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INTER-AMERICAN COMMERCIAL ARBITRATION

C. R. NORBERG*

The Second Conference on Inter-American Commercial Arbitration, held in Mexico City, November 7-9, 1968, completed the formal reorganization of the Inter-American Commercial Arbitration Commission, established in 1934. Current measures to reorganize and revitalize the Commission and its inter-American arbitration system began three years ago and they have now culminated in the establishment of a viable Western Hemisphere system to conciliate or arbitrate commercial disputes.

It is to be noted that the system in the Western Hemisphere is fully compatible with the arbitration programs recently established within the Economic Commission for Europe and within the Economic Commission for Asia and the Far East. When the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards is acceded to by the major trading nations of the world, hopefully in the not too distant future, then an efficient and effectively functioning world trade arbitration system will have been established. Such a prospect is well within our reach.

INTER-AMERICAN COMMERCIAL ARBITRATION ACTIVITIES PRIOR TO THE MEXICO CITY CONFERENCE

Modern commercial arbitration activities are essentially a matter of recent history. Although commercial arbitration has its roots in the commerce of the Middle Ages and in the law merchant, an agreement to arbitrate was always regarded at common law as being revocable at the will of the parties. It was not until 1920 that New York State enacted the first modern arbitration statute requiring enforcement of written agreements to arbitrate future controversies (arbitration clauses). In that year, New York enacted the first law that completely abrogated the common law rule of revocability.

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In the international trade field, the first contemporary institutionalized effort to foster international trade arbitration was initiated approximately 45 years ago in Paris, France with the establishment of the Court of Arbitration of the International Chamber of Commerce. In the Western Hemisphere these initiatives were noted by the Pan American Union and at the Fifth Conference in Santiago, Chile (1923) a resolution suggested to the Chambers of Commerce of the Republics that they consider the establishment of a hemispheric arbitration system. The suggestion was repeated at the Sixth Conference in Havana, Cuba (1928).

Finally, at the Seventh Conference in Montevideo, Uruguay (1933), Resolution XLI was adopted again urging the resolution of commercial disputes by arbitration but this time adding: "that with a view to establishing even closer relations among the commercial associations of the Americas entirely independent of official control, an inter-American commercial agency be appointed in order to represent the commercial interests of all the Republics, and to assume, as one of its most important functions, the responsibility of establishing an inter-American system of arbitration." In April of 1934 at a meeting of the Governing Council of the Pan American Union, it was resolved to request the American Arbitration Association and the Council on Inter-American Relations (since dissolved) to constitute, under their joint auspices, an inter-American system of commercial arbitration.

As a result of this action, the Inter-American Commercial Arbitration Commission (IACAC) was organized under the initial chairmanship of the Honorable Spruille Braden, a U.S. businessman and diplomat. The Commission has been in existence since that date and has helped to resolve approximately 2600 commercial disputes, either by way of conciliation or by arbitration. In recent years, however, the good offices of the Commission have been sought with less frequency and in 1966 an inquiry was undertaken throughout the hemisphere to determine why the assistance of the commission was not being asked for and whether the Commission should be reorganized and revitalized.

The inquiry revealed that it was generally thought to be desirable to Latinize the Commission's activities, including the removal of its headquarters from New York City to a city in Latin America. It was also felt that a vigorous information and education program should be undertaken to acquaint the Latin American business and legal communities with the benefits of the commercial arbitration system. In the process, it would, of course, be desirable to harmonize the functioning of the national arbitration systems within each country and to modernize the hemisphere arbitration system to enable it to facilitate the processing of disputes arising from transnational transactions.

In furtherance of this program, three important meetings were held during 1967. At the beginning of April the First Conference on Inter-American Commercial Arbitration was held in the City of Buenos Aires, sponsored by the Chamber of Commerce of that city and the Stock Exchange, under the auspices of the Inter-American Commercial Arbitration Commission. Upwards of 200 participants discussed an agenda, including the following major points: arbitration from the juridical point of view; arbitration as a means for settling conflicts between national businessmen; arbitration as a means for settling conflicts between a state and a private investor; and a program to develop and revitalize the inter-American commercial arbitration system in the future.

