ICCA
50th Anniversary
Geneva 2011
Geneva occupies a near mythical place in the lore of ICCA. It was on the banks of the Lac Leman that a few friends, all pioneers of international arbitration, gathered as negotiators of the European Convention on International Commercial Arbitration and fell into the habit of getting together outside the formal technical deliberations to evoke broader perspectives. Some details of these initial conclaves are recounted elsewhere in this little publication. They were the origins of ICCA.

From the beginning, ICCA conceived itself as the forum for a dialogue of big ideas. The very first session of its very first Congress, held in Paris in 1961, was chaired by the president of the French Court of Cassation and devoted to the innovative idea of the autonomy of arbitration clauses. Perhaps it is no coincidence that the leading French judgments on that very concept followed in the wake of that debate. Other sessions dealt with such topics as the functioning and cooperation of international arbitral institutions and the notion of an “international bureau” for the selection of arbitrators and the certification of awards for enforcement. The latter was surely over-ambitious at the practical level, but nevertheless at the very least a worthwhile mental exercise to focus all minds on the art of the possible.

The success of these early Congresses - including for example the 1975 edition in New Delhi, devoted to the concept (unusual at the time) of the filling of gaps in long-term contracts - gave impetus to the ICCA publications which have become such a prominent feature in the arbitral environment.

Perhaps the principal reason why it is appropriate that ICCA’s 50th anniversary be celebrated in Geneva is not so much to remember the past as to project ourselves successfully into the future. Geneva’s experience with international arbitration has been long and glorious, but this has never impeded Swiss innovation - the product, as far an outsider can tell, of a healthy dialogue among practitioners, academics, law makers and judges. The Swiss have never rested on their laurels, but have constantly sought to refine their analysis of the law of arbitration and to improve their practical management of the arbitral process. This example is precisely the one ICCA must follow as it embarks on its second half-century, and seeks to develop effective methods of dispute resolution for the benefit of the international community, to ameliorate its programmes, to reflect the diversity of the modern world in its membership; and as it seeks to ensure - notably by encouraging the newly formed Young ICCA - that new ambitious entrants are welcomed, and are given opportunities to contribute and to thrive.

Jan Paulsson
President of ICCA
On behalf of the Swiss Federal Government, I am pleased to welcome you to Geneva. I wish to congratulate ICCA on its 50th anniversary and am proud that ICCA has chosen Switzerland as the venue for its celebration.

ICCA’s anniversary marks half a century of commitment to advancing arbitration as a means of settling disputes in international commercial relations. Through first rank publications and congresses, through its educational endeavors and its cooperation with UNCITRAL, ICCA has been a leading actor in the promotion of international arbitration over the last decades. Thanks to the diversity of its membership, representing all the regions of the world, ICCA has contributed to the growing acceptance and use of international arbitration both at the global level and domestically.

Switzerland boasts a long tradition in the peaceful settlement of disputes generally and in international arbitration in particular. Landmark proceedings such as the Alabama case, decided by an arbitral tribunal sitting in Geneva in a dispute between the governments of the United States and Great Britain in 1872, shaped – and were shaped by – this tradition. Today, Switzerland hosts international organizations active in dispute settlement such as the WTO and WIPO, the UN Compensation Commission and the Court of Arbitration for Sports, just to name a few. Each year, countless commercial parties choose Switzerland as seat of arbitration, trusting its legal environment, its modern arbitration laws, and the excellence of its judiciary.

Personally, I view this heritage both as a grant of trust and as a responsibility. Switzerland remains committed to the values which international arbitration has found to be a fostering environment in the past. Also, my administration encourages developments to maintain a wise and fruitful balance between the legitimate expectations of traditional stake-holders on the one hand and new demands international arbitration will need to accommodate in the future on the other hand. In that sense, I look forward to many years of successful dialogue and shared interests between Switzerland and ICCA.

