

MINUTES OF THE MEETING OF THE IFCAI COUNCIL

held at Mount Royal Centre, Montreal
on the occasion of the 2006 ICCA Congress

12.30pm, 1 June 2006

IFCAI COUNCIL MEMBERS PRESENT:

Ulf Franke (President)
Stefano Azzali
Lawrence Boo
Diana Droulers
Tang Houzhi
Gabrielle Kaufmann-Kohler
Alexander Komarov
William Slate
Anne Marie Whitesell
Adrian Winstanley

ALSO IN ATTENDANCE:

G K Kwatra (Executive Director, Indian Council of Arbitration)
Fali Nariman (Senior Advocate, Supreme Court of India and MP)
D M Popat (Vice President, Indian Council of Arbitration)

APOLOGIES:

Apologies had been received from:

M.I.M Aboul-Enein
Jens Bredow
Eva Horváth

1. ADOPTION OF THE AGENDA

1.1 The President welcomed Council members and the Indian delegation of Mr Kwatra, Mr Nariman and Mr Popat, who had been invited to address the Council on the sixth item of the agenda as circulated (the next IFCAI conference).

1.2 It was agreed that the agenda be adopted, subject to this change in the running order.

2. 9th BIENNIAL IFCAI CONFERENCE, NEW DELHI 2007

2.1 Mr Kwatra began by confirming that he, and ICA, were looking forward to hosting the conference, which he hoped would attract between 100 and 200 delegates.

2.2 He believed that interest in the conference would be such as to justify one and a half, or two days, rather than the usual one day.

2.3 It was thought that delegates to the IBA conference, scheduled for 14 to 19 October 2007, in Singapore, would be more likely to include a visit to India on the same itinerary, than to make two separate journeys to the Asia Pacific region within a short timeframe.

2.4 It was agreed, therefore, that there was a greater likelihood of attracting a good number of delegates if the IFCAI conference were publicised as a back-to-back event with the IBA conference in Singapore.

2.5 Accepting Mr Kwatra's recommendation that the IFCAI conference be held on a weekend, it was agreed that the conference might be scheduled to start on the afternoon of Saturday 20 October and to run through the whole of Sunday 21 October.

2.6 The Council meeting and General Assembly might be scheduled for Monday 22 October.

2.7 These dates would be reviewed, as work on the Delhi conference programme progressed.

2.8 There followed a discussion of possible themes for the conference, as to which efficient management of arbitration; the prompt resolution of disputes; and public policy issues were the front runners.

2.9 It was agreed that Adrian, in consultation with the President, would prepare a draft programme for the conference for discussion with Mr Kwatra, prior to circulation first to Council members and later to the IFCAI membership generally.

2.10 The President thanked Mr Kwatra and his colleagues for having attended this meeting and, in anticipation, for their efforts in putting on what he confidently expected to be a first-class conference.

2.11 Mr Kwatra, Mr Nariman and Mr Popat left the meeting at this point.

3. MINUTES OF THE PREVIOUS MEETING

3.1 The Minutes of the previous meeting, held in Washington, on 2 June 2005, and circulated on 22 June 2005, were approved by the Council and signed by the President.

4. FINANCES AND MEMBERSHIP

4.1 At the President's invitation, Adrian Winstanley up-dated the Council on finances and membership.

4.2 Taking account of around US\$10,000 allocated to the design and setting-up of the IFCAI website, reserves stood at a little under US\$92,000, as at the end of April.

4.3 Tabling a report on membership as at mid-May, Adrian asked the Council to note that there were 50 fully paid-up members, including one new member – CAMARB, Brazil.

4.4 There were eight members with subscriptions outstanding for 2006 only – DIAC, Dubai; the Arbitration Court of the Mongolian Chamber of Commerce; the Institute for National and International Arbitration Ghent; the Korean Commercial Arbitration Board; the Madrid Court of Arbitration; the Arbitration Court of the Croatian Chamber of Commerce; the Sri Lanka National Arbitration Centre; and Takheem Center for Settlement of Commercial Disputes, Palestine.

4.5 These members had been sent reminders and it was hoped that some, at least, would bring their subscriptions up to date.

4.6 The subscriptions of CAMM, Madagascar and of the Malta Arbitration Centre were overdue for this year and last and these members would be struck off if they

failed to respond to the reminders that had been sent. Adrian noted, however, that CAMM, Madagascar had apparently gone out of business.

4.7 Ten members who had failed to pay their subscriptions for 2004 and 2005 were automatically struck off. However, among these were two institutions which it might have been supposed would wish to maintain their membership – the Beijing Conciliation Centre and the GCC Commercial Arbitration Centre of Bahrain.

