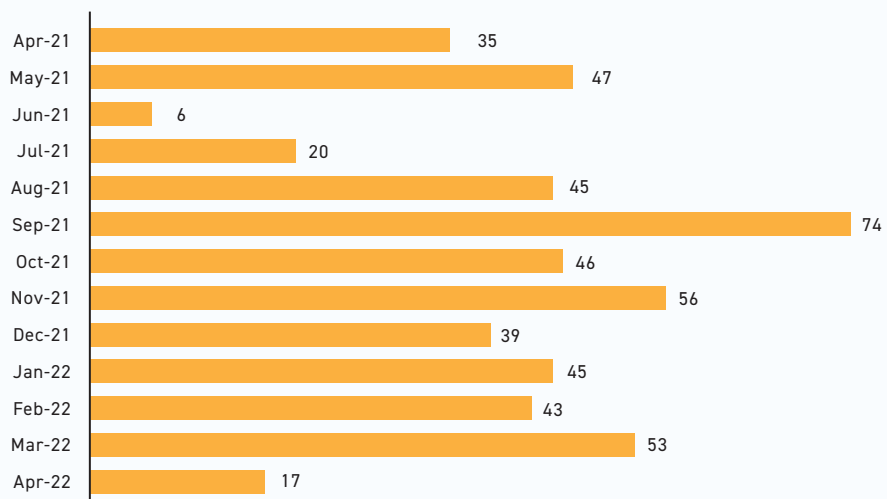
In the 2021 Calendar Year, the month of September recorded the highest number of case registrations for adjudication (74). The month of June recorded the lowest number of case registrations (6) which was directly attributable to the Malaysian Government's Full Movement Control Order ("FMCO") in response to the COVID-19 pandemic which resulted in the AIAC unable to accept new adjudication case registrations between 1<sup>st</sup> June to 28<sup>th</sup> June 2021.

## 2022 FISCAL YEAR MONTHLY CASE REGISTRATIONS

In the 2022 Fiscal Year, the month of September 2021 recorded the highest number of case registrations for adjudication (74) whilst June 2021 recorded the lowest number of case registration (6) – see above for explanation.

The highest payment claim amount during the 2022 Fiscal Year was RM93,687,154.46 (November 2021) and the lowest payment claim amount during the 2022 Fiscal Year was RM1,566.50 (September 2021).

The total quantum of disputes adjudicated under the CIPAA regime during the 2022 Fiscal Year was RM1,654,019,939.01.

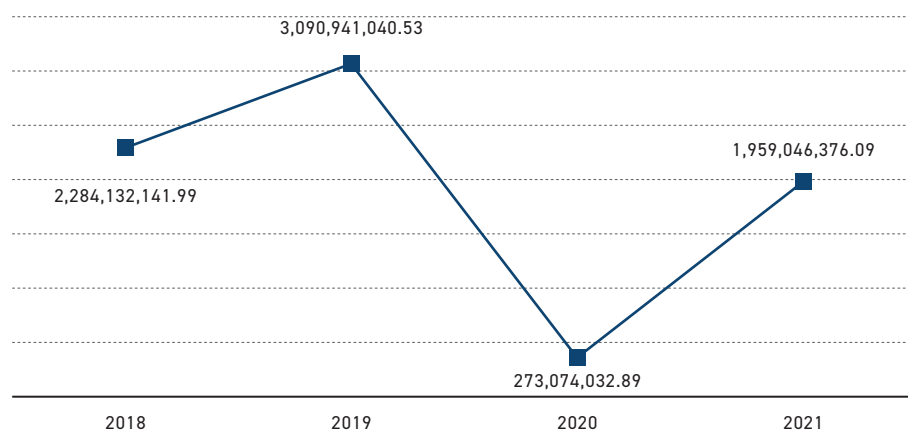


## TOTAL QUANTUM OF ADJUDICATED DISPUTES

The total quantum of disputes adjudicated under the CIPAA during the 2021 calendar year was RM1,959,046,376.09.

In comparison with 2020, there is a 617% increase from the total quantum of disputes adjudicated (RM1,685,972,343.20), which is unsurprising given the long absence of the Director's office during the calendar year of 2020.

However, compared to the quantum of adjudicated disputes in 2019, there is a large 36.62% decrease (RM1,131,894,664.44).



<b>2018</b>
<b>RM2,284,132,141.99</b>
<b>2019</b>
<b>RM3,090,941,040.53</b>
<b>2020</b>
<b>RM273,074,032.89</b>
<b>2021</b>
<b>RM1,959,046,376.09</b>

## 2021 FIGURES

### PROJECT SITE LOCATIONS

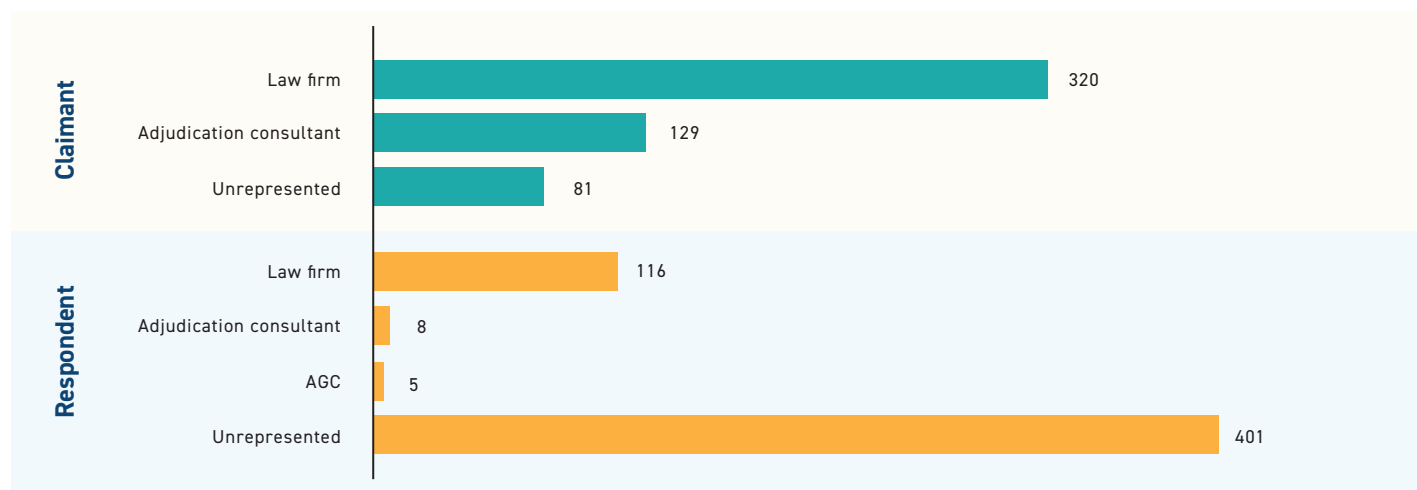
In 2021, out of the 530 newly registered matters, 243 of them had their project site located in Malaysia's Klang Valley, specifically the states of Selangor (111) and the Federal Territories of Kuala Lumpur (123) and Putrajaya (9), that is 45.85%. Outside of the Klang Valley region, 107 matters had their project site located in the southern-most state of Johor, which amounts to one-fifth of the new registrations (20%).



PROJECT SITE LOCATIONS		2021	2020	2019
1	Kuala Lumpur	123	99	170
2	Selangor	111	134	216
3	Johor	107	92	144
4	Perak	30	29	25
5	Sabah	27	18	32
6	Penang	25	29	40
7	Sarawak	18	14	31
8	Melaka	17	26	37
9	Pahang	16	21	28
10	Negeri Sembilan	14	27	28
11	Kedah	13	16	18
12	Terengganu	12	10	5
13	Putrajaya	9	9	20
14	Kelantan	7	9	14
15	Perlis	1	3	5

## PARTIES REPRESENTATIVES

In 2021, the primary categories for party representatives were law firms, adjudication consultants, and individuals or self-represented parties.



Conversion of numbers into percentages results in the following observations:

- Claimants' Representatives in 2021: 60.38% were represented by law firms, 24.34% were represented by construction industry consultants and 15.28% were unrepresented or self-represented.
- Respondents' Representatives in 2021: 75.66%, that is close to three quarters were either unrepresented or self-represented, 21.89% were represented by law firms, 0.94% were represented by the Attorney General's Chambers ("AGC") and the remaining 1.51% were represented by construction industry consultants.

## FOREIGN NATIONALITIES

The AIAC saw 1 proceeding which concerned a foreign party in 2021, that is 1 Claimant in a proceeding was from the United Kingdom. Therefore, of the overall number of adjudication matters registered in 2021, only 0.19% of the cases involved foreign parties (meaning, non-Malaysian).



# 2021 FIGURES

## MEDIATION STATISTICS

### MEDIATIONS REFERRED TO THE AIAC IN 2021

In 2021, a total of 8 mediation matters were referred to the AIAC. Out of these, 7 were categorised as domestic matters and 1 international matter. All 8 matters proceeded with the appointment of a mediator under the Mediation Rules 2018.

2019		2020		2021	
PFC	Registered	PFC	Registered	PFC	Registered
1	3	0	4	0	8

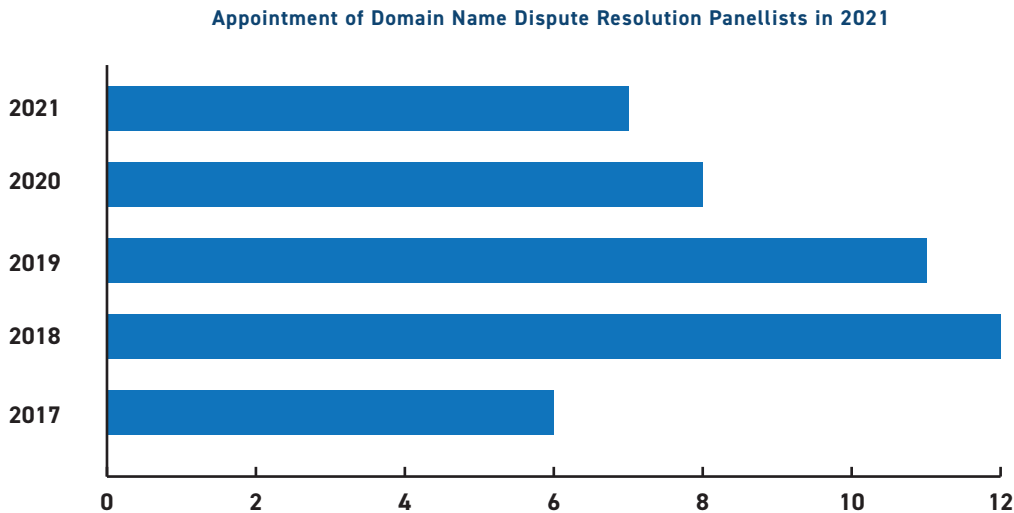
### APPOINTMENTS OF MEDIATORS

The number of mediation appointments made in 2021 in accordance with the AIAC Mediation Rules was significant compared to 2020 when no appointments were made due to the absence in the Director's office. This number is also a 266.67% increase compared to 2019. The AIAC trusts that this number will only increase in the future given the interest mediation has garnered over these past few years.