Simonetta Sommaruga
Federal Councillor
Federal Department of Justice and Police
50th Anniversary of ICCA

In 1961, on the occasion of the negotiations of the European Convention on International Commercial Arbitration, the International Council for Commercial Arbitration (ICCA) was founded in Geneva.

Since 2011 marks the 50th anniversary of ICCA, it seems only natural to host a Conference on “Arbitration – The next 50 Years” and celebrate this remarkable event.

For the last half century, ICCA has been devoted to the promotion and improvement of arbitration, conciliation and other forms of international commercial dispute resolution. ICCA is an international not-for-profit organization and maintains official status as a non-governmental United Nations accredited organization.

ICCA is not an arbitral institution, nor does it administer arbitrations or act as an appointing authority. Rather, ICCA’s activities include convening international arbitration congresses and conferences, sponsoring authoritative dispute resolution publications and promoting the harmonization of arbitration and conciliation rules, laws, procedures and standards.

The Beginning

ICCA was the result of informal gatherings between friends that took place in 1961. Several years prior, friendships had been formed when a group of delegates assembled to assist in the drafting of the New York Convention of 1958.

In April 1961, certain delegates of this group again reassembled to negotiate and draft the European Convention on International Commercial Arbitration. That spring, the drafting sessions took place in Geneva at the Office européen, as it then was, of the United Nations.

At the end of the sessions, a group of delegates, including Jean Robert, Pieter Sanders, Niel Pearson, Eugenio Minoli, would fall into the habit of meeting at Relais de Chambésy, a café near the offices of the international organizations. Pieter Sanders recalls that “the atmosphere was perfect” at Relais de Chambésy. It created an ideal environment to discuss the development of arbitration and arbitration law.

It is there that the founders of ICCA agreed to organize an international congress devoted to raising awareness of, and improving international commercial arbitration.

Le Relais de Chambésy
“The whole ICCA started with a club of old friends who knew each other very well”; “in this club of Chambésy, which was elaborating the Convention of 1961 of Geneva, there was the feeling that what was really needed for international commercial arbitration were conferences.”
(Pieter Sanders)

“ICCA was the very first forum having this purely international idea”; “a special purpose was the exchange of experiences, of practical experiences and the discussion of theoretical problems”; “it promotes understanding”; “it brings together the practices of different countries, (...) to create a bridge (...) between people of various nationalities and various countries.”
(Pierre Lalive)

ICCA has its origins in these informal gatherings of people, who at the time launched the first international congress of its kind. In 1975, the original “Statement of Purposes and Procedures” of ICCA was adopted. It was later amended in 1994, 2007 and 2009. “Howard Holzmann drafted the statutes in Paris with Jean Robert” remembers Pieter Sanders.

THE FIRST CONGRESS

The first Congress took place in May 1961 in Paris under the auspices of the Comité Français de l’Arbitrage and it has been “enriched by the spontaneous creation of ICCA at the initiative of those whose friendship was born when drafting the New York Convention” (Bertrand Moreau, ICCA Congress Series N° 9, 1998 Paris, p. 7).

The aim of the first Congress was to improve the legal framework and the functioning of international arbitration. One of the ambitions of the congress was formulated in the following terms (and in French!):

“Notre ambition est de dégager quelques notions communes et de faire ressortir la nécessité de réformes portant sur des textes législatifs anachroniques et sur des pratiques procédurières incompatibles avec la bonne foi qui devrait être à la base de tout règlement arbitral.”
(Charles Carabiber, Rev. arb. 1961, p. 45)

“Our ambition is to identify some common notions and to highlight the necessity of reforms concerning outdated legislative texts and dilatory tactics incompatible with the principle of good faith, which should be the basis of any arbitral resolution.”

The first Congress was a success and was followed by many others.
ICCA is devoted to developing international commercial arbitration, conciliation and other methods of dispute resolution. In particular ICCA is committed to promoting “harmonization of rules, laws, procedures and standards” and improving the processes of conciliation, arbitration and other means of preventing and resolving international commercial disputes and difficulties.