4.8 Professor Tang declared that BCC's arrears would be paid and that their membership should not, therefore, be rescinded. Adrian thanked Professor Tang for agreeing to give the necessary instructions for payment on his return to Beijing.

4.9 It was noted that the hard core of the IFCAI membership remained at around 50.

5. **KIEV MEETINGS**

5.1 Adrian tabled an email recently received from Professor Pobirchenko, which sent somewhat mixed messages. Professor Pobirchenko appeared to be welcoming meetings of the IFCAI Council and General Assembly to Kiev in October, but to have some doubt about the viability of a joint conference; anticipating instead a *“colloquium of arbitrators of International Commercial Arbitration Court at the UCCI, together with IFCAI members”*. Professor Pobirchenko went on to write that hosting an event with only a few participants would not be worthwhile.

5.2 Most of those attending this meeting expressed a willingness to travel to Kiev on the dates reserved, for whatever form of interactive seminar Professor Pobirchenko might prefer, and Adrian undertook to canvass other IFCAI members for their availability, so that he might write to Professor Pobirchenko with an indication of how many IFCAI representatives would attend, so that Professor Pobirchenko, in turn, could decide whether, and if so, how he wished to proceed.

[NB In an exchange of correspondence between Ulf Franke and Professor Pobirchneko following this meeting, it was agreed that the Kiev meetings should again be postponed. IFCAI members have been advised accordingly.]

6. **JOINT ICCA/IFCAI CONFERENCE, 2008**

6.1 The meeting was unanimous in agreeing to Gerold Herrmann's proposal that there should be a joint ICCA/IFCAI conference in Dublin in June 2008, to mark the anniversary of the New York Convention.

6.2 It was understood that the programme would be for an ICCA-only conference on 8 and 9 June 2008, to be followed by the joint ICCA/IFCAI conference on 10 June.

6.3 The President would advise Gerold Herrmann of IFCAI's enthusiastic support.

7. **WEBSITE**

7.1 An internet connection had been set up in the meeting room and Adrian demonstrated the framework of the new IFCAI website in action.

7.2 All those present thought this a most attractive and effective site and asked Adrian to press on with its development.

8. **NEWSLETTER**

8.1 After some debate, it was agreed that, for practical reasons, a hard copy newsletter should be abandoned, at least for the time being.

8.2 It was agreed that members would be encouraged to provide regular news items to be posted to the new website and that email alerts would be sent to all members whenever a new news item appeared on the site.

8.3 This decision would be reviewed in General Assembly, when it would be possible to ascertain whether any IFCAI member would be willing to take on the burden of producing a hard copy newsletter that had originally been shouldered by ICSID and, in particular, by Milanka Kostadinova.

9. **IFCAI CODE OF ETHICS/STANDARDS**

9.1 Anne Marie, Stefano and Diana confirmed that they had had nothing from Richard Naimark, who they had understood was to have taken the lead on this project, which had originated at the June 2005 IFCAI meetings.

9.2 To a greater or lesser degree, Anne Marie, Diana and Stefano were lukewarm about the very idea of a universally-applicable code of ethics and standards for arbitral institutions. They believed (a) that this might create conflicts with the good and established practices of some institutions and (b) might make institutions subscribing to the code hostages to fortune.

9.3 It was agreed, however, that there might be some merit in seeking to set down a statement of basic principles and/or best practice to be adopted by IFCAI member institutions.

9.4 On this basis, Diana agreed to take the lead and it was further agreed that she would make contact with the new Secretary General of the Chartered Institute of Arbitrators, Michael Forbes-Smith, who had, in a recent meeting with Adrian, expressed an interest in supporting the task force in this initiative.

10. **ICSID**

10.1 It was agreed that the question of the appointment of a representative of ICSID to the Council should be left over until the currently-uncertain position in the hierarchy at ICSID became clearer.

10.2 It was also agreed that thought be given to the desirability of appointing a nominee from UNCITRAL and/or from the Permanent Court of Arbitration to the Council.

11. **OTHER BUSINESS**

11.1 The meeting noted, with interest, the brochure that had been produced by the School of International Arbitration (SIA) at Queen Mary University of London, summarising the PriceWaterhouseCoopers-sponsored research into corporate attitude and practices in international arbitration.

11.2 As previously discussed, it was agreed that IFCAI might fund further research into one or more elements of the SIA, project when the expected detailed report on the research had been published.

11.3 The President wished to record the Council's thanks to Dr Aboul-Enein for the written comments that he had submitted on the agenda and which had been taken into account by the meeting, and to express the best wishes of the meeting for Dr Aboul-Enein's speedy recovery from the injury that had prevented him attending.

12. **CLOSE OF MEETING**

12.1 There being no further business, the meeting was declared closed at 2.00pm.

President

Date