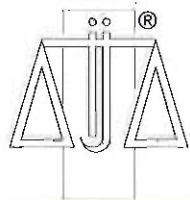


N°65  
MARS  
2000

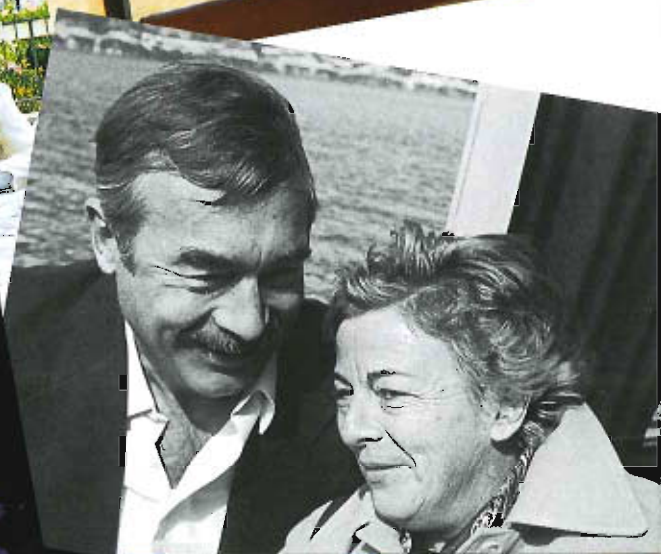
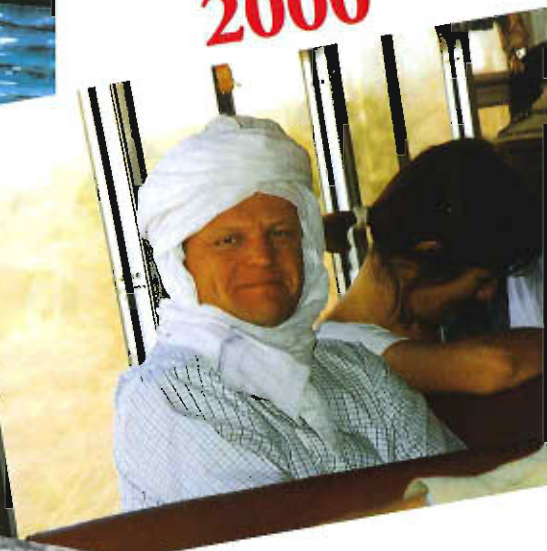
# dija®

ASSOCIATION INTERNATIONALE DES JEUNES AVOCATS PRESIDENT: Malcolm  
INTERNATIONAL ASSOCIATION OF YOUNG LAWYERS McNEIL

# GAZETTE



**SPECIAL  
2000**



Rédacteur en chef - Editor in chief

JOBERT Marc  
108, quai Bleriot  
F-75016 PARIS  
E-mail : mjobert@cybercable.fr







# SOMMAIRE - CONTENTS

## Editorial

- 3 Le Mot du Président  
5 Le Mot du Rédacteur

### Spotlights

#### **Comptes rendus du passé**

- 6 Varsovie  
*David Van Dorpe*  
8 Beyrouth  
*Battista Ghiggia*

#### **Evénements futurs**

- 10 Seven reasons why you should participate at an AIJA seminar this year  
*Markus Zwicky*  
12 Let's meet in Madrid, O'Porto and Lisboa  
*Miguel Avillez Pereira*  
13 Tokyo  
*Hiroyuki Kanae*  
14 Luxembourg  
*Charles Duro*  
15 Stuttgart  
*Daniela Kreidler-Pleus*

### Congrès

#### **BRUSSELS : XXXVIIth Congress**

- 16 Dernières photos  
17 Let's work on TQM  
*Frank Diem*

#### **HELSINKI : XXXVIIIth Congress**

- Michaela Ramm-Schmidt*  
*Heikki Cantell*

### Legislations

- 20 Uruguay : Income Tax Withholding  
*Jonas Bergstein*  
21 Practising in Liechtenstein in an Area of Conflict between EEA Law and National Policy  
*Alexander Ospelt*  
23 Franchising in India  
*Akil Hirani and Kirit Javali*  
25 Land Use Right for the Foreign Investment in PRC  
*Yuan Jie*

### Carnet de la Gazette

- 26 Naissances : Ambre Swinnen  
*Joao Paulo Forman Murray*

### Forum

- 27 Notre futur d'avocat  
*Aicha Amedlouss*  
28 Francophile tradition and global strategy  
*Adi Seffer*  
29 Jeunes Avocats  
*Michael Brauch*

### Humour

- 29 Australia : About Real Estate  
*Anne McNoughton*  
30 Progrès ?  
*Christoph Petsch*  
31 The Y2K in God's own computer  
*Ivo Deskovic*  
32 Un dialogue dans l'avenir  
*Petri Taivalkoski*  
33 The Golden Rat  
*Chris Lambert*

## AIJA 2000

- 34 La Ballade de l'AIJA  
*Jean-Frédéric Mauro*  
35 Le sort de l'Aijiste  
*Marita Dargallo*  
36 The Role of AIJA in the Year 2000  
*Rui Botica Santos*  
37 Que reste-t-il de mes amis ....  
*Maria Lopes Dias*  
38 Tolerance and Respect  
*Elisabet Fura-Sandström*  
38 Pour l'AIJA, le Pape change son discours  
*Frank Dousselaere*  
39 We are the World, We are AIJA  
*Murray Levin*  
40 Souvenir  
*Roger Dalcq*  
40 AIJA in the 21st Century  
*Marina Palomba*  
41 Flashes AIJA  
*Emilio Bellegrandi*  
41 Earliest memories  
*Anthony Slingsby*  
42 Soirée des amateurs  
*John Kahlke*  
44 A famous speech  
*Franz Wittmann*  
44 Souvenir ! Souvenir !  
*Mustapha Rouabah*  
45 Les tribulations d'un Aijiste en Terre Sainte  
*David Sprecher*  
46 Business Crime and all that  
*Keith Oliver*  
47 Droits de l'Homme et mega firms  
*Thierry Garby*  
49 Suivre l'ère du temps  
*Joe Karam*  
50 How a painful defeat can result in a sweet victory  
*Winfried Schmitz*  
51 My most memorable moment in AIJA  
*Horacio Bernardes-Neto*  
52 The AIJA Friendship  
*Frits Mutsaerts*  
53 An Oldie Remembers  
*John Maycock*  
54 Souvenirs  
*Michael Carrigan*  
55 Since 1973  
*Walter Semple*  
56 Témoignage  
*Louise Levesque*  
57 Mémoire de Présidente  
*Anne-Marie Trahan*  
58 D'Helsinki à Helsinki  
*Jesus Betriu Coma*  
59 Petite Histoire de l'AIJA  
*Georges Stevens*  
62 Democracy in AIJA  
*Michael Ellman*  
63 Le Congrès d'Athènes  
*Nicolas Antonopoulos*  
64 De quelques moments du passé et de l'avenir  
*Christian Dieryck*





# Le mot du Président

## The President's Foreword



Chers Amis,  
Chers Collègues,

Bonne année ! Cette édition de la Gazette est la première de ce nouveau millénaire. J'ai lu, écouté avec un grand intérêt les analyses relatives au 20<sup>e</sup> siècle et les perspectives du nouveau millénaire.

As usual with such predictions, most have been way off the mark so far. We have seen firsthand that the apocalyptic scenarios involving everything from technology failure to global terrorism have failed to materialize as we passed January 1. This new millennium has swept across the globe in a long-awaited event which was most notable for non-events. The much feared (and talked about!) computer shutdowns and terrorist attacks failed to materialize as the clock passed midnight.

Further, whether it is Man of the Year, Century or Millennium; or Event of the Year, Century or Millennium, each of these milestones have been analyzed exhaustively by people in different professions and walks of life. The significant point is to bear in mind that we must keep a frame of reference when listening to the prognosticators telling us about what the future holds. Further, we must be cautious when we listen to historians "interpret" the past events for us.

In our profession, we can look to the law and its evolution and be proud of the heritage that has preceded us. We can also look with optimism on the future even though some may feel trepidation at the uncertainty that faces us in the law and our legal careers in the coming years. We should take time to ponder the day-to-day changes of our profession, which include recent issues such as multi-disciplinary practices, international trade and its effect on the delivery of services, and so on. However, it is more interesting to view our profession from the standpoint of "now," the turn of the century, and imagine how law will be practiced fifty years from now.

J'ai participé récemment à une Conférence traitant de la Technologie et du Droit. On y étudiait la manière dont la technologie changerait notre profession. Le scénario le plus radical envisageait une société juridique sans classe, sans visage où le client "appuierait sur un bouton" pour obtenir des services juridiques. Further, the lawyer would simply be an automaton walking into court with all information on a computer with the judge and opposing counsel sharing the same information on their laptop computers.

The judge would then punch in a result instantly appearing on each participant 's computer, and the clerk would then enter a non-paper judgment. Cette vision réduit notre profession à un jeu vidéo juridique. Un exposant, dans le cadre d'une négociation commerciale, démontrait l'utilité d'un ordinateur portable où le client lirait le contrat et choisirait ses clauses parmi une liste de clauses informatisées et standardisées. Le rôle de l'avocat se limiterait à signer la transaction une fois que le client aurait choisi ses clauses. Cette projection semble déjà très proche de la pratique actuelle du droit.

In order to assess the reliability of these predictions, we should look to the origins of our profession. We know that the ancient Greeks retained a trusted friend or recommended orator to argue and negotiate on their behalf. The evolution of the legal profession from Socrates to the 20<sup>th</sup> Century has naturally absorbed technological and societal changes. But such technological and societal changes have not altered the fundamental nature of the lawyer and the client 's expectations. The lawyer continues to be responsible for understanding and presenting the client 's positions and opinions. The lawyer is to do so with a standard of ethics, a vision from the client 's perspective and with



a zeal to assure the best possible result for the client. This is all to be accomplished while balancing the client's confidences and assuring the integrity of the tribunal.

Time will not change these functions. Clients continue to expect the same amount of professionalism and dedication from the client's personal advisors. Those include us. We see consultancies, advisors, committees and groups of people getting together interacting to evaluate circumstances and opportunities. The desire to excel and achieve a desired result are not and should not be eliminated by computer programs and other "scientific data." Rather, these same "activists" are sought increasingly in all walks of life and are necessary to the perpetuation of the things that are necessary for the meaningful evolution of the world society.

Affirmer que la planète devient un village tient du cliché. Certains ont baptisé le 20e siècle le siècle américain. Dans ce cas, le 21e siècle sera certainement le siècle international. More to the point, understanding and assimilating cultural differences in our day-to-day life is becoming increasingly a critical element to the practice of law.

Les grandes questions ne sont pas vraiment prises en compte. Pourrons-nous établir une norme universelle des Droits de l'Homme ? Comment les nouvelles générations verront-elles ces droits fondamentaux ? Comment seront-ils définis au 21e siècle ? Aurons-nous un gouvernement mondial protégeant l'environnement, les ressources alimentaires et toutes les questions essentielles à l'homme ?

We as lawyers must lead in providing vision and direction and must not focus on day-to-day trends which usually reveal themselves as fads passing quickly and having no significance. Instead, we must look to the future and see that our role is one of assistance and facilitation.

If anything, the lawyer's role continues to expand.

International trade and globalization mean that it will be commonplace for lawyers to cross borders, not only to nations next door but around the globe. This requires a greater understanding of what the future holds for us and a sensitivity to cross-border issues that increasingly affect all members of our profession.

These lasting trends demonstrate the continuing relevance of AIJA. AIJA provides a forum for young lawyers to view the trends, assess them, and adapt where necessary. We meet and get together at our events which give us the opportunity to interact socially and professionally and share our common concerns and learn. AIJA's commitment to its membership will broaden as it continues to fulfill its responsibilities by providing state of the profession law courses and provide involvement opportunities to our members. We must encourage our members to be active in AIJA to cultivate their abilities to be a 21st Century lawyer. Our members can and should lead the way in human rights, arguing critical issues and identifying overall and short term trends and how to effectively handle them.

Our members have the opportunity to affect trends for the better. Our members can convince others in our profession that the practice of law may readily adapt to technological advances while at the same time maintaining the traditional hallmarks of our very, very special profession. We must demonstrate to the public at large that technology does not replace the humanity that our profession must embrace. We need to explore AIJA's associations and alliances with other organizations. We must review our organizational structure to assure that it is both efficient and responsive to our members. Finally, we must continue to cultivate the dedication of our members which will perpetuate AIJA's traditions and the AIJA spirit.

As your millennium president, I emphasize my desire to continue our process of analysis and self-evaluation. Our primary resource, our dedicated members, will continue to at least be replenished and hopefully grow so long as AIJA's value is continually enhanced through self-examination and revitalization. To all of you, my dear friends and colleagues, I hope you had a joyous celebration. I urge you to take the time to assess your own lives and direction. Although some purists might say that the 21st Century does not come until next year, the rollover of the numbers to 2000 gives us an ideal time for this reflection.

Je vous souhaite à tous santé, bonheur et prospérité et espère vous voir régulièrement à nos différents séminaires.

Happy Millennium!

Malcolm S. McNEIL



## Le Mot du Rédacteur

### VOYAGE DANS LE TEMPS ET DANS L'ESPACE



*Paris 1962*  
(date de la création de l'AIJA)

Ami(e)s de l'AIJA, soyez les bienvenus à bord du vaisseau spatio-temporel de l'AIJA.

Nul besoin de combinaison anti-g, ni de pistolet laser ; il vous suffira de tourner les pages de votre gazette « spécial an 2000 ».

Vous y retrouverez vos rubriques habituelles bien sûr, mais aussi the contributions of many future, current or former members.

Speeding at warp speed our galactic cruiser will take you back and forth from the year 1900 to the year 3000 and across the five continents.

Fond memories of the past, frightening or hopeful visions of the future.

Humour, fantaisie, inquiétude, émotion, poésie, enthousiasme, réalisme, à vous de choisir ; Amitié et Esprit AIJA seront toujours au rendez-vous.

Si vous avez raté la deadline, si vous voulez vous aussi célébrer l'an 2000, si vous avez des photos que vous souhaitez voir publier, si vous voulez louer ou critiquer un article, nos colonnes vous sont ouvertes.

Faites-nous part de vos réactions

Dites-nous quel est l'article que vous avez le plus apprécié (ou détesté) !

Que 2000 plumes vibrent à l'unisson !

Marc JOBERT



*Beyrouth 1999*



## Warsaw Seminar on Public Private Partnerships 18-20.11.1999



### Spotlights

Snow-flakes accompanied the arrival of the participants in Warsaw, and the subsequent traffic jams they suffered on their way from the airport to the Holiday Inn immediately put them right into the subject of the AIJA seminar: lack of decent infrastructure in countries in transition and one of the possible remedies, Public Private Partnerships.

The main idea is that private investors finance the construction and/or operation of a utility, and get a return through fees. Various legal models exist in the PPP family, such as the BOT (Build-Operate-Transfer), BOO (Build-Own-Operate) and the BLOT (Build-Lease-Operate-Transfer). The main difference between these PPP models concerns the destiny of the utility after the expiry of the concession period. Contrary to the BOO, in the more frequent BOT, the utility is transferred to the contracting authority in the end of the concession period.

The seminar took off with a welcome session in the offices of the Warsaw based law firm Komosa, Wisniewski and Grzybowski, in order to get acquainted with the other participants before the first working session the next morning.

Mister **Angelo Faria**, legal officer of UNCITRAL<sup>1</sup>, offered a good overview of the UNCITRAL recommendations to governments,

concerning the legal framework for privately financed infrastructure projects. The recommendations deal as well with the legal aspects of the specific PPP regulations (selection of the concessionaire, duration, extension and termination of the project agreement, general principles for risk allocation and fee systems) as with the overall legal framework in which a PPP act functions the best. It is obvious that it leads to nothing to have a very advanced BOT-act if this legislation is not in coordination with the rest of the legal and institutional environment (construction permits, environmental regulations,...). A bad internal coordination can have far reaching consequences for the involved country, especially when it is a developing country or a country in transition. The number of candidate host countries is bigger than the number of investors and the failure of a PPP due to governmental mismanagement can discourage potential investors for years.

Mrs. **Knight** and Mr. **Schulz-Gebeltzig** explained respectively the English and German state of PPP-affairs, and Mr. **Hockaday**, an engineer, illustrated the situation in England as described by Mrs. Knight: in England PPP-s<sup>2</sup> are used for a very wide range of services, and the growing number of new PPP's proves the success of the formula.

After the lunchbreak, Prof. Dr. Nicklisch provided us the academic point of view on PPP's, their usual structure, the web of contractual links between the various partners and the risk allocation, with a very interesting bonus part about his experiences with BOT projects as an arbitrator.

Mr. Ramquet, president of the AIJA International Business Law Commission, guided the panel of speakers and the participants through the discussion, which was especially focused on the conditions for and importance of a good feasibility/viability study and ditto tendering procedure for the success of the PPP.

In the evening everyone gathered in the famous Belvedere restaurant for a splendid dinner in a good atmosphere. Mr. Mc Neil, AIJA president ("I flew right in from LA for the occasion") made sure that the 'AIJA spirit' came down over all participants.

Saturday morning was "money-time" with Mr. **Seiler** from the EBRD<sup>3</sup> and Mr. **Vogel** from DEG<sup>4</sup>. The main sorrow for the lenders is the risk of loosing all their input in case of failure of the PPP. Both the EBRD and the DEG try to minimise this risk by a cautious selection of the sponsored projects. Many other private lenders join the projects if they know that EBRD or DEG cofinance, because they know this is a very good sign.

Furthermore the lenders avail of a large repertorium of mortgages and pledges on the assets and covenants for the maintenance of financial ratios and dividend restrictions during the period of debt service.

Mr. **Sandberg** was the last speaker of the seminar, and a good summary of the totality, joined to a lot of practical experience in most of the fields<sup>5</sup> and this in different parts of the world, from the Sea-port of Mogadisciou to the Airport of St. Petersburg. Then it was time for the question session, the closing ceremony and the city tour.

The atmosphere became very cordial on the evening dinner, where the official AIJA language was Swedish for the occasion and which ended up in a snowball fight. But besides wet shoes and traffic jams, the snow gave a romantic touch to the seminar, that would have been hard to find in the *Fernstrassenbauprivatfinanzierungsgesetz* or other mortgages on capital assets.

#### Case-study: the polish motorways

According to Dr. Krzysztof Link, vice president of the Polish Agency for Motorway Construction, only 62 kilometers of the Polish highway network meet the E.U. standards for highways. As the car sales in Poland rose from under 200.000 in 1992 to over 500.000 in 1996, the alarming saturation on the Polish roads will continue to deteriorate, unless new highways are constructed. As the Polish government already tries to meet the Maastricht criteria concerning government deficit and public debt, there are no funds available for huge highway construction projects, although these are necessary for the further economic development of the country.

To remedy this problem, the Polish parliament approved the Toll Motorway Act of 1994, creating the legal framework for privately fi-

nanced and operated highways: the law provides a tendering and selection procedure and, besides approving the principle of private financing of highways, regulates the concession system as well as the toll system. The aim was to create 4 big highway-axes through Poland, two North-South and two East-West. Although for some trajectories partners were found, the success was very limited. Potential investors argued that the economic viability of the project was doubtful as the financial capacities of the Poles are more limited than those of the average EU citizen, while the cost of highway construction is not so different. The fear existed that the toll, required to make the construction profitable, would be beyond what the Pole would be willing to pay for the use of the highway, and after what happened to the Hungarian M15 motorway, no one wanted to take the risk without further Governmental guarantees.

Aware of this problem, the Polish Agency for Motorway construction proposed an amendment to the Toll Motorway Act, consisting of the creation of a special fund, the Motorway Support Fund (MSF). On the one hand, the MSF will, if the amendment is approved by the Polish Parliament, be the only source of income for the Project Company. The Project Company will receive a fixed amount of money from the MSF to pay back the borrowed money and the interests, and to have a profit margin. All the income generated by the exploitation of the highway, on the other hand, will go to the MSF. This means that the exploitation risk is transferred to the government, which will pay the difference between the expenses and the income of the MSF.

