

INTERNATIONAL FEDERATION OF COMMERCIAL
ARBITRATION INSTITUTIONS
Vith GENERAL ASSEMBLY
MILAN, ITALY - JUNE 10, 1993

MINUTES

The VIth General Assembly of the International Federation of Commercial Arbitration Institutions was held at the Palazzo Affari ai Giureconsulti, in Milan, Italy on June 10, 1993, preceding the Federation's Second Conference hosted by the Chamber of National and International Arbitration of Milan. The following members were represented at the Assembly:

American Arbitration Association
Mr. Michael F. Hoellering

Arbitration Institute of the Stockholm Chamber of Commerce
Mr. Ulf Franke

Australian Centre for International Commercial Arbitration
Mr. David Bailey

Cairo Regional Centre for International Commercial
Arbitration
Dr. M.I.M. Aboul-Enein

Canadian Arbitration, Conciliation and Amicable
Composition Centre
Prof. Paul J. Davidson

Centre for Conciliation and Arbitration, St. Mary's
University School of Law
Mr. Wayne I. Fagan

Chamber of National and International Arbitration of Milan
Dr. Stefano Azzali and Ms. Silvia Borelli

Chartered Institute of Arbitrators, London
Mr. Kerry Harding and Mr. Brian Hill *GREEN*

Commercial Arbitration Association of the Republic of China
Dr. Pi-song Tsai

Court of Arbitration Attached to the Hungarian Chamber of
Commerce
Dr. Eva Horvath

Court of Arbitration at the Polish Chamber of Commerce
Dr. habil. Tadeusz Szurski

German Institute of Arbitration
Mr. Jens Bredow

Greek Arbitration Association
Dr. Anghelos C. Foustoucos

Hong Kong International Arbitration Centre
Mr. Peter Caldwell

International Arbitral Centre of the Austrian Federal
Economic Chamber
Dr. Werner Melis

Japan Commercial Arbitration Association
Mr. Hiroshi Hattori

London Court of International Arbitration
Mr. Bert W. Vigrass

Mediterranean Maritime Arbitration Association
Dr. Mario Riccomagno

Permanent Court of Arbitration at the Hague
Dr. Pieter J.H. Jonkman

Swiss Arbitration Association
Dr. Marc Blessing

Tokyo Maritime Arbitration Commission of the Japan
Shipping Exchange
Mr. Kenji Tashiro

Attending in the capacity of observer:

Centre Europeen d'Arbitrage
Dr. Mauro Rubino-Sammartino

Agenda Item No.1: Welcome and Introductions

The meeting was opened at 2:35 p.m. by Mr. Michael F. Hoellering, President of the Federation. Professor Paul J. Davidson, Secretary-Treasurer of the Federation, acted as Secretary.

Mr. Hoellering welcomed all those present and asked everyone to introduce themselves and indicate the institution that they represented. He also thanked the Chamber of National and International Arbitration of Milan and the International Institute for the Promotion of Arbitration Culture for their hospitality in hosting the meeting.

Agenda Item No.2: Adoption of Agenda of Meeting

The proposed agenda for the meeting was presented by Mr. Hoellering (see attached). Upon motion duly made, seconded and carried unanimously the agenda was adopted as presented.

Agenda Item No.3: Adoption of Minutes of Vth Assembly

It was moved that the Minutes of the Vth Assembly of the Federation held in Cairo on February 21, 1992 (attached) be adopted.

Dr. Tadeusz Szurski suggested the following corrections:

1. On page 5, line 15, "none opposed" should be changed to "one opposed";
2. On page 8, agenda item 9, par.9, the first sentence should be deleted and replaced by: "Dr. Szurski noted that he had prepared a paper suggesting the adoption of the UNCITRAL Rules for their institutional application and for alternative use by members as the rules sponsored by the Federation in cases when the parties so agreed."
3. It was noted that on page 8, in agenda item 7, the listing of Robert Coulson should reflect that he is an "Honorary Vice President" of the Federation.

With these corrections, the Minutes of the Vth General Assembly were unanimously adopted.

Agenda Item No.4: President's Report

Mr. Hoellering stated that this meeting was the first one since the Vth Assembly in Cairo, at which significant strides in advancing the Federation's objectives were made - by conducting the very first IFCAI public arbitration conference, and adopting an organizational framework designed to accommodate a truly worldwide Federation - one which is broadly inclusive, not based on regional divisions, and consisting of sections focused on institutional concerns of the Federation's diverse and growing membership.

