

Editors in chief: Maxime Berlingin, Maarten Draye, Sophie Goldman and Sigrid Van Rompaey

## AGENDA

19 JULY - 26 AUGUST 2016	(10:00-15:30) <a href="#">CEPANI Intern Days</a>
7 OCTOBER 2016	(13:00-18:30) <a href="#">CEPANI ADR Academy: First Class</a>
9 NOVEMBER 2016	(13:00-18:30) <a href="#">CEPANI ADR Academy: Second Class</a>
9 DECEMBER 2016	(13:00-18:30) <a href="#">CEPANI ADR Academy: Third Class</a>

## REPORTS

- » [REPORT ON THE JOINT CEPANI - NAI COLLOQUIUM "OPENING THE BLACK BOX OF CONFLICTS OF INTEREST" \(9 JUNE 2016\)](#)
- » [LA BELGIQUE ET LES PROCÉDURES DE RÈGLEMENTS DES DIFFÉRENDS DE LA CHAMBRE DE COMMERCE INTERNATIONALE \(CCI\) – QUELQUES CHIFFRES](#)
- » [REPORT ON THE ICC BELGIUM ANNUAL MEETING \(1 JUNE 2016\)](#)
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### REPORT ON THE JOINT CEPANI - NAI COLLOQUIUM "OPENING THE BLACK BOX OF CONFLICTS OF INTEREST"

BRUSSELS, 9 JUNE 2016



Emily Hay  
Associate at Hanotiau & van den  
Berg, Brussels

9 June 2015 was the occasion of the joint colloquium held by CEPANI and NAI on "Opening the Black Box of Conflicts of Interest".

This historic collaboration between two arbitral institutions prompted an afternoon of reflection upon how this cornerstone of legal professional ethics

plays out in a tight-knit community of arbitration practitioners. In the course of the colloquium we not only "opened the black box" of conflicts, but also checked whether there is smelly fish inside, wondered whether it was in fact pandora's box, and investigated whether the smelly fish was rather in the institutional kitchen.

Thanks to Presidents Dirk Meulemeester and Willem Van Baren, of CEPANI and NAI, for such a warm welcome and for this fruitful collaboration which will no doubt be the basis for similar joint initiatives in the future.

First up we heard insightful presentations by both Dr. Kristof Cox and Prof. Gerard Meijer on the practices of CEPANI and NAI in the Belgian and Dutch contexts, respectively. Each was able to draw out the common threads running through cases involving potential conflicts of interest, and updated us on the implications of recent changes to the law in both jurisdictions.

With a number of case studies, the next presentation by Prof. Filip de Ly highlighted the extremely fact-sensitive nature of potential conflicts of interest. Given the significant variations in terms of legal cultures, applicable

rules and laws, and institutional approaches, he stressed that we are far from harmonised international standards in this field.

The final session was a panel moderated by Mr. Luc Demeyere, with thought-provoking presentations by Prof. Bart Groen, Ms. Melanie Van Leeuwen, Prof. Olivier Caprasse and Ms. Vera Van Houtte. Each gave us a fresh perspective on conflicts. Were taken through diverging decisions reached by courts in similar cases, given a behind-the-scenes look at how institutions handle challenges to arbitrators, and were invited to consider how

## LA BELGIQUE ET LES PROCÉDURES DE RÈGLEMENTS DES DIFFÉRENDS DE LA CHAMBRE DE COMMERCE INTERNATIONALE (CCI) – QUELQUES CHIFFRES



Guy Keutgen  
Président Honoraire du CEPANI

Dans sa dernière livraison du « ICC Dispute Resolution Bulletin » (2016, Issue 1) qui contient des données statistiques quant à l'année 2015, la CCI fait état d'une augmentation générale de 6 % des demandes de règlement de différends entre 2012 et 2015. Elle souligne la présence accrue des économies émergentes et l'augmentation du nombre de litiges complexes ou portant sur des montants élevés. Il y a également un recours accru à la procédure de l'arbitre d'urgence et aux services d'expertise proposés par la CCI.

En ce qui concerne les parties à l'arbitrage de la CCI, on constate pour ce qui concerne la Belgique qu'il y en a eu, en 2015, 26 dont 16 en tant que demandeurs et 10 en tant que défendeurs. Le plus grand nombre de parties en Europe du Nord et de l'Ouest sont originaires de l'Allemagne (111), de l'Italie (110), de l'Espagne (108) et de la France (96).