Although this system should reassure the private investors, one can doubt if this is such a good solution for the government, as there is no incentive for the operator to deliver optimal services, because their income is independent from the quality of the service.

Very well defined criteria or to be elaborated in this field. Furthermore, if the state pays for the principal **and** for the interests **and** for the profits of the project company, than the state can better undertake the project itself as in this case the profits do not have to be paid, and as states can always get the best borrowing conditions.

Many thanks to Wolfram Pätzold, Adam Opalski and Johan Larsson for the perfect organisation and the great variety of speakers, all experts in different fields related to the Public Private Partnerships.

David VANDORPE  
Belgian Business Club Warszawa

<sup>1</sup> United Nation's Commission on International Trade Law.

<sup>2</sup> PFI is the English denomination and stands for Private Finance Initiative.

<sup>3</sup> European Bank for Reconstruction and Development

<sup>4</sup> Deutsche Investitions- und Entwicklungsgesellschaft

<sup>5</sup> Skanska provides as well the financing as the construction as the operation of the facility.



## Impressions de Beyrouth Comité Exécutif d'automne 1999

C'est à 01.00 heure du matin le 28.10 que l'avion de MEA se pose à l'aéroport de Beyrouth.

Beyrouth représente aux yeux des Européens la charnière entre l'Orient et l'Occident, le carrefour des civilisations où les religions et les cultures se mélangent.

Joe Karam a tout organisé : à l'aéroport une limousine nous attend et nous conduit dans la nuit jusqu'au Portemilio Suite Hotel de Kaslik. A Joe ainsi qu'aux confrères et étudiants libanais un tout grand merci pour la parfaite organisation et le succès de ces journées qui ont su joindre l'utile à l'agréable.

Après une courte nuit, je retrouve les amis de l'AIJA avec lesquels nous allons visiter le centre de Beyrouth. Nous nous rendons vite compte que la guerre a laissé des traces qui ne pourront jamais être effacés. Mais nous nous rendons aussi compte des efforts énormes que le peuple libanais a mis en œuvre pour reconstruire sa capitale qui représentait jusqu'à la moitié des années '70 la Suisse du Moyen-Orient.

Le jeudi après-midi a lieu le séminaire sur la Propriété Intellectuelle qui se tient dans l'Université Saint-Esprit, en présence du Ministre de la Justice, du Recteur de l'Université, d'anciens juges, de beaucoup de confrères libanais ainsi que de nombreux étudiants de l'Université et d'une bonne représentation de l'AIJA.

Le jour suivant commencent les travaux des commissions permanentes qui se déroulent dans un climat décontracté où les participants au Comité Exécutif ont pu apprécier l'hospitalité des confrères libanais dans un contexte universitaire qui nous reconduit quelque peu en arrière dans les années.

Le repas de midi eut lieu au Yachting Club du Liban en présence de l'Ambassadeur des Etats-Unis et d'autres personnalités du monde politique, judiciaire et diplomatique.

Le clou de la journée du samedi fut la réunion du Comité Exécutif et le dîner de clôture dans un contexte et une ambiance inoubliables en présence de nombreuses personnalités locales et ... last but not least une éblouissante Miss Liban, digne représentante de la beauté locale.

Notre séjour s'est terminé le dimanche avec la visite guidée de la Grotte de Jeïta et de la ville de Byblos. Des moments et des impressions inoubliables, tout comme l'a été le déjeuner au port de Byblos, mais, hélas, il faut faire vite parce que l'avion nous attend : il est temps de partir.

Pas de problème : nous reviendrons !

\*\*\*\*\*

*It's 1 o'clock in the morning of October 28 when the MEA machine lands at Beirut Airport.*

*To Europeans, Beirut is the gate between East and West, the crossroad of civilizations where religions and cultures meet.*

*Joe Karam had organized everything: at Beirut Airport a limousine is waiting to take us overnight to the Portemilio Suite Hotel in Kaslik. To Joe, and to the Lebanese colleagues and friends and students, go my heartfelt thanks for the perfect organization and the success of these days which skillfully melded business and mundane activities.*

*After a short night's sleep I join up with my AIJA friends and together we visit downtown Beirut. We immediately realize that the war left scars behind that can never be erased. But we also become aware of the enormous ef-*

*forts the Lebanese people have poured into rebuilding their capital city, which until the mid-70's was commonly referred to as the Switzerland of the Mid-East.*

*Thursday afternoon there's the seminar on intellectual property at Kaslik's Saint Esprit University, in the presence of the Minister of Justice, the Rector of the University, judges, many Lebanese colleagues, numerous Saint-Esprit students and a sizeable body of AIJA representatives.*

*The following day marks the beginning of the permanent committees sessions held in a relaxed atmosphere, where the members of the Executive Committee have an opportunity to appreciate the Lebanese colleagues' hospitality in a University context that takes us back a good many years.*

*Lunch is served at the Lebanon Yachting Club in the presence of the U.S. Ambassador and other personalities from the worlds of politics, the judiciary and diplomacy.*

*Saturday's highlight is the meeting of the Executive Committee followed by the closing dinner which takes place at the Kaslik Officers' Club, in an unforgettable setting and atmosphere, with many local personalities and - last but not least - the splendid Miss Lebanon, a worthy representative of local beauty.*

*Our stay ends Sunday with a guided visit to the Jeïta cave and the city of Byblos. These are unforgettable moments and impressions, and just as unforgettable is the lunch in Byblos' harbor; but alas, we must hurry now because the airplane is waiting for us : it's time to leave.*

*That's no problem, though: we'll be back.*

*Battista Ghiggia  
Attorney-at-Law in Lugano.*

# BEYROUTH COMITE EXECUTIF D'AUTOMNE 1999



*Ouverture du Séminaire*



*Le groupe des participants à l'USEK*



*Dîner de Gala*



*Excursion à Byblos*





## Seven reasons why you should participate at an AIJA seminar this year

### First reason:

#### Forum of a specific legal area

Every seminar brings together people with a common business interest. Taking the seminar in Capri on Tourism law in June 1999 as an example, the participants coming from law firms and tourism businesses shared their views especially on time-share arrangements. Even though the beautiful spring sunshine reflecting in the blue swimming pool offered a serious temptation outside the conference facilities, a highly motivated discussion continued all afternoon.

### Very first reason:

#### Highly specialized academic content

The AIJA has a broad selection of topics to offer, and many seminars offer a highly specialized approach. The Banking Law Commission for instance is organizing a Seminar in Paris in March 2000 on recent developments in banking law, and lawyers with clients in the media business will find a good reason to hear news in the seminar in London in April 2000. Also, the seminar at Easter 2000 in Tokyo will lead the discussion regarding E-commerce with a prominent list of speakers. On the other hand, also less business-like topics such as Human Rights find there meetings, taking for instance the seminar in Strasbourg in 1998. Even more important reason: spontaneous organizers, charming programs.

All AIJA seminars are organized by existing active AIJA members, not by anonymous PCO's. You will find a personal touch in every seminar, something special and sympathetic in every event. Young lawyers are organizing events according to the taste of young lawyers. By this, AIJA seminars are making the big difference to others. The number of participants is usually much smaller, hardly ever more than 50 people are participating. Also, the seminars are more on the modest side, as the organizers are running a personal risk.

The AIJA doesn't finance these seminar and doesn't pay for any possible losses, and profits of a seminar must be forwarded to the AIJA treasurer. If you, however, should fancy the more black-tie or yawning kind of event we will be delighted to give you some hints outside the AIJA.

### First comes of course:

#### A lot to learn

Some seminars of the AIJA have been held as law courses, allowing the participating practitioner to ask questions, to discuss mock cases and to see that many consoeurs and confrères are cooking with water as well. It has shown to be rather difficult to organize law courses regularly, but we are confident to have more in this style. If you should be interested in getting skills in M&A you shouldn't fail to participate at the New York seminar in May 2000, where you will get a chance to profit from the know-how of senior colleagues within the AIJA and from the international scene. In June 2000, a seminar on the succession in family enterprises in Stuttgart will address itself to the lawyers working in mid-size or smaller law firms.

### Important? Business acquisition

I know this reason is completely irrelevant to every practicing lawyer, but some participants at seminars have found business contacts or carried home work during AIJA seminars. Dreadful but sometimes hard to avoid.

### Regional or International Happenings at your choice

More and more is the AIJA starting to co-organize seminars together with other associations and with local bar associations (not with local bars, I insist). In Beirut, a crowd of over 100 law students followed the discussions of the one-day seminar covering international trademark-issues. In Tunis 1997, the AIJA was even present in local newspapers, and the seminar on arbitration was very well attended. The upcoming seminar in February on International Sub-

Contracting in Firenze, Italy, which is co-organized with the UIA will be the first glamorous AIJA happening of the year and will be a combination of all the good reasons to participate mentioned in this article. Registrations are still possible. Also, the regional meeting for the Iberian area in March 2000 in Madrid will give a chance to discuss Spanish and Portuguese M&A developments.

### First but not least: Lots of friends, lots of fun

A seminar is the best opportunity to make friends, as the group of participants is much smaller than at a congress. Usually you get a chance to meet everyone of the group, and during the lectures you get a chance to see everyone's professional face. But next to seeing professional faces, you also get to see the more relaxed complexions. Every seminar is lots of fun. Those who have doubts: please register for one of the next events. If you should have any questions about them please don't hesitate to contact me, the AIJA secretariat or the Bureau for details.

### Markus ZWICKY

President of the AIJA Law Courses Committee



Only Martindale-Hubbell® Delivers Your Credentials to  
the Worldwide Legal Community in Four Formats.

<http://www.martindale.com>



Publish your credentials in Martindale-Hubbell and increase your visibility in over 150 countries. The **Law Directory** is circulated in print to 30,000 law firms, corporations, and other subscribers who receive the print edition; on CD-ROM to 70,000 users; online to 800,000 LEXIS®-NEXIS® researchers and via the Martindale-Hubbell Lawyer Locator™ on the Internet.

### The International Legal Referral Network

The **Martindale-Hubbell Law Directory** is used by:

- Law firms evaluating other firms and lawyers to represent them in foreign countries,
- Corporate law departments seeking outside

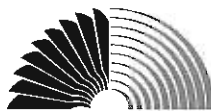
counsel, and lawyers researching the background of associate or opposing counsel,

- Businesses needing international expertise in specific areas of the law.


### You Are Invited To Join This International Legal Network

Representation in Martindale-Hubbell is one of the most productive marketing investments your firm can make. It offers maximum visibility and increased potential for new business referrals.

For more information on joining this global legal network, call us at **+44-171-464-1430**.



**MARTINDALE-HUBBELL®**

 A member of the Reed Elsevier plc group

1 St. Katharine's Way  
London, E1 9UN, UK Tel: +44-171-464-1430  
Fax: +44-171-464-1440 <http://www.martindale.com>  
Email: [intl-info@martindale.com](mailto:intl-info@martindale.com)

Martindale-Hubbell, LEXIS and NEXIS are registered trademarks of Reed Elsevier Properties Inc., used under license.



LET'S MEET IN MADRID, OPORTO AND LISBOA !



Madrid



Elevador da Bica, Lisboa

Spotlights

The Portuguese members are extremely excited with all the activities planned by AIJA to take place in Portugal and in the region in the very near future.

Already in March (24-25) 2000, it will take place in Madrid, for the first time, an Iberian Regional Meeting. With our Spanish Friends and Colleagues it has been set up what promises to be a highly appealing weekend, both from a scientific and a social viewpoint.

The topic which will be discussed thoroughly by Spanish and Portuguese young lawyers, couldn't be more up-to-date: „Mergers & Acquisitions in Portugal and Spain“, at a time where Portuguese and Spanish companies are putting a range of alliances, mergers and acquisitions in place, and the regulatory and enforcement authorities of both countries are facing a number of hurdles and problems to scrutinise those deals within the boundaries of their increasingly limited powers. Of course, because the social program creates high expectations around this type of events, and Madrid is certainly the right place to meet all such expectations, a number of different and fantastic events are planned to keep all participants within the well known AIJA spirit standard !

Before the end of the present year, more of our Friends and Colleagues are expected to come back to the region, this time to visit Oporto and join the Fall Executive Committee Meeting (November 23-26). Oporto, the capital town of Northern Portugal, is a magnificent city whose Historical Centre, where the venue Hotel is located, has recently been classified Unesco World Heritage, in a tribute to more than 2000 years of history and the preservation of its cultural values. Again, here too, side by side to the hectic working activities that commonly take place throughout any of our Executive Committee Meetings and that make our Friends and Colleagues so “addict” to AIJA, a disparate number of social events mirroring the northern Portugal traditions have been set in.

Later on, in year 2002, at the time AIJA will be celebrating its 40<sup>th</sup> anniversary, the Annual Congress will convene for its second time in Lisbon. The city of the seven hills, on the top of which are its most typical quarters such as Bairro Alto and Graça, where one can enjoy the Fado, the song that features the soul of Lisboa, or walk along delightful belvederes such as São Pedro de Alcântara, from which one can see the ancient houses reflecting the clear bright light of Lisbon. A city where sandy beaches, golf courses, tennis, horse riding are

to be found within 15/20 kms. Wonderful climate, delicious food and wines, an exceptionally attractive night-life, and a traditional hospitality. It is perhaps slightly premature to start describing all that the Portuguese members do have in mind for their AIJA guests from around the world. But what we can guarantee to you is that the 2002 AIJA Annual Congress is already part of our daily lives and that we share a common essential goal: that you will have a terrific time in Lisbon !

As you see, the Portuguese members have plenty of good reasons to be really excited !

Miguel DE AVILLES PEREIRA  
National Vice-President for Portugal





## TOKYO SEMINAR ON ELECTRONIC COMMERCE

Friday, April 21, 2000 and Saturday, April 22, 2000

As of 1999, the world internet population is said to be 160 million (in 2000 such number may well exceed 200 million), of which the internet population in Japan, the EU and the USA make up about 17 million, 36.11 million and 94.2 million people, respectively. Electronic commerce has experienced tremendous growth recently. Since electronic commerce has made significant developments in the past few years, many legal questions are involved. Furthermore, because this kind of electronic commerce transaction is global in scope, when a dispute occurs, various problems that are different from domestic transactions arise.

AIJA is holding a seminar regarding Electronic Commerce from April 21 to 22, 2000 in Tokyo. This seminar has been designed to be interactive and enable delegates from Japan, Pacific, Europe, and the U.S. to discuss these current issues on electronic commerce such as cyber shops, cyber malls, consumer protection, conflicts between trademarks and domain names, and jurisdiction of electronic commerce.

We have invited a university professor as well as officials of the relevant Japanese ministries to discuss the key issues regarding the development of e-commerce in Japan. Also, this seminar will be business solution oriented and we have invited business people to

discuss the inter-relations between business and legal issues.

### Agenda

Welcoming and opening remarks will be made by Michelle Sindler, AIJA President-elect and Naoki Idei, AIJA National Presidential Delegate in Japan.

The first day will see a presentation on cyber-shops and cyber-malls with regards to consumer protection, chaired by Makoto Shimada (*SAH & Co*) and Naoki Idei (*Kojima Law Offices*), and with speakers from the EU (Barbara M. Nestle, *Swisscom AG, Corporate Legal Services, Contract Management*), the U.S. (William C. Altreuter, *Altreuter & Habermehl*), Japan (Kazunori Kirihara, *Kojima Law Offices*) and Australia (Natasha Camphorst, *Department of State Development, Queensland*), as well as a panel discussion on contract formation with regards to cyber-shops and cyber-malls, coordinated by Hiroyuki Kanae (*Tanaka & Takahashi*), and with panelists from Japan (Mitsuhiro Gonda, *Gonda Law Offices* and Kazunori Kirihara, *Kojima Law Offices*), Australia (Natasha Camphorst, *Dept. of State Development, Queensland*), France (Antoine Azam-Darley, *Azam-Darley, Amsellem & Associates*), Germany (Matthias W. Stecher, *BBLP*), Hong Kong (Chris Lambert, *Robertson, Double & Lee*), Switzerland (Barbara M. Nestle,

*Swisscom AG*) and the U.S. (William C. Altreuter, *Altreuter & Habermehl*).

Thereafter, the keynote address, concerning the development of e-commerce in the world and Japanese status, prospects and issues, will be given by Professor Osamu Sudoh, Doctor of Economics at the University of Tokyo's Institute of Socio-Information and Communications Studies.

Closing out the first day will be speeches from, Mr. Fuminori Inagaki, Chief of the Ministry of International Trade and Industry's Advisory Office on E-Commerce, and Mr. Ikuo Izutsu, Chief of the Ministry of Home Affairs' Information Policy Office, regarding the present status of Japanese e-commerce and issues for the future.

The second day will open a presentation on legal issues regarding domain name and trademark protection, and jurisdiction in e-commerce, chaired by Makoto Shimada (*SAH & Co*) and Naoki Idei (*Kojima Law Offices*), and with speakers from the EU (Matthias W. Stecher, *BBLP*), the U.S. (William C. Altreuter, *Altreuter & Habermehl*), and Japan (Hiroyuki Kanae, *Tanaka & Takahashi*), which will be followed by a panel discussion on this topic, coordinated by Hiroyuki Kanae (*Tanaka & Takahashi*), and including panelists from Japan (Mitsuhiro Gonda, *Gonda Law Offices* and



Kazunori Kiri-hara, *Kojima Law Offices*), Australia (Natasha Camphorst, *Dept. of State Development, Queensland*), France (Antoine Azam-Darley, *Azam-Darley, Amsellem & Associates*), Germany (Matthias W. Stecher, *BBLP*), Hong Kong (Chris Lambert, *Robertson, Double & Lee*), Switzerland (Barbara M. Nestle, *Swisscom AG*) and the U.S. (William C. Altreuter, *Altreuter & Habermehl*).

Social Activities

The venue of the seminar will be the impressive Tokyo Opera City building, located in Tokyo's Shinjuku ward. On Friday evening there will be a reception and on Saturday evening there will be a closing dinner in the metropolitan environment of Shinjuku.

Hiroyuki KANAE

Homepage

Please visit the AIJA homepage at <http://www.aija.org>, where you can find the full program and registration form of this seminar.



Comité Executif  
Luxembourg  
18-21 Mai 2000 - May 18-21, 2000



*Le Comité Organisateur (sans Charles Duro !)*

Avec la bénédiction du ROI SOLEIL.

En juin 1767, le Roi Soleil est venu en personne à Luxembourg surveiller la progression des travaux des fortifications Vauban, la ville devenant l'une des plus importantes places fortes d'Europe "La Gibraltar du Nord".

En mai 2000, Luxembourg accueillera le Comité exécutif de l'AIJA en ce nouveau millénaire pour qu'il vienne surveiller la progression des travaux de l'Association.

Nous vous attendons nombreux. A côté des travaux, des réunions de l'activité scientifique, Luxembourg vous fera connaître son histoire, sa vie culturelle et artistique et bien entendu sa gastronomie.

Venez admirer la ville de Luxembourg, classée au Patrimoine Mondial de l'UNESCO pour la beauté et l'intérêt des vestiges de la place forte, les circuits historiques dans l'espace et dans le temps, les casemates, la cathédrale, le Palais Grand-ducal, le Musée d'Histoire de la Ville, le Musée National d'Art et d'Histoire, le "Natur Musée", le Casino de Luxembourg Forum d'art contemporain, le "circuit Vauban" etc...

Bienvenue et à bientôt !  
Le Comité Organisateur

Join us to admire the city of Luxembourg, classified in the world patrimony of the UNESCO for the beauty and the interests of relicts of the fortress called the "North Gibraltar", the historic tours in space and time, its blockhouses, its cathedral, its Grand-Ducal Palace, its City History Museum, its National Art and History Museum, its "Natur Musée", the Casino of Luxembourg Forum of modern art, its "Circuit Vauban", etc...

Welcome and see you soon !  
The organizing committee.

## NOUVELLES DU GRAND DUCHE

Vic Gillen, Vice-Président d'Honneur au Luxembourg vient d'être nommé Membre du Conseil d'Etat



Mais il est toujours avocat !