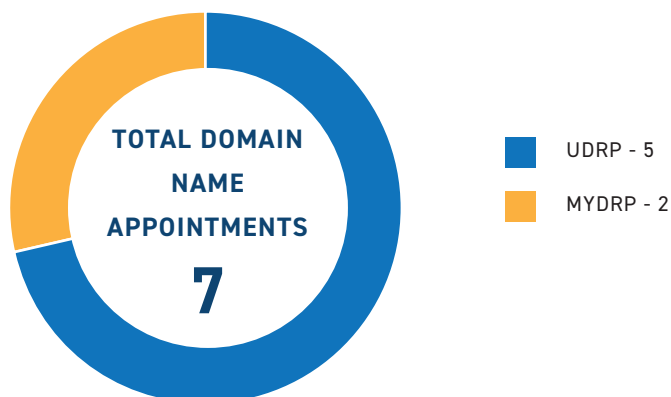
## DOMAIN NAME DISPUTE RESOLUTION STATISTICS

### APPOINTMENT OF DOMAIN NAME DISPUTE RESOLUTION PANELLISTS IN 2021

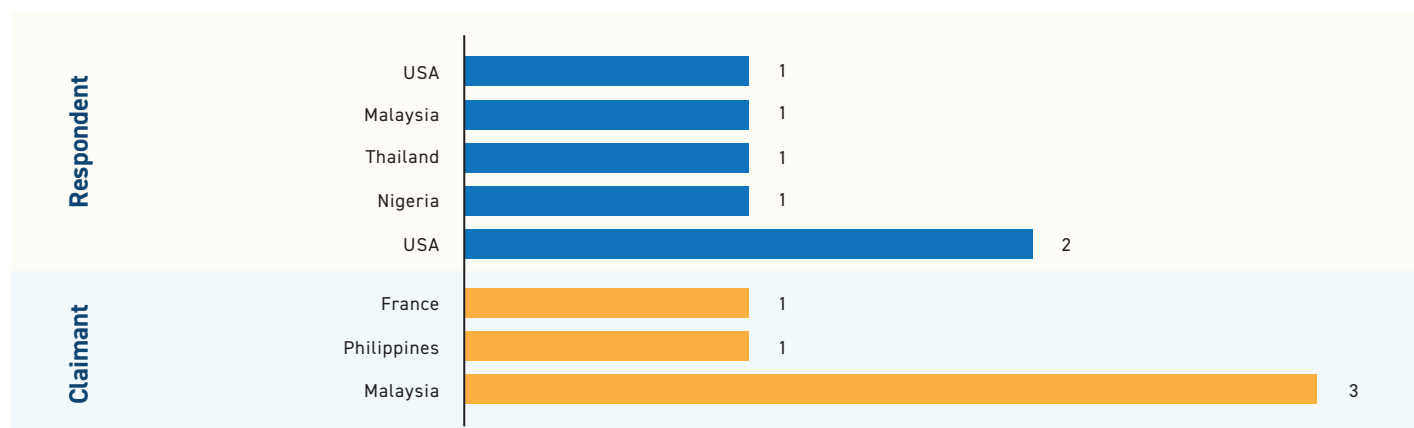
A total of 7 domain name appointments were made in 2021, which is fewer than those made in 2020 and 2019 respectively. Such appointments include both matters administered by the AIAC under the Asian Domain Name Dispute Resolution Centre (ADNDRC) as well as cases under the Malaysian Network Information Centre (MYNIC) Domain Name Dispute Resolution Policy.



## CATEGORIES OF DOMAIN NAME MATTERS

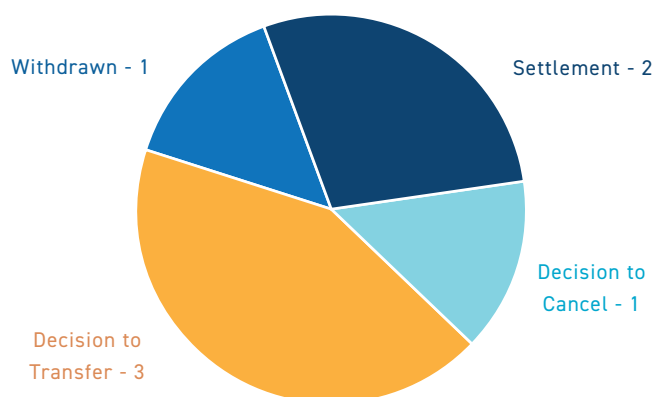


## GEOGRAPHICAL ORIGINS OF PARTIES IN UDRP MATTERS



## OUTCOMES OF DOMAIN NAME MATTERS IN 2021

From the 7 domain name cases administered in 2021, 3 domain names were ordered to be transferred, 1 ordered to be cancelled, 1 matter was withdrawn and 2 ended in settlements.



## 2021 FIGURES

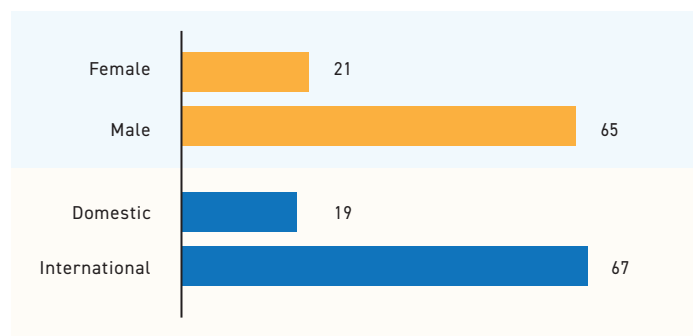
### EMPANELMENT IN 2021

2021 saw the empanelment of 152 dispute resolution professionals. Out of these, 101 of the newly empanelled dispute resolution professionals were international whilst 51 were domestic.

	2021	New Total
Arbitrators	86	1,346
Adjudicators	25	634
Mediators	34	440
DNDR Panellists	7	75

### TOTAL ARBITRATORS EMPANELLED IN 2021

Diversity in Arbitrator Empanelment in 2021

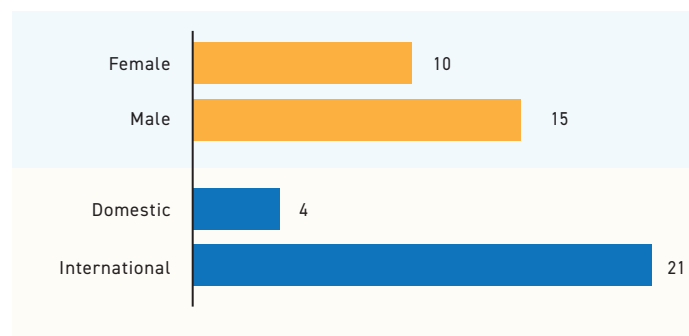


Female	Male	Domestic	International
24.42 %	75.58 %	22.09 %	77.91 %

In 2021, the AIAC empanelled a total of 86 arbitrators. This brings the number of AIAC-empanelled arbitrators to 1,346.

### TOTAL ADJUDICATORS EMPANELLED IN 2021

Diversity in Adjudicator Empanelment in 2021

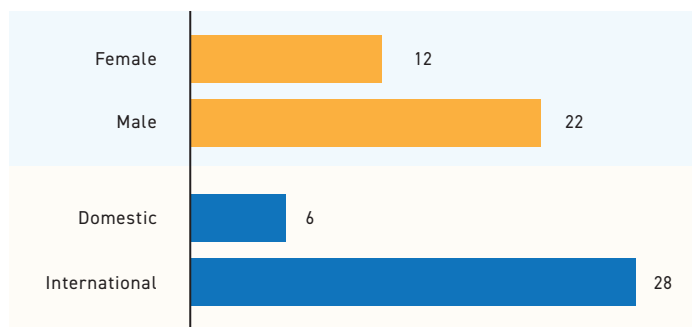


Female	Male	Domestic	International
40 %	60 %	16 %	84 %

In 2021, the AIAC empanelled a total of 25 adjudicators. This brings the number of AIAC-empanelled adjudicators to 634.

## TOTAL MEDIATORS EMPANELLED IN 2021

Diversity in Mediator Empanelment in 2021

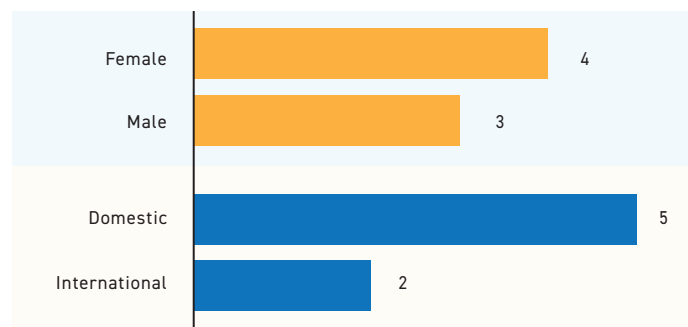


Female	Male	Domestic	International
35.29 %	64.71 %	17.65 %	82.35 %

In 2021, the AIAC empanelled a total of 34 mediators. This brings the number of AIAC-empanelled mediators to 440.

## TOTAL DNDR PANELLISTS EMPANELLED IN 2021

Diversity in DNDR Panellist Empanelment in 2021



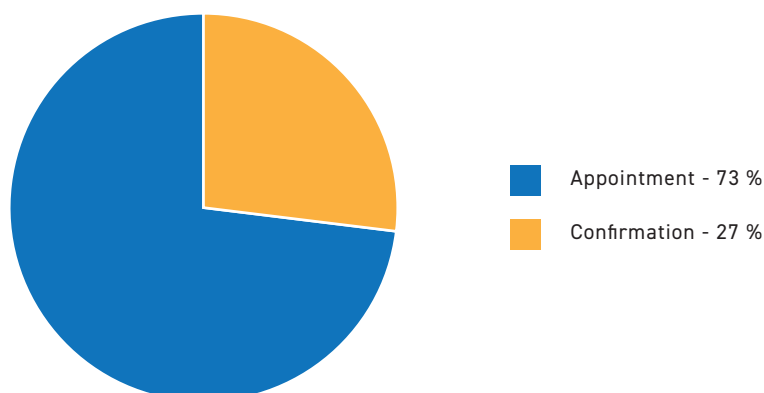
Female	Male	Domestic	International
57.14 %	42.86 %	71.43 %	28.57 %

In 2021, the AIAC empanelled a total of 7 panellists for domain name matters administered by the AIAC under the Malaysian Network Information Centre (MYNIC) Domain Name Dispute Resolution Policy. This brings the number of AIAC-empanelled DNDR panellists to 75.

## APPOINTMENT & CONFIRMATION OF ARBITRATORS IN 2021

In 2021, the Director of the AIAC made a total number of 131 arbitrator appointments and confirmations. These comprise 95 individual appointments and 36 confirmations of arbitrators. This means that the AIAC saw a 233% increase in the number of appointments / confirmations compared to 2020 but during which time there was a prolonged absence in the Director's office. However, there was a -15.48% decrease from the number of appointments / confirmations made in 2019 but this could be attributed to the travel restrictions which remained in place domestically and around the world which generally slowed down the legal industry.

Appointment & Confirmation of Arbitrators in 2021



# 2021 FIGURES

## APPOINTMENT & CONFIRMATION OF NEWLY EMPANELLED ARBITRATORS IN 2021

Acknowledging the need to ensure a fair chance in the appointment process for arbitrators, 6 newly AIAC-empanelled arbitrators (4.58%) received their first appointment by the Director of the AIAC in 2021.

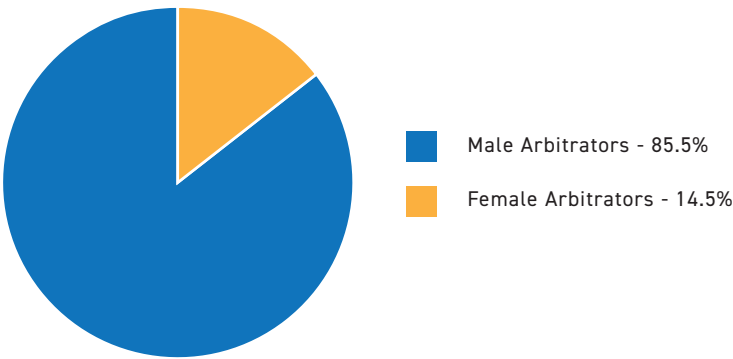
## GEOGRAPHICAL ORIGINS OF APPOINTED & CONFIRMED ARBITRATORS IN 2021

In 2021, the Director of the AIAC predominantly appointed or confirmed 126 arbitrators originating from Malaysia (96.18%) for which a plausible explanation is the large number of domestic cases registered with the AIAC. The Director of the AIAC also appointed / confirmed arbitrators originating from the jurisdictions of Singapore, Australia, and United Kingdom.

