

which may arise at various stages of projects for industrial, scientific and technical cooperation.

2. The Congress recommends to parties to contracts for industrial, scientific and technical development that they utilize all available means of arbitration to assure that the work contemplated by such contracts is promptly completed in accordance with the contractual provisions. In this connection, the Congress notes that the value of arbitration is not limited to disputes which may arise after the completion of work under such contracts, but also that arbitration is valuable in connection with disputes which may arise while the performance of such work is in progress.

3. In the course of the proceedings of the Congress, a number of specific questions arose which the Congress recommends as being worthy of further thorough study. These questions include the following:

(i) In what ways can arbitration, or conciliation, assist in resolving disagreements which may arise during the course of the initial negotiation of contracts for industrial, scientific and technical development, considering particularly that such contracts are often highly complex and have outgrown the framework of traditional sales contracts?

(ii) In what ways can arbitration assist in resolving disputes which may arise during the performance of a contract due to changes in circumstances which the parties could not predict when the contract was initially entered into?

(iii) What is the proper relationship between the conclusions reached, on the one hand, by engineers and technical consultants while work on a contract is proceeding, and the decisions to be reached, on the other hand, by arbitrators when one of the parties contests a consultant's conclusions?

(iv) What steps can be taken so that parties to contracts have fuller information upon which to base decisions as to whether institutional, specialized or *ad hoc* arbitration is the most appropriate, considering the type of contract and the nature of possible future disputes thereunder?

(v) Recognizing the values of standard forms and increased harmonization of rules governing various aspects of international industrial, scientific and technical cooperation, and recognizing that the development of these would be greatly enhanced by knowledge of previous experience in arbitration, can ways be found to make such experience publicly available, and at the same time preserve the rights of those parties to contracts who desire to maintain confidentiality, especially in contracts relating to know-how and trade secrets?

### III

RESOLVED, that:

Considering that the development of arbitration as a means of resolving disputes arising in the course of international commerce requires ever-increasing cooperation of all arbitration organizations and other interested persons; and

Considering that since the establishment at the IIIrd Congress

of the International Organizing Committee for following Congresses the usefulness of that body has been clearly shown; and

Considering that the Congress is grateful for the work of the members of the International Organizing Committee elected at the IIIrd Congress and expresses confidence in them; and

Considering that it is now desirable to intensify the activities of the International Organizing Committee by enlarging the number of its members and assigning it new tasks;

The Congress now determines that:

1. The above-mentioned International Organizing Committee shall continue its activities with a view to the preparation of the next Congress and to undertaking any other activities in connection with the further development of international commercial arbitration.

2. The International Organizing Committee elected at the IIIrd Congress shall be expanded to a total membership of twenty-five in order to permit broader representation of those interested in international arbitration, with twenty-two members being elected at this time, and with the International Organizing Committee being given authority to fill the three remaining places by majority vote.

3. In accordance with the foregoing resolutions, the following persons are elected to be members of the International Organizing Committee:

S. BRATUS	USSR	President of Foreign Trade Arbitration Commission at the USSR Chamber of Commerce and Industry
A. BROCHES	U.S.A.	Vice President and General Counsel of the International Center for Settlement of Investment Disputes
A. BÜLOW	F.R.G.	Staatssekretär A.D.
C. A. DUNSHEE DE ABRANCHES	Brazil	Director General, Inter-American Commercial Arbitration Commission
M. DOMKE	U.S.A.	Professor, New York University
F. EISEMANN	France	Secretary General, Arbitration Court of the International Chamber of Commerce
M. FERRANTE	Italy	Secretary General, Italian Arbitration Association
O. GLOSSNER	F.R.G.	Chairman of the Commission on International Arbitration, International Chamber of Commerce
H. M. HOLTZMANN	U.S.A.	Chairman of Board of Directors, American Arbitration Association