## Stuttgart 22-24 June 2000 " Succession in Family Enterprises



Have you ever been to Stuttgart ?

This is the opportunity to combine professional education and fun.

"Succession in Family Enterprises" is a hot topic. Specialists from all over the world will analyse and discuss all aspects arising. Managers of family enterprises will report on their own practical experience.

Have fun! We will meet on Thursday evening in the 1. Stuttgarter Lokalbrauerei or an open-air beergarden to enjoy German Gemütlichkeit. On Friday evening the Weinstube "Fässle" will offer you excellent Swabian food and wine in a special atmosphere.

On Saturday afternoon you will have the choice to visit Ludwigsburger Palace, the biggest baroque Palace in Germany, or drive one of nine Porsche cars.

For the closing dinner we are invited to "Schloß Ingersheim", a small castle, where one of our outside speakers lives with his family. We will have a drink on the terrace and then a lunch barbecue in the courtyard.

We will look forward to warmly welcoming you to Stuttgart from 22.-24.June 2000.

Daniela Kreidler-Pleus



BRUXELLES 1999  
XXXVIIth Congress  
Dernières Photos

Congrès



*Joren de Wachter & Georg Berrisch*



*Soirée de Gala au Palais de Justice*



*Marc Bannenberg*

## Brussels Working Sessions

### Let's work on TQM !

Those of you who have been at the Annual Congress 1999 in Brussels had a chance to attend the workshop on TQM (total quality management). It is Frank Diem's intention to work out standard quality conditions for the cooperation between AIJA members. His ulterior motive is to win other international organizations for this project and to expand the target group beyond the AIJA. Our former president Elisabet Fura-Sandtröm (CCBE) as well as Andreas Julin (EU Commission) were two representatives of European top organizations in the panel who have actively participated at discussions on guidelines and basic requirements of these rules and regulations. It was quite favorable that a large (unexpected) number of delegates gave the guests the impression of how important this topic is to the AIJA.

Of course, the two hours available in Brussels were only a launch in a topic which will keep our organization busy for quite a while. Eric Gummers demonstrated to the participants by practical cases that mainly in the Anglo-American countries of jurisdiction they work intensively with components of the TQM such as client confirmations with fee agreement, establishment of plans for handling cases, control of further educational measures, inquiries of clients, management of complaints, etc. The complete transparency of the lawyer's activity between client and consultant is one target which is to be emphasized. Frank Diem stated that there will soon be a software program on the lawyers' market in Germany which makes available to all employees of a law firm the procedures within a law firm and all subjects necessary for the quality management.

This makes it easier for law firms to get certified according to ISO standards.

Carlo Mastellone from Italy and Miguel Avillez-Pereira from Portugal emphasized for their respective countries that within the EU there are jurisdictions where the lawyer's confidentiality is a handicap for this type of development. Especially a certification according to ISO 9000 ff would be out of the question because of the delicate information an auditor would gain about clients of this law firm.

Andreas Julin's clear statements on the work and future plans of the EU Commission enhanced the opinion of the delegates to proceed with the project. Frank Diem designed a questionnaire just to get a basis for what can be possible. This questionnaire is available upon request. All interested members of the AIJA are invited to fill out the questionnaire.

A complete summary of conditions in the EU and those of interested countries documented in the General Report will be the basis of our **Seminar on November 23, 2000** on occasion of the Executive Committee Meeting in **O'Porto** (Portugal). Individual National Reporters, TQM specialists and representatives of interested law organizations will try in this seminary to work out further theses for a quality paper which some day (not too far in the future) will be submitted to the decision makers for final approval.

Those of you who are interested in participating in this project which will certainly be followed by the European law press with interest and with a chance of being published should contact Frank

Diem, Hoelderlinplatz 5, D-70193 Stuttgart (Fax +49 711 2265570, eMail: fdiem@diempartner.de) or Dr Angelika Hoche (Future of the Profession-Commission (eMail: ahoche@vboetticher.com) and ask for the questionnaire. Of course, members of the AIJA are also invited to participate even if they are not able to attend the Seminar. We always welcome team work within a jurisdiction.

It would be nice if the AIJA as a future-oriented organization of young and innovative lawyers could enhance actively a topic which we all know will influence the relationship between lawyers and clients in the future much more and contribute to a more successful acquisition.

Help us driving AIJA ahead !

Frank E. R. DIEM  
Stuttgart, Germany







## Congrès



Active participation in the working sessions has increased in AIJA congresses and the professional quality of them matches the standards of any expensive seminar of which we all receive advertisements from various organisers in different parts of the world. Taking this into consideration, an AIJA congress is not expensive. Besides, an AIJA congress gives you the opportunity to get to know the speakers personally and to continue to exchange ideas with them throughout the congress week and beyond. You may also combine your holidays with a congress - many AIJA members regularly do.

Le travail professionnel pendant le congrès et la découverte du pays hôte dans des circonstances privilégiées se soutiennent l'un l'autre. Nous sommes nombreux dans le comité organisateur d'avoir fait l'expérience des pré-et post-congrès tours qui nous ont permis de profiter de l'occasion de nous retrouver dans un pays que nous n'aurions peut-être pas eu la chance de connaître sans AIJA. Riche des ces expériences inoubliables nous avons élaboré des propositions pour vous pour passer des vacances, avant ou après le congrès, avec des amis AIJA, façon incomparable de renforcer les liens d'amitié, ou en famille en partageant ainsi avec vos proches l'ouverture sur le monde que vous offre votre profession à travers l'AIJA.

Le fait d'être conscient du privilège qu'est la découverte du monde grâce à l'AIJA est une motivation en plus pour contribuer d'une façon active à la réussite des séances de travail.

If you are interested in monuments, history and culture you will find interesting, different and typically Finnish sights to visit from prehistoric paintings and medieval castles and churches to small towns and villages with wooden houses. However, the most wonderful thing to discover is the unique Finnish nature. Your experience will be very different depending on your choice. There are three main categories (from south to north): the archipelago, the Lake District and Lapland. Combinations of these are, of course, also possible.

Many people think that the greatest treasure of the Finnish landscape is its archipelago. Particularly the south-western archipelago, with over 20,000 islands and islets, is a unique maritime landscape that has always impressed visitors with its scenic qualities. The archipelago is extensive and diverse. It is the largest archipelago in the Baltic. A journey through the archipelago is never boring. You are surrounded by water, big islands, little islands, cliffs and rocky islets by the dozen - in fact there are far more islands than people! The sea, wind and waves give a special sense of freedom.

But the islands are not completely without signs of life and bustle. Some people live here while others come to work here. Others spend their holidays here. Some just pass through and others return time after time. No one can remain untouched by the magnificent surroundings. This is the boundary between land and sea. The immense lighthouses of Bengtskär, Isokari and Utö in the outer archipelago serve as a reminder of the presence of man, and guide the voyager back to the city lights.

The Finnish Lake District is famous for its scenery. There are nearly 200,000 lakes in Finland, most of them located in central Finland. Together with rivers, springs, falls and ponds, they form small and large water systems. The green forests and fields and the blue waters form a striking contrast to the bustling towns and villages. There are many things to see, do and experience, but also space to enjoy the silence of nature by clear waters and magnificent scenery. Tourists and also local people like to spend their summer evenings by taking a boat trip and grilling sausage or fish over a campfire on the shore. And those who love nature and want to see more of it go fishing, canoeing, cycling, hiking or bird watching. You can, for example, take a train from Helsinki to Hämeenlinna to catch a boat and enjoy the beautiful lake scenery while travelling to Tampere.

Lapland is a vast area that lies mostly above the Arctic Circle. It has five distinct seasons, spring, summer, autumn, kaamos and winter. Finnish Lapland is the mysterious land of Santa Claus and home for the domestic reindeer. Lapland is rich in flora and fauna that thrive only in arctic areas. Lapland offers opportunities for travelling and holidays the whole year through. Specialities are gold panning, river rafting, fishing, hunting, trekking, cross-country skiing, reindeer and dog sled tours and snowmobile safaris. The administrative centre of Lapland is Rovaniemi, a town with a population of 34,400. The other towns are Kemi, Tornio, and Kemijärvi. The main holiday resorts are Rovaniemi, Saariselkä, Inari-Ivalo, Pyhä-Luosto, Salla, Ylläs, Levi and Olos.

When you come to the Northern Europe you might also wish to visit other countries in this part of the world. Estonia and its capital Tallinn is only a couple of hours' boat trip away from Helsinki. You can even make a roundtrip in one day! Ferries to Stockholm are large and famous for their luxury for reasonable prices. One night of wild partying and you'll be in Stockholm discovering a Scandinavian atmosphere. A couple of hours by train or boat will take you to St. Petersburg, "the Venice of the North", a fabulous imperial monument of beautiful architecture with some of the world's most famous museums and music institutions.

Voilà encore un florilège de raisons pour noter le congrès de Helsinki dans votre agenda et dans celui de vos proches!

Heikki CANTELL and  
Michaela RAMM-SCMIDT

*The Suomenlinna fortress*



*The old Haikki manor house*



*The Temppeliaukio church (Helsinki)*



Congrès





## Uruguay: Income Tax Withholding Taxation of Dividends, Technical Assistance and Royalties



Montevideo

### I. Introduction to the Uruguayan Tax System

Main characteristics of the Uruguayan tax system may be summarized as follows:

- no personal income tax;
- no estate tax;
- the main revenue of the Uruguayan tax system is given by indirect taxation, mainly Value Added Tax ("VAT");
- Uruguay has entered into agreements to avoid double taxation only with Germany and Hungary;
- tax secrecy (i.e., data held by tax authorities) is strictly protected;
- Uruguay has not entered into any agreements with foreign tax administrations to facilitate exchange of tax information;
- the territoriality principle is closely followed: by and large, assets based abroad, foreign sourced income, and services rendered abroad, are not subject to taxation in Uruguay.

Most relevant taxes affecting business in Uruguay are:

#### 1. Income Tax

Income tax ("IT") at the rate of 30% is assessed on corporations's net income, and applies to the income arising from (i) goods located in Uruguay, (ii) activities performed in Uruguay, and (iii) rights economically used in Uruguay.

Branches of foreign corporations are considered separate and distinct legal entities from their home office for purposes of determining the tax. They are subject to the same laws and rules applicable to Uruguayan corporations for assessing taxable profits. Consequently, they must keep separate books and records and prepare tax returns reflecting the results of their activities in Uruguay on the basis

of an arm's length relationship with the home office. Should any of the transactions with the home office not meet arm's length requirements, adjustments should be made.

Taxable income is determined on the basis of net profits obtained during the fiscal year. Benefits obtained by business enterprises are allocated to the fiscal year in which they are accrued. In principle, all necessary expenses incurred in obtaining taxable income are deductible (interest, salaries, etc.). Expenses incurred abroad are also deductible, to the extent they are (i) absolutely necessary to obtain and maintain taxable income and (ii) reasonable. Expenses follow the same allocation method as profits (i.e. they are attributed to the fiscal year in which they were accrued). Losses incurred during the fiscal year may be carried forward and deducted from taxable income obtained during the following three taxable years.

#### 2. Net Equity Tax

The net equity tax ("capital tax" or "impuesto al patrimonio") is assessed at rates ranging from 2,8% to 0.75%, as the case may be, on the companies' net worth based in the country. Assets located abroad are not subject to this tax. Only a few liabilities may be deducted.

#### 3. Value Added Tax

Sales of movable assets in the domestic market, rendering of services in the Uruguayan territory, and imports of goods are subject to VAT. The standard rate is 23%, generating what is known as the "fiscal debit". Exports are not subject to VAT.

With the above introduction, follows below a brief description of the tax treatment given to dividends distribution, royalty payment and technical assistance fees.

### II. Taxation of Dividends, Technical Assistance and Royalties

In Uruguay, remittance of dividends abroad, technical assistance fees and royalty payments are subject to a 30% withholding

under the conditions summarized below.

1. Dividends paid or credited by a Uruguayan entity to a foreign shareholder are subject to a 30% withholding to the extent the following conditions are cumulatively met:

- a) Dividends must be distributed by a corporate income tax taxpayer, to an individual or company domiciled abroad;<sup>1</sup>
- b) the foreign country recognizes a tax credit for the tax withheld in Uruguay; and
- c) the foreign shareholder has a positive tax income to off set the tax withheld in Uruguay.

Where applicable, the withholding must be effected every time the taxable event occurs, and the resulting amount must be effectively paid to tax authorities within the first month following the date of the Shareholders Meeting decision deciding the dividends distribution.

Dividends collected from foreign entities are not subject to taxation, as such dividends are deemed to be foreign sourced income.

2. Royalties for the sale, transfer or use of trademarks, patents, and other intangibles are subject to a withholding tax at the rate of 30%, regardless of the recipient's domicile. No withholding applies when the recipient is a taxpayer of the Uruguayan income tax domiciled in Uruguay.

3. Technical assistance fees are subject to a withholding tax at the rate of 30% when the following conditions are met: a) Dividends must be distributed by a corporate income tax taxpayer, to an individual or company domiciled abroad; and b) the foreign country does not tax the technical assistance fees collected, or, if those are actually taxed, a tax credit is recognized.

Jonás BEGSTEIN  
Gabriel Ejgenberg  
Estudio Bergstein  
Montevideo, Uruguay

<sup>1</sup> For purposes of determining the relevant "domicile", it is normally understood that a corporation is domiciled in the country of incorporation.

## Practicing Law in Liechtenstein in an Area of Conflict between EEA Law and National Public Policy

In order to practice law in Liechtenstein, one has to subject oneself to special regulations. These do not only apply to the admission to the legal profession, but the obligatory membership in the Bar Association, which is a body corporate under public law, imposes on the practicing lawyer numerous provisions relating to the exercise of the profession, and he/she is also subject to the disciplinary power exercised by the Court of Appeal.

While in 1949 there was one single article referring to the legal profession, which stipulated that one had to be a Liechtenstein citizen to be allowed to represent parties before courts and administrative authorities on a professional basis, today a lawyer is bound to observe a great number of provisions contained, *inter alia*, in the Law on Practicing Lawyers, the Law and the respective Ordinance relating to the Tariff of Fees for Practicing Lawyers and Legal Agents, the Code of Civil Procedure, the Code of Criminal Procedure, the Rules of Procedure of the Liechtenstein Bar Association, and the Canons of Professional Ethics, to name but the most important ones. Pursuant to Article 7 Paragraph 1 of the Law on Practicing Lawyers, the practicing lawyer is the only one authorized to give legal advice to and to represent parties on a professional basis.

Part of these public-policy restrictions relating to the legal profession are now affected by the EEA Treaty (European Economic Area). In particular, the principles of the freedom of establishment and the freedom to provide services require the barriers to the entry into the market to be eliminated, which in turn leads to an increase in competitive thinking and acting.

The Liechtenstein bar examination may now be taken by EEA citizens as well. Also, there is a possibility of being admitted after taking an aptitude test. This aptitude test is intended for EEA citizens who are resident in and have been admitted to the legal profession in an EEA member state. The aptitude test has to be taken both in order to establish business as a practicing lawyer and to exercise one's freedom to provide services.

Currently there is no regulation in Liechtenstein that refers to the "registered lawyer" as defined by the EU-Directive for the Facilitation of the Permanent Exercise of the Legal Profession (Directive 98/5 of the European Parliament and the Council of 16 Feb 1998 - 1998 L 77/36). In view of the fact that lawyers have an exclusive right to give legal advice and represent parties on a professional basis pursuant to Article 7 of the Law on Practicing Lawyers, a registered lawyer is therefore not allowed to practice in Liechtenstein.

The EU-Directive on Establishment has so far not been adopted into EEA law. If this were the case, however, the Liechtenstein Law on Practicing Lawyers would have to be amended accordingly within the respective adoption period.

Since the task of setting up and administrating Liechtenstein domiciliary and holding companies is reserved for trustees as well as practicing lawyers, a general anxiety is expressed in Liechtenstein that the freedom to provide services and the freedom of establishment will be relied on to flood and over-use Liechtenstein as a financial center, which will cause an increased number of cases of abuse.

These anxieties are certainly not unfounded, since the scope of tasks of the Liechtenstein lawyer is deeply influenced by the Principality's company law, which is very attractive to foreign investors.

The government has now appointed an expert team who are to determine which accompanying measures may be stipulated in view of an adoption of the Establishment Directive in Liechtenstein. In particular, a stricter separation between the professions of lawyers and trustees and the introduction of notaries public are being discussed.

In its considerations the government relies on the European Court's decision in the civil matter of "Reisebuero Broede" (Case #3/95, 1996, p. 6511): The European Court stated expressly that the decision on what activities are reserved for lawyers falls within the scope of competence of the individual member states. Moreover, the European Court ruled that national provisions aiming at "securing the functionality of the administration of justice" may be justified.

Another point of interest for the Liechtenstein starting point consists in the European Court's findings in the "Alpine Investments BV" case (Case #384/93, 1995, p. 1141): "Maintaining the favorable reputation of the national financial sector may thus constitute good cause to restrict the free movement of financial services in the general interest."



On the basis of these court decisions it would therefore be conceivable in my opinion to reserve the tasks of setting up legal entities and assume administrative offices in respect of domiciliary enterprises upon trust exclusively to trustees. In addition, a new profession of notaries public would be able to supervise the formation processes and to verify that all provisions on duties to take due care are observed.

To my knowledge the professional formation of trustees in this form is known only in the EEA member states. Therefore, in comparison with practicing lawyers there is a much lower number of prospective market participants. With reference to notaries public the general opinion is expressed that at least the execution and safekeeping of public deeds and the acceptance of money and securities is associated with the exercise of a public power. These activities would therefore be exempt from the principles of the freedom to provide services and the freedom of establishment.

In summary it may be stated that in view of the Directive on Establishment that will have to be adopted in Liechtenstein it will soon be a reality that the market is opened up completely to EEA lawyers. However, the examples given above show that - despite the EEA Treaty and the elimination of barriers to market entry required thereby - the resulting increase in competition in respect of the legal profession in Liechtenstein may and should indeed be subjected to regulations. And it is particularly the sensitive sector of financial services that requires new solutions and approaches.

Dr. Alexander OSPELT, LL.M.  
Practicing Lawyer, Schaan

## JOB VACANCY WANTED

Assistant Editor for the Gazette  
Generous Benefits :  
Travel the world at your own expense  
Apply within

### How to Contribute to the Gazette Comment Ecrire dans la Gazette

*Send your contributions to the editor in chief with a copy in electronic format (disc or e:mail) to the secretariat in Brussels :*

*(aija@pophost.eunet.be).*

*Send them at least 15 days before the deadline printed on the last page of the Gazette.*

*Don't forget to include pictures, postcards, or any other sort of illustration.*

*Envoyez vos articles ou vos lettres au rédacteur en chef avec une copie en format électronique (disquette ou e:mail) au secrétariat à Bruxelles :*

*(aija@pophost.eunet.be).*

*Envoyez les au moins 15 jours avant la date limite indiquée sur la dernière page de la Gazette. N'oubliez pas de joindre des photos, cartes postales, dessins ou toute autre sorte d'illustration.*

# FRANCHISING IN INDIA

## INTRODUCTION

Although in a nascent stage, franchising is gaining popularity in the retail segment in India, more particularly in the areas of food products and drinks, restaurant chains, consumer goods, and computer training centres. Franchising is one way in which a company can take advantage of India's vast market with a degree of control that other traditional forms of distribution cannot match.

### What is franchising?

In a nutshell, franchising is a business system whereunder the franchisor grants a licence to the franchisee to use the franchisor's diverse intellectual property rights, namely, know-how, designs, brands, trade marks, patents, and trade secrets along with the franchisor's proven name, reputation and marketing techniques to market the franchisor's products or services in return for a sum of money. The franchisor provides training and continuous assistance to the franchisee.

### Difference between franchising/ distributorship/ agency

The terms franchise, distribution and agency are often loosely used. Distribution and agency are the more traditional forms of distributing goods or services. However, they do not allow the principal to exert any real control over the distributor or the agent. The key distinguishing feature of a franchise is the higher degree of control that a franchisor exercises over a franchisee. The franchisor has a say in all important issues such as branding, methodology and mergers. Although corporate entities such as subsidiaries or joint ventures allow as much if not more

control than a franchise, they entail a much higher financial risk.