## GENDER DIVERSITY OF APPOINTED & CONFIRMED ARBITRATORS IN 2021

From the 131 appointments and confirmations of arbitrators in 2021, 19 were female arbitrators (14.5%). This is a marginal increase from the 12.5% in 2020 and the 11.6% in 2019 of the appointments / confirmations being female arbitrators, demonstrating the AIAC's continued commitment towards achieving gender diversity.

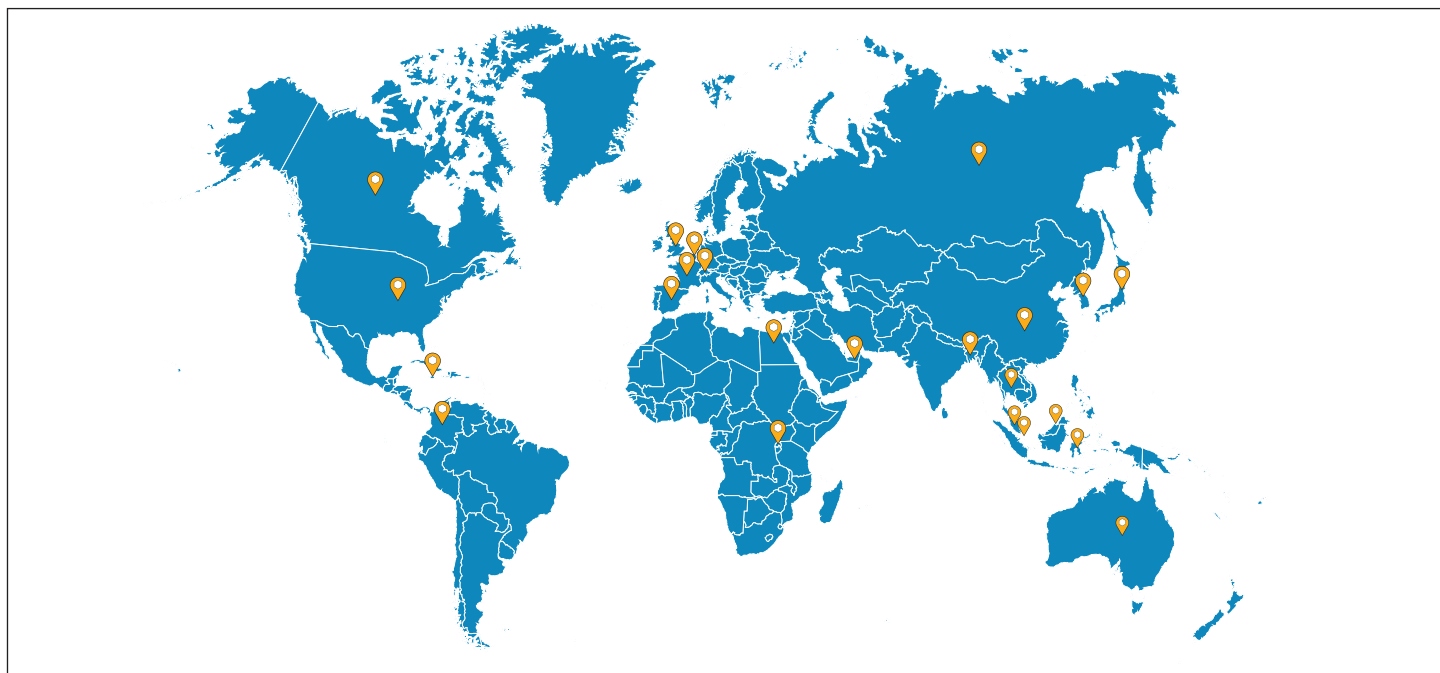
Gender Diversity in Appointments & Confirmations in 2021





## GLOBAL COOPERATION

As an ADR institution that prioritises the expansion of its regional footprint and global network, the AIAC constantly keeps abreast of various ADR initiatives and foster domestic as well as international collaborations with its fellow ADR stakeholders. To date, the AIAC has entered into Memoranda of Understanding with over fifty (50) domestic and international organisations. Additionally, in 2021, four (4) new partnerships were forged.



- Asian Domain Name Dispute Resolution Centre (ADNDRC)
- Asian Institute of Alternative Dispute Resolution (AIADR)
- Badan Arbitrase Nasional Indonesia (BANI)
- Bangladesh International Arbitration Center (BIAC)
- Beijing Arbitration Commission (BAC)
- Beijing International Arbitration Center
- Bogota Chamber of Commerce Arbitration and Conciliation Centre
- Brunei Darussalam Network Information Centre Sdn Bhd (BNNIC)
- Cairo Regional Centre for International Commercial Arbitration (CRCICA)
- Camara Oficial de Comercio (La Camara)
- Chartered Institute of Arbitrators (CIArb)
- China-ASEAN Legal Cooperation Center
- China International Economic and Trade Arbitration Commission (CIETAC)
- Dorsett Regency Hotel (M) Sdn Bhd
- Hainan Arbitration Commission (HAC)
- Hong Kong International Arbitration Centre (HKIAC)
- International Chamber of Commerce (ICC)
- International Council of Arbitration for Sport (ICAS)
- International Malaysian Society of Maritime Law (IMSML)
- InvestKL
- Islamic Finance Lawyers (ISFIN)
- Kigali International Arbitration Centre (KIAC)
- Kobe University
- Koreon Internet Address Dispute Resolution Committee (KIDRC)
- Labuan Financial Services Authority (Labuan FSA)
- Malaysian Corporate Counsel Association (MCCA)
- Malaysian Institute of Arbitrators (MIArb)
- Mona International Centre for Arbitration and Mediation Limited
- UWI Faculty of Law at Mona
- Monash University
- Russian Arbitration Association (RAA)
- Russian Asian Legal Association (RALA)
- Securities Industry Dispute Resolution Center (SIDREC)

- Shanghai International Economic and Trade Arbitration Commission (SHIAC)
- Taylor's University
- Thailand Arbitration Center (THAC)
- The Arbitrators, Mediators and Dispute Board Chambers (ArbDB)
- The Asian Football Confederation (AFC)
- The Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM)
- The British Columbia International Commercial Arbitration Centre (BCICAC)
- The Chartered Institute of Arbitrators (CIArb) (Malaysia Branch)
- The International Arbitration Institute of The University of Miami School of Law
- The International Centre for Settlement of Investment Disputes (ICSID)
- The Jamaica International Arbitration Centre (JAIAC)
- The Sharjah International Commercial Arbitration Centre
- The Society of Construction Law, Malaysia
- Universiti Kebangsaan Malaysia (UKM)
- University of Malaya (UM)
- International Islamic University Malaysia (IIUM)
- Bali International Arbitration and Mediation Center (BIAMC)
- Multimedia University (MMU)
- China International Economic and Trade Arbitration Commission (CIETAC)
- Hainan International Arbitration Court (HIAC)
- Centre for Mediation and Conciliation (CMC), Bombay Chamber of Commerce, India
- UOW Malaysia KDU College

### New Partnerships - MOUs in 2021

- Saudi Center for Commercial Arbitration (SCCA)
- Japan International Dispute Resolution Centre (JIDRC)
- Abu Dhabi Global Market Arbitration Centre (ADGMAC)
- Opus 2

# 2021 HIGHLIGHTS

## AIAC TECHNOLOGY EXPERT COMMITTEE (TEC) SFs – SDC LAUNCH

In 2021, the AIAC launched the Standard Forms – Software Development Contract (“SFs – SDC”). This was the first successful initiative of the AIAC TEC, following its discussion during the TEC Virtual Roundtable held in 2020. The SF-SDC is a free, accessible and easily customisable template that incorporates the best industry practices while balancing the rights and obligations of the various stakeholders involved. During the launch event, suggested end-users and industry stakeholders had the opportunity to hear from the TEC regarding the SFs-SDC’s

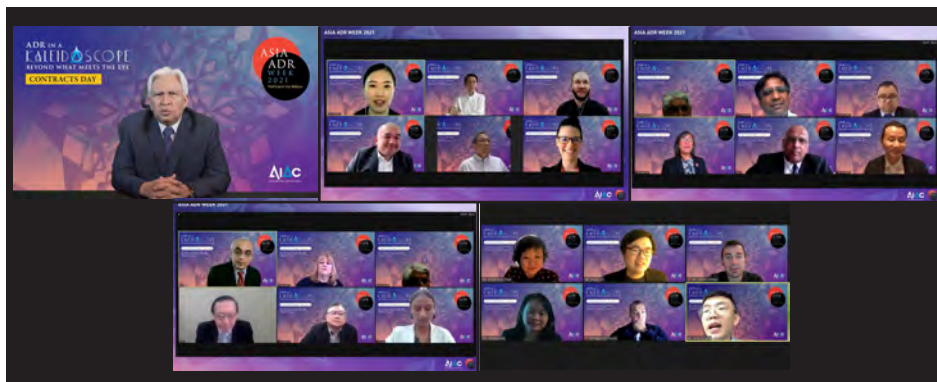


benefits and features, the balance between the rights and obligations of the customer and developer, and how disputes are best

dealt with, as well as pose their questions to the panellists.

## ASIA ADR WEEK 2021

### Contracts Day



As part of the pre-event series leading up to the Asia ADR Week 2021, the AIAC’s held its first Contracts Day on 16<sup>th</sup> August 2021. Session 1 comprised two simultaneous live streams of official launches namely ‘The Launch of the Draft AIAC TEC Standard Forms – Software Development Contract’ and ‘The Launch of the AIAC 2019 Standard Form of Building Contracts Manual’. For

Sessions 2 and 4, the AIAC held roundtable discussions under the title ‘Developments in the Technology and Construction Sectors’ where participants were placed into breakout rooms discussing the topics of Legal Tech – Modernising Legal Practice & Construction Tech – Advancements in the Construction Industry; Manufacturing and Supply Chain Issues & Dip, Duck, Dive, and

Delay – How to Handle issues of Delay; Best ADR Mechanisms & Jurisdictional Updates; TEC Standard Forms – Software Development Contract; and 2019 Standard Form of Building Contracts Manual. For Sessions 3 and 5, the AIAC made the most of the virtual Brelia platform and hosted eight concurrent workshop sessions on the topics of ‘Using the AIAC Contract Portal’, ‘Contract Drafting: Ensuring Your Bases are Covered’, ‘Contract Negotiation Skills’, ‘Formulating the Best ADR Clause’, ‘Choosing the Right Arbitrator for Your Dispute’, ‘Knowing your ADR Mechanisms Toolkit’, ‘Disputes under the AIAC SFC’, and ‘Disputes under the AIAC TEC SDC’.

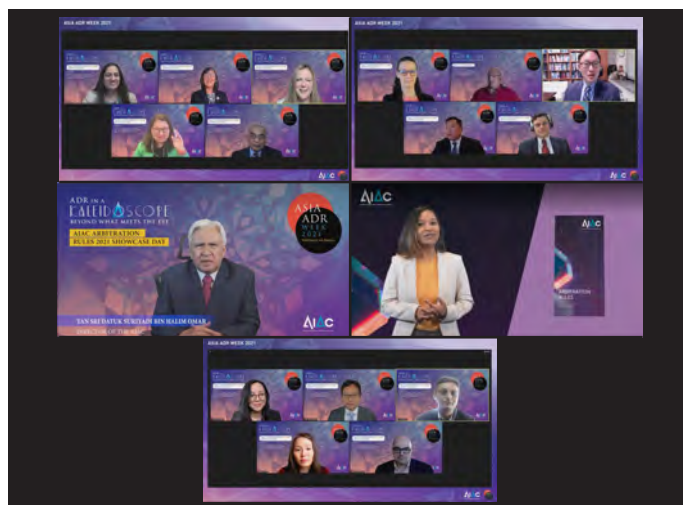
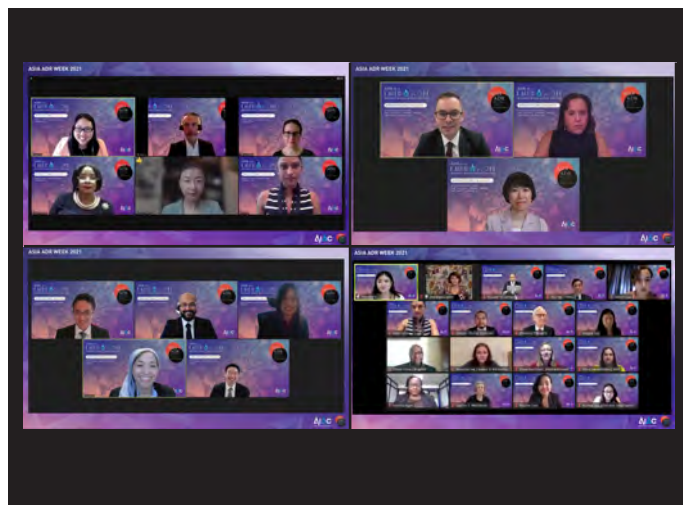
## Diversity Day

The AIAC's Contracts Day was followed by AIAC's Diversity Day on 17<sup>th</sup> August 2021, which focused on the significance of spotlighting diversity within the ADR community and comprised four engaging sessions that explored different facets of diversity in international arbitration.

