

MINUTES OF THE MEETING OF THE IFCAI COUNCIL

held at the International Arbitration Centre of the Austrian Federal Economic Chamber

9.30am, 26 June 2003

PRESENT: Ulf Franke (President)
M.I.M Aboul-Enein
Tang Houzhi
Eva Horváth
Pierre Karrer
Alexander Komarov
Ann Marie Whitesell
Adrian Winstanley

ALSO IN ATTENDANCE:

Milanka Kostadinova (Editor, IFCAI Newsletter)
Erik Wilbers (WIPO)

APOLOGIES:

Apologies had been received from:

Francis Gurry
Antonio Parra
William Slate
Yousif Zainal

1. WELCOME

1.1 The President welcomed Council members, and proposed a vote of thanks to the Vienna Centre and to Werner Melis and Manfred Heider, in particular, which was unanimously adopted, with acclaim.

2. ADOPTION OF THE AGENDA FOR THE MEETING

2.1 The agenda for the meeting, which had been previously circulated and was now tabled, was adopted.

3. MINUTES OF THE PREVIOUS MEETING

3.1 The Minutes of the previous meeting, held on 22 November 2002 at the ICC, Paris, were approved by the Council and signed by the President.

4. **GENERAL ASSEMBLY**

4.1 The President said that he anticipated a full and lively meeting at the General Assembly, which would convene after lunch, following this meeting.

5. **IFCAI CONFERENCE**

5.1 The President reported that there had been in excess of 100 registrations for the 7th Biennial IFCAI Conference, which would be held the following day, 27 June.

5.2 He reminded Council members that the conference was to have been held in Bahrain in March, but that, in light of the tensions in the region, which culminated, in due course, with the war in Iraq, and at the request of Yousif Zainal, it had been decided to re-schedule the conference.

5.3 The President expressed his thanks, on behalf of the Council, to the Vienna Centre, for having so willingly and effectively taken the conference on. He thought that the conference theme, on the UNCITRAL interim measures debate, was of particular interest to IFCAI members and that it would undoubtedly stimulate very worthwhile discussions.

5.4 The President said that he was sorry to report that Bill Slate had been unable to attend, due to his wife's indisposition. Members joined the President in wishing her a speedy recovery.

5.5 He said that Donald Donovan had also sent his apologies and that his place, at the conference, was to be taken by James Castello.

6. **FINANCES**

6.1 Adrian Winstanley reported that IFCAI reserves were standing at US\$46,240 at the beginning of January 2002, when stewardship of the IFCAI account had passed from AAA to LCIA. He said that reserves now stood at US\$69,180, with most members who were expected to pay their 2003 subscriptions already having paid.

6.2 He said that the only major payment due from IFCAI funds was settlement of the production costs of the re-vamped IFCAI Newsletter, which had been borne, in the first instance, by ICSID. He said that he still awaited bank details from ICSID and Milanka Kostadinova said that she would make sure that these were provided.

6.3 It was agreed that, although the US\$200 subscription was an insignificant sum for many IFCAI members, there should be no increase at this stage.

7. MEMBERSHIP

7.1 Adrian tabled a list of current IFCAI members, split to show the 55 members who were fully-paid-up; the 9 members with subscriptions outstanding for the year 2003 only; and the 20 members with subscriptions outstanding for more than one year.

7.2 He drew to the Council's attention the 6 new members who had joined IFCAI since the date of the last Council meeting; these members coming from Egypt, Finland, Madagascar, Palestine, Tunisia and Yemen.

7.3 Adrian reminded the Council that it had been agreed, and minuted, at the General Assembly in Prague in June 2001, that, if a member organisation failed to pay the annual subscription, after reminders and without satisfactory explanation, that organisation should be removed from membership. He said that reminders had been sent to all members who were in arrears.

7.4 It was agreed, therefore, that Adrian should write to members currently in arrears by more than one year to advise them that they had been removed from membership.

7.5 Adrian confirmed that, once those members had been removed, there would be a total of 64 member institutions, coming from 42 countries.

8. 8TH BIENNIAL CONFERENCE, 2005

8.1 It was agreed that ICSID's kind offer to host the 8th Biennial Conference should be accepted. This was tentatively scheduled for 3 June 2005, with a Council meeting and General Assembly to be held on 2 June.

8.2 It was agreed that the theme for the Washington conference would be decided nearer the date, to ensure that it was a suitably hot topic.

8.3 The Council recorded a vote of thanks to ICSID.

9. IFCAI INSTITUTIONAL SECTION MEETING, 2004

9.1 The President confirmed that the ICCA 2004 Conference in Beijing was scheduled for 16, 17 and 18 May 2004, starting with a reception on the evening of the 16th.

9.2 It was agreed that there should be a Council meeting, in Beijing, on the morning of 16 May 2004, to be followed, after lunch, by a meeting of the Institutional Section.

9.3 Professor Tang said that CIETAC would hold a seminar in Shanghai on 19 May, which he hoped IFCAI members would attend.

10. ELECTIONS

10.1 The President asked Adrian Winstanley if he would address the meeting on the subject of elections to the Council.

10.2 Adrian said that, among the papers which had been passed to him, on taking office as Secretary of IFCAI, were two versions of the aims and objectives of IFCAI, though these did not appear to amount to a full "*Constitution*".

