

MINUTES OF THE MEETING OF THE IFCAI COUNCIL

held at Sofitel, Rio de Janeiro, Brazil

at 2.30 pm, 23 May 2010

PRESENT

Diana Droulers (President)
Stefano Azzali
Adrian Winstanley
Jens Bredow
Jin Xi (on behalf of Yu Jianlong)

1. PRESIDENT'S WELCOME

The President thanked all those present for attending.

2. APOLOGIES FOR ABSENCE

Alexander Komarov, Nabil Elaraby, Abdelwahab El Behi, Jason Fry, Yaneth Quiroz, Nassib Ziadé and Minn Naing Oo communicated their impossibility to attend this meeting. Bill Slate, although present in Rio, communicated his impossibility to attend, due to a parallel ICCA Council meeting.

3. MINUTES OF THE PREVIOUS MEETING

The Minutes of the previous Council meeting, held in Washington, D.C., on 19 November, 2010, and circulated on 19 April, 2010, were approved by the Council and signed by the President.

4. IFCAI CONSTITUTION

Because of Bill Slate's absence, the Council decided to postpone the discussion on the new IFCAI Constitution at its next Council meeting.

The review of our Constitution is not an urgent matter and the recent Adrian Winstanley's comments – here attached – deserve proper consideration.

Council members are invited to submit other comments and/or proposals, if any, to the Secretary, in order to be forwarded to the Steering Committee in charge with the revision.

5. CANDIDATES FOR ELECTION TO THE COUNCIL

5.1 The President informed that the only name collected from IFCAI members (according to the communication dated 9 April, 2010) of possible candidates, to be proposed by the Council to the General Assembly at the next meeting, was the name of Annette Magnusson, Secretary General of the Arbitration Institute of the Stockholm Chamber of Commerce.

The name of Mrs. Magnusson does meet the requirement of IFCAI Constitution, that aims to guarantee a balanced international representation within the Council.

5.2 Because of the relevant role played in the international arbitration panorama, Jens Bredow suggested to take into consideration, for future election to the Council, a Swiss member, representing ASA. The President will check the ASA Constitution in order to verify the duration of their President's mandate.

5.3 The election of the new member shall follow the procedure stated in our Constitution.

6. FINANCES AND MEMBERSHIP

6.1 At the President's invitation, the Secretary Treasurer updated the meeting on IFCAI finances and membership.

6.2 As at the end of May 2010, the IFCAI account stood at approximately US\$ 117.000.

6.3 As at the date of this meeting, there were 33 fully-paid-up members of IFCAI, with another 22 whose subscriptions were outstanding for the current year only (see the complete list attached).

6.4 The subscription of the Kuala Lumpur Regional Centre was outstanding for 2008 and 2009 and this member would, therefore, be struck off, in accordance with the Constitution.

The President will write a letter to the Kuala Lumpur Centre to better understand the reason of their decision to step our Federation.

6.5 The President will also solicit some Latin American centre (Bogotá, Santiago, Panama etc) to adhere in the future to our Federation.

7. RESEARCH COMMITTEE

7.1 At the President's invitation, the Secretary Treasurer – as coordinator of the Research Committee – updated the meeting on our research activity.

7.2 In Tunis and Washington, the Council decided to focus our research activity on awards and their compliance worldwide. As the Council may remember, the idea is to conduct not an academic research but a "user survey" to see what happens to the award *after* it has been issued.

7.3 Firstly, as decided in Washington, the Secretary Treasurer has contacted Uncitral (Mr. Sorieul) collecting information on their similar projects. Mr. Sorieul informed Azzali that the survey carried out jointly by UNCITRAL and the IBA was related to the legislative implementation by States of the New York Convention. It dealt with the legislative framework put in place by States, and did not include reference to parties' practices.

The guide that the Commission has decided to develop based on that survey is meant to assist Governments and the judiciary in the interpretation and application of the Convention. For this reason, the projects of UNCITRAL and IFCAI seem to be complementary and Uncitral expresses its interest to cooperate with our Federation and to share with us the information so far collected during the implementation of its survey.