The implementation of these organizational changes is now underway. A new membership application form has been designed and mailed to members with an invoice for the payment of dues. As Professor Davidson will report, the payments received so far have improved the financial picture for the Federation. Based upon the responses to date it would appear, however, that fledgling institutions are having difficulty with the dues requirement. Individual follow ups with non-responding entities will now need to be made.

Mr. Hoellering advised next that the following institutions have become new members of the Federation during the last year:

Institutional Section

International Bureau of the Permanent Court of Arbitration
(Dr. P.J.H. Jonkman)

German Institution of Arbitration
(Mr. Jens Bredow)

Korean Commercial Arbitration Board
(Mr. Pai Ki-Min)

Tribunal Arbitral de Barcelona
(Dr. Antonio de P. Escura)

General Section

Swiss Arbitration Association
(Dr. Marc Blessing)

Centre for Conciliation and Arbitration
St. Mary's University School of Law
(Wayne I. Fagan, Esq.)

Centro de Arbitraje y Conciliacion Mercantiles de la
Camera de Comercio de Bogota
(Dr. Rafael Bernal Gutierrez)

Mediterranean Maritime Arbitration Association
(Dr. Mario Riccomango)

Mr. Hoellering also noted receipt of a letter dated June 2, 1993 from Professor Tang Houzhi, Vice Chairman of the China International Economic and Trade Arbitration Commission, advising that CIETAC is prepared to join the Federation. Similar expressions of interest were also received from the Permanent Court of Arbitration of the Croatian Chamber of Commerce, the Abu Dhabi Commercial Conciliation and Arbitration Centre, and the Arbitration Department of the Bahrain Chamber of Commerce.

A significant recent development is the publication, under the auspices of the Canadian Center of the Inter-American Commercial Arbitration Commission and the Federation, of the second edition of **Commercial Arbitration Institutions: an International Directory and Guide**. This new resource, which updates information contained in the prior 1986 edition, is

available for \$35 plus postage directly from the Ottawa Center.

The Federation's Newsletter, No. 9, published in January 1993, again includes developments in arbitration and private dispute resolution from around the world, with emphasis on the activities of member institutions. Members were encouraged to forward news items to the Federation so that they can be included in the Newsletter. The papers from the Cairo Conference are being readied for publication by the Cairo Centre and should be available in the near future.

The Cooperation Agreement between the Federation and the International Council for Commercial Arbitration (ICCA), as approved at the Vth Assembly, has been signed. The intent of the Agreement is to avoid duplication of activities between the two organizations, both of which are active in the field of international commercial arbitration. Implementation of this cooperation policy is facilitated by the fact that several members of the IFCAI Council are also active in ICCA.

Among the decisions taken at the Vth Assembly was to continue work on a new Federation Constitution. Since it is desirable that the committee charged with this important task be representative of the Federation as a whole, further progress with this work will occur as soon as officers of the three Sections are installed.

Mr. Hoellering next discussed the rescheduling of the VIth Assembly. He noted that at the Vth Assembly Mr. Franke suggested, and it was agreed without much discussion, that the next Assembly should be in Bahrain to coincide with the ICCA program. Sometime thereafter the Milano Chamber of National and International Arbitration Centre also offered to host a Federation Conference and Assembly in Milan at a mutually convenient time. With respect to the proposed Bahrain meeting several complications arose. The level of anticipated attendance was uncertain, the cost of travelling to Bahrain high, and schedule several members have indicated that the limited flight schedule would prevent their attendance at the Wednesday meeting. After consulting with the Council, the conclusion was reached that changing the time and place of the meeting, while of some inconvenience to those already planning to attend, would serve the best interests of the Federation, without adversely affecting the ICCA program.

Mr. Hoellering next reviewed the arrangements with the Milan Centre. Based on suggestions made at the Vth Assembly, the Conference theme is that of cost effective administered arbitration and the use of ADR. The substantive agenda, featuring speakers who are outstanding authorities in the field, was designed by Messrs. Vigrass, Aboul-Enein and

Franke. Financial responsibility for the program rests entirely with the host organization which will provide 10% of the registration fee to the Federation as a royalty. Speakers only are provided complementary registration, two day's hotel accommodations, and a pre-program dinner. Much preparation has gone into the arrangements for the Conference and both Dr. Azzali and Ms. Borelli have done a truly outstanding job.

Mr. Hoellering next turned to the election of officers of the Sections. He noted that, upon approval of the Council, Messrs. Vigrass, Dr. M.I.M. Aboul-Enein and Mr. Franke have been serving on an interim basis as Chair, Deputy Chair and Vice-Chair of the Institutional Section respectively. It was moved, seconded, and approved unanimously that each of them be officially elected to fill these positions.