Les arbitres sont choisis, sur un total de 1313, à concurrence de 2/3 par les parties, 245 arbitres sont nommés par la Cour internationale d'arbitrage sur proposition d'un Comité national de la CCI et 127 sont nommés directement par la Cour.

En 2015, il y a eu 32 arbitres belges : 8 arbitres uniques, 16 coarbitres et 8 présidents d'un tribunal arbitral. La Belgique se situe ainsi à la 12<sup>ème</sup> place des arbitres nommés en 2015 juste après l'Autriche (38) et avant les Pays-Bas (12).

Les arbitres proviennent principalement de Grande Bretagne (185), des USA (133), de Suisse (111), de France (97) et d'Allemagne (90).

## REPORT ON THE ICC BELGIUM ANNUAL MEETING

BRUSSELS, 1 JUNE 2016



Julie Deré  
Executive Assistant, ICC Belgium

International arbitration in Belgium relies on the cooperation between two professional bodies, the Belgian Center for Arbitration and Mediation (CEPANI) and the Belgian committee of the International Chamber of Commerce in Belgium (ICC Belgium). This long-standing partnership benefits a world class network of Belgian arbitration practitioners who are involved in arbitrations all over the world.

far the profession should go in the movement towards ever-greater transparency.

We left the colloquium armed with new ideas on the current state of conflicts of interest in our profession, as well as its future direction. The invaluable contributions to the colloquium have been set down in a highly recommended joint publication, which will undoubtedly serve as a reference point for future thinking and practice in this field

Les principales villes choisies en 2015 comme lieu d'arbitrage sont Paris (92), Londres (57), Genève (41) et Singapour (35).

En revanche, la Belgique est choisie comme lieu d'arbitrage dans 8 cas soit autant que la Suède (8) et que le Canada (8) mais nettement moins que la France (93), la Suisse (66) ou les USA (60).

Les parties ont dans 85% des cas choisi le droit applicable et dans 99% des cas il s'agit d'une loi nationale couvrant plus de 100 pays différents. Ce sont surtout la loi anglaise et les lois des USA qui sont retenues. Parmi les autres lois privilégiées, il y a celles de la Suisse, de la France et de l'Allemagne.

Les montants en litige se situent pour 11,9% des cas entre 2 et 5 millions de dollars US, 10,5% de 5 à 10 millions et 18,9% des cas entre 10 et 30 millions de dollars US.

Au cours de l'année 2015, la Cour a approuvé 498 sentences. Dans 48 cas, la sentence a été décidée à la majorité et dans 44 cas l'arbitre minoritaire a exprimé une opinion dissidente généralement dans un document distinct. La plupart des sentences étaient rédigées en anglais 407 (82%) ; 31 sentences l'étaient en espagnol et 26 en français. La procédure de l'arbitre d'urgence introduite en 2012 a été reçue, fin 2015, 24 applications.

En 2015, il y a eu 26 nouvelles demandes de médiation concernant principalement des litiges en matière de construction suivi des litiges en matière d'énergie et du commerce en général.

La procédure d'expertise concerne à concurrence de 2/3 des demandes de désignation d'experts techniques, 25% d'experts juridiques et 11% d'experts financiers.

En ce qui concerne l'origine géographique des parties, 3 sont belges contre 9 d'origine allemande, 9 d'origine espagnole et 7 d'origine française.

Sur 24 experts nommés en provenance de l'Europe, 2 sont belges. Le Comité belge de la CCI a décidé au cours de l'assemblée générale du 1<sup>er</sup> juin 2015, de prendre des initiatives, en concertation avec le Cepani, pour promouvoir davantage la Belgique et en particulier Bruxelles comme place d'arbitrage.

ICC Belgium's Annual General Meeting took place on 1 June 2016, with the participation, among others, of MM. Guy Keutgen and Georges-Albert Dal, as well as Sophie Goldman, Maxime Berlingin and Jean-François Germain, at the level of ICC Belgium.

During this Annual Meeting, the success of the ICC Court of Arbitration in 2015 was highlighted.

