

THE CHARTERED INSTITUTE OF ARBITRATORS

Irish Branch

NEWSLETTER

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EDITORIAL

THE GENEVA GLOBAL ARBITRATION FORUM

The 6th Geneva Global Arbitration Forum held at the beginning of December was attended by over 140 participants, over 90 of whom were based in Geneva itself. That strong presence underlines the dominant role that Switzerland, in general, and Geneva, in particular, plays in world arbitration. The cuckoo clocks are replaced by precision engineering and machine tools and the yodeling by arbitration! One is as quickly made aware of the importance of that city as a centre for arbitration as the visitor to Dublin is reminded of the home of the big pint. Neither image is gratuitous.

The Chairman of the Irish Branch, as a representative of the Bar Council, was honoured to attend the Forum and verify the hegemony of the Swiss in international arbitration, and the dominance of Geneva as its centre.

There is certainly a critical mass in Geneva that continues to attract more and more arbitrations to that city. But, despite its centrality and neutrality, it seems somewhat unfriendly and western dominated. It is also expensive. Dublin is an attractive alternative.

There was no official representative of the Chartered Institute itself, though Mr. Geoffrey Beresford Hartwell attended in a personal capacity. Neil Haplan Q.C. attended as the Chairman of the Hong Kong Branch.

The participant list was 'Who's Who' of the arbitration world. It provided an unrivaled opportunity to meet so many authorities, both practising and academic. There is, of course, a strong correlation between authors and arbitrators. International arbitrators make their name by writing about arbitration, attending conferences and by working for arbitration bodies. The Forum was superbly organised and efficiently chaired by Dr. Jaques Werner who is a consummate Swiss lawyer, arbitrator and publisher.

Dr. Werner conducted over twenty five contributors in an accurately timed and finely orchestrated *tour de force*. Like clockwork speakers delivered *con molto brio* and without score. Proceedings, including questions and answers, were carefully recorded and will no doubt appear, in due course and in different forms, in both the *Journal of International Arbitration* and the *Journal of World Trade* which he edits.

Each topic and sub topic was introduced by him and intertwined with recurring themes:

- ◆ Peace is the aggregation of resolved disputes;
 - ◆ Dispute resolution needs to be prompt, adequate and fair;
 - ◆ Arbitration without privity will overtake contractual arbitration;
 - ◆ Trade is global while law remains local;
 - ◆ International trade is hindered by national law.
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The Geneva Global Arbitration Forum was indeed worldwide in scope. It dealt, by lecture and panel discussion, with the following topics:

- Arbitration in China;
- Arbitration under Investment Conventions;
- World Trade Organisation Dispute Settlement Mechanism; and
- Claims Arising out of the Gulf War.

Two impressions: the existence of many other arbitral institutions and the movement away from contractual arbitration that we regard as an essential attribute of commercial references.

The number of claims dealt with by the controversial United Nations Compensation Commission arising out of the Gulf war now number over 900,000. The growth of CIETAC arbitration with China now makes it the second biggest institution after the International Court of Arbitration in Paris.

Secondly, the development of international arbitration in the coming century will continue to gravitate towards arbitration without privity. While the powers of arbitrators have derived in the past from contract, they will emanate more and more from the many international treaties providing for arbitration.

I caught the same buzz, confidence and throughput of arbitration references through the numerous institutions and commissions as was reported by the Bar Council delegate at the November Investment Arbitration Conference in Washington.

There was little interest in Ireland as a venue for arbitration: less response to a question as to how one gets on to an institutional panel of arbitrators.

We have an uphill task to convince the world that we have a lot to offer and can offer professional arbitration services at a reasonable cost.

NEWS IN BRIEF

ANNUAL DINNER

The Annual Dinner was held at the Kings Inns on Friday 5th December, 1997 and was an acclaimed success. There were brief addresses by the Attorney General Mr. David Byrne, SC, Mr. Patrick Donovan, Vice President, ICC International Court of Arbitration Paris, Dr. Roderick Murphy, SC, Chairman of the Irish Branch and the Vice Chairman of the Irish Branch, Mr. John O'Reilly led the toasts. The guests included: Mr. David Byrne, SC, Attorney General, Mr. Patrick Donovan, Vice President, ICC International Court of Arbitration Paris, Mrs. Maria Donovan, Dr. Patricia Murphy, Dr. Nael Bunni, Mrs. Anne Bunni, The Hon. Mr. Justice John Blayney, Professor William Binchy, Mr. Brian Hutchinson, Mr. Patrick Hanratty, Mr. David Keane, Mr. Pierce Kent, Mr. Desmond Miller, Mr. Roger Dunwoody, Ms. Anne Dolan, Mr. Michael Mohan, Mrs. Catherine Meehan, Mr. Rory Meehan.

NEW COURSES AT UCD

The students reading for the Diploma in Arbitration at University College Dublin are now preparing for their examinations. The students attended evening lectures and there were seminars arranged on most Saturday mornings during the term. We wish them all every success!!!

