

## Welcoming Address of Professor Pieter Sanders

ICCA NEW YORK ARBITRATION CONGRESS 1986

As Chairman of ICCA, I would like first of all to express how pleased we were to receive the invitation of the AAA to hold our VIIIth Congress in New York. After Paris, Rotterdam, Venice, Moscow, New Delhi, Mexico City and Hamburg, we now for the first time have a Congress in the United States.

ICCA's activities are, in broad outline, twofold. First of all, ICCA, along with the host organization, participates in the organization of international arbitration conferences where topics of great interest for the development of international commercial arbitration are dealt with on the basis of reports written by experts on the subjects of the conference. These reports are distributed well in advance of each meeting to those who register in time. Participants may then come to the conference well prepared for the discussion.

Secondly, ICCA has an extensive publication program: its *Yearbooks* are well known. *Yearbook XI* (1986) just came from the press and is available here, as are all ICCA publications. This eleventh Volume again provides in its 700 pages a wealth of information on international commercial arbitration. It also contains, for the first time, an *Index* of all arbitral awards published in the *Yearbooks*. This 45-page Index of the subjects dealt with in the arbitral awards will be of great assistance to lawyers and arbitrators when they want to know how international arbitrators have decided previously in similar cases. With the Hamburg Congress, ICCA started the publication of its *Congress Series*. The New York Congress Book will be no. 3 in this series. Participants will receive it before the end of this year.

Relatively new is ICCA's third publication: the *International Handbook on Commercial Arbitration*. This is a loose-leaf edition. Here you find national reports on practically all countries where international commercial arbitration currently takes place. These reports are regularly updated in the loose-leaf. Annexed to each national report are all relevant legal texts. This, of course, includes the Arbitration Act or the relevant part of the Code of Civil Procedure of the country concerned.

Both activities of ICCA – its congresses and interim meetings on the one hand, its publications on the other – have a common denominator: the promotion of commercial arbitration as a means of solving disputes arising out of international trade. Both activities are aimed at improving the quality of the arbitral process and, where possible, to better conditions under which this private settlement of disputes takes place.

ICCA is a non-profit organization. Its Council Members devote their time and energy to the goals of ICCA without any remuneration. The same applies to those who function as general editors for ICCA's publications. The ICCA Council, as such, is quite an idealistic group. It is presently composed of 32 members, all experts in arbitration. They come from 17 countries, representing all the different systems of arbitration in the world. ICCA has been recognized by the United Nations and is a so-called non-governmental organization, an NGO. As such, we

advise and assist the UN and, particularly, the UNCITRAL in its arbitration work. This was already the case with the UNCITRAL Arbitration Rules (1976), followed by the UNCITRAL Conciliation Rules (1980) and more recently in the preparation of the UNCITRAL's Model Law on International Commercial Arbitration (1985) on which project ICCA held a meeting in Lausanne in 1983, attended by more than 500 participants. In fact this was a massive hearing on the Model Law project.

We are often approached with the question "How can I become a member of ICCA?" The answer is, I am sorry to say, simply: "You can't." We enlarged the maximum number of members recently to 36 but the few seats which we still have available will be occupied by representatives of countries or regions we deem still not sufficiently represented. Their choice is made, with great care, by ICCA's Council in the old-fashioned way of cooptation.

From the time of the first Congress in Paris (1961), ICCA was privileged to have Jean Robert as Chairman until I took over in Mexico. With great respect we all remember the period during which he guided ICCA and we are happy to welcome him here today as Honorary Chairman of ICCA. After this Congress I will be succeeded as Chairman of ICCA by Professor Giorgio Bernini. We are all convinced that in the years to come ICCA will be efficiently and eloquently chaired by him.

In two years time, we will hold our next interim meeting in Tokyo, Japan on 31 May–3 June in 1988. This meeting will be hosted by the Japan Arbitration Association and the Japan Shipping Exchange, Inc. The subject of this meeting will be Arbitration and Conciliation in that region. I am also happy to announce that we received an invitation from the Stockholm Chamber of Commerce to hold our IXth Congress in Stockholm in 1990. Tokyo and Stockholm will be the places of our next meetings.

The use of international arbitration is steadily increasing. In response to this increased use of arbitration as a means of settling disputes many national legislators have during the last decennia improved the conditions under which arbitration takes place. These modern arbitration laws are favourable to arbitration in that they seek to allow the parties the greatest possible autonomy while protecting the interests of the parties by providing mechanisms for assisting the arbitration process in going forward and assuring the parties a fair hearing. In general, enforcement of awards has been facilitated by reducing the formal requirements and limiting the grounds for refusal. Conversely, the grounds for setting aside of awards have been more strictly defined as well.

Similarly, many arbitral institutions have modernized their procedures by adapting their rules or adopting new types of procedures: conciliation, mini-trials and various forms of alternative dispute resolution. There has been a proliferation of international arbitration centres, creating a stimulating competition to provide the best possible services under the most favourable legal and – I may add – meteorological climate.

Unification and harmonization of arbitration practice have been promoted by the wide and increasing adherence to international arbitration treaties. Today 69 States have adhered to the New York Convention. Similarly, the Washington Convention has now been adhered to by 92 States.

The subjects of this Congress are good examples of ICCA's efforts to assist in the

development of international commercial arbitration. *Arbitral practice* in various legal systems will be compared and examined. Participants will return home to their own legal systems with an increased understanding of other systems. *Public policy* will also be examined. In the past a broad application of public policy has sometimes hindered the course of international commercial arbitration. In the coming days, different visions of public policy will be discussed and the ideas expressed at this Congress may later find their expression in new definitions of "international" public policy.

In this way, ICCA seeks to illuminate new ideas, providing a forum where all points of view may be heard.

Let me terminate this address by now expressing our sincere thanks to the AAA and the Congress Coordinator Mrs. Rosabel Everard Goodman and her staff for the excellent organization of this meeting and by wishing all of you interesting and happy days in the fascinating scenery of New York.