On April 13, 1967, in San Jose, Costa Rica, a symposium on inter-American commercial arbitration was organized in cooperation with the Special Committee on Arbitration of the Inter-American Bar Association, then holding its Fifteenth Conference in that city. The symposium was attended by representatives of chambers of commerce or industry of Costa Rica, Nicaragua, Panama and Guatemala; the Central American Bank of Economic Integration; the Organization of Central American States; the Inter-American Development Bank; the Organization of American States; and a number of delegates representing bar associations which were members of the Inter-American Bar Association. A particularly important resolution of the symposium, subsequently adopted by the Inter-American Bar Association, recommended consideration of the creation of a permanent Central American Arbitration Commission to deal with differences arising in transnational transactions within the Central American Common Market. It also recommended that the Organization of Central American States prepare a draft protocol to the General Treaty of Central American Economic Integration "concerning the use of commercial arbitration as an optional method for resolving private controversies arising within the Central American Common Market."

The third meeting, held in Rio de Janeiro in September of 1967, continued the work of the earlier meetings but, in addition, adopted a provisional constitution for the Inter-American Commercial Arbitration Commission and elected officers of the Commission to continue its work until the Second Conference on Inter-American Commercial Arbitration to be held in Mexico City.

SECOND CONFERENCE ON INTER-AMERICAN COMMERCIAL ARBITRATION

The Second Conference on Inter-American Commercial Arbitration, November 7-9, 1968, was organized by the Chamber of Commerce of the City of Mexico and the Mexican Bar Association in cooperation

with the Inter-American Commercial Arbitration Commission. Sixteen countries of the hemisphere were represented, with delegates having been sent by chambers of commerce, bar associations, the Inter-American Council of Commerce and Production, the Organization of American States and the Inter-American Development Bank. The essential purposes of the Conference were: to adopt the definitive constitution of the Commission; to make provision for the rules of procedure for international arbitrations; to elect the permanent officers and Executive Committee of the Commission; to prepare a budget and to recommend measures for its financing; and to consider other appropriate resolutions presented to the Conference.

Of great significance to the conferees was the keen interest and support manifested by the Government of Mexico. The Opening Session of the Conference was inaugurated by the Honorable Antonio Carrillo Flores, Secretary of Foreign Relations and the Conference was closed by an excellent and important speech given by Lic. Placido Garcia Reynoso, sub-secretary of Industry and Commerce of the Government of Mexico. The presence of these distinguished lawyers and their speeches gives testimony to the great importance which the Government of Mexico attaches to a properly functioning inter-American commercial arbitration system.

Turning to the work of the conference in some detail, the definitive constitution of the Commission in Article III states that its object "shall be to establish and maintain an inter-American system of conciliation and arbitration for the settlement of commercial disputes, under the terms of Resolution XLI of the Seventh International Conference of American States." The powers and duties of the Commission (Article IV) authorize it to support the establishment of National Sections in each of the American States; to issue appropriate rules and regulations and to make proper arrangements for conducting commercial arbitration at the international level in the Western Hemisphere; to prepare and maintain at its offices lists of arbitrators, selected by the National Sections; to recommend the approval of new laws and international conventions on conciliation and arbitration; to convene conferences on commercial arbitration and to organize and develop information and education programs; to establish and maintain relations with other institutions and organizations interested in international commercial arbitration; and to act as an administrative body for the conciliation of commercial disputes.

The resources of the Commission (Article V) are derived from the contributions made by the National Sections; grants and donations voluntarily offered by private persons or multinational and international organizations; and the income derived from the exercise of its functions.

An essential element of the arbitration system in the hemisphere is provided by the National Sections (Article VI), established in each country. These National Sections enjoy the fullest independence to promulgate their own internal rules regarding the conduct of their affairs but their activities must, of course, harmonize with the functioning of the Commission on a hemispheric basis. Each National Section has the right to be represented in the Council of the Commission by a delegate and an alternate.