It was also moved and approved unanimously that Dr. Marc Blessing be elected to serve as Chair and Professor Paul J. Davidson as Deputy Chair of the General Section.

Mr. Caldwell inquired about the term of office for Section officers. Mr. Hoellering advised that unless modified, the arrangements adopted at the Vth Assembly provide for Section officers to be rotated, with Chairs to serve for one year, to be succeeded by the Deputy and Vice Chairs.

Agenda Item No.5: Secretary-Treasurer's Report

Professor Paul J. Davidson reported that the financial situation of the Federation had improved considerably since the last meeting. As of April 30, 1993 the Federation had a balance of US \$4,271.50 (see attached Financial Report). This was comprised of payment of dues by a number of members and the payment of \$1,000 by the Cairo Regional Arbitration Centre in respect of last year's conference. A number of payments were reduced by currency conversion and wire charges and Professor Davidson again asked members to try to avoid the latter charges if possible in making payments to the Federation. It was noted that invoices for membership dues had been sent out and that members should pay their fees as soon as possible.

Agenda Item No.6: Programmatic Activities

a) Education and Training of Arbitrators

Mr. Kerry Harding of the Chartered Institute of Arbitrators discussed a report that he had prepared regarding the training and education of arbitrators (see attached copy of report). He noted the need and importance of the education of arbitrators and pointed out that lack of competence often led to criticism of the arbitration process. He proposed that the Chartered Institute was

prepared to set up and run jointly with members a set of seminars on law and procedure; and that the Chartered Institute was prepared to provide a register of those who had attended the sessions and updates. The aim was to build up a body of persons to provide arbitration services in a competent and professional manner. A number of points were raised in the discussion which followed Mr. Harding's presentation.

Mr. Bailey agreed with need for training but questioned how this would be dispensed throughout the membership. Mr. Harding noted that the proposal was for joint seminars to be organized with interested members at locations of their choice.

Mr. Fagan concurred with the need for skilled arbitrators but questioned whether, because of special needs in different areas, the Chartered Institute could deal with all. He expressed the view that there should be more ways to qualify than just through the Institute and that the Federation should not associate itself with just one organization. Mr. Harding agreed that others could participate in the training process and that the Institute's proposal was just a starting point.

Dr. Foustoucos suggested that the function of the Federation is to provide education through conferences and that the Federation should concentrate on increasing these.

Mr. Tsai Pi-Song noted that his association was very concerned with the quality of arbitrators and supported the need for more training facilities.

Dr. Blessing questioned the efficiency of more conferences and whether these would reach the right people. He noted that in Switzerland, the Zurich bar association has developed regular working sessions of those interested in different areas of the law, including arbitration, which over years have covered a large number of areas. He proposed close cooperation with bar associations in various countries to promote similar working groups to focus on problem areas related to arbitration.

Dr. Szurski suggested that training should not be an aim of the Federation in the near future, rather it should be the institutions themselves which do the training. He also expressed concern that with the changes in the former Soviet Union a number of arbitral institutions were established on a commercial basis and that the Federation should not be seen to endorse these as "somehow qualified". He questioned whether the Federation might not be involved in some form of accreditation whereby new members would be proposed by current members.

Mr. Vigrass observed that institutions joining the Federation should be non-profit as provided in the current Constitution, expressed concern regarding the problem of "endorsement", and questioned how one trains an "international" arbitrator, noting that while it is possible to train in one system, how does one go beyond this?

Dr. Blessing observed that differences in rules and procedures might suggest the need for harmonization of basic notions and criteria. He supported the view that emerging institutions do not have sufficient knowledge and saw a role for the Federation in offering support to emerging institutions.

Mr. Fagan noted that what might work in one part of the world might not work in another, and that one needs to take into account local or regional differences. The Federation should give support to education but it is difficult to come up with one uniform approach. It might make resources available to members and collect information, but training is was more a regional or local matter.

Mr. Hoellering raised the issue of whether the Federation's participation in training should imply an endorsement of those ultimately taking such training. He suggested that it should be possible to harmonize concepts of education and training, that the Federation might make a valuable contribution in that regard, but that harmonization might be as far as the Federation should go at this time.

Dr. Szurski felt that this would be a good activity for the General Section.

