

## MINUTES OF THE MEETING OF THE IFCAI COUNCIL

held at the AAA, New York

1.45pm, 13 November 2008

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### IFCAI COUNCIL MEMBERS PRESENT:

Ulf Franke (President)  
M.I.M Aboul-Enein  
Stefano Azzali  
Jens Bredow  
Diana Droulers  
Jason Fry  
Adrian Winstanley  
Nassib Ziadé

### ALSO IN ATTENDANCE:

Richard Naimark (for AAA)\*  
Faouzi Ben Aissa (on behalf of CCAT, Tunis)

\* as Bill Slate was unable to participate in the meeting, it was agreed that Richard could attend in his place

### 1. MINUTES OF THE PREVIOUS MEETING

1.1 The Minutes of the previous Council meeting, held in Dublin, on 12 June 2008, and circulated on 17 October 2008, were approved by the Council, subject to the substitution of the words "*challenge seeking to reverse*", for the words "*decision reversing*", in paragraph 7.9, at the request of Jason Fry, and were signed by the President.

### 2. MATTERS ARISING

2.1 With reference to item 5.3 of the Minutes of the Dublin meeting, Adrian tabled a draft amendment to the IFCAI Constitution, intended to reflect the practice of inviting the institution of a Council Officer retiring mid-term to nominate a replacement to serve until the end of that term.

2.2 After discussion and some further amendment, the revised text was agreed and would be circulated to the general membership in time for a vote to be taken on the amendments at the next General Assembly.

2.3 There were no other matters arising that were not covered by separate agenda items.

### 3. 10<sup>TH</sup> BIENNIAL CONFERENCE

3.1 At the President's invitation, Mr Ben Aissa, speaking for the Centre de Conciliation et d'Arbitrage de Tunis (CCAT), the co-host of the 10<sup>th</sup> biennial conference, in Tunis, proposed that the conference be held at Le Palace Hotel, in Gammarth, and that the Council meeting and General Assembly, which were to precede it, be held in Hammamet.

3.2 After discussion, however, and bearing in mind likely time constraints on Council members in particular, it was agreed that all meetings should take place at Le Palace.

3.3 Mr Ben Aissa said that the President of Tunisia had agreed to act as the patron for the conference.

3.4 The President asked Mr Ben Aissa to extend the thanks and appreciation of IFCAI to CCAT for undertaking the practical arrangements for the conference and associated meetings.

3.5 There followed a discussion of a draft conference programme, prepared by Dr Aboul-Enein and Stefano Azzali, following which it was agreed that Stefano and Dr Aboul-Enein, with the assistance of Mr Abdelwahab El Behi of CCAT, would prepare a new draft of the programme to take account of the matters raised.

3.6 It was agreed that there should not be a conference book, but that any speaker who wished his or her paper to be made publicly available could submit it for publication on the website.

#### 4. **WEBSITE**

4.1 Diana Droulers demonstrated the latest developments in the IFCAI website.

4.2 The discussions that followed covered the possibility of publishing on the site, reports of arbitration-related Court decisions (or of setting up links to other sources of such decisions if there were concerns about conflicts of interest arising from direct reports); links both to IFCAI member-institutions and to *bona fide* non-members, provided these were not in competition; and the occasional publication, on the site, of articles of particular interest.

4.3 Diana would continue her work on the website, with a view to presenting the next version to the Council and to the General Assembly, in Tunis.

#### 5. **RESEARCH COMMITTEE**

5.1 The meeting discussed, at some length, the note first circulated by Stefano in July, and re-circulated shortly before this meeting.

5.2 Of the various research projects outlined in Stefano's note, the subject of the enforcement of arbitral awards found greatest favour among Council Officers, and about which Jason Fry was particularly positive, believing that a survey on the enforcement of, and compliance with awards would be most useful, both for IFCAI members and for the wider arbitration community. Jason thought that it would be particularly interesting to know what happens to awards that are not complied with, but which do not come to enforcement proceedings.

5.3 Richard Naimark said that he would circulate to Council Officers the results of a survey conducted by the Law School of the University of Kansas into the fate of a selection of arbitral awards.

5.4 It was agreed that an initial US\$50,000 should be made available for this research and that Council Officers should make enquiries in their home jurisdictions of possible partners in such a project.

#### 6. **MEMBERSHIP OF THE COUNCIL**

6.1 With the terms of office of existing Council Officers due to expire in June 2009, it was agreed that a nominating committee of Bill Slate, Diana Droulers and Dr Aboul-Enein should coordinate nominations from IFCAI members, for consideration in

the first instance, by the Council, on whose recommendation, new Officers would be appointed by the General Assembly.

6.2 Adrian would write to all members inviting them to submit their nominations.

7. **OTHER BUSINESS**

***Membership***

7.1 Adrian reported that, at the date of this meeting, there were 45 fully paid-up members of IFCAI.

7.2 Five members still had subscriptions outstanding for 2008: the Court of Arbitration at the Polish Chamber of Commerce; the Institute for National and International Arbitration, Ghent; the Korean Commercial Arbitration Board; the Kuala Lumpur Regional Centre for Arbitration; and the Permanent Arbitration Court at the Croatian Chamber of Commerce.

7.3 ICSID's subscription was deemed covered by their previous contributions to the production of the IFCAI newsletter.

7.4 Subscriptions for 2007 and 2008 were outstanding from: the Beijing Conciliation Centre; CAMARB, Brazil; and the Madrid Court of Arbitration. These members would be automatically struck off at the end of the year if payment was not forthcoming.

7.5 The four members struck off by operation of the constitution were confirmed as DIAC, Dubai; the Foreign Trade Arbitration Court of the Mongolian Chamber of Commerce; the Sri Lanka National Arbitration Centre; and the Tahkeem Center for Settlement of Commercial Disputes, Palestine.

8. **DATE OF NEXT MEETINGS**

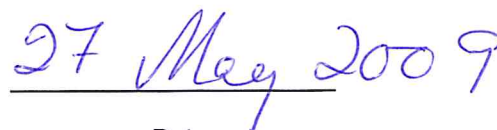
8.1 The Council would next meet in Tunis, on Wednesday, 27 May 2009, with a General Assembly also on 27 May 2009, ahead of the IFCAI Conference.

9. **CLOSE OF MEETING**

9.1 There being no further business, the meeting was declared closed at 5.30pm.



President



Date