The Council of the Commission (Article VII) is the supreme organ of the Commission and consists of delegates and alternates from the National Sections as well as the officers of the Commission. In addition, the Constitution provides for observers to the Council to be sent by the Organization of American States, the Inter-American Council of Commerce and Production and the Inter-American Bar Association. The Council must meet at least once every two years. The Council is authorized to delegate its powers to an Executive Committee.

The officers of the Commission (Article VIII) are a President, a Vice President, a Director General who is in charge of the Secretariat, and a Treasurer. The Director General acts as legal representative of the Commission.

The Executive Committee (Article IX) is composed of not more than 11 members, including the officers designated above, an assistant to the President for matters concerning the Central American Common Market; an assistant to the President for matters concerning the Latin American Free Trade Association; and five additional members. The Executive Committee is authorized to establish various permanent and special committees. It is also responsible for the preparation of a budget.

While the Council receives reports from the National Sections and various of its committees, it in turn shall report from time to time to the Organization of American States regarding the progress of its work (Article XII), making such recommendations as may be pertinent for the furthering of its activities.

The Second Conference in Mexico City, having adopted its Constitution, then moved to a consideration of the preparation of a new arbitration clause to be recommended to the business and legal community for insertion in contracts regarding the settling of future disputes. The arbitration clause recommended in past years was thought to be in need of amplification and, in consequence, the following clause was adopted and is recommended for use throughout the hemisphere.

Any matter or controversy originating from this contract or related thereto, either directly or indirectly, shall be resolved by arbitration in accordance with the rules of the Inter-American Commercial Arbitration Commission in force at the time, with which the parties are familiar; and the text of which in Spanish, English, Portuguese and French shall be regarded as equally authentic and to be part of this agreement.

The parties further agree on the following:

1. The arbitrators shall be appointed by the Inter-American Commercial Arbitration Commission if the parties have not designated the said arbitrators in the contract or if the said appointment should become vacant for any reason.

2. The arbitration shall be held at the locality designated by the Inter-American Commercial Arbitration Commission, if the parties have not indicated another place in their agreement.

3. The arbitration award shall be handed down within the term of days to be counted from the date of the acceptance of the arbitrator or arbitrators.

4. The parties renounce from this moment the right to any appeals or other remedies contesting the awards; with the exception of judicial proceedings based on the arbitrators exceeding their authority or for other reasons that may be considered admissible.

5. The parties shall faithfully comply with the award handed down by the arbitrator or arbitrators in accordance with this agreement and under the rules of the Inter-American Commercial Arbitration Commission.

In the view of the Commission, the adoption of this clause by the parties to a contract would go far towards clarifying certain areas which have until now been obscure and the cause of possible difficulties. Thus, under the clause, the parties have agreed that, if they have not provided otherwise, the Commission may designate the arbitrators and also the place of holding the arbitration. Of great significance is the fact that parties agree to renounce their right of appeal or to contest the award for other than very limited reasons.

Resolution No. III of the Second Conference was equally important and significant in that the Commission agreed to recommend a new form for phrasing the submission of an existing dispute to arbitration. In effect, the same provisions are contained in the agreement of submission as appear in the arbitration clause.

Resolution No. IV of the Conference dealt with the IACAC rules of procedure. The existing rules of the Commission have been in existence for a number of years and businessmen and their lawyers have undoubtedly relied on them when inserting the arbitration clause in their contracts. In consequence, the Conference felt that while certain changes in the rules were desirable, these suggested changes should be studied very carefully. Accordingly, the Conference appointed a small committee to study the changes that have been suggested, including a project submitted by the National Section of Mexico. The Committee on Rules will report to the Executive Committee which will then promulgate the definitive rules of the Commission together with recommended changes.

An international commercial arbitration system cannot be effective unless provision is made for the recognition and enforcement of foreign arbitral awards. In consequence, the Conference in Resolution No. V endorsed the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral awards recommending to the National Sections that they urge their respective governments to ratify and accede to the Convention. That Convention provides in Article II that "each contracting state shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning the subject matter capable of settlement by arbitration." And in Article III it is further provided that, "Each contracting state shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles." The party applying for recognition and enforcement need only supply a duly authenticated original award and the original agreement to arbitrate or duly certified copies thereof. Specific and limited grounds are provided for the refusal to recognize and enforce the award.