J. JACUBOWSKY	Poland	Deputy Chairman of the Arbitration Court at the Polish Chamber of Commerce
L. KOPELMANAS	Switzerland	Counsellor, United Nations Office of Geneva
N. KRISHNAMURTHI	India	Secretary, Indian Council of Arbitration
S. LEBEDEV	USSR	President of the Maritime Arbitration Commission at the USSR Chamber of Commerce and Industry
B. MERCHANT	India	Attorney-at-Law, Bombay Member of Governing Body of Indian Council of Arbitration
I. NESTOR	Rumania	Permanent Counsellor of the Legislative Council of Rumania
N. PEARSON	Great Britain	Solicitor
J. P. POINTET	Switzerland	Professor, University of Neuchâtel
J. ROBERT	France	President of the French Arbitration Committee
P. SANDERS	Netherlands	Netherlands Arbitration Institute
D. B. STRAUS	U.S.A.	President, Research Institute, American Arbitration Association
H. STROHBACH	G.D.R.	Professor; Vice President of the Arbitration Court
H. TRAMMER	Poland	Chairman of the Arbitration Collegium at the Polish Chamber of Foreign Trade

(Three vacancies are to be filled by one representative from Italy, one from Japan and one from an African nation)

#### IV

RESOLVED, that the Congress requests the International Organizing Committee to make a study and prepare a report for presentation at the Vth Congress concerning the best ways in which arbitration organizations and others interested in arbitration could join to cooperate in exchanging information and sharing knowledge of developments in international commercial arbitration, it being understood that each arbitration organization would retain its own autonomy and independence. To aid in making the study, the International Organizing Committee is requested to convene at least one meeting of representatives of interested arbitration organizations before the time of the Vth Congress. It is also requested that the

Committee give careful consideration to its areas of activity, working methods and membership.

#### V

RESOLVED, that the International Organizing Committee is requested to confer with interested arbitration organizations in an effort to gather information concerning the publications relating to arbitration which are available in the libraries of various nations and also to collect information concerning international commercial arbitration cases, to the extent that disclosure of such information is consistent with the rules and procedures of the various arbitration organizations. The Committee is requested to take such action in connection with the information collected as is for the benefit of commercial arbitration and approved by the arbitration organizations which supply the information.

#### VI

RESOLVED, that the Congress expresses its most sincere thanks to the U.S.S.R. Organizing Committee and Secretariat for their outstanding work in making the arrangements for the IVth Congress in Moscow and for their warm hospitality to the participants in the Congress and accompanying persons.

#### VII

RESOLVED, that the Vth International Congress on Arbitration shall be held in New Delhi, India in 1975, on a date and with a theme to be determined by the International Organizing Committee.

# RESOLUTIONS OF THE FOURTH INTERNATIONAL CONGRESS ON ARBITRATION IN MOSCOW, OCTOBER 3-6, 1972

## I

RESOLVED, that the Congress reveres the memory and mourns the loss of Professor Eugenio Minoli, President of the International Organizing Committee, who was tragically killed on the eve of the Congress.

## II

RESOLVED, that:

The Congress having heard twelve reports, and having received more than fifty communications and having heard extensive discussions, all on the theme of "Arbitration and International Cooperation Toward Industrial, Scientific and Technical Development"; and

Taking into consideration that international cooperation for industrial, scientific and technical development between people of different nations, regardless of their economic and political structures, can contribute to social progress and to bringing together people of all nations and therefore should be encouraged; and

Taking into consideration that such international cooperation involves the emergence of new and diverse contractual arrangements between cooperating business organizations; and

Taking into consideration that such contractual arrangements often relate to projects which are complex and involve long periods of time to complete, including the design and construction of various facilities, the assembly, installation and starting-up of machinery and equipment, the transfer of new technical knowledge and experience, and the joint carrying out of scientific research;

The Congress now expresses the following views and recommendations:

1. The Congress unanimously and strongly affirms the great value of arbitration not only for traditional types of disputes arising in international trade, but also for newer types of disputes which may arise as a result of international commercial contracts for industrial, scientific and technical development. The Congress recognizes the increasingly important role of persons possessing specialized scientific and technical experience in connection with problems