The first session was a discussion forum titled 'Doing the Right Thing, the Right Way'. The second session featured an in-depth interview, 'In Conversation with Ank Santens, Yoshimi Ohara, and Simon Chapman QC'. In the third session, the AIAC hosted a roundtable discussion under the title 'More Than Meets the Eye' and closed with a working group session titled 'Checklist for Change' which hosted ADR practitioners from international arbitral organisations such as AIAC, SIAC and HKIAC, and other entities such as Zulficar & Partners and RAI, who shared their views regarding the importance of maintaining diversity in the field of ADR and methods to achieve it.

## Rules Showcase Day

In conjunction with the respective launches of the AIAC Arbitration Rules 2021, the 'AIAC Arbitration Rules 2021 Showcase Day' was held on 18<sup>th</sup> August 2021, that is the last pre-event day before the Asia ADR Week 2021. This event sought to highlight the 2021 Rules and three sessions were organised to discuss its key features. Session 1, 'The Force Awakens – Navigating the Early Stages of an Arbitration under the AIAC Arbitration Rules 2021' discussed, among others, the constitution of the tribunal in accordance with the 2021 Rules. The panellists in session 2, 'Fast but Not Furious – Unpacking the Fast Track and Emergency Arbitration Provisions' discussed the new fast track and emergency arbitration provisions and its practical effects on arbitration proceedings. The final session, 'Eye of the Tiger – Strategic and Procedural Considerations in Arbitrations', highlighted and discussed the relevant provisions under the 2021 Rules which were drafted to improve the efficacy of arbitral proceedings.



## 2021 HIGHLIGHTS

The AIAC held the 3<sup>rd</sup> edition of its flagship event, the AIAC Asia ADR Week 2021, which was themed 'ADR in a Kaleidoscope - Beyond What Meets the Eye' and spanned 3 days between the 19<sup>th</sup> to 21<sup>st</sup> August 2021.

The Asia ADR Week started with the opening ceremony where the Director of the AIAC, Tan Sri Datuk Suriyadi bin Halim Omar provided the opening remarks, touching on this year's unique theme of "ADR in a Kaleidoscope: Beyond What Meets the Eye". This was followed by a special address delivered by the Right Honourable Tun Tengku Maimun binti Tuan Mat, Chief Justice of Malaysia and subsequently by a keynote speech delivered by Lord Peter Goldsmith QC from, Debevoise & Plimpton on 'The Epoch of Contemporary ADR: the Global Interplay of International Law, Social-Politics, Human Rights and the Economy'. The day was followed by panel discussions on the following 3 topics, 'Impact of Sanctions on Arbitration: Shift to the East?' 'Starting In-House: The Role of General Counsel of Multinational Corporations in ADR' and 'Extending the Roots of Arbitration: Environment, Animal Conservation and Climate Crisis'. Additional breakout sessions organised covered the following topics: 'ADR: A Creative Resolution Tool for Capital Markets', 'Preconditions to Arbitration: Potential Concerns of Hybrid and Pathological Clauses', and 'Quo Vadis, Malaysia? Revisiting Third Party Funding'.



On Day 2 of Asia ADR Week 2021, the AIAC hosted 3 panel discussions on the following topics 'Cross Border Collaborations and Partnership of Different Arbitration Institutions Worldwide', '*Propria Persona* in International Commercial Arbitration: Does the Robe Matter?', and 'Watts in Arbitration? The Development of Energy Arbitration'. The day closed off with a Rapid-Fire Debate where speakers discussed the topics of 'The Waves of Merlion: The Future of Mediation Post-Singapore Convention', 'Are We Out of a Job: Relevance of Arbitration with the Emergence of Specialised Courts', 'Chasing Down the Rabbit Hole: An Elusive Appeal over Principle of Finality in Arbitration', 'The Tension between Transparency vs Confidentiality in International Arbitration',

'Conflicts of Interest based on Nationality and Social Circles: Is Big Brother Watching?', and 'Master Recordings Disputes: Arbitration as a Remedy to Perennial Malady'.

The third and final day of the Asia ADR Week 2021 was designated as the AIAC CIPAA Conference Day. The day consisted of panel discussions and breakout sessions on the following topics: 'A Voyage Around an Adjudicator's Jurisdictions', 'Interpreting Section 25 of CIPAA: Are the Parameters Undefined?', and 'Shopping for Adjudicators: A Search for a More Favourable Decision'.

## AIAC SEPTEMBER SPORTS MONTH

In September 2021, the AIAC organised the 4<sup>th</sup> edition of its annual September Sports Month themed, "Rolling with the Punches". The event started with a special nod to the 2020 Olympics, with a webinar titled 'United by Sports Arbitration: A Reflection on the Tokyo Olympics 2020' where the audience were given a sneak peek into the world of Olympic ad-hoc arbitration. Throughout September, the AIAC organised

four further weekly sports-themed webinars, namely: "A Year into COVID-19 – The Strain on the Sports Industry and Athletes' Mental Health", "The Sun Yang Case – The Implications of the Swiss Tribunal's Decisions", "Women in Sports: Above the Quota", and "The Standard of Proof in Anti-Doping Arbitrations: Understanding Comfortable Satisfaction".

Additionally, the AIAC conducted two virtual workshops, "Disputes to CAS: Understanding the Sports Arbitration Framework", and "Becoming a CAS Mediator: An Asian Perspective". Prominent arbitrators and mediators in the sports ADR industry were featured as guest speakers and tutors.



The AIAC also introduced its "Virtual Fitness Sessions". This 45-minute Zoom fitness session series was held every September-Sunday, and each session featured a different style of workout. The AIAC collaborated with ADR legal practitioners, who share an enthusiasm and passion for fitness. There were four sessions in total, namely 'Virtual CrossFit Workout' by Lesley Lim (MahWengKwai & Associates), 'Total Body Workout' by Janet Chai (Chooi & Company + Cheang & Ariff), 'Yoga: Align + Flow' by Crystal Wong Wai Chin (Lee Hishammuddin Allen & Gledhill), and 'Hustle HIIT Out' by Ivan Frederic (Chooi & Company + Cheang & Ariff).

To conclude the 4<sup>th</sup> edition of the AIAC September Sports Month, the AIAC hosted a mock debate, "The Great Debate: The Sequel" where sports arbitration practitioners were given the opportunity to present their case in relation to a fictional moot problem drafted by the AIAC. This month-long event drew in a varied crowd of sports arbitration practitioners as well as sports enthusiasts who were eager to hear about the recent developments in sports arbitration.



## AIAC CONTINUING COMPETENCY DEVELOPMENT (CCD) WORKSHOP SERIES

In 2021, the AIAC launched the first edition of its inaugural Adjudicators Continuing Competency Development ("CCD") Workshop Series. The CCD Workshop Series is designed to be interactive and helpful for both legally trained and non-legally trained individuals who regularly appear and participate in proceedings under the Construction Industry Payment and Adjudication Act 2012. The focus topics of the CCD Workshop Series were selected with the aim of finessing the ability of AIAC-empanelled adjudicators to deal with all technical, procedural and substantive matters as well as improve their decision drafting technique.

- Adjudication Case Law Update (30<sup>th</sup> January 2021)
- Understanding Financial and Payment Documentation in Adjudication (27<sup>th</sup> February 2021)
- Effective Adjudication Decision Writing Skills (27<sup>th</sup> March 2021)
- Practical Tips on Handling Particular Procedural Issues in Adjudication (24<sup>th</sup> April 2021)
- Dealing with Loss and Expense Claims in Adjudication (29<sup>th</sup> May 2021)
- Addressing Completion, Handing Over and Defective Issues (26<sup>th</sup> June 2021)
- Handling Jurisdictional and Natural Justice Challenges/Issues (31<sup>st</sup> July 2021)
- Addressing Set-off Claims for LAD, Non-Completion, and EOT in Adjudications (28<sup>th</sup> August 2021)
- Dealing with Claims Involving Insurances, Performance Bonds, Retention Sums, Third Party Works, and Design Issues (25<sup>th</sup> September 2021)
- Understanding the AIAC's Administrative Procedures, Circulars, Rules and Regulations in Adjudication (29<sup>th</sup> October 2021)



## 2021 HIGHLIGHTS

### AIAC ARBITRATION-IN-PRACTICE (AIP) WORKSHOP SERIES

In 2021, alongside the CCD Workshop Series, the AIAC also launched its first inaugural Arbitration-In-Practice ("AIP") Workshop Series, organised in collaboration with the Chartered Institute of Arbitrators (Malaysian Branch) ("CIArb"). The AIP Workshop Series featured several respected arbitrators as guest lecturers and tutors, and were open to all, from practitioners yet to receive their first arbitral appointment as well as seasoned arbitrators. The AIP Workshop Series

comprised seven workshops and took place between the months of June and November 2021.

- Basic Principles & Obligations as Arbitrator (12<sup>th</sup> June 2021)
- Due Diligence prior to and post First Preliminary Meeting (10<sup>th</sup> July 2021)
- Determination of Jurisdictional Issues/Challenge & pre Hearing Considerations (14<sup>th</sup> August 2021)
- Hearing and Witness Examination (11<sup>th</sup>

September 2021)

- Joinders, Consolidation & Interim Measures, & Emergency Arbitrator (9<sup>th</sup> October 2021)
- Awards (13<sup>th</sup> November 2021)
- Case Law Update (4<sup>th</sup> December 2021)

### ADR ONLINE: AN AIAC WEBINAR SERIES

Responding to the global interest surrounding the Centre's capacity building initiatives in 2020, the AIAC organised one special webinar for each month of 2021 as an ongoing continuation of its ADR Online: An AIAC Webinar Series. The ADR Online Webinars hosted virtually by the AIAC during the year 2021 are listed below:

- Formulating a Successful COVID-19 Claim under Middle East & South Asia Construction and Engineering Contracts (26<sup>th</sup> January 2021)

- To Be or Not To Be – Stare Decisis v. Public Policy (9<sup>th</sup> February 2021)
- Another Proactive Step – The AIAC Pro Bono Mediation Initiative (16<sup>th</sup> March 2021)
- To Disclose or Not to Disclose, that is the Question – A Dialogue on Halliburton v Chubb (20<sup>th</sup> April 2021)
- A Tale of Synergies – Uncovering Islamic Finance and Arbitration (10<sup>th</sup> June 2021)
- Space Jam: The Commercialisation of Space & Related Disputes (29<sup>th</sup> June

2021)

- RCEP Investor-State Dispute Settlement Mechanism: A Calculated Risk or a Pure Gamble (28<sup>th</sup> July 2021)
- Bridging Theory and Practice: The Footprint of Arbitration to Resolve Environmental Disputes in the Time of Decarbonisation? (26<sup>th</sup> October 2021)
- Exploring Art Disputes: Beyond Commercial Arbitration (25<sup>th</sup> November 2021)
- Medical Mediation: Injecting Trust in the Industry (9<sup>th</sup> December 2021)