It is interesting to note that for ten years the government of the United States took no action to accede to this United Nations Convention. Then on April 24, 1968, President Lyndon B. Johnson transmitted the Convention to the Senate of the United States asking for its advice and consent to accession. The Committee on Foreign Relations held a public hearing on September 20, 1968 and on September 24 ordered the Convention reported favorably with the recommendation that the Senate give its advice and consent to accession thereto. The Senate thereupon so acted.

In preparation for the Mexico City Conference the Commission had requested each of the National Sections to prepare a thorough study

of the law and practice of commercial arbitration in their respective countries. Not all of the Sections complied and, in consequence, Resolution No. VI of the Conference reiterated the request to prepare the report for early submission to the Commission. It was thought highly desirable to have a contemporary and definitive statement of the law and practice of arbitration in each of the countries of the hemisphere to be included in the post conference book which it has been decided to publish. The most definitive research work in the field was prepared in 1928 by Vicente Vita, entitled, "Comparative Study of American Legislation Governing Commercial Arbitration." The study was prepared by the United States Section of the then Inter-American High Commission and was extremely valuable as of the date of its publication. However, the considerable number of new developments in the field of international commercial arbitration, taken together with the exigencies of new trading conditions posed by regional arrangements such as the Latin American Free Trade Association and the Central American Common Market require a new and definitive contemporary study. Such a book will include the proceedings of the Mexico City Conference and plans for its preparation and publication are moving steadily ahead.

The Conference also took note of the continuing work of the Inter-American Juridical Committee and Inter-American Council of Jurists, both of which groups have been working on inter-American commercial arbitration for many years. In 1956 in Mexico City, the Inter-American Council of Jurists had promulgated a model law on international commercial arbitration but the national legislatures of the several Latin American countries had been reluctant to adopt it. In consequence, at its Rio de Janeiro 1967 session, the Inter-American Juridical Committee promulgated a report on the Draft Convention on International Commercial Arbitration. While still finding that the Model Law of Mexico was completely appropriate, the Committee nevertheless recommended that the member governments of the OAS consider the adoption of a Convention. Much simpler in its construction and much easier of adoption, the Convention would recognize the validity of the arbitration clause both for present and for future disputes; recognize that arbitrators might be appointed by a third party, such as the Inter-American Commercial Arbitration Commission; recognize that the rules of the Commission can govern an arbitration under certain circumstances; gives the arbitration award the force of a final judgment; and limits the right of appeal to a few well recognized grounds. Resolution No. VII of the Second Conference requested the National Sections to urge their respective governments to adopt the Draft Convention proposed by the Inter-American Juridical Committee.

The Venezuelan Section of the Commission, under the guidance of Dr. Francisco Angel Brice had been active in implementing programs of information and education in the field of inter-American commercial arbitration. Dr. Brice had lectured widely in Venezuela, had published a number of valuable studies on the subject and had been very interested in establishing a center for the purpose of training specialists in the subject of commercial arbitration. Dr. Brice's ideas were brought to the Mexico City Conference by Dr. Pedro Mantellini Gonzalez of Caracas, and pursuant to his paper, Resolution No. VIII was adopted, urging the National Sections to promote an intensive information and education campaign to disseminate the advantages and the convenience of an inter-American commercial arbitration system for the solution of commercial disputes. The Resolution also urged the Commission to study the possibilities of establishing an inter-American training center to prepare qualified arbitrators to carry on the work of the system.

In no area of Latin America is there a greater potential for the constructive use of commercial arbitration than in the Central American Common Market. On July 6, 1968 President Johnson and the Presidents of the five Central American Republics met in the City of San Salvador to review the progress of economic integration in the Republics. It was noted that under the Central American Common Market arrangement, inter-regional trade in seven years had increased nearly 700% and trade with the rest of the world was up 60%. In their joint declaration at the close of their meeting on July 6, the Presidents of the Republics of Central America and the President of the United States reaffirmed their commitment to the goals of the Alliance and the Common Market members pledged to: perfect the Central American Common Market by removing barriers to trade, and by seeking expanded economic opportunities with other countries and markets; unite the region with an integrated transportation, electrical and communications network; assure equitable participation by low income groups in the fruits of development and the integration movements; modernize rural life and expand and diversify agricultural production; combine efforts to improve educational facilities throughout the region; and work to improve health services for the people.