## LEGAL FRAMEWORK

There is no legislation in India specifically related to franchising. As the relationship between a franchisor and a franchisee flows from a contract, in the absence of specific governing legislation, the law of contracts as embodied in the Indian Contract Act, 1872, and other allied Acts is applicable to a franchise agreement. Other pertinent areas of the law which are applicable to franchise agreements are:

Intellectual Property laws;  
Competition laws;  
Consumer Protection laws; and  
Labour laws.

### Intellectual Property laws

A franchisor is the proprietor of intellectual property rights, know-how, etc. Thus, protection of intellectual property rights is of paramount importance to any international or domestic franchisor.

Foreign nationals and/or companies can protect their trade marks in India under the Trade and Merchandise Marks Act, 1958 ("TM Act") by registering them under the prescribed class. As yet, service marks cannot be registered in India. (S. 8 of the TM Act) Registered owners can assign to third parties the right to use the mark and are not mandated to use the marks personally. (S. 36 of the TM Act) The assignment agreement must be registered at the office of the Trade Marks Registry. By registering a user agreement, the owner prevents the user from getting a right to be the registered proprietor of the mark through use. Franchisors can protect their manuals containing the entire

technique of establishing and running the business, videos relating to the use of the product, etc. under the Copyright Act, 1957. Civil remedies for infringement of copyright include injunction, damages and accounts of profits made by the defendant by violating the copyright. (S. 55 of the Copyright Act) In addition, criminal remedies such as imprisonment for a period between six (6) months and three (3) years is also available.

### Competition laws

Every franchise agreement incorporates highly restrictive terms which would bring it within the purview of the Monopolies and Restrictive Trade Practices Act, 1969 ("MRTP Act") and lay it open to scrutiny by the Director General of Investigation & Registration or the MRTP Commission.

Restrictive trade practice, as defined, means "a trade practice which has or may have the effect of preventing, distorting or restricting competition." (S. 2(o) of the MRTP Act) Thus, the first inquiry under the MRTP Act is into the restrictive nature of the trade practice as it relates to the effect on competition. Also, since the main purpose of the MRTP Act is to protect the public, an inquiry into the effect on public interest is always made.

### Per se restrictive trade practices under s. 33(1) MRTP

Various categories of agreements enumerated under s. 33(1) MRTP, including agreements which restrict persons from whom certain goods can be purchased, have been recognized to be per se restrictive. The consequence of falling within one of these enumerated clauses is that agreements between parties relating to such per se restrictive trade practices must be registered with the Direc



tor General (pursuant to s. 35 of the MRTP Act). However, such agreements are not per se void or illegal. The Commission still needs to make an inquiry (pursuant to s. 37 of the MRTP Act) as to whether the agreements are prejudicial to public interest. Until the time that the Commission declares the agreements as prejudicial to public interest, the parties may continue to conduct trade and business under such agreements.

#### Consequence of registration

The decision to register or not register an agreement lies with the parties to the agreement. However, if an inquiry is made by the Commission who feels that an agreement should have been registered but was not, the burden of proof lies with the parties to prove that the agreement does not fall within one of the enumerated clauses of s. 33(1) of the MRTP Act.

Again, simply by registering an agreement with the Director General does not result in conceding that the agreement is one relating to restrictive trade practices. Rather, the Commission is still required to inquire (pursuant to s. 37 of the MRTP Act) if the agreement is prejudicial to public interest. After an inquiry, if the Commission finds that the agreement is prejudicial to the public's interest, only then does the agreement become void.

#### Consequence of non-registration

If a party to an agreement, which is liable for registration under s. 35 read with s. 33(1) of the MRTP Act, does not register, each member of that party is penalised for the default (pursuant to s. 48(1) MRTP).

One example of a restrictive covenant commonly incorporated in a franchise agreement is a covenant not to compete. The franchisee is prevented from undertaking a business similar to the franchise business during the term of the franchise and for a certain number of years after termi-

nation. In fact, the franchisee may even be required not to solicit customers of the franchise business after termination of the franchise agreement.

In a recent development, the Director General of Investigation and Registration has filed an application under the MRTP Act against an Indian company and its foreign joint venture partner on the grounds that the non-compete clause in the agreement amounts to a per se restrictive trade practice. (Source: The Economic Times, Mumbai, 27 September 1999)

In this regard, reference should be made to the Indian Supreme Court's decision in M/s. Gujarat Bottling Co. Ltd. v. Coca Cola Company, AIR 1995 S.C. 2372, where the court observed that, "[t]here is a growing trend to regulate distribution of goods and services through franchise agreements and providing for grant of franchise by the franchisor on certain terms and conditions to the franchisee. Such agreements often incorporate a condition that the franchisee shall not deal with competing goods. Such a condition restricting the right of franchisee to deal with competing goods is for facilitating the distribution of goods of the franchisor and it cannot be regarded as in restraint of trade." [sic.] [Emphasis added]

However, the foregoing judgment does not analyse franchising agreements vis-à-vis s. 33(1) of the MRTP Act. Therefore, it is unclear whether it will carry any weightage in the matter pending adjudication before the MRTP Commission.

#### Consumer Protection laws

The Consumer Protection Act, 1986, substantially impacts the development of franchising in India. It comes into play with regard to tort and other actions arising from sale of defective goods. The issue is if a defective product sold by a franchisee causes injury to a consumer or causes damage to the consumer's property, then does

the consumer have recourse to the franchisor and the franchisee or both! The answer to this depends upon factors such as the degree of control exercised by the franchisor, the distance between the franchisor and the franchisee geographically, and the equipment and know-how supplied to the franchisee by the franchisor in relation to the product.

#### Labour laws

No franchising contract can derogate from the myriad Indian labour laws. Labour laws governing the day-to-day conditions of employment and termination of employment when an outlet is shut down or the business is sold are particularly relevant in the franchising context.

#### CONCLUSION

Considering the growing importance of franchising, the Indian Government should consider enacting a specific statute to curtail the application of the MRTP Act to franchising agreements.

Akil HIRANI and Kirit JAVALI



Kirit JAVALI



Akil Hirani

# Land Use Right for the Foreign Investment Enterprise in PRC

According to the Chinese Constitutional Law and the Law of Land, The land located in the cities of China shall be owned by the state and the land located in the countryside and the suburban area (except for the land which have been requisitioned by the state) shall be owned by the collective units such as villages. All the company or other economic unit, including the Foreign Investment Enterprise («FIE») may obtain the following different type of land use right of both the State Owned Land and Collective Owned Land according to relevant laws and regulations:

## **a. Collective Owned Land Use Right**

The Collective Owned Land, according to the Law, shall be mainly used for the agriculture purpose and it is also can be used, in a small scale, for the residential and industrial purpose by the farmers and peasants in the countryside. Because of that China is actually lack of land for agriculture seriously, the Collective Owned Land is strictly protected.

The other type of companies including State Owned Companies and the Foreign Investment Enterprise («FIE») are not allowed to use the Collective Owned Land in any purposes except for the case that the collective organization utilize their Collective Owned Land Use Right as the contribution of investment for settling up a Joint Venture with foreign investors or other type of Chinese companies. In this case, such Joint Venture may obtain the Collective Owned Land Use Right subject to the following restrictions:

1. The collective organization as the investor of the Joint Venture shall not assign their shares of the Joint Venture to any other parties since their contribution is made by the Collective Owned Land Use Right.

2. Such Collective Owned Land Use Right of the Joint Venture is not allowed to sell, assign, lease or be mortgaged to any other party.

In case the Collective Owned Land needs to be used for other purpose, it shall be first requisitioned and changed as the State Owned Land approved by the Chinese authority and then, the Land Use Right of State Owned Land can be allocated to the State Owned Companies as called Allocated Land Use Right (see below) or granted to the users as called Granted Land Use Right (also see below).

## **a. Allocated Land Use Right of State Owned Land («Allocated Land Use Right»)**

In China, most of the companies are state owned because of the historical reasons, most of the Stated Owned Companies have the land use right which allocated by the state free of charge. Those land use right obtained by the State Owned Companies without paying any royalty to the state is so called as «Allocated Land Use Right».

Since the Allocated Land Use Right is obtained free of charge, there are many restrictions for the disposal of such Allocated Land Use Right. These restrictions are mainly as follows:

1. The Allocated Land Use Right can only be used for the original purpose by the user, for instance, the Allocated Land Use Right with the original purpose of industry can not be used for the commercial or real estate development purpose.
2. The Allocated Land Use Right is not allowed to be sold or assigned to the third parties and it is also not allowed to be leased or mortgaged to the third parties.
3. The Allocated Land Use Right shall be taken over when the state need for any other purposes.

The Foreign Investment Enterprises (only for Joint Venture rather than Wholly Foreign Invested Enterprise) may obtain the Allocated Land Use Right by the way that the Chinese Partner contribute all or part of their Allocated Land Use Right as their partial contribution to registered capital to the Joint Venture. However, the disposal of such Allocated Land Use Right of the Joint Venture shall also be restricted by the relevant laws and regulations as mentioned above. Apart from the mentioned above, The Joint Venture and the Wholly Foreign Owned Enterprise are not possible to obtain the Allocated Land Use Right by the way of purchase, sublease, assignment etc. from any other party.

## **c. The Granted Land Use Right of State Owned Land («Granted Land Use Right»)**

The Allocated Land Use Right of State Owned Land, with different terms, can be granted to any companies including State Owned Companies, Private Companies and FIE in case such companies pay the royalty to the State. Such Land Use Right is so called as Granted Land Use Right.

The terms of Granted Land Use Right are various according to the different purposes of use, for instance, 40 years for the entertainment and commercial use; 50 years for the industrial use; 70 years for residential use. The Granted Land Use Right can be sold, assigned, leased or mortgaged to the third parties within the term of use. When the term of Granted Land Use Right expired, the user may apply for renew the Granted Land Use Right and pay the royalty for the additional term of use to the Chinese authority. In case the user don't apply for renew the Granted Land Use Right when the initial term is expired, such Granted Land Use Right will be taken over by Chinese authority.



The tendency shows that the Granted Land Use Right will replace the Allocated Land Use Right gradually and all the companies including State Owned Companies and FIE shall only obtain the Granted Land Use Right in the future. The FIE and some Chinese companies including Joint Stock Companies (listed companies) are now required or encouraged to use the Granted Land Use Right by the relevant laws and regulations.

**a. The problems in respect to the Land Use Right in China for the FIE**

Many FIEs have the problems relating to the Land Use Right in China. It can be summarized as follows:

**1. Improper Land Use Right for FIE.**

Some FIE use the Collective Owned Land or the Allocated Land Use Right for manufacturing purpose and these Collective Owned Land Use Right and Allocated Land Use Right was obtained by the way of Lease, assignment or purchase from the third party. In accordance with the Chinese laws and regulations, it is illegal that the Collective Owned Land Use Right and Allocated Land Use Right are obtained by the FIE in the way of assignment, purchase or lease from third parties. In that case, the allocated Land Use Right and the Collective Owned Land Use Right can not be disposed such as assigned, sold, leased or mortgaged to the third parties and the FIE may be required by the Chinese authority to change their Land Use Right into the proper status.

**2. Failure of the reorganization for the FIE due to the problem of Land Use Right**

The Joint Ventures which have Allocated Land Use Right or Collective Owned Land Use Right invested by the Chinese investors as their contribution to the Joint Venture will meet difficulties when they want to reorganize

the Joint Venture, for instance, the foreign investor want to purchase the shares of the Chinese investors. In this case, such share assignment will be failed due to the reason that the Chinese authority may reject the application of share assignment since the Chinese investor contribute the Allocated Land Use Right or the Collective Owned Land Use Right to the Joint Venture. The Joint Venture will be required to change their Land Use Right into Granted Land Use Right and pay the royalty to the Chinese authority for obtaining the approval for such share assignment.

Yuan JIE  
Shanghai Jin Mao Law Firm, China

\* This article shall not be used as legal advice.



## Carnet de la Gazette

### Welcome to

Amber SWINNEN  
born 15/07/1999 and the sunniest  
girl of the century



### Joao Paulo FORMAN MURRAY

born on December 29, 1999 with  
the happiest father of the century



# Notre futur d'avocat

Quelle est l'avenir de la profession d'avocat ?

Quelle sera notre situation dans un futur proche?

Ce sont des questions auxquelles on me donne aujourd'hui l'occasion de répondre et qui me concernent je pense tout particulièrement.

Elève cette année 2000 à l'EFB (Ecole de Formation du Barreau, à Paris), ces questions font depuis quelques années déjà partie de mon quotidien et de celui d'un grand nombre de mes camarades et je profite aujourd'hui de l'occasion qui m'a été donnée de m'exprimer pour évoquer un bref instant la situation actuelle des étudiants en droit.

Je pense me faire l'écho d'un grand nombre d'entre eux lorsque j'affirme que si nos professeurs se sont, plus ou moins bien, efforcés de nous préparer à notre future entrée dans le monde du travail, ils ne nous ont en revanche pas appris à affronter et qui semble guetter un certain nombre d'entre nous : La dure réalité .

Comme chacun a pu le constater aujourd'hui, les professions juridiques n'ont pas été épargnées par la crise et les étudiants que je croise sont souvent anxieux .

L'état actuel du marché de l'emploi est inquiétant et ne peut ni ne doit laisser indifférente l'ensemble de la profession.

Il ne me semble pas tout à fait inintéressant de dire ce que nous ressentons, nous, futurs membres du barreau. Or malgré toute notre bonne volonté c'est très souvent le pessimisme qui l'emporte car aujourd'hui aucune illusion ne nous est permise quant aux perspectives d'avenir.

Il y a quelques années, mais cela semble loin déjà, les cabinets se disputaient les stagiaires, on manquait alors cruellement de collaborateurs et chacun pouvait espérer s'installer rapidement ou intégrer une structure en pleine expansion.

Aujourd'hui , on ne peut que constater à quel point la situation s'est inversée et ceux d'entre vous qui ont quitté il y a peu les bancs de la faculté se rappelleront certainement je pense des difficultés qu'ils ont pu rencontrer.

Près de 1100 élèves sortent de l'EFB cette année et au bonheur d'avoir obtenu le cap succède très vite l'inquiétude de ne pas trouver de collaboration.

Pour mes camarades et moi même, j'espère malgré tout que les mois à venir ne s'apparenteront pas à un sursis avant une exécution.

Aicha AMEDLOUSS  
Etudiante à L'Ecole de Formation du Barreau





## AIJA 2000

### Francophile tradition and global strategy

AIJA, l'Association Internationale des Jeunes Avocats. It sounds very French. In fact, AIJA has deep Francophile roots which are evidenced by thirteen (!) French-speaking Past Presidents and a strong community of Francophile lawyers in Italy, Switzerland, the Netherlands, Germany and many other countries in Africa, Europe, South-America and the rest of the world.

In fact, AIJA has been well able to adapt to the push towards English. As we have come to recognise in recent years, the vast majority of seminars and working sessions (in Brussels last year twelve out of thirteen) were held in English. Is this the end of the Francophile tradition of AIJA? Shall we insist all seminars and working sessions be in French, too? Shall we decide on a contingent of 40 or 50 % of all seminars being in French only? I think this is the wrong approach. We will not meet the needs of the majority of participants and interested individuals in seminars and working sessions. We must accept that international business communication is increasingly concentrated in English. This process will not be hindered by AIJA or any other organisation. The English language has developed at least with the internet into the standard form of international exchange of ideas, particularly in the business and legal sectors. The aforementioned fact that seminars and working sessions within AIJA are also increasingly held in English is therefore not a tendency or a trend, it is merely proof of the general development that we, as AIJA offices and members, despite favouring the Francophile traditions, may not build any artificial barriers against this global matter of fact.

What are the consequences? Are we on our way to "little IBA"? I do not believe this is the case. Let us concentrate not only on the lin-

guistic aspect but move beyond the surface. The traditions of AIJA have always been the traditions of (European) continental lawyers, especially French, Belgian, Italian, Spanish, Portuguese, Swiss, German and others. This is a true value which has been expressed in the past, to an extent, through the French language. Thus the form of expression must merely be redefined. We will have to realise by other than linguistic means what this means. The way of lawyers in the countries mentioned is to perform their profession liberally, with great "esprit de corps" and independence, in the deepest sense of this term. These are the carriers of our tradition. As the French language becomes less important, we will have to express these ideals more clearly.

AIJA has developed into a worldwide organisation with members and interested individuals in almost 90 countries. AIJA is a true multicultural body, represented through officers on every continent. With this global development we will have to assure that the advantages of AIJA, which were set out by the founders, past presidents and offices of AIJA, shall remain:

The image of young, independent lawyers, liberal and loyal in their ideas and their professional performance and flexibility.

It will be the duty of the upcoming officers and Presidents of AIJA to act as the "Portavoz" (speakers) and define clearly what has always been attractive to AIJA members inside and outside Europe, and what distinguishes AIJA clearly from other organisations.

This is the most successful export article AIJA can offer in its globalisation. This is the basis of the often named but never clearly described "AIJA spirit". In the new millennium we will have to

identify the great potential of the unique advantages. Even with the decline of French as a major language, we have all these advantages to continue and promote AIJA to upcoming members in the challenging new millennium.

Adi SEFFER  
GAEDERTZ Rechtsanwälte  
Frankfurt, Germany  
February 2000



## Correspondances

Mon Cher Antonio,

J'ai lu avec beaucoup d'intérêt ton article dans la Gazette N° 64 sur les «Jeunes» avocats. Tu as parlé de mon cœur. J'ai été moi même sorti de force de l'AIJA il y a maintenant 7 ans et je suis très content de retrouver toujours mes vieux amis maintenant surtout dans les réunions de "UIA tout en laissant l'AIJA aux «vrais Jeunes» d'aujourd'hui.

Si tu n'avais pas écrit cet article je l'aurais fait avec les mêmes mots.

En espérant de te revoir un de ces jours à Barcelone ou lors d'un événement de l'UIA je t'envoie mes meilleures salutations,

bien amicalement,

Michael

Michael BRAUCH



Cette lettre fait suite à la réponse de Antonio Plasencia (Gazette 64) à Keith Oliver (Gazette 61)

## Humour

## Australia : About Real Estate

A story of unknown origin sent to us by  
Anne McNoughton

A New Orleans lawyer sought an FHA (Federal Housing Administration) Loan for a client. He was told that the loan would be granted if he could prove satisfactory title to a parcel of property being offered as collateral.

The title to the property dated back to 1803, which took the lawyer three months to track down. After sending the information to FHA, he received the following reply:

"Upon review of your letter adjoining your client's loan application, we note that the request is supported by an Abstract of Title. While we compliment the able manner in which you prepared and presented the application, we must point out that you have only cleared the Title to the proposed collateral property back to the year 1803. Before final approval can be accorded, it will be necessary to clear the title back to its origin."

Annoyed, the lawyer responded as follows:

"Your letter regarding Titles in Case No. 189156 has been received. I note that you wish to have Titles extended further than the 194 years covered by the present application. I was unaware that any educated person in this country, particularly those working in the property arena, would not know that Louisiana was purchased by the U.S. from France in 1803, the year of origin identified in our application.

For the edification of uninformed FHA bureaucrats, the title to the land prior to U.S. ownership was obtained from France, which had acquired it by Right of Conquest from Spain. The land came into possession of Spain by Right of

Discovery made in the year 1492 by a sea captain named Christopher Columbus, who had been granted the privilege of seeking a new route to India by the then reigning monarch, Isabella. The good queen, being a pious woman and careful about titles, almost as much as the FHA, took the precaution of securing the blessing of the Pope before she sold her jewels to fund Columbus' expedition.

Now the Pope, as I'm sure you know, is the emissary of Jesus Christ, the Son of God. And God, it is commonly accepted, created this world.

Therefore, I believe it is safe to presume that He also made that part of the world called Louisiana. I hope to hell you are satisfied. Now, may we have our damn loan?"