10.3 Nonetheless, he said, it was clear both from these documents, and from past practice, that IFCAI Council members were to be elected by members at a General Assembly, for a term of two years.

10.4 That being the case, members and Officers of the Council were now due either for retirement or for re-election and it was open to the General Assembly to elect such additional members as they wished, as the "*Constitution*" placed no limit on the number of Council members.

10.5 Regrettably, however, there was no formal procedure for the designation by members of candidates for election to the Council, and members had not been canvassed for their views.

10.6 After some discussion, it was agreed that the pragmatic approach would be to apprise the General Assembly of the position, with the request that it should agree that the present Officers and members of the Council should remain in office until the next General Assembly, by which time, proper procedures would have been put in place.

10.7 To this end, it was agreed that the General Assembly be asked also to mandate Adrian Winstanley to (re)draft the Constitution, to provide, *inter alia*, an effective mechanism for the selection and election of Council members.

10.8 It was agreed, however, that, in light of his having relinquished office at the GCC Centre in Bahrain, Yousif Zainal should not be re-elected to the Council, whose members should be currently actively involved with member institutions.

11. NEWSLETTER

11.1 The President thanked Milanka Kostadinova for her efforts in producing the second edition of the re-vamped IFCAI Newsletter, copies of which she had kindly brought for distribution.

11.2 Milanka said that she was sorry that the editorial committee had received the draft Newsletter so close to the print deadline, which had been due to the inherent difficulties of eliciting and collating materials for publication.

11.3 The Council agreed that Milanka had produced another good-looking Newsletter and that members should be encouraged to make use of this valuable

forum for promoting institutional arbitration and for disseminating news and views.

11.4 It was agreed, however, that the Newsletter should not be used for self-promotion by individual institutions, though members were welcome to report briefly on developments within their institutions in the designated "*news from IFCAI members*" section.

12. RESEARCH

12.1 The President reminded the Council of the presentation that had been given by Richard Naimark to the meeting of the Institutional Section in Paris, in November 2002.

12.2 At that time, Mr Naimark had confirmed that IFCAI members would be consulted on the content and form of the questionnaire that was to form the basis of an ambitious empirical research project, to be undertaken by the Global Center for Research.

12.3 The President said that it was regrettable that there appeared to have been no follow-up to those proposals and it was agreed that the views of the General Assembly should be sought as to how best to proceed as regards research, which was generally agreed to be highly desirable.

13. WEBSITE

13.1 Adrian advised that, regrettably, pressures of work had meant that no progress had been made on setting up the IFCAI website, save that a number of domain names had been acquired.

13.2 He said, however, that he had had initial discussions with the LCIA's website designer and expected the website to be up and running by the end of the year.

13.3 It was agreed that, as a minimum, the site would list members and their contact co-ordinates; would give details of meetings and conferences with which members were involved; would display the IFCAI Constitution (once approved); and would include links with members' own websites.

14. PROPOSALS FROM MEMBERS

14.1 The President referred the meeting to the draft checklist for arbitrators and parties, with regard to the appointment of arbitrators, which Neil Kaplan had proposed might be adopted by IFCAI.

14.2 After discussion, and with thanks and acknowledgment to Mr Kaplan, it was agreed that the checklist dealt with matters which were already covered by the rules and associated schedules of fees of the administering institutions and that, whilst the checklist would undoubtedly be a useful tool in *ad hoc*

proceedings, it should not be adopted by the umbrella organisation of arbitral institutions.

14.3 The President then summarised a proposal, put forward by the Ukraine Arbitration Centre, that IFCAI should adopt a schedule of standard requirements to be met by institutions in the administration of arbitrations.

14.4 It was the Council's view, however, that, whilst it might be useful to articulate the minimum standards required of an institution for membership of IFCAI, there could and should not be a common view, as the different features, services and procedures of the various institutions were important factors for parties considering which institution to use in any given set of circumstances.

15. PURPOSE AND ACTIVITIES

15.1 The President said that he wished to encourage the General Assembly to consider the purpose and activities of IFCAI, with a view to extending these beyond the present regular meetings, conferences and Newsletter. The Council concurred.

16. OTHER BUSINESS

Invitation by Ukraine Arbitration Centre

16.1 The President reported that the Ukraine Centre had kindly invited IFCAI to hold a seminar in Kiev in the autumn of 2004.

16.2 It was agreed that the General Assembly should be recommended to accept this invitation and to fix a date at some time in October next year.

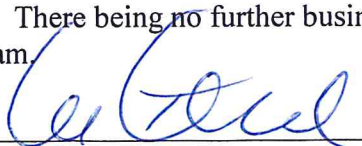
Invitation by the Cairo Centre

16.3 Dr Aboul Enein advised that the Cairo Centre would be celebrating its 25th anniversary in January 2004 and invited the Council to consider whether an IFCAI event might be scheduled during those celebrations.

16.4 Members thanked Dr Aboul Enein for his kind offer, but thought that the timing might not be right, given the Beijing meeting in May and a generally busy conference schedule in the early part of 2004. It was agreed, however, to put the matter to the General Assembly

17. CLOSE OF MEETING

17.1 There being no further business, the meeting was declared closed at 11.55am.



President



Date