Art. 2 of the Statement of Purposes and Procedures:

1. ICCA shall continue its activities for (i) the preparation and conduct of international arbitration congresses and conferences, (ii) the preparation and publication of authoritative texts, (iii) the performance of its functions as a non-governmental organization recognized by the United Nations, and for cooperation with other international bodies, and (iv) shall undertake any other activities in connection with the further development of international commercial arbitration, conciliation and other methods of dispute resolution.

2. ICCA shall continue to develop and provide a means by which arbitrators, conciliators, practitioners, users, scholars and arbitration organizations in various parts of the world may cooperate in activities related to international commercial dispute prevention and resolution, including inter alia:
   - promoting research
   - exchanging information and sharing knowledge
   - encouraging or sponsoring publications
   - promoting harmonization of rules, laws, procedures and standards
   - carrying out any other activities for promoting the use and improving the processes of conciliation, arbitration and any other means for preventing and resolving international commercial disputes and difficulties.

3. Arbitration organizations in various parts of the world and other interested bodies and individuals may be invited to participate in congresses and other activities sponsored by ICCA. Each arbitration organization which participates in the activities of ICCA shall retain its own autonomy and independence. ICCA may cooperate with organizations of the United Nations, with other international bodies and with various interested organizations in carrying out projects related to international commercial arbitration, conciliation and other means of dispute resolution.

In 1993, Lord Mustill expressed the purposes of ICCA in these words:

"The Council is the prime forum for the strengthening and development of the law and practice of commercial arbitration. It has a pivotal role in maintaining intellectual and professional contacts between those who in many countries can influence the present conduct and future growth of international commercial arbitration. In this field, inconsistency, fragmentation, misunderstanding and even hostility are constant dangers."

(ICCA Congress Series No 6, 1993 Bahrain, p. 13)

ICCA has been successful in these objectives. In particular, ICCA has actively participated in the preparation and amendments of the work of UNCITRAL, as well as in the discussion of topics of significant importance for the development of international arbitration law.
Cooperation with UNCITRAL began in the early days when the latter invited ICCA to establish a representative group for consultation as part the preparation of the 1976 UNCITRAL Arbitration Rules. Following extensive consultation with this group, a preliminary draft was issued and was made available for consultation and discussion during the Vth ICCA Congress in New Delhi in 1975.

ICCA has been at the forefront of the development of the law and has contributed to the elaboration of the main texts that shape international arbitration:

- In 1975, ICCA discussed the UNCITRAL Arbitration Rules, which were adopted in 1976;
- In 1984, ICCA discussed the UNCITRAL Model Law on International Commercial Arbitration, which was adopted in 1985;
- In 1994, ICCA discussed the project for improving planning of arbitral proceedings, which resulted in the UNCITRAL Notes on Organizing Arbitral Proceedings;
- In 2002, ICCA discussed the UNCITRAL Model Law on Conciliation, which was adopted in 2002;
- The same year, ICCA discussed the proposed amendments to the UNCITRAL Model Law on International Commercial Arbitration, later adopted in 2006;
- In 2008, ICCA discussed the revision of the UNCITRAL Arbitration Rules, adopted in 2010.

“One of the reasons for the world-wide acceptance of the UNCITRAL Arbitration Rules and the Model Law was that UNCITRAL has from the very beginning sought advice from practitioners and users before the projects were finalized. One can say that ICCA’s International Arbitration Congresses and Conferences have played an important clearing-house function: Working Party I of ICCA’s Vth International Arbitration Congress in New Delhi, January 1975, commented on the draft UNCITRAL Arbitration Rules, and ICCA’s Third Interim Meeting in Lausanne, May 1984, was exclusively devoted to the discussion of the UNCITRAL’s project for a Model Law on International Commercial Arbitration.” (Werner Melis, ICCA Congress Series Nº 7, 1994 Vienna, p. 9)

ICCA has also dealt with fundamental principles of international arbitration law, which have become widely recognized in this field, such as the concept of international public policy or the capacity of states to arbitrate. In addition, ICCA has worked towards improving the efficiency of the processes available for settling international disputes.