Nous vivons sans doute dans un monde informatique. Aucun cabinet ne peut renoncer à son réseau d'ordinateurs. Il est devenu maintenant plus convenable de faire circuler les informations par message électronique que de personne à personne. Cela a formé une vraie "culture e-mail" qui est parfois étrange.

L'industrie veut nous faire croire que cela représente un progrès énorme. Je m'en doute souvent. À cette occasion je me permets de citer une expérience personnelle. Déjà en 1998 j'ai reçu par un Aijiste des vœux de Noël très "personnels" avec le texte suivant:

Hello!

XY stopped to create a web card specially for you!

To pick-up your postcard, go to the following URL:

Your postcard ID number (needed to claim your postcard) is xxxx.

Or you can go directly to your card at

If postcard is not picked up within two weeks, it may be removed.

Thank you!

Il est à chacun de juger ce type de vœux de Noël qui exigent un vrai effort afin qu'on puisse les lire dans le délai indiqué.

Pour un Autrichien, le monde des messages électroniques reste toujours un mystère. On nous raconte que chaque message dans l'internet porte le risque d'être lu par les services secrets du monde entier ou d'être abusé par des tiers. C'est pourquoi des mesures de prévention sont nécessaires! Je lis donc régulièrement des "romans" stéréotypes comme le suivant:

*A list of the partners is available for inspection at the above address.*

*This e-mail is CONFIDENTIAL and is for the intended addressee only. If you have received it in error you may not read, copy, disseminate or otherwise deal with it. Please contact the sender as soon as possible.*

*Legal professional privilege may apply and is not waived for unintended recipients.*

*The views of the author may not necessarily reflect those of the partners. If you have any doubts as to the authenticity of this e-mail please contact either the sender or a partner in the firm.*

*Nothing contained in an e-mail from XY shall 1) authorize the release or transfer of any funds 2) bind XY or any client of XY in any contract or obligation 3) grant any rights or transfer any title to any recipient.*

Au début on ne savait même pas si son message était vraiment arrivé au destinataire. Maintenant on reçoit au moins une confirmation. Un texte comme le suivant reste tout de même remarquable:

*Note: this Return Receipt only acknowledges that the message was displayed on the recipient's machine. There is no guarantee that the content has been read or understood.*

On est maintenant bombardé par des messages électroniques avec ce genre de contenu et on a souvent du mal à trouver dans la masse des déclarations le vrai message. J'aime aussi les messages circulaires où on voit la liste de tous les destinataires!

Jusqu'à l'année passée presque chaque confrère anglais ou américain a envoyé des mises en garde sur l'an 2000 en demandant presque des justifications si les

ordinateurs de notre cabinet étaient capables de reconnaître l'an 2000.

It is my privilege to disclose that I passed with my family the Christmas holidays in Mexico at the Caribbean Sea in Yucatan. Although we passed most of the time at the beach with the whitest sand I have ever seen we also visited some of the most exciting Maya excavations. On the way to these sites through the jungle we passed also some small villages. It was astonishing that even the smallest hut in the jungle had its electric light at the front door and a television set running inside and even after the morning's day there was no shortage of electricity! This was the best proof that the hype regarding the Y2K syndrome was just business.

In autumn last year I bought one of the first triple band mobile phones on the market which provides worldwide telecommunication. Therefore I wanted to test it in Mexico but our hotel was located outside Playa del Carmen and it was impossible to get a communication. Frankly, I did not expect this obstacle because this feeling of isolation gave me the precious feeling of liberty even when it was only for a limited period of time. Sitting on the beach with the terrible white sand watching the sea with its different blue colors under a mild sun of 30° was so relaxing that I only felt the need to tell my office that my return will be delayed due to "technical" problems.

Le progrès technique n'améliore pas toujours la qualité de notre vie. Il est devenu un luxe de ne pas pouvoir être joint(e). En fait il y a le grand péril que nous oublions les choses importantes de notre vie. C'est à nous de maîtriser le progrès technique et non pas vice versa. Make the most out of your short life!

Christoph PETSCH

## The Y2K in God's own Computer



When he woke up this 1<sup>st</sup> January he only had a slight hangover. It was snowing in Vienna. A lovely winterday. It was one of these hectic times for a young M&A lawyer in the middle of a transaction where you get little rest over the holidays. He had worked late into the afternoon of 31<sup>st</sup> December and had promised his client, a Frankfurt IT company, to produce a re-draft of the Shareholders Agreement and the Share Sale Agreement by the time the client would come to the office on 2<sup>nd</sup> January.

When he got up and turned on the radio, he was slightly confused as the news speakers did not stop playing running jokes, repeatedly saying that this was 1<sup>st</sup> January 1900. The radio station continued by playing an old recording of emperor Franz Josef's New Year's message on 1<sup>st</sup> January 1900 to all the peoples of the Austrian-Hungarian Empire. He decided not to worry about this and go to the office to produce the re-draft on his computer as quickly as he could and be back in bed to cure his hangover before negotiations would resume.

After the last afternoon in the old year in the office he had met with friends and they spend midnight at the frightfully overcrowd St. Stephen's Place. By the time the Bunmerin rang at midnight he was drunk enough in order to hardly remember much of that night now. When he got on to the tram to go to the office it therefore took him a few moments to realise that actu-

ally there were horses powering the vehicle rather than electricity. It was this the first time that he had a vague suspicion that something went substantially wrong last night. Was it the champagne? What he did not realise at this point was that God's Own Computer had been affected by the Y2K bug. When St. Peter had started up the machine this morning it turned back to the date 01.01.1900. Everything was set back for 100 years. As a young M&A lawyer he decided not to worry about such trivial issues. His main concern was to get this re-draft produced for the client in time and then go home and cure his hangover.

Arriving at his desk he found the hand-written mark up that they had produced the day before in a conference call. He decided to make a copy of it first and then to continue to work on it. As he walked to the room where the copy machine stood he was slightly confused as the sign on the door said "Copierraum". Walking in he saw a number of old-fashionably dressed young ladies who typed steadily away on old turn-of-the-century typewriters. He asked them whether he could have the documents copied and they agreed that - as they were very quick in copying - that they could do about a page in five minutes. Looking at the 87 pages long Share Sale Agreement and the Shareholders Agreement which had 53 pages they agreed that if they split

up work they could do it by first daylight tomorrow morning. Obviously this was too late for his promise to the client. He started sweating, but once again decided not to worry and leave out the copying. "Better start hammering in the corrections in my own PC straight away."

Coming back to his desk he had to realise that there was no PC. All there was a pot of ink and a pen. If he wanted to produce the re-draft he would have to re-write it all by hand and he was confident that he could do nothing like a page in 5 minutes. It would take at least a couple of days working day and night.

It was now early afternoon of 1<sup>st</sup> January and he decided the best he could do (given the particular circumstances) was to send the hand-written mark-up as it was. He did not even attempt to find a fax machine, but immediately went to the post-room. Early afternoon should make it possible to get the document done by overnight courier, so it would reach the client in time. The answer he got from the young old-fashionably dressed lady in the post-room made him sweat a little more: "Overnight courier, you mean one of these new speed trains that can do Vienna-Frankfurt in just a little more than 2 days?"

Given the situation he decided to ring the client and get him off his New Year's day break to let him



know that there will be a „certain delay“ in the transaction. Fiddling in his pocket he was unable to locate his mobile. He decided to try the fixed network, but on his desk there was no such machine. He went to the central telephone room, where the young old-fashionably dressed lady had no other reply to his request for a quick connection to Frankfurt than: “Oh, it is a long distance call. I am sure I can do a connection within 6 or 7 hours.”

It was late afternoon and the hangover started to become unbearable. Sweating like hell he decided to fall asleep on his desk. As he closed his eyes there was a slight relief, as he realised that, being an IT company, his client will have not much business to do with the available technical equipment nowadays. Consequently the transaction would collapse anyway.

I woke up. I looked at my alarm clock, which displayed the date 01/01/2000. Turning on the radio I heard the news speaker saying that the Y2K chaos had failed to occur. The only breaking news was that the hostages in Kandahar were freed and Boris Jelzin had finally thrown in the towel.

When taking a shower later I decided to give up M&A work for something more relaxing such as litigation.

Ivo Deskovic

## UN DIALOGUE DANS L'AVENIR

*Qu'est-ce qu'une exception d'incompétence ?*

Où avez-vous vu cette expression

*Dans un vieux journal datant d'une cinquantaine d'années, au début du millénaire. Qu'est-ce que cela signifie, Monsieur le Professeur ?*

Bon. Avant de répondre à votre question, il faut que je vous explique un peu les circonstances de cette époque-là. Au début de ce millénaire, les modes de règlement de différends étaient très différents de ceux qu'on utilise actuellement. Le mode principal de règlement de différends était le procès dans des juridictions d'État. On n'avait donc pas encore vraiment privatisé l'utilisation du pouvoir juridictionnel, même pas dans les questions concernant les entreprises, et les juridictions avaient d'autres tâches en dehors de la maigre vérification d'irrégularités dans le fonctionnement des modes de règlement de différends d'aujourd'hui.

Il appartenait donc aux tribunaux de trancher le différend en appliquant les règles de droit. Pour cela, il fallait entendre des témoins, étudier les plaidoiries des parties etc.

Tout cela prenait bien évidemment beaucoup de temps et coûtait cher.

Souvent les avocats des parties avaient recours à des tactiques dilatoires. En outre, l'exception d'incompétence, concept qui vous intéresse, était un moyen de défense qui tendait à faire en sorte que la procédure soit déclarée irrégulière.

*À quoi cela servait le procès ?*

Ca, c'est une bonne question. L'objectif était de confirmer qui avait raison et qui avait tort. Le

problème était que ce système ne prenait pas en considération les besoins réels des parties du différend. En conséquence, le résultat du procès correspondait rarement de manière optimale aux intérêts des parties.

*Mais pourquoi avait-on établi un tel système ?*

Les raisons sont complexes et liées aux traditions et à l'histoire. Tiens, voilà un excellent sujet pour votre thèse ! Avant tout il faut comprendre que la société était très différente de la société actuelle.

Prenons un exemple.

L'éducation scolaire et la formation professionnelle n'étaient pas du tout semblables à celles d'aujourd'hui. Dans les écoles on enseignait surtout les connaissances mathématiques et linguistiques aux frais d'autres sujets. Par exemple, on ne connaissait pas encore les matières de " Connaissance et maîtrise des émotions " ou de " Maîtrise des relations sociales ". De la même manière, la formation dans les facultés de droit était très technique et concentrée sur le contenu du droit, tandis qu'à l'heure actuelle on met l'accent sur la communication et les connaissances sociales.

Merci beaucoup, Monsieur le Professeur, pour ces renseignements fascinants, mais là il faut vraiment que je parte. J'ai un atelier sur le contrôle des impulsions qui vient de commencer

Petri TAIVALKOSKI

## A brief tale from Hong Kong

### The Golden Rat

Having only one day's notice of your special edition, I only have time to pass on a brief tale from Hong Kong. A good friend of mine who I studied with and qualified with in the UK, became disenchanted with the legal profession and all that lawyers stood for. As a consequence, he gave up his job in the City and left to travel the world. As a traveller, he finally found true happiness ;and, after a few years, he passed through Hong Kong and came to stay with me.

As he was a keen collector of curios, I sent him to Hollywood Road, a street in the hillside above Hong Kong's main business district, famous for its antiques and unusual wares.

As he browsed, my friend espied in one shop window a magnificent statue of a golden rat. As he was himself born in the Chinese year of the Rat, he thought that this would be an ideal purchase and asked the shopkeeper for the price. "Fifty Dollars for the statue", replied the shopkeeper, " but one hundred dollars if you also want the story".

My friend was naturally somewhat mystified, but thought that he was never going to pay a further fifty dollars for a story; and so politely declined to pay the additional and just bought the statue.

As he left the shop carrying the golden rat, my friend turned round and saw that a live rat was following him. He carried on down Hollywood Road and turned round to find that ten rats were now following him.

He hurried down the hill into the Central business district only to find that one hundred rats were now following him. On he rushed but, by the time he got to the Mandarin Hotel, one thousand rats were behind him.

Finally, he reached the water front, and found himself pressed against the railings with ten thousand rats baying at him. He was so scared that, in a moment of distraction, the statue slipped from his hands and fell into the sea.

And then the most amazing thing happened. Like with the pied piper, all the rats followed the golden rat... and were drowned in the South China Sea.

Naturally, my friend was shocked and wandered back up the hill to Hollywood Road. Outside the shop, the owner was there smiling and nodding wisely. "So, you have come back for the story ?", he said on seeing my friend. "No", replied my friend, " I was wondering if you had any statues of lawyers"

Chris LAMBERT  
National Presidential Delegate



## LA BALLADE DE L'AIJA

### De 1982 à 2000 et beaucoup d'années après !

AIJA 2000

Nous sommes le 7 décembre 1999, il fait gris et froid à PARIS on serait mieux à MARRAKECH, et je viens de recevoir un appel de Marc JOBERT mon cher successeur à la Gazette .

Marc veut un article à l'occasion de l'an 2000 sur le passé et le futur des Avocats et de l'AIJA, je lui rappelle alors que je suis maintenant âgé de plus de 45 ans et Rédacteur de la Revue d'une Association internationale d'Avocats amie...comme tel, je suis tenu à une certaine réserve mais, comme disait la chanson de Maurice CHEVALIER, "quand un Rédacteur rencontre un autre Rédacteur, qu'est ce qu'ils se racontent ? des Histoires de Rédacteurs" alors affaire conclue , grâce au talent de conviction de Marc, je vais faire l'article pour le 31 décembre " dead line impérative "

Mes premiers souvenirs de l'AIJA remontent à 1982 où j'assistais sur les conseils de Bernard CAHEN à un cours de droit allemand à DUSSELDORF, et quand le virus AIJA vous prend on ne peut plus s'en défaire, suivirent de nombreux Congrès et séminaires à partir de 1983, la ballade des Avocats heureux commençait

En 1983 l'exercice professionnel est pour une très grande part encore individuel ou en petits effectifs de cabinet, les " bigs je ne sais plus combien ? " existent déjà mais sont encore peu représentés.

Nous avons dans ces années le télex au cabinet, les premiers fax arrivent vers 1986 ainsi que les premiers PC à la mémoire bien limitée.

Notre profession est dans ces années là en France plutôt en expansion et un certain optimisme règne.

Un beau jour à BRUGGES en 1986, Myriam SALHOLZ me tend une page de la Gazette à réviser et ainsi commença ma carrière de journaliste amateur qui se continue encore. Notre Gazette au fil des ans devint de plus en plus professionnelle et j'apprends chers amis qu'en 2000 la couverture sera en couleur !  
Merci Monsieur le Trésorier !

Vint la réunification allemande, la chute du mur de BERLIN ,le premier séminaire AIJA à DRESDE en 1992 (on logeait sur un bateau) la renaissance des barreaux à l'est après des années d'oppression mais aussi la guerre du Golfe qui entraîna en France une grave crise économique dont nous sortons doucement depuis 1997.

Cette crise a influencé l'exercice professionnel , elle nous a obligé à nous réorganiser dans un contexte où les charges sociales fiscales et autres croissaient démesurément et la propension de nos chers clients à payer nos factures se ralentissait.

Les Avocats fusionnèrent en 1992 en France avec les Conseils Juridiques, de très nombreux jeunes s'inscrivent depuis ces années au Barreau dans des conditions économiques parfois très précaires car à tort ou à raison notre profession fascine ....

Arriva le dieu Internet, on nous parla des cyberavocats et des merveilles qui allaient sortir d'Internet, l'expérience nous a

permis de faire le tri dans ces merveilles annoncées.

Les ordinateurs devenaient plus en plus puissants, depuis 10 ans on est passé en moyenne de 1 mégas à 64 mégas sur un ordinateur de bureau, bibliothèque d'un cabinet tiens bientôt dans une boîte à chaussures et on gardera dans nos salles de réunion quelques vieilles livres reliés pour impressionner les clients qui croient encore l'adage " doctus cum libro " .

Mais le futur jeune Avocat aura-t-il encore un bureau en 2010 ?

Ce n'est pas certain, il dispose d'un emplacement dans un cabinet ou il pourra brancher son portable et tous les gadgets qui lui permettront d'atteindre le bureau de son office de son cabinet à BANGALORE ou SYDNEY en quelques secondes en effet quand on est spécialisé dans tous les domaines il faut un beau réseau

L'administrateur Robot du cabinet autorise deux fois par an le jeune Avocat à débrancher sa perfusion qui remplace son déjeuner et à participer aux activités de l'AIJA si il a fait son quota d'heures facturées, car quel client va-t-on charger pendant ce temps là ?

L'AIJA devint membre influent de l'OMC en 2004 mais à cette date l'OMC n'avait pas encore défini l'ordre du jour de ses travaux depuis 1999 mais les délégués appréciaient les voyages.....

En 2007 l'AIJA devint totalement non-fumeur après de longues controverses et une menace de scission.

La limite d'âge statutaire à l'AIJA fut reportée en 2013 à 67 ans car les Avocats vivaient alors jusqu'à 94 ans et nos chères consœurs jusqu'à 102 ans révolus .

Un poste de voyante officielle de l'AIJA fut créé après bien des discussions pour réfléchir sur l'avenir de l'Association et de nos veuves épanouies parties au soleil sur la Cote d'Azur ou à Palm Beach .

Des séminaires furent organisés à l'AIJA à partir de 2006 par téléconférence ce qui permet au jeune Avocat de continuer de surveiller ses affaires sur une partie de l'écran pendant que les speakers lui parlent depuis les studios de BRUXELLES une fois.....

La convivialité de notre association diminua fortement et les vrais séminaires furent rétablis en 2007 à l'occasion du Séminaire sur " la vente de centrales atomiques en crédit-bail " tenu au village de vacances de VLADICAUCASE en KIRGHISIE INFÉRIEURE.

En 2009 on inaugura le premier cabinet d'Avocats installé dans l'ancienne station " MIR " qui continuait de marcher toute seule alors qu'elle devait exploser en 1999.

Le cabinet qui avait squatté la station s'était stabilisé en orbite géostationnaire au dessus de NEW YORK et une navette pilotée par un de nos anciens Présidents décollant deux fois par semaine de JFK amenait au septième ciel les clients, les jeunes Avocats et les chèques destiné au grand Maître du cabinet.

Le cabinet " BLACK & SCHWARZ & TAX FREE & OFF SHORE AND PARTNERS " avait ainsi fondé dans l'infini le premier cabinet intersidéral totalement indépendant et détaxé.

Lors du Comité exécutif de mai 2010 tenu à TAHITI et sous les cocotiers, se posa la question de l'admission de ce cabinet sidéral et sidérant à l'AIJA .

A quel pays devait on rattacher ce cabinet et quelle cotisation allait-il payer dorénavant ?

Une commission fut désignée et se réunit à KRIBI (SUD CAMEROUN) et pays de Pierre NTHEPE autour d'un barbecue de poissons sur la plage , son rapport secret mais diffusé clandestinement avant le Congrès de VICHY 2011 par des fuites inexplicables sur l'Internet ,conclut deux ans après à l'admission du cabinet sidéral dans notre belle association comme membre " sui generis " sous réserve du paiement d'une cotisation majorée de 3000 % payable en Eurodollars.

Un ancien colonel du KGB fut immédiatement engagé pour sécuriser le site Internet de l'AIJA attaqué par les pirates peut être venus de l'espace.....

Enfin , le Cinquantenaire de l'AIJA fut fêté l'année suivante en 2012 à BRUXELLES par trois mille aijiistes anciens et nouveaux déchaînés et en présence d'éminentes personnalités du Barreau et des corps constitués, qui promirent de se revoir pour le centenaire en 2062 !

Ainsi va la ballade de l'AIJA !

Jean Frédéric MAURO  
Vice Président d'honneur et ancien Rédacteur de la Gazette



Le sort de  
tout AIJISTE  
c'est d'être  
trop jeune  
pour connaître  
le passé  
de l'association  
et ne jamais  
rester  
dedans assez  
de temps  
pour envisager  
son futur.

