

Welcoming Address: Pieter Sanders
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I would like to take you back for a moment to twenty-five years ago. It was in January 1975 that the International Council for Commercial Arbitration also held a Congress in New Delhi. Also at that time the Host Organisation was the Indian Council of Arbitration. The Indian Council, chaired by Mr. Krishnamurthi, did a wonderful job. This institution not only organised that Congress but also, as Host organisation, produced the Congress Book. This book, a hardcover volume of some 800 pages, still makes highly interesting reading. It contains the reports and discussions on the topics dealt with at that Congress: The draft of the UNCITRAL Arbitration Rules, Presenting Evidence in International Commercial Arbitration, Arbitration between States or State Enterprises and Private Persons and Problems of Long Term Contracts.

Since 1982, ICCA's Congress in Hamburg, the Host Organisations have been relieved of the task of producing the Congress Book. ICCA started to produce its Congress Book Series of which no. 9, on ICCA's Congress in Paris, recently appeared. When the participants at the present Congress receive the Congress Book, it will be no. 10 in the Congress Series.

The 1975 Delhi Congress was chaired by Jean Robert, the unforgettable first President of ICCA whom I had the privilege to succeed. Several of ICCA's Council Members, present today, also contributed to the interesting topics dealt with in 1975. One of these topics may be especially mentioned. It is the discussion of the draft, at that time under discussion at UNCITRAL, of UNCITRAL's Arbitration Rules.

These Rules appeared one year later in 1976. Our discussions of the draft of these Rules at the 1975 Congress marked the beginning of ICCA's collaboration with UNCITRAL. Professor John Honnold – the predecessor of Dr. Gerold Herrmann who is present here today – read a message from Mr. Suy, United Nations Under-Secretary and Legal Counsel, to the Congress. He referred to the collaboration with ICCA's consultation group and to my work as Expert Consultant of the UNCITRAL Secretariat for these Rules.

This collaboration was repeated when UNCITRAL started its work on its successful Model Law on International Commercial Arbitration which appeared in 1985. Like the procedure in Delhi in 1975 regarding the draft of the Arbitration Rules, a draft of this Model Law was discussed at ICCA's Lausanne Interim Meeting in 1984. It was a very useful massive hearing. Something similar may perhaps happen again, at a future Congress of ICCA, in respect of the revision of the Model Law on which UNCITRAL has recently started to work.

The Congress Book 1975 still makes fascinating reading. I am tempted to cite from its contents. I shall only do so from the Inaugural Address made by the President of India, Shri Fakhruddin Ali Ahmed. He gave a short introduction to the topics I mentioned and emphasised that in India arbitration stems from the older days, the *Panchiat*. However, I was in particular impressed by his wise words: "Arbitration is different from court proceedings and has to be maintained so, if it is to continue as a successful

instrument for resolving of disputes. *The more arbitration proceedings are aligned to court proceedings, the less will it progress.*" These were wise words we can still take to heart today.

Today, India is one of the first countries which has recognised the trend towards increased use of Conciliation. I analyzed and discussed this trend in my recent publication *Quo Vadis Arbitration?*. Very progressively its new Act is entitled "The Arbitration and Conciliation Act, 1996".¹ The Conciliation Part is based on UNCITRAL's 1980 Conciliation Rules. Most recently a report on India's new legislation has appeared in ICCA's Handbook. It is written by ICCA's current President, Mr. Fali Nariman. A reprint of this report is available at this Congress for the participants.

As in 1975, the President of India honours us with an inaugural address. India is a country of progress and tradition. In the world of arbitration much has happened in the twenty-five years since our 1975 Congress. Progress can be noted. However, there still remains work to be done to improve the arbitration situation. I am convinced that the reports and discussions at this second New Delhi Congress will largely contribute to this effect.

1. The text of the Indian Arbitration and Conciliation Act, 1996 is reproduced in the Annex.