7.4 Secondly, the Research Committee has drafted a very first version of the template to use in order to collect information. The template must be “basic”, simply and easy to be completed. Further to Council members comments, a second draft of the template (here attached) has been drafted and it will be circulated among Council members and all IFCAI members institution for comments and proposals (to be submitted to the Secretary Treasurer possibly not later than July 1).

7.5 The template shall be then forwarded by each IFCAI member institution to the counsels of every party (claimant and defendant) involved in an arbitration proceedings administered by such institution and terminated in 2008 with an award. The template itself shall make reference to the case number and the parties’ names. The information submitted, on the same proceedings, by both parties (that may turn to be the winner and the loser) shall coincide; if one party only replies, information on that specific case shall be those ones.

7.6 The Council has asked the Secretary Treasurer to draft a standard message to be used by IFCAI members institutions when requesting the information to the parties of their proceedings.

7.7 The templates filled by the parties shall be forwarded to the Secretary Treasurer.

7.8. The information so collected shall be organized, ordered and processed by a law school student to be selected for an internship (one year commitment for a gross salary of approx 20.000-25.000 euro). The student, hosted by the Milan Chamber of Arbitration, shall use the Chamber’s facilities and shall regularly refer to the Research Committee. The Council has asked the Secretary Treasurer to proceed with the selection of such individual.

8. 11TH BIENNIAL IFCAI CONFERENCE (BERLIN, 2011)

8.1 The President reminded the meeting that, as agreed in Washington, the next Biennial Conference will be held in Germany, in Berlin, in May 2011.

8.2 As for the date of the conference, the Council decided to hold the Opening Ceremony on Monday evening, May 16, 2011; the Conference on Tuesday (all day), May 17, and on Wednesday (half day, until noon), May 18.

8.3 Such dates will give the opportunity, for those interested, to attend also to the ICCA Anniversary celebration, to be held in Geneva, Switzerland, on Friday, May 20, 2011.

8.4 Jens Bredow, representing DIS (as hosting institution) proposed, as topic of the conference, “*Cost in arbitration*”. The proposal has been supported unanimously by the Council. A very first draft of the program (here attached), with no names of potential panellists, has been drafted by Jens.

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DATE OF NEXT MEETINGS

9.1 The Council decided to organize its next meeting in Paris, France, on the occasion of the so-called "Triple Colloquium" organized by ICC, ICSID and AAA in that city. The Council meeting will be held on Tuesday, November 16, 2010, approximately from 4.30 pm to 6.30 pm.

9.2 The Council also decided to call for a General Assembly and for another Council meeting in Berlin, Germany, on Monday, May 16, 2011, on the occasion of the 11th Biennial IFCAI Conference.

The Council meeting shall take place approximately from 2.30 pm to 4.30 pm and the General Assembly approximately from 4.30 pm to 6.30 pm (just before the Opening Ceremony of the IFCAI Conference).

Please save the above mentioned dates.

10. ANY OTHER BUSINESS

10.1 The Secretary Treasurer informed the Council that, further to our request, Uncitral Secretariat communicated that IFCAI complies with the criteria for obtaining observer status and will be invited to attend the next sessions of Working Group II (Arbitration and Conciliation).

10.2 The Council expressed its appreciation for the Observer status recognized to the Federation by Uncitral and for the high visibility that, such participation, shall guarantee.

10.3 As for the representation of our Federation (and also considering the topic of the future sessions, devoted to Investment Arbitration), the Council asked the President and Annette Magnusson to guarantee, as much as possible and if compatible with their agendas, the presence of the Federation respectively to the New York's sessions (usually, end of January/beginning of February) and to the Wien's sessions (end of September/beginning of October).

Unless previously instructed by the Council, Federation representatives shall follow the working sessions without expressing any official "IFCAI position".

11. CLOSE OF MEETING

There being no further business, the meeting was declared closed at 5.00 pm.

President

Date