Marita  
Dargallo





Whatever opinion one may have as regards the significance of the dawning of the era 2000, almost certainly everyone will agree that this specific year represents both a turning-point and an important historic landmark for our generation.

The arrival of the year 2000 signals the end of an intensively-lived 1900 era, a recent past which needs must call for reflection and carries with it lessons from which we may learn much.

History is immutable, and reflecting upon the past seems to be an exercise which will prove necessary for the construction of the future and which demands a committed and joint effort on the part of society in general.

The outdated and omission-riddled Legal Systems as regards scientific evolution and new technologies increasingly demands that those responsible for the application of the law are adequately prepared and endowed with specific sensibilities. It is not enough in itself to legislate for the present, it is not enough to prepare the lawyer for the here and now. It is necessary for all of us to be prepared and equipped to face the new challenges which we now face and will continue to face.

Social development implies a new mentality and professional and ethical awareness to which lawyers cannot remain indifferent.

Technology has developed so rapidly and the law must accompany these changes. It is the obligation of the lawyer, and especially the young lawyer, to embrace this project of accompaniment and adaptation of rules to the new realities. The fundamental challenge will thus be that of reanalysing, adapting and harmonising the legislation of the various Legal Systems, while respecting national cultures, geared towards the construction of a true Legal System at World level.

Aware of the continuous trend towards internationalisation and globalisation of the economy and of cultures, we can conclude that the "traditional" legal practice is no longer what it was, and will most certainly not be what it now is.

The trend towards cross-border legal practice, associated to international business, international conflicts and modern mechanisms for conflict resolution demands specific preparation on the part of the lawyer, which fortunately or unfortunately, is not taught nor acquired at Universities, institutions which are themselves out of pace with the evolutionary reality.

A decisive part of the responsibility for this task lies very much with international lawyers' associations, and especially, with AIJA.

AIJA has the obligation and responsibility to make a fundamental contribution towards the construction of an advocacy with an international spirit and a culture. More than any other profession, the lawyer must act in abeyance with the established rules applying them justly but with a spirit of foresight which is suitable to the new situations.



The rules contained in the various Legal Systems should not, nor can they, be interpreted in the light of the local culture. The culture and specificity of societies must be reflected in the established law, but the sense of international justice and human rights must prevail and impose itself over any national legal system.

Thus, through its members AIJA is entrusted with the task of preparing young lawyers for an ever increasing cross-border advocacy where the issue of professional ethics; legislative harmonisation; the role of the lawyer in the application of justice and the defence of fundamental human rights are important issues which demand urgent and on-going debate and awareness.

We are certain that the role played by our association is, and will become, increasingly more important in the preparation of a lawyer for international practice in compliance with the objectives which we have set out to achieve, namely "to encourage meeting and to promote co-operation and mutual respect among young lawyers from all countries around the world; to defend the interests of young lawyers and to study questions of relevance to them; to help set up groups of young lawyers in countries and regions where none as yet exist and to play an active role in the development of the legal profession and the harmonisation of its professional rules".

In conclusion all that remains to say is that AIJA is on the right track and deserving of congratulations as it begins its activity in the year 2000 by selecting "The Role of AIJA and its Evolution in the New Millennium" as the theme for the Bureau Elargi. This is a task we have set ourselves upon which we must reflect in the upcoming future.

Rui BOTICA SANTOS

## Que reste-t-il de mes amis?...



*Maria Lopes Dias & Hugo Pinheiro Torres*

Que reste-t-il de mes amis?...

Que reste-t-il de ces beaux jours?...

Oui, l'Aija a été importante, elle l'est toujours.

L'Aija est l'amitié, l'échange, la disponibilité. C'est arriver quelque part au monde, appeler l'ami (e), qui est là, disponible pour nous recevoir, nous amener boire un verre, dîner, en somme, être ensemble.

I regret I started late participating at Aija's activities. So many good souvenirs...Can I say that Aija changed my life? No doubt Aija brought me a wider view of the legal world, put me in touch with brilliant minds, with colleagues with good sense of humour, with dear friends. It was a terrific experience that had to change my life.

Many of now older lawyers – not old, of course! – will remember my laughter at so many occasions. It seems it was a special laughter! (It still is!) No doubt because it came from deep in my heart.

But there is something I will never forgive to some of my friends! Leurs "applaudissements" quand je skiais, dans les quelques semaines de ski où j'ai participé. La photo en bas confirmera qu'il n'y avait aucune raison pour cela! Ces "applaudissements" étaient sans doute dus à leur générosité envers mes skiing skills!!!

Ils restent tous dans mon cœur, mes amis aijistes, même ceux qui sont partis, comme notre cher Hugo.

Sans doute l'amitié est une très belle expression de l'amour!

Janvier 2000

Maria L. LOPES DIAS  
Vice-Présidente d'Honneur  
Portugal



*Andorra 1987*



## Tolerance and Respect

POUR L'AIJA,  
LE PAPE  
CHANGE SON  
DISCOURS !



A special issue and you wanted something from us dinosaurs, is that it? And photos? Why Marc, I could write you a novel and send you hundreds of photos, you must know that because you were there, most of the time at least.

I could contribute with stories about opening sessions and speeches, about bureau-meetings and correspondence, about international networking and friendships, about airports and traveling, about editorials and struggles with two foreign languages, about headaches, laughs and tears.

But why should I? What would be the point of it all? You know that I would go out of my way to please you since you asked me so kindly, but who would be interested? Honestly?

Trying to describe some highlights of my AIJA-life or giving some anecdotes from the good old times will only make boring reading for young lawyers, and they should be our concern, right? Today like they were in those days when we were active in the AIJA.

None of the stories I could write would properly reflect the way it really was and how it changed my life. So I will not write them and it is not because I am lazy. You know that.

Of all the lessons I learned "au sein de l'AIJA" the most important one is tolerance and respect.

The most difficult one is the obligation to intervene or "le droit de l'ingérence". It can never be enough to adhere to principles such as human rights if we are afraid of intervening when they are threatened. And they are. Every day. In all of our countries. Whenever injustice shows its ugly face it is our duty to act. As lawyers and human beings. That is a lesson I learned through the example of other AIJA members and people I met through the AIJA. Nothing much to write home about – or is it?

Stockholm in January 2000

Très amicalement à toi,

Elisabet FURA-SANDSTRÖM  
Présidente d'Honneur

Je n'ai que de bons souvenirs de l'AIJA. Malheureusement on a si vite 45 ans.

L'AIJA m'a ouvert le monde dans toutes ses diversités : l'Europe, l'Amérique, le Liban, Israël, ... où j'ai trouvé des confrères qui sont restés des amis.

Là où l'AIJA est passée, elle a laissé des traces. Le Pape qui nous a reçu (*Congrès de Rome, 1970. NDLR*) a même changé son allocution à la dernière minute, sans que les cardinaux le sachent, et ils n'étaient pas très heureux.

Je suis toujours avocat au Barreau de Brugge, dont j'ai eu l'honneur d'être Bâtonnier de 1981 à 1983.

Je vous souhaite une bonne et heureuse année.

Frank DOUSSELAERE,  
Vice-Président d'Honneur.

## We are the World, We are AIJA



In 1962, I was in my second year of a four-year college program at Haverford College studying political science and Russian area studies. I had in my mind going to law school, getting involved in international law and possibly, some day, political service. It is this last possibility that I am pursuing today in my race for the U.S. Senate.

AIJA burst into my life in 1980, when, as a member of the Philadelphia Bar Association Young Lawyers' Executive Committee, I and my fellow Board members were asked to serve as the host committee for the AIJA Philadelphia Congress. We met and were charmed by the then AIJA President, Christian Diercyck, and readily agreed to try to help Christian and AIJA.

My wife Lonnie and I were active in a number of the Philadelphia Congress activities and particularly enjoyed hosting one of the home hospitality dinners, when we first met Timo Korpiola and several of his Finnish colleagues. At the end of the Congress, I felt that AIJA was the perfect organization for me. In fact, if it didn't exist, I would have to invent it.

The following year I went to the wonderful Dublin Congress, chaired by Michael Carrigan, and, thereafter, attended every AIJA Congress through Washington in 1995. In addition, I was fortunate to serve on the Executive Commit

tee and enjoyed the great honor of being President of AIJA in 1987 so that I, often accompanied by my family, journeyed with AIJA friends and colleagues to Europe, to South America, to Africa, to Asia.

I can honestly say that AIJA and the many wonderful friends we were fortunate to meet beginning in 1980 have, for two full decades now, greatly enriched my life and the lives of my wife, Lonnie and daughters, Adrienne and Alexa.

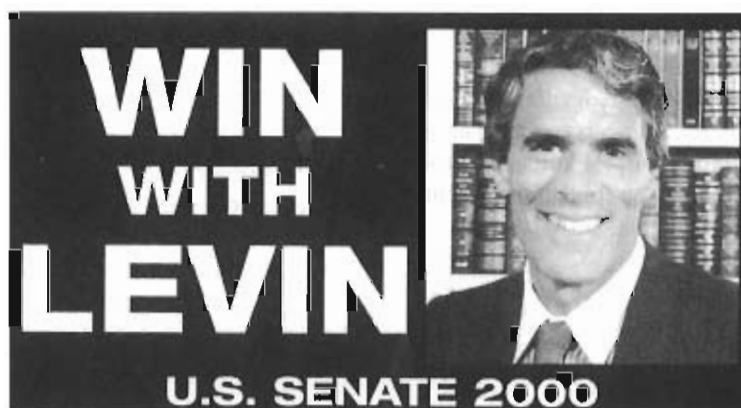
We have enjoyed countless visits with AIJA friends in their home around the world and as much have enjoyed the visits of many of our AIJA friends who have found their way to Philadelphia.

As we enter the new millenium, I wish AIJA and its growing membership of active young lawyers and alumni great health and happiness, and I hope that together we can keep alive the unique

"spirit of AIJA". I always liked the song "We are the world, We are AIJA".

Good Luck !

Murray S. LEVIN  
Honorary President





## SOUVENIR

AIJA in the 21<sup>st</sup>  
CENTURY

C'était en 1966. J'étais alors président de l'AIJA et notre congrès s'était tenu à Athènes.

C'était avant la dictature des colonels.

Le dîner de clôture avait lieu au bord de la piscine de l'hôtel Hilton.

Le ministre de la Justice était présent ; ma femme assise à côté de lui tandis que j'étais le voisin de la femme du ministre. Celle-ci ne parlait que difficilement le français et l'anglais.

La présence voisine de son épouse n'empêchait pas le ministre d'adresser à ma femme des propositions très précises et à l'inviter, sans sa femme et sans moi, dans sa propriété hors d'Athènes pour le week-end qui suivait la clôture de notre congrès.

Un incident vint heureusement mettre un terme à nos conversations. Brusquement, le ministre fit de grands gestes vers les gardes armés qui assistaient ...ou qui encadraient notre dîner, en pointant le doigt vers une des terrasses du dernier étage de l'hôtel ; il se réfugia ensuite à quatre pattes sous la table, convaincu qu'il allait être la victime d'un attentat.

Les gardes qui s'étaient précipités dans l'hôtel revinrent un peu confus quelques minutes plus tard. Ce qui avait tant effrayé le ministre était tout simplement les pieds posés sur la balustrade de la terrasse, d'un couple allongé sur deux chaises longues pour prendre le frais de l'air nocturne !

Rassuré, le ministre s'est relevé mais, après cet incident, il a préféré quitter les lieux avec sa femme, en abrégant les politesses d'usage entre voisins de table qui se quittent.

Il n'empêche que le congrès d'Athènes était un beau congrès et que les confrères grecs nous avaient reçus avec beaucoup d'amitié.

Roger O. DALCQ  
Président d'honneur de l'AIJA.

What has AIJA meant to me ?  
Friends from Europe, Asia,  
Helsinki  
Balls in Vienna, Dinners in Rome  
Fifty Lawyers in London's  
Dome.

What has AIJA meant to me?  
The chance to go on a shopping  
spree  
Shoes from Florence, Clothes  
from Spain  
Only my purse feels any pain.

What has AIJA meant to me?  
Working together in harmony  
Using the law for human rights  
Even when it means a fight.

What can AIJA mean to you?  
A colleague's help when troubles brew  
Lawyers from France to Timbuktu  
AIJA is the one for you.

Marina PALOMBA  
DJ Freeman Solicitors.

## FLASHES AIJA

J'ai été Vice-Président pour l'Italie à partir de 1970 (Congrès de Rome) jusqu'en 1978 (Congrès de Milan).

J'ai plusieurs souvenirs et de nombreux amis auxquels je suis encore très lié.

Il y a deux moments que je veux rappeler en particulier.

Quand, grâce à un confrère de Paris membre de l'AIJA, j'ai eu la chance de connaître la femme que j'ai épousé après ; et quand, à l'occasion du discours d'inauguration du Congrès de Milan de 1978, j'ai annoncé ma décision de renoncer à être nommé Président de l'Association (cela, comme la tradition l'aurait voulu), pour permettre de poser des candidatures libres et d'obtenir des élections libres selon le désir de la plupart des membres.

Je suis certain que cette décision a permis à l'AIJA de ne pas rester une petite association entre amis et de se développer encore plus dans le monde.

Emilio BELLEGRANDI  
Vice-Président d'Honneur

## EARLIEST MEMORIES



*Georges-Patrick Langlois & Anthony Slingsby*

I was President of AIJA in 1979 but joined at the London Conference of 1966.

My earliest memories of AIJA were of a boat trip through London Docks (now an airport, Canary Wharf and the Millennium Dome) during the London Conference of 1966. As a newly admitted lawyer I was immediately enchanted with the internationalism of the organisation – more so than its youth which stretched to the incredibly old age of 45 so many of its founders were middle aged when it started !

The following year it was to Beirut we went. Pre-War Beirut had a grace, vitality and levantine charm worthy of a flower of the tropics. Harro Gurland recognised me on the promenade, but alas not I him, so that when he approached posing as a Lebanese postcard vendor, it was for this I took him, rather than a future (and very fine) President !

Mark Willemart ran courses on commercial law at the American University where the working sessions were based and we all took it in turns to translate John Young's very metaphorical speeches, into French. Many allegories were left Delphic !

We went to the ante-Lebanon, to Baalbek temple and an unbelievable visit to a wise hermit who lived in the forest where the

Cedars of Lebanon grew and who corresponded by postcards with all the world leaders. We read the cards by hurricane lamp, eating grapes and all about was pungent scent of cedar.

It is strange how the intervention of a long and bloody war separates these early memories from the legion of experience, born of AIJA, that followed. They seem like a fairy tale, even to me, let alone to your dear reader.

The happy ending is that, looking back, AIJA really was one of the best times of my life. I rejoice it has survived, metamorphosed, and now gives pleasure to those not even born at the time of which I write.

Anthony SLINGSBY  
Honorary President





When I was a high school student I had higher ambitions than becoming a lawyer. Drama was what fascinated me from when I first participated in the annual theatre play at high school. To be trained as an actor or a director was what I wanted. To prepare myself for this career I attended drama classes, I was acting in amateur theatre and for some of my law student years part of my studies were financed by teaching drama at my former high school and directing the annual theatre play.

Amateur theatre is full of success and the annual high school play especially. The audience was happy. They watched actors they knew and valued as friends and family. The actors were happy. They did something outside the ordinary timetable, they showed their fellow students their talents for acting, they played roles that led lives more interesting than their own high school lives, and the audience comprised their family and friends. Theatre reviews were non-existent or unimportant. After the last performance everybody had dinner together, everybody thanked each other and the party went on until dawn.

Those who have experienced what I did then will know that all the compliments do not imply that amateur theatre contributors or audience accepted or forgot failure. When something did go

wrong this would be what everybody remembered. The actor who forgot to show up, the actors who try to eclipse each others as leading characters, or the actor who had forgotten his lines would be the only thing remembered from the school drama of that year. Of course nobody would ever directly say that the play of the year was a failure, that the director was incompetent or that the actors had no talent. Nobody would mention the play after the last performance. None of the actors would be motivated by their performance to try their luck as actors again. And the audience would think that they had wasted their time.

Some years later I noted that the dynamics of amateur theatre are similar to those of an AIJA working session or a seminar. The potentials and the hazards are the same. The audience and the actors share the same feeling of solidarity. And the difference between the successes - which everybody speaks about - and the failures - which are not mentioned - are as easily observed and observable well in advance of the seminar.

The seminars and the working sessions of AIJA present a face of the association to the attendants including the new and the perspective members. The seminars and working sessions of AIJA competes with a variety of offers for legal education that is enor-

mous. Failure means that a certain number of existing or potential AIJA members will not come back for another seminar or congress. Still all is set for success when the attendants arrive with great expectations at the event. They have paid a substantial participation fee. They have taken time off from their offices. They look forward to meet colleagues and to learn something. Success or failure does not depend on the attendants - all they have to do is to show up. Success or failure does not depend either on the president or the bureau - it may be a success even if they do show up.

Success or failure depends chiefly on the organisers, partly on how the topic is dealt with and partly on the speakers. Like in drama even the best manuscript cannot save an amateur play where the actors and the directors do not work together.

Amateur does not sound nice to a lawyer. A lawyer likes to picture himself as a professional. But when we are organising seminars or presenting working sessions we are amateurs and that is a good thing. The amateur has the enthusiasm. He is excited about the role he is about to play and which is different from what he does for a living. He sees the other actors as fellows and not as competitors. He is not afraid of challenges or of trying something new.

Primadonnas exist within amateur theatre. Primadonnas exist too within any lawyers association. An organiser may be interested chiefly in the publicity or the prestige within his community, which the organising of the event conveys to him. An organiser may be chiefly interested in the prestige within the association that the organising of an event will always provide. Likewise some amateur actors takes a chief liking of parade in their costumes before the play and during the interlude while their character on the scene is hardly visible.

Amateur theatre has the best prospects of success with a large cast. The audience is comprised of family and friends and the larger the cast the larger the audience. In a large cast the primadonnas as well as the untalented will have a reduced impact on the general impression. The most successful seminars and working sessions seem to work along the same line – a large body of speakers and an audience who know them and are happy to give them their attention. The careful organisers often will place some of his actors among the audience instructed to ask questions at the crucial moments and to get the action going.

Like in a muppet show entertainment value is increased if professionals – politicians, university professors or financial wizards – appear in the cast. But if the professionals dominate the show some of the magic and what the audience came for will be lost.

While most of the actors will show up for the play – an organiser should not be surprised if a few speakers have entirely forgotten the date or the venue – it is always difficult to get them to attend to rehearsals. And that is sad because the real work is done through rehearsing together. Though you should never underestimate the results of improvisation success is built in the preparation and not in the performance of the show.

One of the main differences between theatre and seminar is the manuscript. No organiser of an amateur play would allow his actors to write their own lines all by themselves. Imagine that the postman who was to deliver a letter in the second act had prepared a 45 minutes lecture on his Freudian fear of dogs! The play would never get back on track again! The same might happen to a seminar when a lecturer has focused on choice of law clauses in Swedish shareholders agreements for 45 minutes! A cynical – i.e. an experienced - organising team will always insist on written contributions and on the right to cut them to a suitable length. In theatre no monologue is longer than 20 minutes. From then on the audience lose attention no matter how brilliant the actor or the text. Even in a seminar the intensity is lost if the interventions go on for more than 20 minutes without cuts or interruptions for questions.

Working on a case study may to some extent compensate the absence of a proper manuscript for a seminar. To prepare a good case study is not as difficult as writing a good play but it takes time and talent. It is certainly not enough to take a case from a law report, reinvent the names and places and ask the question that were decided the court. Like a good drama the case study should captivate the imagination of the audience and offer to the speakers a possibility of showing the variety of their talent. Like a good drama there shall be obstacles and complications and a happy ending shall not be obvious. The careful organisers should instruct some of the audience to intervene if the panel of speakers cannot get the action going.

Some might ask why lawyers joined in AIJA should take all this trouble to organise and speak at seminars and working sessions. Why should our members do something that they are not trained for nor paid for, and which is not even suited to impress their clients. Why should AIJA not leave

the seminars and working sessions to professional speakers, trained and pedagogical speakers with an ability to increase our members knowledge and competence? Why perform our own amateur show when so many professional conference organisers are prepared to offer that their travelling circuses come and perform for us?