It was noted by the Presidents that as a result of efforts made over a period of several years, the Central American countries now have a legal and institutional framework for giving impetus to the process of reconstructing their regional unity. Within the Common Market, a complex of political, legal, cultural, educational, economic, social and technical institutions has been set up, whose activities together constitute an integral movement toward unification.

Notwithstanding this great progress, much remains to be done. For example, it was agreed that in the legal field integration requires new instruments to give flexibility and drive to its progress and administration. It was agreed that there is a large task still to be accomplished in order to harmonize and standardize the legal structure of the member states.

In consequence, the Presidents agreed to introduce adequate reforms in the legal and administrative structures of the Organization of Central American States, in order to give it the drive that regional development demands and to strengthen its various activities, with a view to maintaining proper balance in the development of integration and promoting reforms in the domestic legislation of the member countries that will expedite the implementation of the common objectives being pursued.

In establishing the treaty framework for the Central American Common Market the respective governments moved only part way in providing an administrative mechanism to resolve commercial disputes arising between businessmen. The treaties provide for arbitration to resolve disputes between the member governments regarding matters of interpretation of the treaties. However, the businessman is left to pursue alternative courses of conduct; either to persuade his government to espouse his claim; or to bring suit in the country of the defendant. Surely, either one of these approaches is highly unsatisfactory and time consuming. A much more useful approach would be to establish a special administrative mechanism within the Central American Common Market for the conciliation or arbitration of disputes arising within it.

The First Conference on Inter-American Commercial Arbitration held in April of 1967 in Buenos Aires recognized this desirable objective. The Symposium of San Jose, Costa Rica later that month also recommended the consideration of the advisability of creating a permanent Central American Arbitration Commission for the purpose of resolving differences arising in transnational transactions within the Common Market.

The Second Conference on Inter-American Commercial Arbitration in Mexico City continued to recognize this need and in Resolution No. IX resolved to urge the Executive Committee of the Inter-American Commercial Arbitration Commission to promote the establishment of a body for the administration of international arbitration of commercial disputes within the Central American Common Market and the tripartite treaty of the south on free trade.

The Central American juridical climate is especially appropriate for the establishment of such a mechanism. Within Central America the juridical structure has obviated one of the great difficulties in establishing

an effective international system of commercial arbitration, namely, in Central America there is the opportunity to enforce foreign arbitral awards. Each of the Central American countries have signed the Bustamante Code or Code of Private International Law promulgated in Havana in 1928. The Code contains explicit provisions on the recognition and execution of judicial judgments and arbitral awards rendered in any of the signatory countries.

Article 432 provides that: "The procedures and effects regulated in the preceding articles shall apply, in the contracting states, to awards rendered in such states by arbitrators or amiable compositors, provided that the substantive matter may be the object of a submission in accordance with the legislation of the country where the execution is sought."

The code requirements for the enforcement of foreign arbitral awards are the same as for the execution of judicial judgments. In Article 423 of the Code, it is provided:

1. That the Tribunal rendering the judgment or award be competent.
2. That the parties concerned shall have been notified in person or through a legal representative.
3. That the judgment not be contrary to the public policy of the country where it is to be executed.
4. That it be a definitive judgment in the state where it was rendered.
5. That the document containing the decision or award be translated by an official interpreter in the state where it is to be executed if there is a difference in languages.
6. That the above-mentioned document comply with the necessary requisites to be considered authentic in the state where it was issued; and those required in order that it receive faith and credit under the legislation of the state where the judgment is to be executed.

In consequence, the Executive Committee of the Inter-American Commercial Arbitration Commission will make a special effort to establish an arbitration tribunal within the Central American Common Market. Dr. Juan Andres Llitas, a distinguished Cuban jurist, has been especially active with regard to this project, having written and lectured extensively regarding the desirability of making this special effort in Central America.