More recently, ICCA discussed a possible revision of the New York Convention.
An important activity of ICCA is the preparation and conduct of international arbitration congresses.

An ICCA congress or conference is usually held every other year for the purpose of presenting and discussing papers on different aspects of international dispute resolutions. These meetings attract a large number of participants from all parts of the world and have made significant contributions to the development of dispute resolution theory and practice.

From the outset, it was announced that ICCA Congresses would be designed to work actively and seriously: “Notre Congrès sera plutôt un congrès de travail qu’un congrès où on dîne et danse” ("Our Congress will be a congress of work rather than one of dining and dancing").

(P. Sanders, Rev. arb. 1961, p. 15)

In keeping with the universal ambit of its activities and of international commercial arbitration, ICCA convened its congresses and conferences in all regions of the world. The congresses or conferences were held regularly from 1961 in the following cities:

Ist Congress, Paris, France, 1961
IInd Congress, Rotterdam, the Netherlands, 1966
IIIrd Congress, Venice, Italy, 1969
IVth Congress, Moscow, Russia, 1972
Interim Meeting, London, United Kingdom, 1974
Vth Congress, New Delhi, India, 1975
Interim Meeting, Vienna, Austria, 1976
VIth Congress, Mexico City, Mexico 1978
Interim Meeting, Warsaw, Poland, 1980
VIIth Congress, Hamburg, Germany, 1982
Interim Meeting, Lausanne, Switzerland, 1984
VIIIth Congress, New York, United States, 1986
IXth Congress, Tokyo, Japan, 1988
Xth Congress, Stockholm, Sweden, 1990
XIth Conference, Bahrain 1993
XIIth Congress, Vienna, Austria, 1994
XIIIth Conference, Seoul, South Korea, 1996
XIVth Congress, Paris, France, 1998
XVth Conference, New Delhi, India, 2000
XVIth Congress, London, United Kingdom, 2002
XVIIth Conference, Beijing, China 2004
XVIIIth Congress, Montreal, Canada, 2006
XIXth Conference, Dublin, Ireland 2008
XXth Congress, Rio, Brazil, 2010
50th Anniversary Conference, Geneva, Switzerland, 2011
XXIth Conference, Singapore, 2012
ICCA PUBLICATIONS

Contributing to the development of legal scholarship through the publication of books and articles is a long-standing tradition at ICCA. These publications are prepared with the assistance of the Permanent Court of Arbitration and published in cooperation with Kluwer International. ICCA’s publication offices are located at the Peace Palace in The Hague.

Yearbook Commercial Arbitration

In 1975, during the Vth Congress in New Dehli, ICCA resolved that it would issue a “Yearbook”, for the purpose of providing “a central medium for the international dissemination of the fruits of arbitration research”.

Since 1976, the Yearbook Commercial Arbitration has been a major source of information concerning international arbitration jurisprudence. Published under the guidance of the General Editor, Albert Jan van den Berg, and with the assistance of the Permanent Court of Arbitration, the Yearbook provides an annual update on key developments which include: institutional and ad hoc arbitral awards, court decisions on arbitration from around the world, court decisions on major multilateral arbitration conventions, commentary on the court decisions on the New York Convention 1958, updates on developments in arbitration law and practice, an investment treaty awards and decisions digest and a bibliography of the latest texts.

International Handbook on Commercial Arbitration

The International Handbook on Commercial Arbitration details the arbitral law and practice in over 70 countries and is an essential tool for anyone practising international arbitration across multiple jurisdictions. Published under the leadership of General Editor, Jan Paulsson, and with the assistance of the Permanent Court of Arbitration, the Handbook contains authoritative country reports prepared by leading arbitrators, academics and practitioners on national arbitral practice, as well as the relevant national legislation.
Congress Series

Since the first conference in 1961, ICCA conferences and congresses have provided a platform for exchange and discussion on all aspects of international arbitration, including: emerging ideas in the field, fundamental principles and contentious topics of the day. In 1982, in Hamburg, ICCA’s Council decided that ICCA would take charge of publishing its congresses and interim meetings. This was done in order to “free the organisers of these meetings from the burden of preparing such publications and their distribution”. ICCA Publications began presenting the papers from its conferences and congresses in the Congress Series.