Indeed, new records were set in 2015 for the average value of new ICC disputes and the aggregate value of cases before the Court, showing that the ICC Court is increasingly seen as the go-to institution for complex and high-value disputes. ICC has also for the first time disclosed statistics on the gender balance of ICC tribunals, in order to enhance both the transparency and diversity of international arbitration.

32 Belgian arbitrators have been appointed and confirmed in 2015, and Belgium has been chosen 8 times as the place of arbitration in proceedings commencing in 2015. The need for more promotion of Belgium as an international place of arbitration has been emphasized, and both CEPANI and ICC Belgium are keeping the pace in order to soon release a practical facilitation platform for organizing hearings in Brussels.

Recently, the ICC Court has released practices on the calculation of fees and administrative expenses in new ICC cases. This new ICC note to parties and

tribunals is available through ICC Belgium's website ([www.iccwbo.be](http://www.iccwbo.be)) or upon request (email: [Julie.Dere@iccwbo.org](mailto:Julie.Dere@iccwbo.org)).

## REPORT ON THE CO-CHAIRS' CIRCLE SECOND GLOBAL CONFERENCE

HELSINKI, 27 & 28 MAY 2016



Marijn De Ruysscher  
Lydian, Brussels

On 27-28 May 2016, the Young Arbitration Club Finland hosted the second edition of the global conference of the Co-Chairs' Circle, a platform for exchange between many of the well-known young arbitration practitioner groups, including CEPANI40.

On the first day in a sunny Helsinki, the morning session consisted of a double key note speech and a panel discussion. During his key note speech Simon Greenberg set out what he considered the 10 main principles of arbitration. Wendy Miles then highlighted the 5 principles which she considered the most important. In the first panel, Andrea Atteritano, Ruth Byrne, Claire Debourg and Rogier Schellaars discussed under moderation of Chris Parker the interaction between national courts and arbitration, as well as the access to justice. The consequence of a party not being able to pay the arbitration costs for the validity of the arbitration agreement proved to be a hot topic with different solutions in different countries.

After lunch, Ulrike Gantenberg, James Menz and Erica Stein discussed under moderation of Simon Maynard the informal powers of arbitration institutions. One well debated issue was the question what arbitration institutions can do to promote equality and attention for younger practitioners when appointing arbitrators.



The afternoon continued with table sessions in which participants got the opportunity to discuss in small groups several controversial positions and issues like "Witnesses – a bunch of liars or a crucial part of the evidence?".

The day was concluded with an excellent dinner at the old sea fortress of Suomenlinna.

For those who were still in town, the social program continued on the second day with a brunch at a sponsoring law firm and a tour of Helsinki by tram.

It was announced that the next conference would be organized in Rome in 2018.

## A LOOK AHEAD TO THE CEPANI ADR ACADEMY

7 OCTOBER 2016  
9 NOVEMBER 2016  
9 DECEMBER 2016



Following on from the considerable success of the Arbitration Academy CEPANI is now proud to announce the launch of its new ADR Academy. The purpose of the ADR Academy is to act as an independent and privileged forum for the practical study and promotion of ADR as a means for resolving business disputes. The ambition of the Academy is to become a centre of excellence for the study, critical analysis and future development of ADR in Belgium and beyond.

The purpose of the ADR Academy is not to offer mediation or other training or accreditation. The focus of its activities is on the practical use of the full range of ADR techniques for the resolution of business disputes, with a strong emphasis on the needs of the business community and the role that ADR can play in meeting those needs.

The Academy will be of interest to all persons who are involved in the management of business disputes. This will include not only in-house legal counsel and external advisors, including members of the legal profession, but also senior company managers, risk management professionals, business consultants as well as all those who practice, or who aim to practice, as conciliators, mediators or other ADR professionals in the business world.

### The 2016 ADR Classes

The Academy will begin its activities with the organization of three high-level classes in the last quarter of 2016.

The classes, full details of which can be found below, address different ADR techniques and issues but will follow the same basic format.