No subject is of greater interest in Central America and throughout the Latin American business world than that of obtaining adequate prices

for basic agricultural exports. The Second Conference in Mexico City dealt especially with this problem, recognizing that it would be highly desirable to have a modern arbitration clause in these export contracts. Resolution No. X asked that the Executive Committee of the Commission initiate negotiations with the purchasers of basic products to urge the inclusion of the newly revised arbitration clause in their export sales contracts.

The inter-American commercial arbitration system, to function effectively and efficiently, must have properly organized and managed National Sections in each of the Latin American countries. In the United States the American Arbitration Association has been well established over a 40 year period and domestically processes approximately 16,000 cases a year. But in Latin America, effective National Sections exist only in Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, Paraguay, Peru and Venezuela. Measures are under way to establish National Sections in the remainder of the Latin American countries.

The Mexico City Conference concluded that it was necessary to have standards for the approval and admission of National Sections as organs of the Inter-American Commercial Arbitration Commission. Included in these standards were the following:

1. That there should be only one Section in each country, that the name of the country shall be incorporated in the name of the Section and that the Section should be a non-profit organization.
2. That each Section would have a board of directors, the majority of whose members should be nationals of the country, and that the Section would have an administrative director.
3. That the Section would promptly forward to the IACAC its financial contributions.
4. That the services of the Commission would be available to any person for the resolution of commercial differences through conciliation or arbitration.
5. That the Section would comply with the rules of procedure of the IACAC.
6. That each Section should establish and maintain a list of competent arbitrators and forward copies of their curriculum vitae to the IACAC.
7. Official correspondence should be handled efficiently and promptly.
8. Each Section would promote the use of arbitration by a program of education and training.

9. The Board of Directors of each Section would meet at least twice a year and would be responsible for sending a delegate to the meetings of the Council of the Commission.

10. Each Section would prepare an annual report of its activities and send it to the Council of the IACAC.

11. The Executive Committee of the Council of the IACAC has the authority to decide any disputes that may arise concerning the application or interpretation of the standards.

In addition to standards, the Mexico City Conference discussed the question of appropriate financial support to maintain the system and in Resolution No. XII it was resolved that contributions would be paid to the IACAC by the National Sections in accordance with the formula adopted by the Organization of American States for the distribution of expenses of that organization. This resolution was approved "ad referendum" of the National Sections. At its first meeting following the Second Conference, the Executive Committee of the IACAC adopted a budget of \$54,000 for the calendar year 1969.

Finally, Resolution No. XIII elected the following officers and directors for a period of two years: President, Dr. Jose A. Martinez de Hoz (Argentina); Vice President, Mr. Donald B. Straus (U.S.A.); Director General, Dr. Carlos A. Dunshee de Abranches, (Brazil); Treasurer, Charles R. Norberg, Esq. (U.S.A.); Assistant for LAFTA, Dr. Policarpo A. Yurrebaso Viale (Argentina); and Assistant for the CACM, Dr. Juan Edgar Picado (Costa Rica). The preceding officers are ex officio members of the Executive Committee and other elected members are: Drs. Andres Aramburu Menchaca (Peru); Jose Luis Siqueiros (Mexico); Rafael Eyzaguirre (Chile); Pedro Mantellini Gonzalez (Venezuela); and Manuel Cabeza de Vaca (Ecuador).

INTEREST OF THE OAS, IDB AND IBRD

That the process of revitalizing the inter-American commercial arbitration system should have the continuing support of the Organization of American States, the Inter-American Development Bank and the World Bank is hardly surprising. All three institutions are interested in the general processes of social and economic development in the hemisphere. They are also working to move the Latin American countries towards the goal of economic integration by 1985. In view of the recent developments in some of the Latin American countries, indicating a much stronger nationalist line, it may well be that the processes of economic integration will be slowed in the near future.