This course has been a great success and much credit is due to the dedicated work of Mr. Michael Moran, Mr. Brian Hutchinson and Dr. Roderick Murphy in organising the course and accreditation by the Chartered Institute of Arbitrators.

A further course leading to the Diploma in International Arbitration will commence early in the New Year.

ARBITRATION (INTERNATIONAL COMMERCIAL) BILL, 1997

The newly introduced international arbitration Bill is progressing through the Oireachtas and it is expected that it will become law early in the new year. There was a most informative seminar hosted by the Irish Branch in association with UCD on Saturday 15th November. Learned papers were presented by the Attorney General Mr. David Byrne, SC, Dr. Roderick Murphy, SC, Chairman of the Irish Branch, Dr. Nael Bunni, Mr. Max Abrahamson, Mr. Michael Carrigan and Ms. Leila Anglade of the Law Department in UCD. The first session was chaired by Mr. Ercus Stewart, SC and the second session was chaired by Mr. Brian Hutchinson, BL, of the Law Department in UCD.

UPDATED MEMBERSHIP LIST

The work on the membership list for the Irish Branch is continuing despite a slow response from members. If you have not responded so far, please send your updated details to the secretariat by post, fax or e-mail.

SCHEMES

The Schemes Sub-Committee is continuing to work on the development of the existing arbitration schemes and to pursue new schemes. The Schemes Sub-Committee would welcome any suggestions from members regarding new areas where the Irish Branch could introduce arbitration clauses referring to the Rules of the Branch.

There have been a total of 168 Requests for Nomination of Arbitrators received by the Irish Branch to date in 1997. Seventy one nominations have been made by the Chairman, 44 have been settled and the balance are at the pre-nomination administrative stage.

NEW MEMBERS

Since the AGM, the membership of the Branch has expanded. We now have 345 Associates and 124 Fellows. Those who joined us since the AGM include: Dorothea Dowling, John B. Mangan, Andrew G Tough, Richard Lee, Damien McGahon, Finola O'Donnell, Thomas J. Kelly, M.A. Walsh, Margaret Austin, John J. Deaton, Patrick C. O'Connell, Paul C. McNamara, Anthony G. Reale, Joseph N. Kelly, Patrick L. McNally, Patrick N. Molloy and Carmel Brennan.

COURSES

In recent months the Courses and Seminars Sub-Committee have been busy organising a number of successful courses. A Supervised Training Weekend was held on 20/21st September in Malahide with 18 participants. A Special Fellowship Course was held in Malahide on 24/26th October with 14 participants. An Entry Course was held in Malahide on 7/9th November. Twenty eight applicants attended this course. The Branch Committee would welcome any suggestions from members regarding continuing professional development.

THE IRISH BRANCH ENTERS CYBERSPACE

The Secretariat can be contacted by e-mail at ciarb@iol.ie.

Members may wish to enter our web site at <http://www.iol.ie/~ciarb/>. This site is in the process of construction and suggestions from members would be greatly welcomed. Another site which will be of interest is <http://www.arbitrators.org/>. This is the address of the Institute in London.

LIBRARY

The Irish Branch has a unique, if under-used, resource in the Library. The books have been catalogued and bar-coded and are available on loan to members. The Branch Committee would welcome any suggestions regarding publications which would add to the resource. The following books have been acquired for the Branch Library in recent months: 96th Annual Report, Permanent Court of Arbitration, Arbitration Journal Nos. 284 and 285 (from the Korean Commercial Arbitration Board), Irish Planning Law and Procedures (by Eamon Galligan), Discovery in Ireland (by Eamonn Cahill), International Handbook on Commercial Arbitration (by P Sanders and A Jan van den Berg), ARBITRATION, the Journal of the Chartered Institute of Arbitrators, Vol 63, International Arbitration and Dispute Resolution Directory (1997).

NEW COMMITTEE MEMBER FROM NORTHERN IRELAND

Mr. John Frazer has recently been co-opted as a member of the Branch Committee on the retirement of Mr. Paddy Andrews from the Committee in November. The Branch Committee has written to Mr. Andrews to express its gratitude to him for his work for the Branch over the years and to wish him continued success in his practice as an arbitrator.

FORTHCOMING EVENTS

1998 will commence with a number of events of interest to members of the Branch including the opening of the new arbitration centre by the Bar Council and the expected passage of the new international arbitration Bill.

Dr. Robert Briner, President of the International Court of Arbitration in Paris, will formally open the centre. He will also give the keynote address at the Mock Arbitration Workshop using the 1998 Rules of Arbitration and Conciliation on 6th and 7th February, 1998. This is being run by the Chamber of Commerce in Dublin with the Irish Branch. Speakers include Mr. David Byrne, SC, Attorney General, Mr. Desmond Miller, Chairman of the International Chamber of Commerce Dublin, Christopher Koch, of ICC Paris and Eric Schwartz, Former Secretary General of ICC Paris. Participants in the Mock Case will be Eric Schwartz, Eoghan Fitzsimons, SC, Former AG, Roderick Murphy, SC, Patrick Hanratty, SC, and Rory Brady, SC.