### MIDDLE EAST AND SOUTHEAST ASIA WEBINAR SERIES

In conjunction with a historic Cooperation Agreement signed by the AIAC and the Abu Dhabi Global Market Arbitration Centre ("ADGMAC") on 3<sup>rd</sup> February 2021, a special webinar series was launched to provide the opportunity for the arbitral community from the regions of the Middle East and Southeast Asia, to network, and foster participation in active discussions. The AIAC & ADGMAC Middle East and Southeast

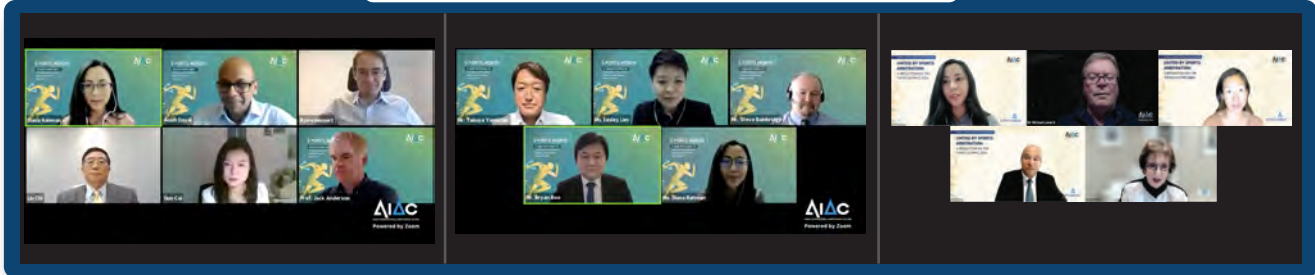
Asia ("MESEA") Webinar Series comprised the five following webinars:

- i-Arbitration Rules in MESEA (19<sup>th</sup> May 2021)
- Third Party Funding: A First for Malaysia But a Leap for Islamic Investors in MESEA! (16<sup>th</sup> June 2021)
- Construction and Infrastructure Dispute Resolution in MESEA (14<sup>th</sup> July

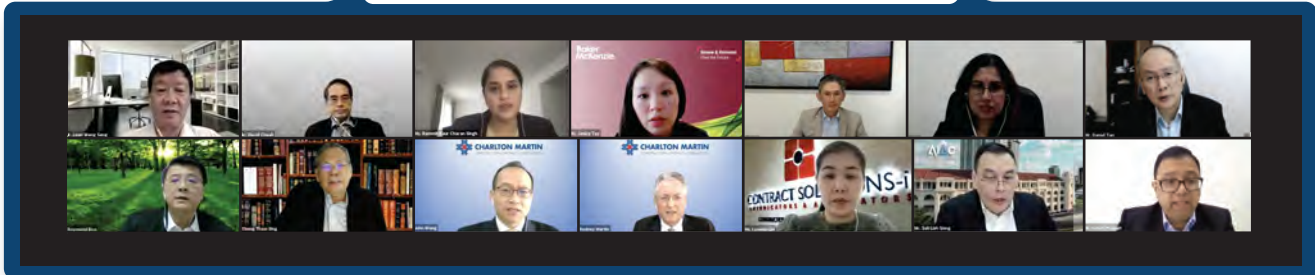
2021)

- Renewable and Non-Renewable Energy Dispute Resolution in MESEA (27<sup>th</sup> October 2021)
- Disputes in Fintech and Complex Technology Sector in MESEA (22<sup>nd</sup> November 2021)

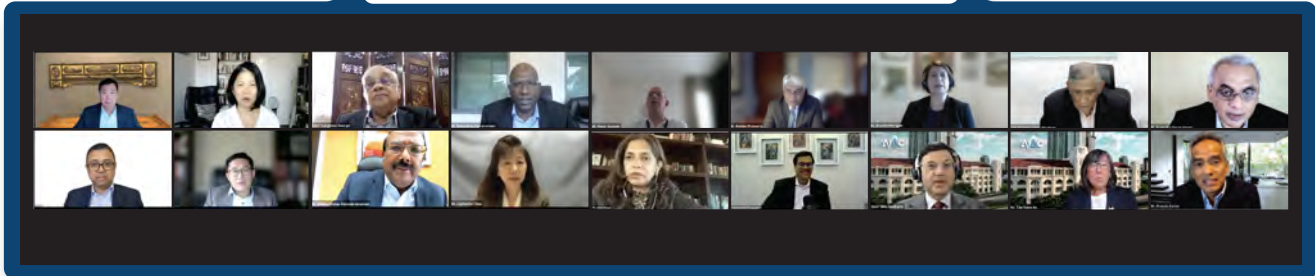
### AIAC SEPTEMBER SPORTS MONTH



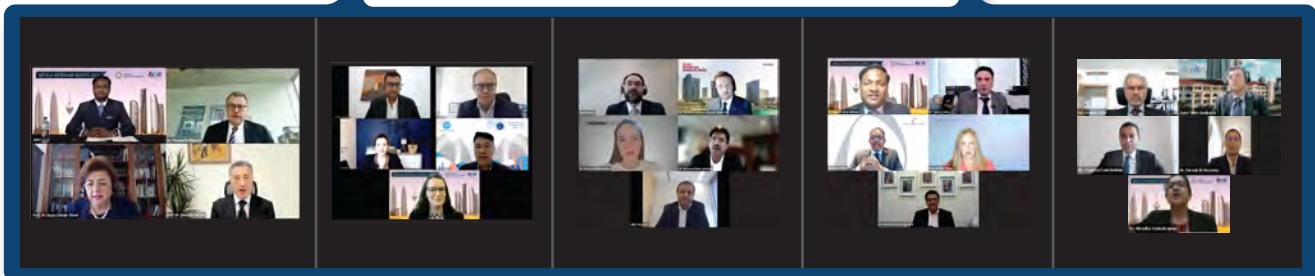
### AIAC CCD WORKSHOP SERIES



### AIAC AIP WORKSHOP SERIES



### MESEA WEBINAR SERIES



## AIAC DIVERSITY IN ARBITRATION WEEK 2021

The AIAC was pleased to launch its second edition of Diversity in Arbitration Week 2021, this time titled "Charting the Way". This special edition showcased 3-4 daily interviews focusing on the personal journeys of featured arbitration practitioners in embracing diversity and overcoming any adversity to reach the

height they have in international arbitration. This included:

- Adventures of the Captain Marvels of International Arbitration (5<sup>th</sup> July 2021)
- The World is Your Oyster – A Reflection on Professional Diversity (6<sup>th</sup> July 2021)
- The Rise of the Young Arbitrator – A

Tale of Trials and Triumphs (7<sup>th</sup> July 2021)

- Are We Still #ChartingTheWay? - A Live Debate (8<sup>th</sup> July 2021)
- Tackling Intersectionality and Beyond - #LetsGetReal (9<sup>th</sup> July 2021)

## AIAC OUTREACH AND CAPACITY BUILDING INITIATIVES

The AIAC is a strong believer in empowering both young and experienced practitioners and other members of the wider ADR community with the educational and practical tools to gain a greater appreciation of the ADR services available in Malaysia. In this pursuit, the AIAC organised, hosted and endorsed a number of events throughout 2021, both within Malaysia and overseas, including the following:

- ISDS: Is Spring Coming? (20<sup>th</sup> January 2021)
- Careers Roundtable in International Arbitration (28<sup>th</sup> January 2021)
- Career Pathways in Arbitration (30<sup>th</sup> January 2021)
- Women in Construction Law #ChoosetoChallenge (12<sup>th</sup> March 2021)
- What's Inside the Treaty Spaghetti Bowl? A Perspective of International Commercial Arbitration (30<sup>th</sup> March 2021)
- Effective and Efficient ADR in the time of COVID-19 (6<sup>th</sup> April 2021)
- Alternative Dispute Resolution: How this Lifeline Handles Disputes for Cross-Border Corporations (11<sup>th</sup> May 2021)
- RICS - AIAC Online Mediation Training Programme (31<sup>st</sup> May 2021)
- The Art of Advocacy (2<sup>nd</sup> June 2021)
- CIPAA Simplified: A Practical Guide to Construction Adjudication (17<sup>th</sup> June 2021)
- Olympism in Life after Sports (22<sup>nd</sup> July 2021)
- Key Considerations in Commercial Litigation", Multimedia University's Online Legal Forum "Understanding Commercial Litigation (24<sup>th</sup> July 2021)
- ALSA International Moot Mediation (25<sup>th</sup> July 2021)
- Fireside Chat on International Arbitration Past, Present and Future (29<sup>th</sup> July 2021)
- LAWASIA International Moot Competition - National Rounds (10<sup>th</sup> September 2021)
- COVID-19 Act 2020: Is it Practical and Effective? (8<sup>th</sup> October 2021)
- State of the Domain Name Industry - Challenges and Opportunities, MYNIC Domain Name System Forum (14<sup>th</sup> October 2021)
- AIAC YPG & YAWP Workshop - Breaking Down Barriers: An Interactive Workshop on Cross-Cultural Communication in International Arbitration (20<sup>th</sup> October 2021)
- LAWASIA International Moot Competition - International Rounds (21<sup>st</sup> October 2021)
- Asian International Arbitration Centre Rules, White & Case Vis Colloquium (26<sup>th</sup> October 2021)
- Arbitration as an Alternative Dispute Resolution (9<sup>th</sup> November 2021)
- AIAC Pre-Moot Webinar Series - What's The Problem? Unveiling the Vis Moot Problem with the AIAC Arbitration Rules 2021 (9<sup>th</sup> November 2021)
- CIARB Indonesia - Vis Coaching Clinic (14<sup>th</sup> November 2021)
- Lecture on the AIAC Arbitration Rules 2021, Julius-Maximilians-Universität of Würzburg, Germany (15<sup>th</sup> November 2021)
- A Broad Spectrum of Opportunities - Towards Advancing Islamic Arbitration (16<sup>th</sup> November 2021)
- Novice Arbitration Mooting Competition (11<sup>th</sup> November 2021)
- Embracing Changes in Law and Technology Conference 2021 (25<sup>th</sup> November 2021)
- 2021 Summit on Commercial Dispute Resolution in China with Beijing Arbitration Commission and Beijing International Arbitration Center (26<sup>th</sup> November 2021)
- RICS - AIAC Online Mediation Training Programme (7<sup>th</sup> December 2021)

# 2021 NEWS

Upon Tan Sri Datuk Suriyadi bin Halim Omar taking office as the Director of the AIAC, the Centre issued several circulars in 2020 and 2021 with the aim of disseminating information and updates to its stakeholders. The same is summarised below.

