The ICC and the New Arbitration Centre
in the Arab World

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This contribution aims to describe shortly the views of the ICC International Court of Arbitration and the perspectives of the ICC arbitration system in the Arab world. The number of conferences on this topic, in which I have participated since I took over the Chairmanship, shows that this theme is not new and is, I must say, an important one.

I would like to start with a few statements:

1. The ICC International Court of Arbitration is present in the Arab world. ICC arbitration exists since 1923 and it has spread to all parts of the world, long before the creation of new arbitration institutions, the so-called new arbitration centres. This is also true for the Arab world where, as is shown in data that are regularly published, the ICC is strongly present.

2. The interest for arbitration in the Arab world is increasing. We are all observing an incredible development of economies in the Arab world. Inevitably, this is linked with an increasing interest for international arbitration. Of course, arbitration has for centuries belonged to the ancestral tradition of the Arab civilisation. It is not arbitration that is new, but international arbitration as it is now understood. The market is growing and this necessarily whets the interest and appetite of counsel, arbitrators and institutions.

3. This market is subject to strong competition. There is room for many participants and it would be foolish and dangerous to try to have a monopolistic position. On the contrary, an arbitration clause may be considered as a form of insurance; the users have to decide on the methods they wish to have at their disposal in the event of a dispute. There are many ways of resolving disputes, many types of arbitration, many arbitrators and

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many institutions; each of them has its own specificities and its pros and cons. This diversity is good.

4. ICC arbitration has its own specificities. In comparison with other institutions, ICC offers arbitration services that are well known. The ICC is one of the most experienced and international of the institutions, having one of the highest international caseloads. The ICC certainly offers one of the most comprehensive systems. Indeed, it does not just offer a form of administration of cases, but a genuine arbitration system pursuant to which arbitrators and counsel are accompanied from the filing of the request for arbitration to the notification of the award, with a permanent assistance and supervision.

For these reasons, the ICC is able to contribute, not alone but with others, first to the promotion of arbitration as well as the promotion of arbitrators.

I. THE PROMOTION OF ARBITRATION

Everyone knows that arbitration is the most effective method for resolving international disputes, in particular because of its contractual basis. But everyone also knows that arbitration implies risks.

a. The risk concerning the arbitrators. The quality of an arbitration depends on the quality of the arbitrators; they must be competent, independent, tolerant and able to understand the different cultural backgrounds of the parties. These requirements fall exactly within the tradition of the ICC which plays a fundamental role in the confirmation, appointment or replacement of arbitrators. The most important decisions concerning arbitrators are taken during the plenary sessions of the Court, at which renowned arbitrators from all parts of the world, including Arab lawyers, participate.

b. The risk concerning the quality of the award. The system relies on the quality of the award since the award which is rendered will normally not be subject to judicial review and will be able to be enforced in all States that have ratified the New York Convention. Under these circumstances, it is easy to understand the inherent risks of the arbitrators' extraordinary autonomy. Therefore, since its beginnings, the ICC system has provided for a scrutiny process according to which each and every award, partial or final, is subject to the approval of the Court. The scrutiny process gives the parties, the counsel and even the arbitrators a supplementary guarantee of the quality of the product. At the same time, it does not deprive the arbitrators of their autonomy and their right to decide all substantive matters. This specificity has greatly contributed to the confidence that the business community places in the ICC; this is especially true in disputes between parties with different cultural backgrounds.