The Congress Series contains the resolutions, reports and communications presented during the congress or conference. It has dealt with the themes appearing on page 11.
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Initially, the topics chosen for the ICCA Congresses and Conferences related mainly to the legal framework of international arbitration. A comparative law approach was very often taken in the contributions made by speakers and authors. Pieter Sanders remembers that “we took topics depending on what was happening in practice. Practice of commercial arbitration played an enormous role in the whole development of ICCA”. At the first Congress in Paris, it was stated that “[l]es sujets que les Commissions auront à étudier ont été choisis en raison de leur actualité et aussi en fonction des liens de connexité qui les relient les uns aux autres”.

The efficiency of arbitration proceedings was another important aspect of the themes chosen by ICCA, especially in relation to the links between arbitration and court proceedings. Similarly, the works of UNCITRAL and the New York Convention was at the heart of the debate in several congresses.

A review of the topics addressed shows that ICCA has always been looking for new trends with a view to adapting arbitration and other settlement mechanisms to the changes and new challenges of international trade. So for instance, from 2002, investment arbitration emerged as an important topic for ICCA. In 2008 in Dublin, almost half of the topics concerned investment arbitration, which has become a specialized field of practice.

ICCA has rapidly become a truly international organization and it has supported the development and expansion of arbitration in countries traditionally less inclined to favour private means of settlement for commercial disputes.

The 50th anniversary of ICCA, provides the perfect occasion to reflect upon the future and to contemplate the “next 50 years” of international arbitration.

Last but not least, a grouping aimed at young arbitration practitioners from all parts of the globe - Young ICCA - was established in 2010. Working under the auspices of ICCA, its mentoring program, discussion fora and workshops provide resources and training to a wide membership. In this way, it prepares the next generation of arbitration scholars and practitioners to continue the works of the founders and the spread of the ICCA spirit.
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Members

Pursuant to Art. 4 of the Statement of Purposes and Procedures:

1. The Members shall consist of physical persons who are recognized specialists in the field of arbitration, conciliation and other means of dispute resolution. The Members may include individuals who are connected with particular arbitration organizations and others who are not so connected. The Members shall be elected from various parts of the world, from different legal and economic systems, and from developed as well as developing nations. It is the objective of ICCA that the number of Members shall be sufficiently large to provide for the exchange of a possibly wide variety of views and, at the same time, be sufficiently small to facilitate active discussion and efficient operation.

2. The maximum number of Members shall be forty-five. The number of Members within the maximum of forty-five shall be determined from time to time by the Council.

3. The number of Members of ICCA may be changed by amendment of this Statement of Purposes and Procedures accomplished in accordance with Article XIII hereof.

“ICCA counts on the standing, experience and learning of its members as a guarantee for impeccable and outstanding work. This again is a "must" and no compromise should ever be made on the professional and cultural requirements of all members of ICCA. Their talent should be manifold, ranging from practice, organization and theory of arbitration.”
(Giorgio Bernini, ICCA Congress Series N° 7, 1994 Vienna, p. 6)
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From left to right: Xavier Favre-Bulle, Lenz & Staehelin; Elliott Geisinger, Schellenberg Wittmer; Domitille Baizeau, Lalive; Felix Dasser, Homburger; Laurent Hirsch, Hirsch Kobel; Bernhard Berger, Kellerhals; Joachim Knoll, Brown & Page.

Sitting, from left to right: Pierre Tercier (co-chair); Gabrielle Kaufmann-Kohler (co-chair), Lévy Kaufmann-Kohler; Eric Biesel, Geneva Chamber of Commerce and Industry of Geneva.

Other members: Sébastien Besson, Python Peter; Matthias Scherer, Lalive.