<b>AIAC CIPAA Circular 07</b> (1 <sup>st</sup> December 2020)	<b>Competency Standard and Criteria of Adjudicators under the CIPAA (regulation 4 of the CIPAA)</b>  This circular clarifies that applications for empanelment as an adjudicator shall be considered where the applicant possesses a minimum of seven (7) years cumulative experience in the building and construction industry, which may be acquired within Malaysia or overseas.
<b>AIAC CIPAA Circular 08</b> (1 <sup>st</sup> December 2020)	<b>Payment of Adjudication Costs in CIPAA Proceedings.</b>  This circular clarifies the prevailing procedures presently adopted by the AIAC with regard to the payment of costs related to adjudication. The circumstances envisaged in the circular include the adjudicator's power to withhold release of the adjudication decision, the determination of withdrawal, setting aside and termination costs and parties' liability to bear such adjudication costs.
<b>AIAC CIPAA Circular 1B</b> (1 <sup>st</sup> January 2021)	<b>The Scope and Prospective Application of the CIPAA and the Administration of Adjudication Cases by the AIAC</b>  This circular clarifies that the AIAC has ceased to register payment disputes arising from contracts executed prior to 15 <sup>th</sup> April 2014, following the Federal Court decisions in both <i>Jack-in Pile (M) Sdn Bhd v Bauer (Malaysia) Sdn Bhd and Another Appeal</i> [2020] 1 MLJ 174 and <i>Ireka Engineering &amp; Construction Sdn Bhd v PWC Corporation Sdn Bhd and Other Appeals</i> [2020] 1 MLJ 311.
<b>AIAC CIPAA Circular 5A</b> (1 <sup>st</sup> January 2021)	<b>The Procedure for Implementation of SST in CIPAA Proceedings Administered by the AIAC</b>  This circular clarifies that Sales and Service Tax at the fixed rate of 6% shall be applicable to the provision of services by the AIAC and adjudicators in relation to all CIPAA proceedings.
<b>AIAC CIPAA Circular 09</b> (1 <sup>st</sup> January 2021)	<b>The Calculation of Working Days under the CIPAA</b>  This circular clarifies the definition of "Working Days" under the CIPAA following the High Court decision in the case of <i>Skyworld Development Sdn Bhd v Zalam Corporation Sdn Bhd and Other Appeals</i> [2019] MLJU 162.
<b>AIAC CIPAA Circular 10</b> (1 <sup>st</sup> January 2021)	<b>The AIAC Continuing Competency Development Scheme for Adjudicators under the CIPAA</b>  This circular introduces the launch of the AIAC's Continuing Competency Development ("CCD") Scheme aimed to equip adjudicators with the necessary knowledge to address legal, technical, and procedural issues that may arise during the course of adjudication proceedings. Participants of the CCD workshops will accumulate "CCD Points".

## 2021 NEWS

<b>AIAC Arbitration Circular 01</b> (18 <sup>th</sup> December 2020)	<b>The Appointment Fee in Ad Hoc Arbitration Matters</b>  This circular clarifies that the fee charged for the appointment of arbitrators in ad hoc arbitration matters by the Director of the AIAC is RM1,590.00 (inclusive of SST) for domestic matters or USD795.00 (inclusive of SST) for international matters.
<b>AIAC Arbitration Circular 02</b> (26 <sup>th</sup> January 2021)	<b>The Collection of Advance Deposits on Costs in Arbitrations Administered by the AIAC pursuant to the AIAC Arbitration Rules 2018</b>  This circular clarifies that the AIAC shall generally collect deposits in three tranches (that is, the Provisional Advance Deposit, Advance Preliminary Deposit and Additional Deposit, if any), and the Director of the AIAC has the discretion and is authorised to determine the issue of directing separate deposits and the issue of determination of arbitral costs.
<b>AIAC Arbitration Circular 03</b> (26 <sup>th</sup> January 2021)	<b>Fee Agreements in AIAC Administered Arbitration Proceedings</b>  This circular clarifies the scope of Fee Agreements under the suite of AIAC Arbitration Rules vis-à-vis Fee Agreements may encompass the Tribunal and parties' agreement in respect of the sum total of the Tribunal's fees and expenses, and the stages of disbursements of the Tribunal's fees and expenses.

### THE AIAC ARBITRATION RULES 2021 (EFFECTIVE FROM 1<sup>ST</sup> AUGUST 2021)

The AIAC Arbitration Rules 2021 ("2021 Rules") was launched on 1<sup>st</sup> August 2021 and showcases significant departure from the AIAC Arbitration Rules 2018, through the confluence of the UNCITRAL Arbitration Rules 2013 with the AIAC's own provisions. Responding to the current trends in arbitration proceedings to promote transparency, party's autonomy as well as time and cost savings, the 2021 Rules feature new provisions for the Fast Track Procedure - which builds on the key elements of the AIAC Fast Track Arbitration Rules 2018 as well as Summary Determination Procedure. The 2021 Rules also revamp the provisions related to the use of third-party funding, guides and definitions, commencement of arbitration, joinder, consolidation, arbitrator appointments, emergency arbitration, technical review, confidentiality, and costs and deposits to provide greater clarity to users on the operation of the 2021 Rules. A commentary on the 2021 Rules has been published by the AIAC and is available to purchase for those who are interested.

### THE AIAC PROTOCOL ON VIRTUAL ARBITRATION PROCEEDINGS (VAP PROTOCOL) AND PROTOCOL ON VIRTUAL MEDIATION PROCEEDINGS (VMP PROTOCOL)

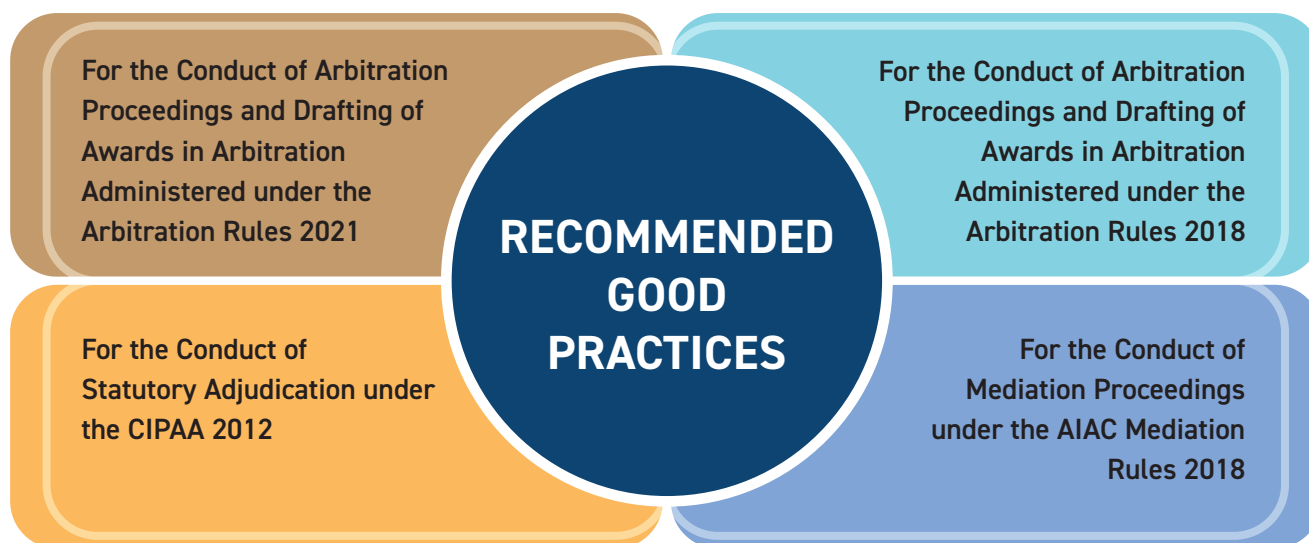
On 25<sup>th</sup> October 2021, the AIAC released its AIAC Protocol on Virtual Arbitration Proceedings ("VAP Protocol") and the Protocol on Virtual Mediation Proceedings ("VMP Protocol"). The VAP and VMP Protocols are designed to govern the conduct of virtual hearings by providing thorough guidance and provisions on the process and procedure of virtual hearings. Both Protocols are suitable for users who wish to implement virtual hearings in their arbitrations and mediations proceedings. Users may also develop their own procedures by varying or using the VAP and VMP Protocols based on their needs.

## **AIAC I-ARBITRATION RULES 2021 (EFFECTIVE FROM 1<sup>ST</sup> NOVEMBER 2021)**

The AIAC i-Arbitration Rules 2021 ("i-Arbitration Rules") was launched on 1<sup>st</sup> November 2021. The i-Arbitration Rules showcase a new streamlined and harmonious structure through consolidating the UNCITAL Arbitration Rules 2013 into its main body. Aiming to reflect international best practices and standards for Islamic arbitrations, the i-Arbitration Rules feature new provisions for the Fast Track Procedure, Shariah-guided third-party funding and appointment of Shariah Experts. It also revamps the provision related to Notice of Arbitration, Response to the Notice of Arbitration, Registration of Arbitration, Reference to Syariah Council, Powers of Arbitral Tribunal to award Ta'widh and Gharamah, and expenses of the arbitrator to enable the application of Shariah principles throughout the proceedings. A commentary on the i-Arbitration Rules has been published by the AIAC and is available to purchase for those who are interested.

## **RECOMMENDED GOOD PRACTICES**

In response to the requests from our stakeholders in the ADR community, the AIAC has launched a suite of recommended good practices which serve as a guideline to appointed neutrals in their conduct of ADR proceedings. These recommended good practices consist of a comprehensive checklist for the appointed neutrals where it covers procedure from the beginning of a proceeding (i.e., prior to an appointment) till the end of the proceedings. This checklist was provided to ensure that the appointed neutrals satisfy the prescribed statutory requirements and procedural requirements under the relevant rules and procedures throughout the proceedings. The recommended good practices also provided guidelines to arbitrators on drafting of an award under both the AIAC Arbitration Rules 2018 and Arbitration Rules 2021.



# PRODUCTS & SERVICES







# AIAC PRODUCTS

In keeping with the ever evolving ADR landscape, the AIAC has reinvigorated its arbitration rules, the most recent of which were launched in 2021. The most recent editions of all products, which were tailored to the modern demands of the dispute resolution industry, are explained below.

## ARBITRATION



The AIAC Arbitration Rules 2021 incorporate improvements specially tailored to streamline the administration of arbitrations. Notable highlights include the merging of Part I and Part II of the AIAC Arbitration Rules (2018) for a more streamlined and coherent set of procedural rules, a new summary determination mechanism, the newly embedded Fast Track Procedure, enhanced clarity on the deposit collection process and the release of interim fees, and strengthened confidentiality provisions, amongst others. Other key features of the 2021 Rules, include a revamped appointment procedure incorporating a provision for multi-party appointments, new provisions on impartiality and independence as well as the conduct of proceedings, new provision on the replacement of the arbitral tribunal, revised emergency arbitration procedures, revamped joinder and consolidation provisions which permit the commencement of multi-contract arbitrations, and expansive provisions relating to the closure of proceedings, technical review and the drafting of arbitral awards.

## i-ARBITRATION



Responding to the market demand for a flexible, yet Shariah-guided dispute resolution mechanism, the AIAC i-Arbitration Rules 2021 embodies the key principles and practices found in the Arbitration Rules, the distinguishing feature being that the former includes a specific provision for the reference of issues of Shariah law to the relevant Shariah Advisory Council or a Shariah expert for determination. Being modelled after our Arbitration Rules, the AIAC i-Arbitration Rules 2021 underwent similar revisions to ensure consistency in interpretation, integrity of the arbitral proceedings and enhanced party autonomy, and include key features of the 2021 Rules, such as the newly embedded Fast Track Procedure, a revamped appointment procedure incorporating a provision for multi-party appointments, revised emergency arbitration procedures, a new summary determination procedure, revamped joinder and consolidation provisions which permit the commencement of multi-contract arbitrations, and expansive provisions relating to the closure of proceedings, technical review and the drafting of arbitral awards.

## ADJUDICATION



The Construction Industry Payment and Adjudication Act 2012 (the "CIPAA") is a legislative mechanism for the speedy resolution of payment disputes in the construction industry, specifically for projects located in Malaysia. Upon the coming into force of the CIPAA on 15<sup>th</sup> April 2014, the AIAC plays a key role as the default appointing and administrative authority under the CIPAA. In this capacity, the AIAC not only administers adjudication proceedings and sets competency standards and criteria for adjudicators, but it also determines the standard terms of appointment of adjudicators and fees for the services of adjudicators. Additionally, the Centre also issues periodic circulars to the community in response to court judgments and industry or legislative updates. This serves to streamline the CIPAA adjudication process and provide guidance to stakeholders.



## MEDIATION



The AIAC Mediation Rules 2018 provide a flexible framework for the conduct of mediation, yet effectively deal with particularly complex situations that may arise. A fusion of mediation and arbitration called Mediation-Arbitration ("Med-Arb") is also available under the AIAC Arbitration Rules 2018, allowing parties to initiate mediation before resorting to arbitration. If the parties are unable to resolve their dispute through mediation, they may then attempt to settle their dispute through arbitration. The AIAC Mediation Rules 2018 are also available in Chinese.