The answer I found already in the high school amateur plays. You have to do something together outside of your class something that will interest, provoke and please the rest of your little community. That will bring you together with a network outside your own class, you will discover hidden talents with your colleagues and you will perform your traditional work with a new perspective and sometimes with a new competence.

Copenhagen

January 2000

John KAHLKE  
Honorary Vice-President





## A FAMOUS SPEECH

When we had our annual conference in London in 1967, the United Kingdom had not yet joined the European Community. It was clear that this state of things could not last. For our British colleagues the organisation of the AIJA conference obviously was an occasion to show their enthusiasm about Europe and their determination to co-operate in the "Common Market". The Organising Committee, led by John Young, had found strong support by the Law Society and it was this mighty organisation which received us for the final dinner in Chancery Lane.

As actual president of the AIJA I had to make a speech at this festive diner. Although I had prepared a speech in English, I was very embarrassed about my poor knowledge of this language and finally, when it came to my turn, I did not dare to hold it, but spoke German. After some polite applause there was a silence in the hall. Then the president of the Law Society rose for his speech and began by saying: "I have never heard such a good speech, which I didn't understand at all."

After all these years, I would like to thank this colleague for his humorous and understanding response. Today, after many years of international work, I think I would act differently. Now I tend to hold with the French engineer at the Airbus plant in Toulouse. Interviewed by an American journalist and asked about the linguistic difficulties of co-operation with Italian, Spanish and German colleagues he answered: "it's very easy; we all speak the same language: bad English."

Our British friends may excuse: the success of their language as *lingua franca* in Europe and all over the world means, that no longer it is their language alone, but belongs to the whole world. Certainly this modifies a language. But what finally counts is, that we understand each other.

Franz Josef WITTMANN  
Honorary Vice-President

## Souvenir ! Souvenir !



Mes chers amis,

Il est difficile de retracer en quelques lignes une traversée de 20 ans au sein de l'AIJA, et en plus, je n'ai pas la mémoire de Jean-Frédéric MAURO. ..

Cependant et si, juste pour rigoler, je reprenais pêle-mêle, rapidement quelques anecdotes :

### Douala (Nous ouala) :

Je quitte Alger à midi pour retrouver le groupe de choc AIJA à l'aéroport de Paris. A minuit, on nous annonce dans l'avion, que nous survolons ... Alger. Et l'un d'entre nous qui lance : " On aurait pu te prendre maintenant. "

### Lisbonne (Up and down) :

Dîner de clôture, deux heures du matin. Dans la cour, nous étions trois, les verres vides. Nous avions vu quelqu'un en face, veste blanche, pantalon et cravate noirs. Nous lui faisons signe pour nous servir, et poliment, il s'avance et nous annonce qu'il est ... confrère.



### Lausanne (à la rigueur)

Dîner, douze personnes par table. Un ami d'Afrique ne cessait pas de bouger ses longues jambes. On le regardait et il nous regardait, et puis, il a fini par lancer : "Et quoi, j'ai envie de faire pipi !".

### Alger (et les danseuses)

Sur la route menant au " gourbi ", et après un bon apéritif chez moi, quelqu'un aperçoit au loin deux minarets qui semblaient l'inquiéter (les communes étaient déjà entre leurs mains). Je le rassure aussitôt et lui dit : " Ce sont là nos fusées qui volent jamais ... "

Il pleut déjà dans ma mémoire, et j'arrête là ...

Bien amicalement,

Mustapha ROUBAH  
Vice-Président d'Honneur

## Si vous le voulez ce ne sera pas une légende ou les tribulations d'un AIJAiste en Terre Sainte



Au commencement, il y a un ami belge d'origine comme moi; un fervent AIJAiste, Dominique.

Par une belle soirée d'été 1995, il me fait la confidence qu'il me faut "évoluer" et que cela, ça ne se passera que par l'affiliation à une organisation de jeunes avocats qui savent allier à merveille plaisir et travail; bref il me recrutait !!

Dynamique de nature et finalement fort influencé par la mouvance permanente qui caractérise si bien Israël, je me décidai à relever un défi personnel : permettre à de jeunes avocats israéliens de connaître la richesse intellectuelle et le plaisir de faire la connaissance de confrères venus des quatre coins du monde. Et cela ne fut pas tâche facile !! A commencer par le fait que pour réunir tout ce beau monde, il me fallut parcourir la montagne hiérosolomythe; la plaine côtière (et devoir m'arrêter pour souffler un peu sur nos plages de sable !) et finalement rechercher l'un ou l'autre membre chez nos amis les Bédouins en plein désert du Néguev sous plus de 40 degré ! Difficile pour un ex-villageois belge !!

1996 marquera sans conteste, pour moi, une des années phare : notre toute première activité AIJA à Jérusalem avec le Séminaire sur les

Incitants fiscaux – Quelle ambiance !! Tout ce beau monde en salle de conférence ou baignant dans la piscine et moi, à l'accoutumée, en train de monter le ton en cuisine car le Chef Coq pensait que nous autres AIJAistes, parfaitement illettrés pourrions nous contenter d'une bouteille de vin différente à chaque table !! Quelle Séminaire !! Et puis, je n'oublie pas les conseils de Monsieur Météo pour notre soirée au désert lorsque l'on conseilla à tous de prendre un lainage au cas où (il ne faisait en fait que 37 degrés à l'ombre !). Enfin, cette merveilleuse soirée passée ensemble, Israéliens, Palestiniens et Européens réunis autour du Narguila à Ramallah. Quelle magie.

1997 ce sera celle de ce merveilleux congrès à Florence, qui me permettra de faire la connaissance d'un sympathique pickpocket prêt à me dévaliser à l'Holiday Inn local. J'aurais mieux fait de réserver mon hôtel à l'AIJA !

Et puis 1999 : l'apothéose d'un superbe congrès avec pour la première fois un membre israélien sur CD-ROM.

Théodore Herzl, le maître fondateur de l'Etat d'Israël avait déclaré : *Si vous le voulez ce ne sera pas une légende*. Il parlait ainsi et bien avant sa création,

d'Israël; ce tout petit pays où les miracles ont parfois lieu.

Qui aurait pensé que parti de pas grand chose, nous pourrions aujourd'hui compter de nombreux membres en Israël et que même le Barreau National face mention de l'AIJA dans son rapport annuel ?

C'est cela aussi Israël et à l'aube de ce troisième millénaire, je ne peux que souhaiter de voir notre Organisation grandir et prospérer au pays du "lait et du Miel" et contribuer ainsi au développement et à l'enrichissement intellectuel de nos amis et confrères israéliens.

David SPRECHER,

Vice-Président National  
Pour Israël





The world of the International lawyer is full of surprises challenges and experiences and AIJA members worldwide are the living proof of the changes that we have had to confront .

Looking back over the last 5 years or so since our Sub- commission was formed, the practice of International Law has undergone subtle, though considerable, emphasis and change. A multiplicity of International financial scandals have impacted upon many members of society – private and institutional. This - allied to the willingness of national courts (particularly in the USA AND UK) - to push at the outside of the jurisdictional envelope on grounds of domestic and commercial public policy alone, have all contributed to the philosophy of the one world/ global legal market that we have or will truly become.

There are almost too many good memories to share. From an embryonic beginning in Vichy (1994), pausing in Milan in March 1995 for the hugely successful regulatory/insider dealing seminar, there followed the pivotal Montreux working session in 1996 (when Vincent Jeanneret educated us concerning the injustices to the Sioux Indians: those who were there will remember with great enthusiasm Vincent anointing Winnie Schmitz with the Chief's headress – a superlative coat of

many feathers – and Winnie's bonne humeur at the experience).

Since then we have co-hosted with the Banking Law Commission a highly successful two day event in London (in March 1998) attended by the great and the good – judges, regulators and leading representatives of the UK's prosecuting and investigative agencies and are planning an all singing all dancing investigation and trial process for Helsinki in August 2000. Before that we are to meet in Paris in March 2000 for our moneylaundering seminar, organised jointly with the Paris Bar Association.

Our finest moment to date was surely the presentation of our exclusive case study - on video – in Sydney in September 1998. Those who starred in this Polanski style (or was it Woody Allen?) production will still remember the Chaplinesque moments of hysteria, bringing the traffic to a halt in central London, the crowd of on-lookers stopping to catch a glimpse of the stars and, crucially, the bravura performances of Adi Seffer and John-Yves Feltesse as the villains of the peace.....shades

of Alain Delon, Marlon Brando Arnold Schwarzenegger and, I am afraid to say, Steve Martin.

There are many other memories too numerous to mention. My thanks to all those who have contributed to the cause and who are yet to feature in our forthcoming productions. The Global Market, the internet explosion and the consistent ability of the human brain to surprise challenge and provoke all of us who practice at the cutting edge of crisis management will ensure that we remain at the centre of this exciting and forever stimulating area of practice.

Keith E. OLIVER  
London, 24 January 2000





Les numéros spéciaux de journaux d'association sont, pour les anciens, l'occasion de regards toujours attendris vers le passé et de congratulations dans toutes les directions.

Cela est bien.

Mais sachant que d'autres le feront beaucoup mieux que je ne pourrais le faire, je préfère consacrer ce petit article à d'autres réflexions.

Je voudrais me demander si les changements que j'ai connus dans l'AIJA, n'appellent pas d'autres changements dans l'avenir.

À l'origine, l'AIJA a été créée par un groupe d'amis. Ces amis se retrouvaient avec beaucoup de plaisir et leurs travaux étaient plus un prétexte à leurs retrouvailles que l'objet d'études approfondies. Cela explique la naissance du fameux «esprit AIJA».

Mais ce groupe d'amis avait une préoccupation importante : celle de faire partager certaines valeurs dans tous les pays membres de l'AIJA. C'est ainsi qu'ils ont été les auteurs de certaines déclarations très riches de sens. Cela explique que l'esprit AIJA soit fait de beaucoup de générosité.

Mais ces valeurs ne sont plus souvent à l'ordre du jour de l'AIJA.

À la fin des années 70, l'AIJA a commencé à se transformer. Je crois avoir joué un certain rôle dans cette transformation en créant la commission de droit des affaires.

Le succès de la commission de droit des affaires a été considérable et, peut-être, excessif.

Il semble en effet qu'elle inspire aujourd'hui l'essentiel des travaux de l'association. Ceci peut s'expliquer : les cabinets d'affaires sont ceux qui ressentent le plus grand besoin de contacts avec des confrères étrangers. C'est aussi dans ce domaine qu'il y a le plus à apprendre des expériences étrangères. Enfin, les cabinets d'affaires sont sans doute ceux qui ont le plus de moyens financiers pour faire face aux redoutables coûts de l'AIJA (comme de la participation à toute association internationale).

Pendant la même période les cabinets d'affaires internationaux se sont structurés de manière très significative.

Un jeune avocat de ces cabinets se trouve dans une situation professionnelle qui est très différente de ce qu'on pouvait connaître il y a vingt ans et de ce qu'on connaît encore aujourd'hui dans les autres cabinets. Sa situation est beaucoup plus comparable à celle d'un employé d'une grande entreprise qu'à celle de la professionnelle libérale au sens traditionnel du terme.

Cette différence apparaît à de nombreux égards. Ces jeunes avocats sont soumis à une forme de discipline relativement forte, leur capacité d'initiative est moindre. En même temps ils subissent, au sein de leur cabinet, une pression très forte vers l'excellence et une compétition en vue de devenir associé. Ainsi, dans leurs prestations, l'intérêt du client n'est pas toujours le seul facteur à prendre en compte et des considérations internes peuvent influencer sur le comportement. Les jeunes avocats des grands cabinets jouissent d'une sécurité matérielle beaucoup plus grande que les autres mais, en même temps, les intérêts financiers du cabinet sont beaucoup plus présents à leur esprit.

Lorsque je lis la Gazette de l'AIJA ou que je regarde les programmes des séminaires, j'ai souvent





L'impression que les avocats originaires de ces grands cabinets jouent maintenant un rôle prédominant dans l'association et je me demande si l'AIJA ne va pas devenir un «junior beauty show» des grands cabinets comme une autre association internationale est clairement devenue un «senior beauty show». Ou peut-être l'AIJA deviendrait-elle une sorte de foire exposition où les grands cabinets viendraient rechercher leurs nouveaux collaborateurs.

Je ne pense pas que cette situation soit pire que celle que j'ai connue au début de l'AIJA où l'amateurisme régnait. Au contraire, je crois que l'AIJA peut être fière de son niveau scientifique qui ne se retrouve pas toujours dans les autres associations. Elle est aussi restée, incontestablement, l'association la plus amicale et la plus chaleureuse.

Mais il faut se rendre compte que ces grands cabinets qui représentent, aujourd'hui, une partie significative de l'activité des avocats, qui ont les plus grandes affaires et les plus spectaculaires, qui représentent des opportunités de carrière exceptionnelles pour les avocats, ne sont pourtant qu'une partie du Barreau et ne peuvent prendre en charge qu'une partie de la vie de la société.

En dehors du monde des affaires et du monde de ces grands cabinets, la vie continue et cela est heureux.

Or, il est important que l'AIJA garde à l'esprit que la vie est ailleurs que dans les affaires phénoménales dont s'occupent des cabinets gigantesques.

Ces cabinets sont composés, comme les sociétés qui sont leurs clientes, de «petits» hommes et de «petites» femmes qui ont une vie de famille, des soucis de santé, le goût des voyages, des besoins et des préoccupations de consommateurs, qui votent et ont des intérêts et des convictions

politiques, qui ont des droits et des devoirs vis-à-vis de la société et de l'Etat, qui vivent dans des quartiers qui peuvent poser des problèmes d'urbanisme etc.

Ces «petits» hommes et ces «petites» femmes vivent aussi dans un monde qui est de plus en plus international.

Or ce monde échappe totalement aux grands cabinets. Il leur échappe, si ce n'est définitivement, au moins pour un long moment. En effet les grands cabinets génèrent des coûts que les individus, les associations et les petites entreprises ne peuvent pas supporter. Cette clientèle doit nécessairement s'adresser à des structures plus légères qui maîtrisent mieux leurs coûts.

Il est important que l'AIJA garde une place significative aux préoccupations des avocats qui s'occupent de cette clientèle petite et moyenne.

Il me semble que ce sera un challenge important pour les prochaines années que de savoir créer, au sein de l'AIJA, des activités susceptibles d'intéresser les avocats pénalistes, les avocats de droit de la famille, les avocats qui s'occupent des droits de l'homme etc.

Les clients s'internationalisent. Les institutions aussi. Mais les avocats des personnes physiques sont à l'écart de ce mouvement. Il appartient à l'AIJA d'aller les chercher pour les aider à s'insérer dans le monde globalisé.

Or, l'AIJA est sans doute l'association où ces préoccupations sont le moins bien pris en charge. Un gros effort doit être fait.

Il ne s'agit pas seulement, comme cela a souvent été le cas dans le passé de créer une commission qui ne vit pas ou d'applaudir l'initiative individuelle d'un membre en la reprenant à son compte, pour se donner bonne

conscience, comme cela a été le cas dans le passé.

Il est important que l'AIJA soit présente dans ces domaines car c'est là que se forge le monde dans lequel nous vivons lorsque nous sortons de notre bureau.

J'ai été longtemps très heureux du rôle que j'avais pu jouer pour introduire le droit des affaires à l'AIJA et lui permettre de se développer. Mais je ne voudrais pas que ce succès devienne trop envahissant et chasse de l'AIJA les autres domaines du droit et notamment ceux qui correspondent à notre vie quotidienne qui est devenue une vie pleinement internationale.

L'AIJA doit rester au contact des réalités de la vie et ne pas consacrer son temps à rêver de grandeur.

Elle doit retrouver les valeurs que défendaient ses fondateurs car, sans ces valeurs, il n'y a pas de liberté et sans liberté, il n'y a pas de grands cabinets d'avocats.

Thierry GARBY  
Président d'Honneur



## Suivre L'ère du Temps.... (Un courrier du Liban)



Forte de ses 40 années d'expérience à travers le monde, et bénéficiant d'une riche et précieuse tradition remontant à l'âge des Barreaux d'Europe l'Association Internationale des jeunes Avocats s'apprête à faire son entrée dans le troisième millénaire et à accueillir, le vingt et unième siècle.

Plaçant son action sous le signe du dynamisme innovateur et du développement continu, l'AIJA est, plus que jamais, déterminé à suivre son époque pour être à la hauteur des défis innombrables qui secouent le monde. A l'heure de l'Internet, des télécommunications par satellite, de la révolution informatique et de la mondialisation, nous ne pouvons nous permettre de notre routine quotidienne et des acquis qui marquent notre réalité de tous les jours.

Cette remise en question est d'autant plus nécessaire et vitale que tout indique que le monde est à la veille d'une paix globale qui, si elle se réalise, ne manquera pas de stimuler une forte croissance au niveau du mouvement, des hommes de Droit entre les nations ce qui nous concerne directement en tant qu'association Internationale.

Dans le développement de son infrastructure, de son organisation et de ses moyens, l'AIJA devra tenir compte quelque peu de l'ensemble de ces données fondamentales. Certaines initiatives ont déjà été entreprises sur ce plan, dont notamment - pour ne citer qu'un seul exemple - l'ouverture d'un site sur le réseau

Internet afin de faciliter notre communication avec le monde extérieur. Beaucoup d'efforts restent encore à faire pour permettre à notre association de se maintenir à l'avant-garde des activités juridiques et sociales à travers le monde.

L'an 2000, qui marquera le point d'inflexion entre un siècle et l'autre, devra nous inciter à faire preuve d'un surcroît de dynamisme et de créativité pour moderniser et développer notre action en faveur du droit, de la justice et des droits de l'homme dans le monde. Chaque membre, chaque employé et chaque responsable est appelé à apporter sa contribution dans un tel contexte pour que l'AIJA poursuive à bien sa mission en suivant l'ère du temps. Vivre ce courant historique intensifie le potentiel humain tant au niveau personnel qu'à celui de la collectivité. Pour notre association, le défi grandit, au seuil du troisième millénaire, et également la force de le relever.

S'élancer à l'assaut du futur, tout en demeurant fidèle à son histoire, tout en ne perdant pas de vue ses objectifs, voilà en quoi consiste le défi de notre Association, voilà la belle mission que nous cherchons à accomplir.

En tant que membre de l'AIJA, je ne puis que remercier chaleureusement le Comité exécutif, le Président et les anciens Présidents, les membres du Bureau, les présidents des Commissions ainsi que tout membre individuel ainsi que les employés du siège de Bruxelles, pour tout le dévouement, la patience et

l'abnégation dont ils font preuve au service de l'association, devenu pour chacun de nous un deuxième «home». En tant que Libanais, je ne peux que me souvenir de l'un des anciens fondateurs de l'AIJA l'ancien Président Me Moussa Prince, c'est grâce à son dynamisme que l'AIJA était omniprésente les Années 70 parmi les collègues Libanais et le respect du Barreau Libanais et des autorités Libanaises à l'encontre de notre Association a été sans égale.

De nouveaux et à l'aube du 3 millénaire le souvenir de Moussa Prince me pousse à faire revivre ces mêmes sentiments promus en 1970 par Moussa Prince parmi mes collègues Libanais. Et le récent Comité exécutif de Beyrouth ainsi que le séminaire scientifique - organisés dans le campus de l'Université Saint-Esprit-Kaslik - ont démontré encore une fois le grand respect du Barreau Libanais et du Liban envers notre chère Association. C'était le 28 octobre 1999.

Que l'humanité devienne plus humaine et que le monde devienne plus Aijiste.

Joe KARAM -Beyrouth  
Vice Président National - Liban



## AIJA - How a painful defeat can result in a sweet victory The hidden potential of our Association



AIJA 2000

It is Wednesday, January 26, 2000, I am sitting on flight LH 422 on my way to the Bureau Elargi meeting in Chicago via Boston and New York. I had decided a while ago not to take on the additional task to write an article for the AIJA Social Gazette 2000. Too many other AIJA projects were taking too many late evenings, holidays and weekends these days. However, a recent e-mail of our dear friend Marc Jobert encouraged me to find out whether I may find the time nevertheless. The transatlantic flight to the Bureau Elargi seemed to be worth a try.

