International Congress of Maritime Arbitrators XX

Copenhagen, September 2017

ICMA is a roughly biennial event, and started as an opportunity for a handful of maritime arbitrators to meet and discuss their work. It has now grown into something much larger. ICMA now comprises a full week of lectures and discussion papers covering all aspects of maritime arbitration. It was clear to me from the moment of my arrival that ICMA retains its core purpose of allowing practising arbitrators to meet and discuss trends outside of the cases that they happen to be presiding over at the time, but it was also clear that ICMA acts as a melting pot for maritime arbitration. The attendee list named delegates from all over the world, and included arbitration users, lawyers, students and expert witnesses, as well as the arbitrators for whom ICMA was initially intended.

The welcome address was given first by the Chairman of the Danish Institute of Arbitration, which had kindly hosted and sponsored ICMA XX, and then the Chairman of the ICMA steering committee. From an English perspective, of particular interest was the subsequent talk given by Jon Stokholm, a judge of the Danish Supreme Court who also sits as an arbitrator. At a time when there is a discussion in England & Wales about whether the prevalence of commercial arbitration has stifled the development of the common law, it was interesting to hear from a senior, actively-serving judge who also sits regularly as an arbitrator. Later that evening, I had the opportunity to discuss this with the Judge himself, and to compare Denmark's experiences with those of England & Wales – where the statutory provision allowing for this exists, but is rarely (if ever) exercised.

Following the welcome address, Bruce Harris gave the Cedric Barclay Lecture and reflected on the changes that had taken place over his 40-odd year career as a maritime arbitrator. Chief among those changes was the advent and widespread adoption of the internet, including the changes that it brought to the maritime industry more generally. This was of particular and immediate interest to me, since my paper was concerned with the position of brokers in a world where work was conducted almost exclusively by email – something that Bruce Harris specifically touched upon.

After the first half day, comprising the welcome addresses and the Cedric Barclay Lecture, the main conference hall was divided in two and the Congress swung into full operation. Throughout the remainder of the week, there would at any one time be two parallel panel sessions covering different topics within maritime arbitration. Over 100 papers were presented on an array of topics – including legal and procedural matters, as well as how arbitration as a whole may be approached differently (including, as one panellist suggested and then only slightly tongue-in-cheek, by getting rid of any use of the law or lawyers and returning arbitration to its 'commercial roots').

I had prepared a paper on the an apparently novel point of law that I had encountered in an arbitration, which was in essence concerned with the authority of a joint broker vis-à-vis its principles when the broker had been duped by a fraudster. This secured me a space on the 'Fraud and bad faith' panel session, alongside two arbitrators, an academic, and a senior

London litigator. I felt privileged to be placed on such a panel, and to be invited to speak to such an esteemed delegation as attended ICMA XX. I enjoyed both being able to explain my approach to this question (which had thankfully been upheld by the tribunal in my arbitration the week before ICMA XX), and defending that approach when a delegate suggested that the correct approach could be the opposite to that which I had suggested. In both my panel session and others that I attended, it was clear that this was a forum in which ideas could be discussed; it was a sandbox for maritime arbitration, where potentially left-field ideas could be held up for serious examination.

Of course, after each day of lectures and debates, ICMA had arranged a number of social events to meet with other panellists and delegates in a more relaxes setting – to either continue earlier discussions or start entirely new (and non-legal) ones. From a personal perspective, the opportunity to meet informally with arbitrators who had hitherto only been known to me as names at the end of arbitral awards, or as the tribunal overseeing particular arbitrations, was invaluable. The opportunity to discuss with them, at this early stage of my career, what they considered to be an effective way to present an arbitration is something that I will seek to draw on in arbitrations that I am involved in going forwards.

I am of course thankful to ICMA for giving me the opportunity to present at ICMA XX. I am also particularly grateful to COMBAR and the Bar Scholarships Trust for supporting my attendance at the Congress.

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