The three institutions, however, are united in their support of the reorganization of the Inter-American Commercial Arbitration Commission. It is manifestly clear that the efficient, effective and rapid resolution of commercial trade disputes contributes to the growth of foreign trade in the hemisphere, a strategic goal of each one of the institutions.

More specifically with regard to the Organization of American States, Resolution XLI of the Montevideo Conference in 1933 gave rise to the IACAC. It is not unnatural that the OAS parent should at least have a sympathetic attitude towards fostering the growth and well being of its child. This the OAS has demonstrated by sending an observer to the 1967 meetings in Buenos Aires, San Jose and Rio de Janeiro. More recently, the Honorable Galo Plaza Laso, Secretary General of the OAS, designated Dr. Isidoro Zanotti of the Legal Division to attend the Second Conference in Mexico City as an observer.

The newly adopted constitution of the IACAC calls for an observer from the OAS to meet with the members of the Council. Certainly this continuing liaison will strengthen the IACAC in providing access to the knowledge and expertise of the legal division of the OAS.

In addition, on October 18, 1967 the first annual meeting of the Business Advisory Committee of the OAS, meeting in Washington, D. C., adopted a resolution emphasizing the importance of a system of inter-American commercial arbitration as a means to facilitate the process of economic integration and the expansion of regional commerce. The November, 1968 meeting of the Business Advisory Committee in Mexico City heard a report from Dr. Jose A. Martinez de Hoz, President of the IACAC, regarding the results of the Second Conference in Mexico City. The OAS has also manifested some interest in discussing with the IACAC a specific project to underwrite technical assistance to be supplied by the IACAC to National Sections. Assistance in setting up the arbitration mechanism within the Central American Common Market would be especially welcome.

The Inter-American Development Bank has manifested its support for the IACAC as a system contributing to the achievement of the Inter-American Development Bank's objectives in Latin America. More specifically, President Felipe Herrera has offered to give a financial grant to the IACAC and the Commission is working to satisfy the conditions required by the Bank before making the money available.

The Commission is also working very closely with the Honorable Aron Broches, Secretary General of the International Centre for the Settlement of Investment Disputes. The World Bank has sponsored the creation of this centre, which is designed to be available to parties involved in certain international investment arrangements, so that they

may have available a convenient forum for the settlement of future disputes, as well as any that have arisen in the past. The Centre maintains separate panels of conciliators and of arbitrators, most of whom are designated by the contracting states (each of whom may place four persons on each list) and some by the Chairman of the Administrative Council (who might place ten persons on each list).

As of November 25, 1968, 60 countries had become signatories of the convention establishing the Centre and 44 countries had taken action to ratify the convention.

INTEREST OF THE IABA AND THE CICYP

No organizations have done more to foster the revitalization of the inter-American commercial arbitration system than the Inter-American Bar Association (IABA) and the Inter-American Council of Commerce and Production (CICYP). For the past several years the IABA has had a special committee on arbitration with the moving spirits being Dr. Martin Domke of New York City and Dr. Jaime Malamud of Buenos Aires. In view of the growing importance of the subject, the committee has been reorganized and is now chaired by Dr. Andres Aramburu Menchaca (Peru) with the following members: Dr. Luis Bauddizone of the Argentine Federation of Bar Associations; Lic. Cesar Carter Canterero of the Colegio de Abogados de Costa Rica; Lic. Jorge Barrera Graf of the Ilustre y Nacional Colegio de Abogados de Mexico; Lic. Jose Luis Siqueiros of the Barra Mexicana; Dr. Vicente Marotta Rangel, Vice President of the Instituto dos Advogados de Sao Paulo; Dr. Erasmo de la Guardia of the Colegio Nacional de Abogados of Panama; Dr. Victor F. Cuadra Parodi of the Ilustre Colegio de Abogados de la Libertad; and Dr. Martin Domke, U.S.A.

The IABA is entitled to have an observer named to the IACAC and Dr. Roberto Lobos of Buenos Aires has been appointed to this important post. The next meeting of the Special Arbitration Committee will be held during the Sixteenth Conference of the IABA to be held in June of 1969 in Rio de Janeiro. A full and complete program of activities will be undertaken by the Special Arbitration Committee.