## DOMAIN NAME DISPUTE RESOLUTION



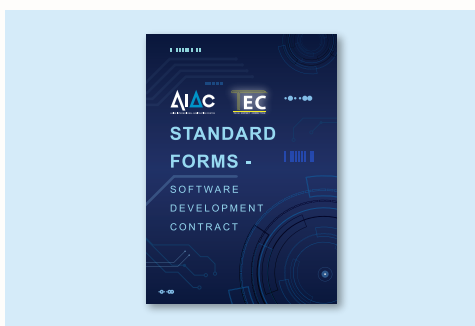
The AIAC provides a wide variety of services in relation to the domain name disputes. It administers disputes under the Uniform Domain-Name Dispute-Resolution Policy ("UDRP") mechanism and the Uniform Rapid Suspension System ("URS"). It also serves as an exclusive dispute resolution services provider under the Malaysian Network Information Centre's Berhad ("MYNIC") policy for '.my' domain names. The AIAC's Guide to Domain Name Dispute Resolution contains notes on the policies, rules, procedures and the applicable timelines and stages for the UDRP and URS processes, as well as MYNIC's Domain Name Dispute Resolution Policy ("MYDRP") and MYNIC's Sensitive Name Dispute Resolution Policy ("SND RP").

## AIAC STANDARD FORM OF BUILDING CONTRACTS



The AIAC's Standard Form of Building Contracts ("SFCs") is a suite of standard form contracts that aims to address the needs of the stakeholders in the Malaysian construction industry. The SFCs recognisable model strives to be user-friendly, effective, and current while promoting continuity of works, accountability, and transparency. The AIAC SFCs is the first-ever CIPAA-compliant suite of building contracts focusing on the prevention of disputes. However, in the event of a dispute, the AIAC SFCs provide the parties with various tailor-made alternative dispute resolution mechanisms. The implementation of such provisions encourages the parties to continue construction works through the dispute, thus preventing delays and deadlocks which can lead to unfinished projects. The AIAC SFCs are accessible for free and at no cost. They can be found at <http://sfc.aiac.world>. The online platform allows its users to customise the AIAC SFCs to their specific needs.

## AIAC STANDARD FORM – SOFTWARE DEVELOPMENT CONTRACT



The AIAC's Standard Forms – Software Development Contract ("SFs-SDC") is a standard form contract that aims to address the needs of the stakeholders in the Malaysian technology industry. The SF-SDC aims to provide an easy-to-use and helpful template, encompassing the best industry practices and ensuring that the rights and obligations of the stakeholders involved are balanced. In the unfortunate event of a dispute, the AIAC SFs-SDC provide the parties with various tailor-made alternative dispute resolution mechanisms. The AIAC SFs-SDC is accessible for free and at no cost. They can be found at <http://sfc.aiac.world>. The online platform allows its users to customise the AIAC SFs-SDC to their specific needs.

## AIAC SERVICES



### Fund Holding Arrangements

For the convenience of the parties and tribunals in ad hoc arbitration matters, the AIAC often acts as a deposit holder pursuant to the written agreement concluded between the Centre, members of the tribunal and the parties. The tribunal's fees and expenses are disbursed in accordance with the agreed schedule and tribunal's directions. All payments can be processed in multiple currencies.



### Tribunal Secretaries

The exponential growth of arbitration in Malaysia has created a demand for tribunals requiring secretarial services. In 2019, the AIAC started appointing tribunal secretaries in arbitration matters administered under its rules. A written request for a tribunal secretary can be made by a tribunal to the Director of the AIAC, whereby any appointment of a tribunal secretary is made by the Director on a case-by-case basis.



### Alternative Hearing Venue

The AIAC continuously expands the list of its partner institutions to make its state-of-the-art facilities available as an alternative hearing venue to a wider audience. As of 2019, more than 25 collaboration agreements and memoranda of understanding signed with international institutions include provisions referring to the AIAC as an alternative hearing venue. Examples of our long-standing venue partnerships include the International Chamber of Commerce ("ICC"), the International Centre for Settlement of Investment Disputes ("ICSID"), the Permanent Court of Arbitration ("PCA") and the Court of Arbitration for Sport ("CAS").



### Juris Library

The AIAC's facilities are also famous for its Juris library which houses a wide variety of books, journals, case reports, etc. The Juris library is accessible to the public, and its usual working hours are 9:00 a.m. to 5:00 p.m., Monday to Friday. Should the tribunal or the parties need to use the library's resources and available research databases, extended working hours can be considered on a case-by-case basis. Printing, scanning, and photocopying services are also available upon request. To schedule an appointment, please drop an email to [library@aiac.world](mailto:library@aiac.world) or dial +60 (3) 2271 1000.



### Transcribing Services and Video Conferencing

The AIAC has recently equipped all extra-large, large and medium-sized hearing rooms with advanced and affordable transcription systems. The Centre also offers a variety of video conferencing options and provides IT support to its users free of charge.



### Virtual Proceedings

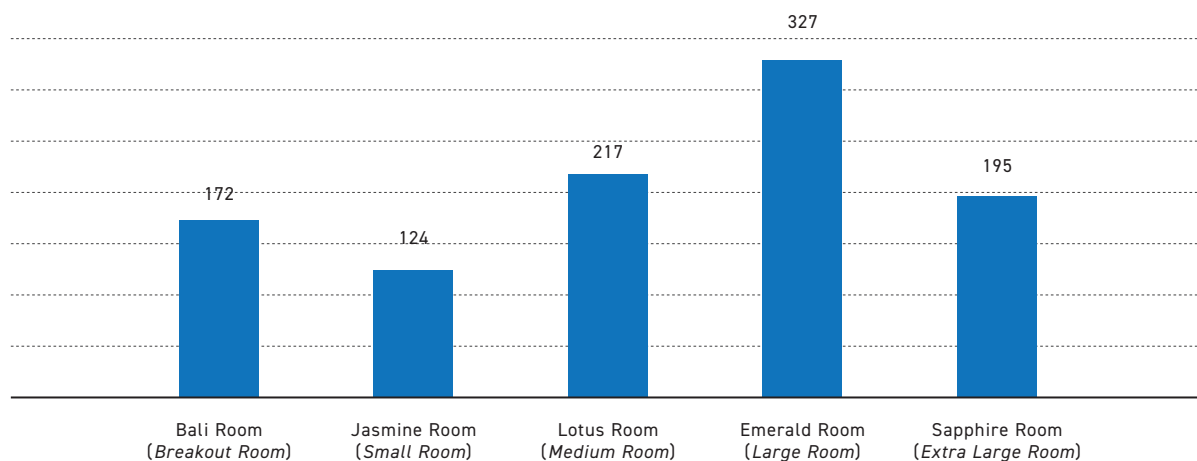
The AIAC is able to assist in the conduct of virtual meetings and/or virtual hearings catering to the specifications and preferences of the parties and tribunals. For further information regarding the AIAC's virtual hearing solutions, please contact the AIAC Reservations Team at [reservations.team@aiac.world](mailto:reservations.team@aiac.world).

## AIAC STATE-OF-THE-ART FACILITIES

The AIAC is widely recognised as a premier hearing centre in Asia. It is located in one of Malaysia's most iconic heritage buildings, the Bangunan Sulaiman, and sits strategically in the heart of Kuala Lumpur's golden triangle. Our state-of-the-art facilities reflect our drive to continuously offer all-inclusive quality experiences. The AIAC offers 24 hearing rooms which can be categorised into 4 types: Sapphire Room (Extra Large – 50 pax); Emerald Room (Large – 22 pax); Lotus Room (Medium – 14 pax); Jasmine Room (Small – 10 pax) and Bali Room (Breakout – 4 to 6 pax). The AIAC also offers the

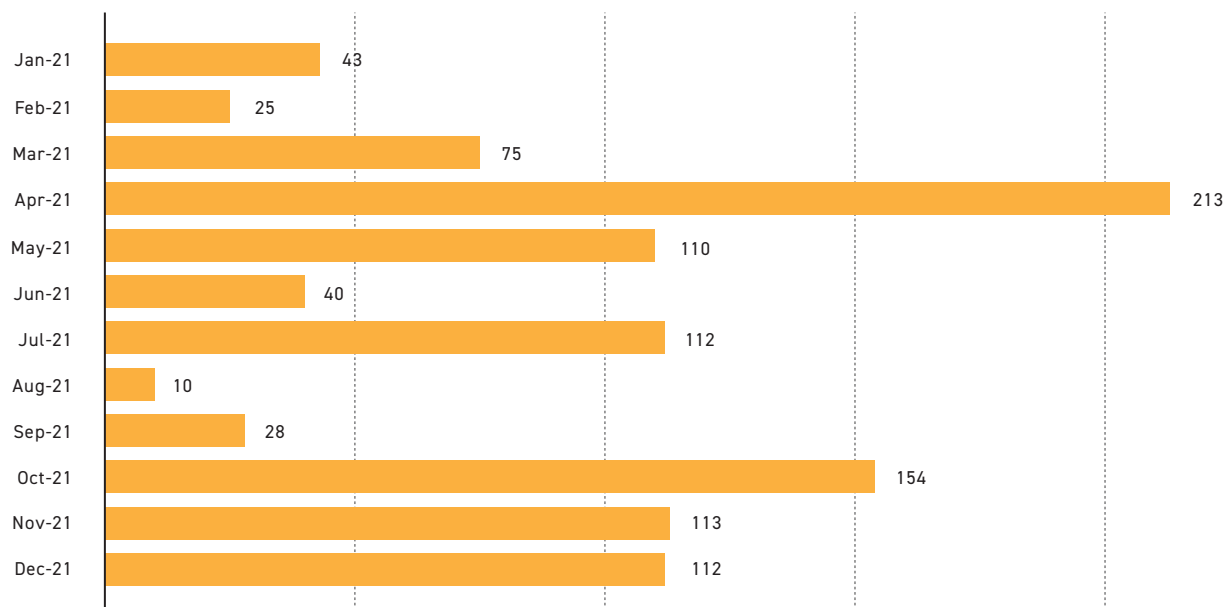
Regent Auditorium (200 pax), the Rafflesia Arbitrators' Lounge, the Juris ADR & Construction Law Library, the Sutera Private Dining Room, and an alfresco Lavender Café.

In previous years, our users on average had a preference for small hearing rooms. However, since reopening our premises in 2021, given that due to COVID-19, the Centre has in place social distancing and capacity restriction measures, our users on average have preferred medium and large hearing rooms.



The chart below illustrates the room bookings made throughout the year. The busiest months of the year vary each year. In 2017, February was marked as the busiest month whilst in 2018, January and March were considered the busiest. In 2019, the month with the greatest level of activity was again February. In 2020, the Malaysian Government placed restrictions on the convening of

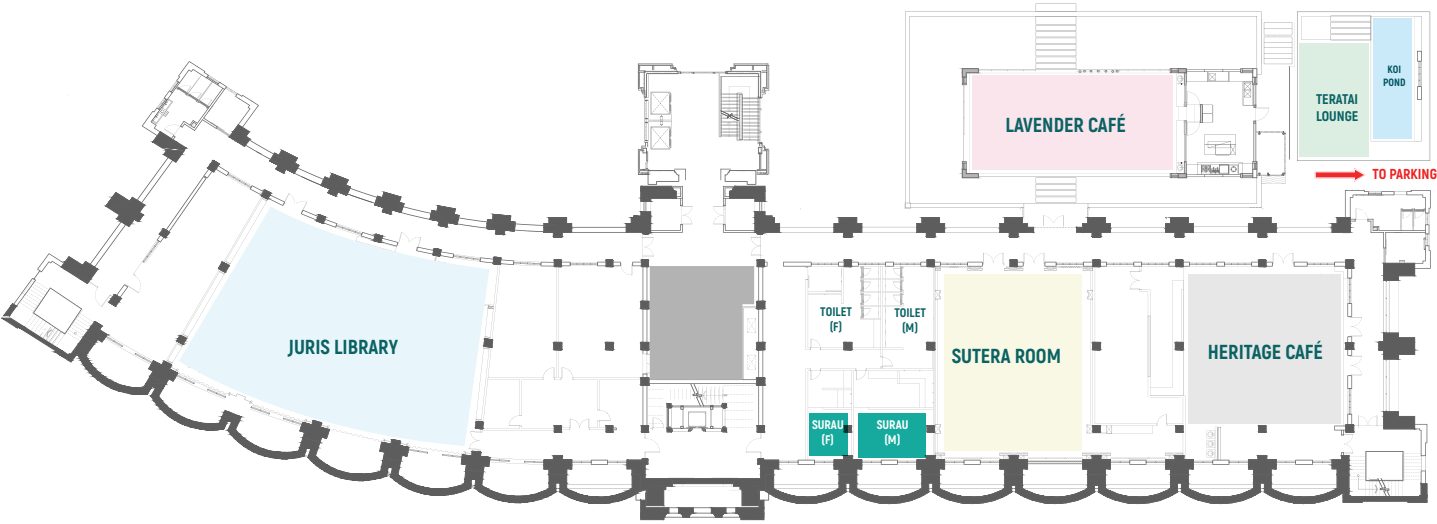
physical gatherings to limit the spread of the COVID-19 pandemic. This resulted in the AIAC being unable to make its hearing facilities available to the public for certain portions of the year. In 2021, April was the busiest month followed by October. Overall, it appears that the 1<sup>st</sup> quarter usually sees significant activity each year.