Classes will begin with an address by an internationally renowned and well experienced practitioner of ADR in the field of business disputes. Following this initial address, the expert in question, assisted by the Academy's Panel of Moderators, will lead an interactive session consisting in the application of ADR techniques to a specific set of case facts with which participants will have been provided in advance of the class. The facts of the case will be amended and adjusted in the course of the session in order to allow reaction to the changing parameters of the dispute and illustrate the full potential and scope of the various ADR techniques. Participants will be organized in groups which will actively participate in the exercise. There will be ample opportunity for interactive exchanges with all participants, who will be invited to share their thoughts and experiences on the topics and on ADR in general.

#### First Class: October 7, 2016:

"CONFLICT, COMMUNICATION AND PROBLEM SOLVING"  
with THIERRY GARBY, International Mediator,  
13:00-18:30, VBO/FEB Brussels

#### Second Class: November 9, 2016:

"SPECIFIC ISSUES IN MEDIATION"  
with Professor AD KIL,  
13:00-18:30, VBO/FEB Brussels

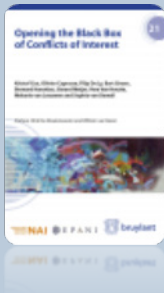
#### Third Class: December 9, 2016:

"THE A IN ADR"  
with Dr ULRICH HAGEL, Mediator and Head of Claim Governance and



# NEWS

## » RELEASE OF BOOK "OPENING THE BLACK BOX OF CONFLICTS OF INTEREST IN ARBITRATION"



The credibility of arbitration is, inter alia, determined by the absence of justified or perceived conflicts of interest that may affect the relationships between the arbitrators, the parties and the parties' representatives.

The nature of human relationships gives rise to a wide range of situations. Having the best interest of swift arbitration proceedings in mind, both CEPANI and the NAI have collected for arbitration users and practitioners authentic (and completely anonymous) issues that they have encountered as arbitral institutions and that required a solution to guarantee fair and proper proceedings. This study provides a unique insight into the world of conflicts of interest. The case studies of both bodies have as a backdrop Belgian and Dutch legislation. Experiences and practices beyond these two countries are also highlighted. Lastly, highly experienced arbitration practitioners provide comments on additional case studies.

The book contains contributions by Olivier Caprasse, Kristof Cox, Filip De Ly, Bart Groen, Bernard Hanotiau, Gerard Meijer, Melanie van Leeuwen, Vera Van Houtte and Sophia von Dewall. With preface by Dirk De Meulemeester and Willem van Baren.

For more information, see [here](#). To order, please send an e-mail to [info@cepani.be](mailto:info@cepani.be)

## » CEPANI INTERN DAYS – PLACES LEFT FOR AUGUST

If you think arbitration is the right career path for you, don't miss out on this unique opportunity to take a look behind the scenes and join the CEPANI team to learn some of the basics of arbitration during one of the CEPANI Intern Days. This year they will be held on the 19th of July 2016 and on the 26th of August 2016 as from 10 am to 3 pm. Interns will receive a full tour of the CEPANI offices, presentations on the CEPANI ADR Rules and on arbitration in Belgium by actual arbitrators and arbitration experts, a welcome pack and a lunch with some of CEPANI's high level members.

There are still spaces left for the August session. If you would like to register for a CEPANI Intern Day, please send an e-mail to Ms. Emma Van Campenhoudt ([evc@cepani.be](mailto:evc@cepani.be)) with your updated curriculum vitae, specifying what your motivations are in participating to these Intern days and lastly indicating your level of experience, if any.

## » ICC ANNOUNCES NEW MEMBERS OF COURT

The International Court of Arbitration of the International Chamber of Commerce (ICC) has appointed 16 new members from 14 countries to serve terms commencing on 1 July 2016 running until 30 June 2018. Elections took place June 16, 2016 in Sao Paulo during a meeting of ICC's supreme governing body, the World Council, in accordance with provisions set out in the ICC constitution and statutes of the Court.

For Belgium, Olivier Caprasse was elected as alternate member.

Click [here](#) to access the full press release

# VARIA

» On 15 and 16 July 2016, The 3rd ICC YAF Europe Regional conference takes place in Athens. The programme will include keynote debates, dynamic panels, participative workshops and roundtable discussions on topics that are of particular interest to the Europe region. More information can be found [here](#).

» Save the date for the following CEPANI events coming up in 2017. Details will follow in due course:

- CEPANI Colloquium on Strategy in International Arbitration (12 January 2017)
- CEPANI Colloquium on Third Party Funding (9 March 2017)

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