Mr. Bailey suggested that it was an important subject which might be a subject for an entire conference.

b) Planning of New Education Program and VIIth Assembly

Mr. Hoellering discussed the need for adequate lead time for Federation meetings and asked for suggestions for the next conference. So far offers to host a program were received from members in Barcelona, Germany, and San Antonio. He suggested that geographical diversity was a consideration in choosing a suitable venue.

Mr. Fagan noted that the Inter-American Commercial Arbitration Commission will conduct a conference in San Antonio in 1994 and that it would be possible to have a Federation Assembly and Conference around this time and thereby attract more participants.

Mr. Caldwell expressed the view there was enough of an "arbitration roadshow" and felt that the Federation should offer an opportunity for those running arbitration centers

to get together and discuss problems of administering such institutions.

Mr. Vigrass agreed to a degree but felt that the Federation should arrange for both types of programs - a one day conference and one day closed session to air institutional concerns.

Dr. Tsai Pi-Song raised the possibility of having the next Assembly in Asia and noted that his association might be prepared to host such a meeting.

Mr. Hoellering agreed that Asia would be a good location for the next meeting. The question was where in Asia and the timing, which probably should be within the next 18 months. There was a consensus to look closely at Asia, and Tapei, Hong Kong, Singapore or Tokyo were specifically mentioned as possible sites.

Dr. Szurski suggested the specific features of arbitration rules of member institutions and third party practice as possible subject for the meetings, which could serve as a step towards unification and harmonization.

c) Promotional Pamphlet

Mr. Bailey agreed to prepare the draft of a promotional pamphlet for the Federation.

Agenda Item No.7: Election of Officers

It was moved and seconded that Michael F. Hoellering continue as President. Carried unanimously.

Dr. Szurski moved to reelect all current Council members unless there were some specific reasons for change. Mr. Hoellering noted that he was able to reach most Council members and that they have expressed their continuing willingness to serve. He also noted that Dr. Blessing became a member of the Council by virtue of his election as Chair of the General Section. Derril Warren has recently left the British Columbia Centre and has resigned the position of Councillor so that a vacancy exists. In view of the possibility of CIETAC soon joining the Federation, it was suggested that at the appropriate time, Mr. Tang Houzhi be approached about serving in that capacity. The motion to reelect all of the current Council was seconded and carried unanimously.

The Federation Officers are now as follows:

President:

Michael F. Hoellering, General Counsel, American Arbitration Association

Honorary Vice-President:

Robert Coulson, President, American Arbitration Association

Vice-Presidents:

Dr. M.I.M. Aboul-Enein, Director, Cairo Regional Centre for International Commercial Arbitration

Dr. Marc Blessing, President
Swiss Arbitration Association

Prof. Rafael Eyzaguirre, President, Inter-American Commercial Arbitration Association

A.A. de Fina, President, Australian Centre for International Commercial Arbitration

Dr. Ottoarndt Glossner, President, German Arbitration Institute and Chairman, International Chamber of Commerce Commission on International Arbitration

Hiroshi Hattori, Director, the Japan Commercial Arbitration Association

Phaik Gan Lim, Director, Kuala Lumpur Regional Centre for International Commercial Arbitration

Dr. habil. Tadeusz Szurski, President, Court of Arbitration at the Polish Chamber of Commerce

Bert W. Vigrass, Director and Registrar, London Court of International Arbitration

Secretary-Treasurer:

Prof. Paul J. Davidson, President, Canadian Arbitration, Conciliation and Amicable Composition Centre

Councillors:

Michael Cohen, Chairman, British Academy of Experts

Ulf Franke, Director, the Arbitration Institute of Stockholm Chamber of Commerce

Prof. Emmanuel Pontavice, President, Chambre Arbitrale Maritime, Paris

Agenda Item No.8: Other Business

Dr. Aboul-Enein solicited the suggestions of those present for names of qualified arbitrators to place on the Cairo Centre's list.

Dr. Szurski inquired about the possibility of exchanging information through the Federation on mandatory provisions of laws, enforcement of awards and setting aside of awards, the possibility of amiable composition, representation of parties in arbitration proceedings, and the like.

Mr. Hoellering questioned whether, in the absence of a staff, the Federation had the resources to do this now but suggested that some of these topics could be addressed at future Federation programs.

Dr. Blessing stressed the importance of understanding of mandatory national rules and how these affect arbitration rules, including the interaction between national legislation and institutional rules.

Mr. Hoellering inquired whether this subject should be included at the next meeting and Dr. Horvath agreed that this would be a good topic for the next program. Mr. Vigrass also proposed that the topic of Value Added Tax also be considered.

There being no further business, the meeting was adjourned at 4:35 p.m.