The Inter-American Council of Commerce and Production, the hemisphere's most prestigious organization of Latin American and American businessmen, has consistently supported the program to reorganize the inter-American commercial arbitration system. In June of 1966 at their meeting in Mexico City the CICYP listened with sympathetic interest to a paper describing the program to reorganize the IACAC. Subsequently, its Executive Committee passed a resolution encouraging the national sections of CICYP in Latin America to participate

in the establishment of National Sections of the IACAC. Several of the leading businessmen in Latin America, members of the CICYP, have contributed greatly to the organization of the National Sections in Latin America. The Honorable Roberto Campos, President of the CICYP, designated Dr. Jose Luis Bulhoes Pedreira of Rio de Janeiro to attend the Second Conference in Mexico City as his personal representative.

RELATION TO ECE AND ECAFE

A word should be said about the relationship of the arbitration system in the Western Hemisphere to the programs for arbitration within the Economic Commission for Europe and also within the Economic Commission for Asia and the Far East. As measures have been taken to stimulate foreign trade within the evolving patterns of regional economic integration in Europe and in Asia, it was thought desirable to strengthen the arbitration system in those two areas. It was also thought necessary to organize the arbitration programs so that they would be compatible and would facilitate international trade rather than pose roadblocks to the settlement of international trade disputes.

Accordingly, the Committee on Trade of the Economic Commission for Asia and the Far East met in Bangkok, Thailand on January 5-8, 1966 and discussed a memorandum prepared by the Office of Legal Affairs of the United Nations Secretariat on "Matters to be Discussed by the ECAFE on Commercial Arbitration." Subsequently, the Conference in its ninth session, January 24-February 2, 1966, adopted its report providing for rules of international commercial arbitration, lists of arbitrators, lists of appointing authorities, Resolution on the Development of Educational and Informational Methods, Resolution on Technical Assistance for the ECAFE Center for Commercial Arbitration, Resolution on Model Arbitration Clauses, and Resolution on Conciliation of International Trade Disputes.

The ECAFE report was prepared in the light of full consideration having been given to the arbitration rules adopted by the Economic Commission for Europe.

It would seem axiomatic that the arbitration systems in Europe, Asia and in the Western Hemisphere should supplement and complement each other. Certainly the restructuring of the IACAC has been going forward with this principle very much in mind.

THE FUTURE

As we have seen from the foregoing discussion, the program to reorganize and to revitalize inter-American commercial arbitration in

the Western Hemisphere has been moving ahead consistently and with success. The Commission has been reorganized, it has a new constitution, new National Sections and new officers. Consideration is being given to a revision of the rules and the establishment of certain norms or standards for the admission of National Sections, tending to create a uniform system that will be of benefit to the inter-American legal community and inter-American business community.

These efforts within the hemisphere have been keeping pace with developments in Europe, Asia and also within the United Nations. At the United Nations work session of the Commission on International Trade Law, January 29-February 26, 1968 consideration was given to establishing priority for three topics: international sale of goods; international payments; and international commercial arbitration. The report of the Commission at IV, "International Commercial Arbitration" (page 23) outlines the approach of the Commission in considering the work to be done in this very important field.

Certainly, the future of international commercial arbitration must lie in closer coordination and cooperation between the National Sections within any given regional area and also between and among the regional areas themselves. International trade is being intensified and the disputes and problems flowing from this intensified effort need rapid, effective and inexpensive solutions if foreign trade is to grow and flourish. International communications now provide us with a working tool to facilitate the rapid and effective settlement of disputes. The IACAC in the Western Hemisphere will shortly have a telex at each National Section or each Section will have access to a telex. In addition, Dr. Carlos A. Dunshee de Abranches, Director General, Av. Franklin Roosevelt 115, Rio de Janeiro, as well as Charles R. Norberg, Esq., Treasurer and General Counsel of the Commission in Washington, D. C., 1819 H Street N.W., Suite 310, will be available to National Sections by telex.

International trade arbitration on a rapid and efficient basis is certainly within our reach around the world. We need only work at it to bring it about in the near future.