

## **MINUTES OF THE MEETING OF THE IFCAI COUNCIL**

held at World Bank, Washington D.C., USA

at 3.00 pm, 19 November 2009

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### **PRESENT**

Diana Droulers (President)  
Stefano Azzali  
Nabil Elaraby  
Abdelwahab El Behi  
Jason Fry  
Yaneth Quiroz  
William Slate  
Nassib Ziadé

### **1. PRESIDENT'S WELCOME**

1.1 The President thanked all those present for attending.

1.2 The Council acknowledged the hospitality offered by ICSID and, in particular, by Nassib Ziadé in hosting this meeting and grating to Council members a "complimentary" participation to the "Triple Colloquium" of the day after.

### **2. APOLOGIES FOR ABSENCE**

Alexander Komarov, Adrian Winstanley, Jens Bredow and Minn Naing Oo communicated their impossibility to attend this meeting. The Secretary Treasurer informed the meeting that any attempt to reach and communicate with Mr. Yu Jianlong has failed. Many invitations and communications have been sent in the last 5 months to CIETAC, but no reply has been ever received.

### **3. MINUTES OF THE PREVIOUS MEETING**

The Minutes of the previous Council meeting, held in Tunis, on 27 May 2009, and circulated on 30 July 2009, were approved by the Council and signed by the President.

#### **4. CANDIDATES FOR ELECTION TO THE COUNCIL**

4.1 The President informed that Mr. Piotr Nowaczyk, appointed as Council member by the General Assembly in Tunis, is no longer President of the Arbitration Court at the Polish Chamber. For this reason, his position within our Council has to be replaced, according to the Federation Constitution and following the same procedure used for the election of this Council.

4.2 The President invited Stefano Azzali to collect from IFCAI members names of possible candidates, to be proposed by the Council to the General Assembly at the next meeting.

4.3 The candidates should meet the requirement of the IFCAI Constitution. A balanced international representation - and, because of the nationality of the Council member to be replaced, an European representation - should be granted.

#### **5. FINANCES AND MEMBERSHIP**

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

5.2 As at the end of October 2009, the IFCAI account stood at approximately US\$ 109,000.

5.3 As at the date of this meeting, there were 45 fully-paid-up members of IFCAI, with another 11 whose subscriptions were outstanding for the current year only.

5.4 The following new member was included in the paid-up 45: the Arab Chamber of Conciliation and Arbitration, Egypt.

5.5 The subscriptions of the Kuala Lumpur Regional Centre and the Permanent Arbitration Court at the Croatian Chamber of Commerce were outstanding for 2008 and 2009 and these members will, therefore, be struck off, in accordance with the Constitution.

5.6 The Council decided, after some years of "exception" (because of the work done for IFCAI newsletter), to ask ICSID to pay its annual fee to the Federation, starting from 2010.

5.7 The Secretary Treasurer invited Council members to express their view on a possible increase of the annual membership fee of 200 US\$. While some Council member were in favour of an increase (at least, to compensate the decreased value of the US dollar, compared to euro), others were against any increase of the fee. The financial situation of our Federation is positive and, so far, the money collected are sufficient to cover the expenses of the activities planned for the next future.

5.8 The Council decided not to increase, for now, the annual membership fee to the Federation and to postpone any decision on this issue to 2011.

**6. IFCAI WEBSITE**

The President reported that more information have been loaded on IFCAI website. In the near future, the password to enter in the website will be communicated to all IFCAI members.

**7. RESEARCH COMMITTEE**

7.1 In Tunis, the Council decided to focus our research activity on awards and their compliance worldwide. 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: do the parties obtain payment? How frequently do they settle after the award has been rendered? How often do they start an enforcement proceedings? Generally speaking, to which extent are users satisfied?

7.2 A template to collect information should be drafted by the Research Committee (Stefano Azzali, Bill Slate and Jens Bredow). We do not need many questions: the information to collect – to be then submitted to the Council - must be few but essential and very focused.

7.3 The template should be then posted on IFCAI website.

7.4 IFCAI members (arbitral centers) should ask their “clients” – lawyers, in-house counsels, companies – to provide data using the template posted on IFCAI website.

7.5 The information collected should be organized either by a company specialized in conducting survey (as it has been done by Queen’s May College through Price Waterhouse) or by a student to be selected for an internship.

7.6 The Secretary Treasurer has been invited to contact Uncitral (Mr. Sorieul) and collect information on their similar projects.

7.7 At the next Council meeting, the Research Committee will submit the information collected and a proposal on how to proceed in practice.

**8. USE OF IFCAI LOGO**

8.1 The President reported to the meeting that, in the last months, several organizations have requested the Federation “endorsement” for conferences or other public events.

8.2 A policy concerning IFCAI logo and name’s use is necessary.

8.3 So far, no specific discipline has been decided by the Federation on this issue.

8.4 In order to support the President, the Council decided to follow some guideline:

- any request for sponsorship, patronage, collaboration etc. - containing all the relevant information about the event – has to be addressed to the Federation (through either the President or the Secretary Treasurer);
- the President is delegated by the Council to answer to such request;
- the President decides on the request upon his/her discretion (with or without prior consultations with Council members);
- no motivation of the President's decision has to be rendered;
- in case of positive reply to the request, IFCAI logo and name may be used and an IFCAI representative shall be included in the program.

8.5 IFCAI members will be entitled to include in their website a link to the Federation's website.

8.6 The Council decided to include such guidelines in the Constitution (point 11).

## 9. **11<sup>TH</sup> BIENNIAL IFCAI CONFERENCE**

9.1 The President reminded the meeting that, in Tunis, it was agreed to held the next Biennial Conference in Poland (Spring 2011). After Vienna (2003); Washington (2005), New Delhi (2007) and Tunis (2009), the Council decided to choose Europe for the 2011 event.

9.2 In light of developments with Piotr's appointment (point 4) and the absolute need to count on a solid and reliable hosting organization, the President and the Secretary Treasurer suggested to select a different venue for our next Conference, keeping Poland on hold for future events.

9.3 The Secretary Treasurer informed the meeting of Jens Bredow's proposal, on behalf of DIS, to organize the 2011 Conference in Berlin. The proposal has been supported unanimously by the Council.

## 10. **DATE OF NEXT MEETING**

10.1 The Council decided to organize its next meeting in Rio de Janeiro, Brazil, on the occasion of the ICCA conference in that city. The Council meeting will be held on Sunday, May 23, 2010, from 2.30 pm to approximately 5.00 pm (just before the ICCA Opening Ceremony).

10.2 The Council also decided to call for a General Assembly meeting in Rio de Janeiro on Wednesday, May 26, 2010, from 3.00 pm to approximately 5.00 pm.

## 11. **IFCAI CONSTITUTION**

11.1 El Behi suggested a more structured Constitution. Other Council members supported a more gradual approach.

11.2 Bill Slate, as steering committee, distributed a new draft to be examined, discussed and finally approved. See attached.

12. **ANY OTHER BUSINESS**

12.1 The Secretary Treasurer asked the Council to express their view about IFCAI participation, as Observer, to the Uncitral Working Group II (Arbitration and Conciliation) sessions.

12.2 An IFCAI's participation will guarantee an higher visibility to our Federation, although guidelines for IFCAI representatives will be needed, in order to know how and to which extent any intervention and/or opinion should be addressed "on IFCAI behalf".

12.3 The Council decided to file a formal request to Uncitral Secretariat (through our Secretary Treasurer) to be included, as Observer in the Uncitral Working Group II (Arbitration and Conciliation).

13. **CLOSE OF MEETING**

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

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President

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Date