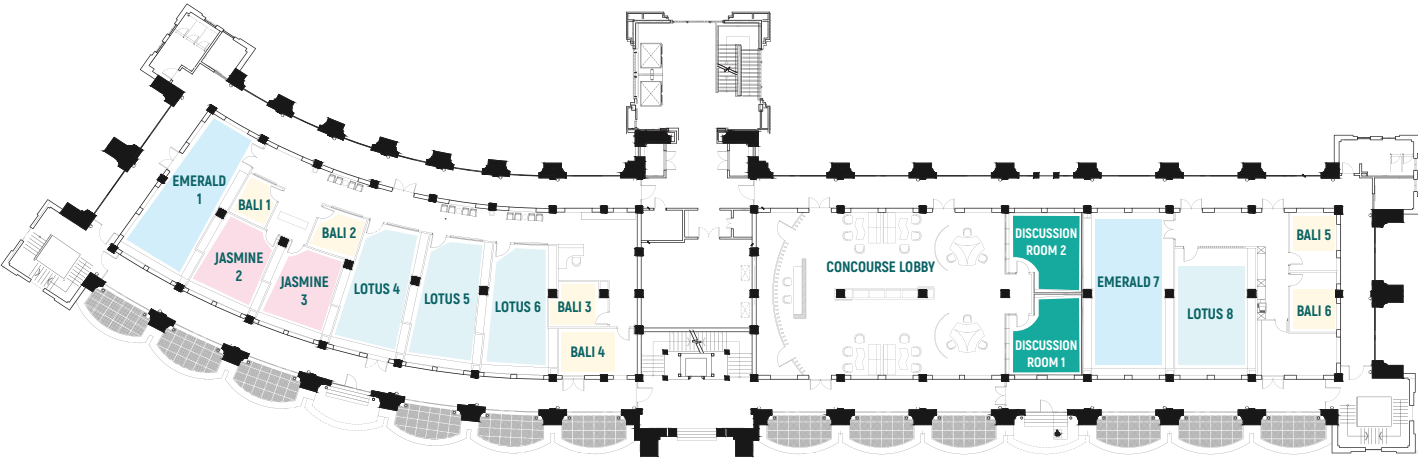
# AIAC STATE-OF-THE-ART FACILITIES

The layout images below showcase the locations of the AIAC hearing rooms in the Bangunan Sulaiman building.

## LOWER GROUND FLOOR

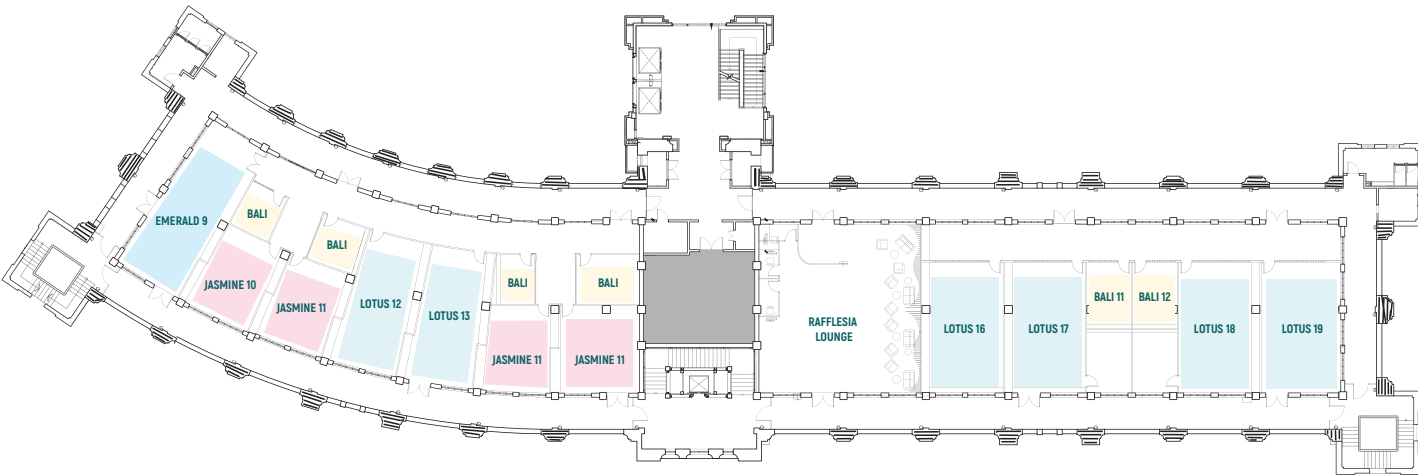


## GROUND FLOOR



- LOTUS ROOM SERIES
- JASMINE ROOM SERIES
- BALI ROOM SERIES
- EMERALD ROOM SERIES

## FIRST FLOOR





# ENGAGING THE FUTURE ADR GENERATION





# ENGAGING THE FUTURE ADR GENERATION

## AIAC YPG CONFERENCE 2021

As a prelude to kickstart the weekend of the 5<sup>th</sup> AIAC [Virtual] Pre-Moot 2021, the AIAC hosted the AIAC YPG Conference 2021 on 3<sup>rd</sup> March 2021. The conference was themed 'Exploring the New Frontier, The Modern Landscape of International Arbitration' and was attended virtually by more than 300 attendees. The keynote address was delivered by Prof. Dr. Ingeborg Schwenzer on, 'Private International Law, Commercial Law, and Alternative Dispute Resolution: Amuse-Bouches to the Contemporary Law of Sale of Goods'. The conference was made up of 3 sessions:

- Solving the Puzzle: Joinder Procedure in International Arbitration
- Debunking Myths: Intellectual Property Rights in International Arbitration
- Hot Debate: "This House believes that "greener" arbitration is not only the new trend, but it is also here to stay even after the pandemic ends" vs. "This House believes that "greener" arbitration is simply a passing trend and it is to fade after the pandemic ends".

The conference came to a close with closing remarks from Lim Tse Wei, the Co-Chair of the AIAC YPG who highlighted the exciting initiatives lined up for the YPG members in 2021 and also, 2022.

## 5<sup>TH</sup> AIAC [VIRTUAL] PRE-MOOT 2021

The 5<sup>th</sup> instalment of the Pre-Moot was officiated by Tan Sri Datuk Suriyadi bin Halim, the Director of the AIAC together with Mr. Mohanadass Kanagasabai as Platinum Sponsor of the Pre-Moot. 95 teams from 45 countries virtually participated together with 200 arbitration professionals, who shared their valuable advice, feedback, and mentorship in great detail for the benefit of the participants. The Pre-Moot was a perfect ground for participants to practice for the highly anticipated 28<sup>th</sup> Willem C. Vis International Commercial Arbitration Moot in Vienna and the 18<sup>th</sup> Vis (East) Moot in Hong Kong.

From the many competing teams, University of Miami, School of Law was announced the Champion and Dr. Ram Manohar Lohiya National Law University the Runner-Up. Noozyara Eshaba (University of Miami, School of Law) was named the Best Oralist of the International Final Award and Emilia Lye Jia Jia (Brickfields Asia College) was named the Best Oralist of the Malaysian Final. University of San Diego School of Law won the Best Memorandum on Behalf of the Claimant Award and University of Padua won the Best Memorandum on Behalf of the Respondent Award. Meanwhile, Brickfields Asia College won both Best Outline on Behalf of the Claimant Award and Best Outline on Behalf of the Respondent Award.



## AIAC YPG CONFERENCE 2021

Acknowledging the importance of youth empowerment, the AIAC established a Young Practitioners' Group ("YPG") under its auspices on 17<sup>th</sup> March 2017. The YPG brings together dispute resolution professionals and students below the age of 40 interested in building their careers in this rapidly evolving and dynamic field. The YPG's initiatives are spearheaded by the Co-Chairs of the AIAC YPG and for the 2020-2021 term, they are Irene Mira of the AIAC and Lim Tse Wei of Herbert Smith Freehills.

- AIAC YPG Careers 2.0: Find Your Niche x KPUM #StayAtHome Series – Career Pathways in Arbitration (30<sup>th</sup> January 2021)

*This joint webinar saw Dr. Shahrizal M Zin (UiTM), Vatsala Ratnasabapathy (Zain & Co), Tan Swee Im (39 Essex Chambers), and a Case Counsel from AIAC sharing the stepping stones they took in galvanizing their careers in arbitration.*

- AIAC YPG Mooting Workshop Series

*This series of workshops were organised in conjunction with the 5<sup>th</sup> AIAC [Virtual] Pre-Moot 2021 and addressed the key topics arising in post-pandemic arbitration namely 'On a Mission – Exploring Joinder and Remote Hearings', 'Deciphering the CISG: Applicability and Contractual Obligations', and 'Mooting in the 21<sup>st</sup> Century: Conquering Oral Advocacy'.*

- 'The Art of Advocacy' (2<sup>nd</sup> June 2021)

*Working hand-in-hand with the Taylor's Law School Mooting Society law students, Lim Tse Wei, YPG Co-Chair and an Associate at Herbert Smith Freehills and a Case Counsel of AIAC shared their experience as mooties and trained students on topics such as research preparation, oratory skills, and structuring arguments.*

- 'Breaking Down Barriers: An Interactive Workshop on Cross-cultural Communication in International Arbitration' (20<sup>th</sup> October 2021)

*This online workshop featured a partnership with Young Arbitral Women Practitioners and the discussion focussed on oral advocacy skills as well as witness examination techniques from the different perspectives given by the diverse panel from multiple jurisdictions.*

- AIAC Podcast Series "Inside Stories" (4<sup>th</sup> October 2021)

*The launch of this podcast series aimed to connect seasoned ADR professionals with junior practitioners and lift the curtain on the grit, hardwork, and determination it takes to succeed and enjoy career success in this industry.*

- Sailing the High Seas – A Career in Maritime and Shipping Disputes (28<sup>th</sup> October 2021)

*The AIAC YPG in collaboration with the prestigious International Malaysian Society of Maritime Law organised this webinar session featuring discussions on how collisions, damaged cargo and shipbuilding problems form part and parcel of maritime arbitration.*

- AIAC YPG x the Advance Tertiary College Moot Society Arbitration Workshop (10<sup>th</sup> December 2021)

*This workshop was successfully held in a hybrid format with the presence of an AIAC Case Counsel, Lim Tse Wei and Kwong Chiew Ee from the YPG. It broke down the essential elements of an arbitration agreement into parts and introduced the law students to pathological arbitral clauses. There was also an exercise for the students to identify arbitration agreements, and understand the underlying contractual mechanisms for how ADR clauses operate.*



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