The next thing was, on what subject should I write? May AIJA survive this century, does quality awareness deteriorate, will drinking habits in AIJA significantly change in the new millenium, will more democracy have a chance in AIJA, will AIJA suffer for ever under the marketing-phopia of its leaders, what is the influence of jealousy, sex and intrigues on the power and growth of our Association? Nothing seemed to be adequate for a transatlantic flight after three and a half hours of sleep.

I finally decided to write about a little story reflecting the dynamics, the ups and downs, the potential and richness of our Association.

It is Saturday morning, August 19, 1995 in the breakfast room of the Mayflower Hotel in Washington, D.C.; the XXXIIIrd Congress of AIJA had come to an end. I am totally exhausted and feeling a tre-

mendous hangover. The closing party did not end before sunrise giving just few hours of sleep. The whole week was full of activities, preparing and chairing the working session "Sale of Private and Public Companies by Action" – a wonderful success and with 140 members in the audience the most numerous turn-out of the Commission Corporate Acquisitions & Joint Ventures ever -, organising the meetings of the Commission, talking to old and new friends, attending events of the social program, working on a speech, campaigning for the First Vice Presidency, trying to resist too much work on the corridors, discussing politics of AIJA, learning about my real friends, waiting anxiously to deliver the speech, loosing papers of my manuscript, getting stuck in the speech, feeling embarrassed, waiting for the result and learning about the defeat.

This morning, I still feel the pain and kind of empty. I am surrounded by other AIJA members, some of whom I never met before. The conversation is kind of slow since everybody seemed to concentrate on the breakfast after this short night. The person next to myself started a conversation which I was not interested in. Then he some how mentioned that he attended the Law School of University of Georgia in Athens. All of a sudden I remembered my old friend Frank Montag who spent a year studying law in Athens and with whom I attended the Law School at the University of Bonn. I got interested in the conversation and asked the person next to

me during what years he had studied law in Athens. Since the years seemed to fit, I asked him whether he knew Frank Montag. He was pleased to hear the name. All of a sudden we had a lively conversation exchanging stories about a mutual friend. At some point, the person next to me mentioned that he lives and works in Denver, Colorado. I was pleased to hear this since I enjoyed skiing in Aspen and Vail while I was working several years ago in Washington, D.C. and New York – and skiing is my great winter passion.

I was once dreaming to organise a ski week with colleagues and friends combined with a seminar. I proposed the project some years ago to another organisation but never received a response. I asked the person next to me whether he likes skiing. His eyes flashed and he was delighted to confirm. I told him about my great passion of skiing and the lively conversation continued.

More as a joke, I asked the person next to me whether he would like to organise with me an AIJA ski week combined with a seminar in Colorado. Much to my surprise, he confirmed. I had gained a new friend: Jim Rayis. As it turned out, our Saturday morning hang-over conversation was not just for fun.

The first AIJA Winter Seminar became reality in February of the following year, 1996, in Aspen. Even though we did not have much time to prepare and promote it, we had a good turn out of members, a most interesting academic pro-

ram, great skiing and a lot of fun. Surprisingly most of the participants even attended the academic program. Where we had only expected six or seven participants showing-up in the morning, the seminar-room was always full.

This wonderful success encouraged Jim and myself to do another Winter Seminar in Europe the following year. The 2d Winter Seminar happened in St. Moritz in March 1997 with a turn-out of around 80 participants, a good academic program and great skiing on the "Top of the World". The event in St. Moritz exceeded our expectations very much. Jim and I were so carried away with this type of organising a week with young lawyers and friends from all-over the world that we decided to organise the 3<sup>rd</sup> Winter Seminar in Vail, Colorado, in 1998. Again, we had a great time.

During our 2d Winter Seminar in St. Moritz we gained another friend eager to organise a Winter Seminar, Gianfranco Borrini from La Spezia in Italy. We are now looking forward to our 4<sup>th</sup> Winter Seminar in Cortina d'Ampezzo organised together with Gianfranco.

Would there ever been a Winter Seminar of the new format without the defeat? Most likely not. Would I had won the election, I would have been sitting that morning in a Bureau meeting discussing and determining positions for the yellow pages as well as dealing with other administrative matters.

Given the tough restrictions on members of the Bureau not getting involved as an active organiser in an Organising Committee, there would have never been the opportunity for myself to develop and organise this type of Winter Seminar and - every single successful Winter Seminar is worth at least the winning of an election for the First Vice Presidency.

Enjoy the rich potential of AIJA, discover the unexpected and never give up!

Above the Atlantic Ocean, January 26, 2000

Winfried F. SCHMITZ  
Honorary Vice-President



## My "most memorable" moment in AIJA



When my dear friend Marc Jobert asked me to pen down something for the first AIJA Gazette of the year 2000, I tried to sift through my memory my "most memorable" moment in AIJA. Which recollection moves me the most, which moment was worthy of note, which friend to mention specifically, which of the stories covering a span of 18 years of active participation in the life of our association deserves to be remembered, retold? What was the most important teaching, which was the most important professional growth factor, which tribute the most touching, which episode the funniest, which the greatest of hangovers, the best party, the most rousing dance, the most profound talk, which event the best organized, which experience the richest, which woman the prettiest, which the most dashing, who of all is the nicest, the most charming? Trying to find the "most memorable" moment of AIJA is to immediately discover a Himalaya of sensations, of emotions, of growth, of learning. I recently read that the Himalayan mountains continue to rise and that the Everest is today many centimeters higher than what it was a century ago. One more coincidence: AIJA is the same as the Himalayas, always greater and better. Many millennium wishes for this wonderful association and blessed are those that participate in it and reach their summits of personal and professional satisfaction.

Horacio BERNARDES NETO  
Honorary President



## Thank my numerous AIJA-friends



's Hertogenbosch 1997

Having become a member of AIJA in August 1984, I was lucky and happy to join in the year when the Annual Congress took place in the fascinating city and surroundings of Bordeaux.

AIJA has always played an important role in my life, both for personal reasons, and for business reasons. I am glad to use this occasion to thank my numerous AIJA-friends for the special friendship with them which I experience as true added value in my life.

My more active period began when the former Standing Commission on Computer Law was upgraded towards the Standing Commission on Intellectual Property & New Technologies (1990). I was pleased very much to act as Secretary of the latter Commission for 2 years, and as President for 6 years.

See you in Helsinki!

Frits MUTSAERTS  
Honorary Vice-President

In Florence (1997) I had to resign as President of this great Commission for obvious reasons: I got 45 in April 1997. I couldn't figure a better place than Florence to step down as on officer (obviously not as a member!).

Through all those years I visited some thirty destinations for AIJA; thanks goodness, all these places were most unspartanlike! This included (strictly by coincidence) the magnificent city of 's-Hertogenbosch, where the Executive Committee Meeting of May 1997 was held.

I'm sure my wife and I will go on attending annual meetings, for instance the one in Helsinki this year, which I am sure will be as outstanding as last year's annual meeting in Brussels.



## An Oldie Remembers

I originally joined AIJA in order to have a “business” reason to go to the United States – the Washington Congress of 1971. I knew nothing about the Association at all and, had that Congress been my sole experience, I should have learnt nothing more for I thought it was hopeless. However, I was living in Paris at the time and the Congress in the following year, 1972, was to be held in Paris with the result that I thought that I might as well attend – the Congress venues looked interesting if nothing else.

That Congress transformed my view of the Association because our French hosts went out of their way to make up for the disappointments of the previous year and we had a magical congress at which The Garde Républicaine seemed to be in constant attendance and giving access to, amongst other venues, the Palais Bourbon, the Palais du Luxembourg (where I spent one session in the Senate seat of Victor Hugo) and the Palais de Versailles. We had Versailles to ourselves – all 250 or so of us – and the closing dinner was held in the Galerie des Batailles with opportunities for private tours of the State Apartments and access to the gardens. After dark, all the fountains were turned under the floodlights.

My big mistake was standing on the steps of the Palais Bourbon with the then UK Vice-President, Richard Lawrence, whom I had met in Washington, and informing him that the practical and professional content of AIJA was virtually zero even if the social content was 200%. He disarmingly told me that the only way in which to improve matters was to join the Executive Committee and he asked me to do so. That was that and I was hooked.

Given the numbers now attending not only the congresses but also the interim meetings of the Bureau Elargi and Executive Committee, my very first Executive Committee meeting seems from a different age. It undoubtedly is! I believe this would have been in October 1972, possibly in the spring of 1973 and was held in Tunis. My memory is about 20 or 30 people, entirely from Europe in these days, assembling at a recently built hotel in the shape of an inverted pyramid standing on the banks of a very green and stagnant lagoon outside Tunis. It was my very first real visit to North Africa and the experience of being in such romantic (and occasionally aromatic) surroundings, combined with the novel experience of discussing international legal problems, of which I knew little and understood even less, was a heady mixture for one only very recently qualified. Much of the debates in Committee centred on the best ways in which AIJA could use the occasion to ask President Bourghiba to make a plea to King Hassan of Morocco on behalf of a Moroccan lawyer who was in prison for some not very good reason. This was entirely new ground for me, totally irrelevant to my practice, and the possible displeasure that might attach to our host and his colleagues at the Tunisian Bar, and the diplomatic difficulty to be caused to President Bourghiba by a public appeal to him, were hotly debated. The meeting with President Bourghiba was televised on Tunisian TV and the subject of the imprisoned Moroccan lawyer was raised with singular courage by our President, I believe, to good effect.

One of our outings was to President Bourghiba’s Summer Palace at Carthage, a delightful, cool building near the sea with shaded

courts and very fierce looking Spahis at the gate. Apart from the feeling of cool oasis in an arid land, my other abiding memory of that visit to Carthage is of the small library in which we waited for lunch. When we examined carefully, all the books on the shelves were written by Habib Bourghiba and on the wall was an array of framed matching profile and full face photographs of the President, complete with police identification numbers, taken during his time as guest of the French police of pre-independence days. Having seen that room, I was sorry not to have met him.

I did not realise it at the time, but the work of the Comité de la Défense was to occupy many hours of the various committee meetings that I attended down the subsequent years and, whilst it was never a subject in which I myself became particularly involved, it is one of the activities of AIJA of which it can be justly proud. I, myself, was more inclined to a wider membership and I look the Association today and I am happy to have been able to contribute in a small way to its evolution.

I owe a debt to Richard Rawlence and his powers of persuasion on that day in Paris for AIJA is a magical experience which I would not have missed for the world, an incomparable opportunity for a young lawyer to absorb the ways of international legal world in the company of friends and whilst enjoying every single moment on the way.

John MAYCOCK,  
Honorary Vice-President



.... I wouldn't have missed any of it for the world



AIJA 2000

It was 1974 and I read somewhere that AIJA was organising a congress for young lawyers in Salzburg. Salzburg conjured up wonderful images of music and enchantment. I was then a young lawyer and so the appeal was considerable. I decided to go. I knew nothing about AIJA.

The congress was an outstanding success and for me was the start of a long and happy relationship with AIJA which has endured ever since.

When I first came into contact with AIJA it was little more than a fledgling which had been carefully and successfully nurtured from its birth a decade earlier. However, in the years that followed, I was able to watch it grow and develop through the efforts of an enormous number of committed and talented people.

I had the good fortune and the privilege to be elected President of AIJA in 1985.

The full extent of that privilege and of the growing stature of AIJA and the respect which it then commanded was never brought home to me more than when I represented AIJA at the formal opening of the Law Term that year in London's Westminster Abbey and was invited to take my place in the front pew alone with the Presidents of the IBA and UIA and ahead of the many eminent representatives of the national and local bar associations and the other dignitaries present. For a young lawyer representing young lawyers, it was a moment to be proud.

AIJA introduced me to a wealth of cultures, ideas and experiences which I would never otherwise have had. I was enticed to places and events where I might never otherwise have gone. I was given the opportunity to meet people who I would never otherwise have met and made friends who I will value for life.

I wouldn't have missed any of it for the world.

Michael W. CARRIGAN  
Honorary President



## SINCE 1973

My first AIJA Congress was in 1973 in Liege in Belgium. What are my reflections after 26 years and attending 19 AIJA Congresses?

1973 was the year when the UK joined the EEC as it then was. I was intrigued by the challenge of learning more about our new partners in other EEC countries. Maybe a lawyer from mainland Europe does not always understand the width of the gap between his culture and the culture of a lawyer from the British Isles.

Food has always been an important part of my life. The gastronomic experience of Liege in 1973 made a deep impression on me which has never really left me. My later experiences at AIJA occasions in Europe never disappointed me in this respect. My love of good wine rests on a thorough education obtained largely from AIJA.

In my country the traditional view of a mealtime has been that it is a time to rest and refuel between doing more interesting things. I remember when I was a small boy at school how I looked forward to one day being old enough to be allowed to eat chips. Somehow my friends and I had come to believe that eating chips was the ultimate alimentary experience.

One undoubted blessing from the British *rapprochement* to the rest of Europe is that questions have been raised about whether or not this is right. As a result it is now possible to eat rather well here. Indeed bad restaurants do not now survive long in the city where I live. One can drink rather well here too [and not just Scotch Whisky, however good that may be]. Of course many of our restaurants are run by French and Italians exercising their right freedom of establishment to come here.

They do well.

I am sorry to tell you that finally our new approach to food and drink remains a thin veneer on the top of the traditional British "rest and refuel" mentality. So is there anything else?

Yes there is. After meeting colleagues in AIJA, I began to feel great confidence in my command of international legal problems. This confidence was somewhat damaged by an unhappy incident in a case where I realised that my clients increased tax bill could only be attributed to a simple translation error on my part. This led to my failing to understand an approach to a situation which was quite different from what I expected and from what I had regrettably assumed. A hard lesson in the depth of my ignorance of foreign language, law and procedures was the best lesson of all. After that I took more local advice in a cross border case, and paid more attention to it when it came. I also treated the art of translation with more respect.

When I look back on my AIJA experience a dominant feature is the amount I learnt about all aspects of my profession.

For many years after 1973 I confess to having been somewhat of an idealist about the new future for Europe. With the example of the USA, what was in the way of creating a USE which had the like power and possibilities? In many ways I remain an idealist about the future of Europe. But my exposure to the realities, much of it as a result of my professional work, has changed my perspective.

The cultural differences between different parts of Europe are profound. Much of this diverse cul-

ture gives Europe both its charm and its potential. Our co-operation with each other in Europe is absolutely necessary. The achievements of the EU have led to immense mutual benefit. But I suspect that attempts to impose solutions for different parts of Europe which do not recognise this diversity may fail. This would be sad.

We need time to learn to treat each other in ways, which build trust. This probably takes generations, not decades. As the EU expands it will take more time. So we need not worry if it does not happen so fast. In the AIJA we have learned how to enjoy the experience.

So I have left the best to the last. One feature of my association with AIJA has always been and remains far more important than all of the others. That is the immense pleasure I have found in dealing with my AIJA colleagues over the years. It has been not only fun but immensely rewarding both professionally and personally and remains so.

Oh, and one more thing. I don't eat the chips any more, only the fish.

January 2000.

Walter SEMPLE  
Honorary President





## Témoignage



AIJA 2000

Devinez qui m'a recrutée pour devenir membre de l'Association en 1979!! Vous avez raison, nulle autre qu'Anne-Marie Trahan, ancienne présidente qui se déclare la grand-mère de l'Association au Canada (elle est plutôt la tante...).

Je me demande parfois comment il se fait que j'ai assisté à tous les congrès (sauf 1), à une partie des réunions de l'exécutif, à quelques bureaux élargis! Pourquoi? Pourquoi ai-je centré mes vacances et mes moments de repos autour des activités de NOTRE Association?

Ces congrès sont une vraie "drogue"; j'ai bel et bien été accrochée dès Lausanne en 1982. La solution pour revoir les amis (es) et pour en faire de nouveaux amis (es): assister aux activités de l'Association.

Le congrès de Lausanne, voilà un bel exemple des congrès organisés par des amis pour recevoir leurs amis du reste du monde. Congrès mémorable par le niveau de la réflexion, par ma nomination comme Vice-présidente pour le Canada et par la décision d'inviter l'Association à son premier congrès du côté du Pacifique! Pas facile de convaincre les membres d'aller si loin mais nous avons "brisé la glace". Et depuis, nous sommes allés plus loin encore.

1986, c'est l'année du congrès de Vancouver. Quel travail (comme tous les autres congrès et activités)!!!! Que d'heures investies dans la préparation, la levée de fonds, les travaux, etc. ! Mais quelle joie d'ouvrir ses portes et son cœur à tous les amis (es) venus (es) de tous les continents pour partager l'avancement du droit, l'esprit du pays et de ses habitants. Quels moments mémorables tous ces congrès, tous ces endroits que nous avons pu admirer et qui nous aide à comprendre ce qui fait la différence entre un pays et un autre!

Près de 20 ans plus tard, après avoir visité plusieurs villes et pays, après avoir fait la connaissance de centaines d'avocats et établi des liens d'amitié avec des dizaines d'avocats, que reste-t-il en plus de l'amitié? Je crois sincèrement que NOTRE Association est un outil de la PAIX dans le monde. En effet, lorsque nous démontrons la tolérance et l'acceptation de la différence entre les peuples, lorsque nos amis sont originaires de tous les continents, lorsque l'amitié s'étend aux "étrangers", lorsque nous réalisons que les gens sont les mêmes partout, vivent les mêmes problèmes, qu'ils sont égaux dans la souffrance ou dans le bonheur, n'est-ce pas la preuve que tous les humains se

ressemblent et sont égaux. Il doit être très difficile de faire la guerre à ses amis (es) !

Sur quoi peut se fonder la paix entre les peuples? Le respect et l'acceptation de la différence, l'amitié sans condition !!!

Un grand MERCI à Anne-Marie Trahan, et à Marie-Anne Bastin, pour avoir partagé leur attachement à l'Association avec moi ! Merci à tous les membres qui ont donné et qui se dévouent tous les jours répandre la "bonne nouvelle".

Mon souhait de l'An 2000: Que l'Association et chacun de ses membres perpétuent l'ouverture sur le monde et l'AMITIÉ sans frontières !

Louise LEVESQUE  
Vice-Présidente d'Honneur



## Mémoire de la présidente

C'est en 1970 que j'ai entendu parler de l'AIJA pour la première fois. Christiane Tchang-Benoît m'incita à assister au congrès de Paris en 1971. Je succombai à la tentation, entre autres à cause du banquet de clôture qui eut lieu dans la Galerie des Batailles du Château de Versailles. Nous portions toutes la robe longue et les hommes étaient en smoking ou en tenue de soirée. Avant le repas, nous nous sommes promenés dans les jardins et nous eûmes droit aux Grandes Eaux. Le costume et l'endroit aidant, nous nous saluions en inclinant légèrement le buste lorsque nous nous croisions. C'était la fin d'une belle journée qui nous permit de goûter la douceur du crépuscule. C'est de la Galerie des Batailles que nous avons contemplé le coucher du soleil. Le repas fut à la hauteur du cadre. Quelle soirée mémorable.

Puis ce fut Liège, Salzbourg, Cologne et Mayence.



Salzbourg 1974

D'une fois à l'autre, je retrouvais les ami(e)s rencontré(e)s les années précédentes et j'en rencontrais de nouveaux et de nouvelles.

Quand je lis aujourd'hui que certains veulent faire disparaître l'adjectif "jeune" de l'AIJA, cela me rappelle de ceux et celles qui voulaient créer l'*Association internationale des vraiment jeunes avocats* vers 1974-1975.

Inutile de vous dire les réactions que cela provoqua chez l'establishment d'alors qui envisagea même les moyens légaux d'empêcher la constitution d'une telle Association! Inutile de dire qu'elle ne vit jamais le jour. Non pas à cause de ces menaces mais parce qu'elle correspondait à un état d'esprit et d'âme qui, avec les années, s'estompa: rien de plus naturel.

Ce groupe, animé par Paul LANZ et Marc SCHINDLER, se réunissait à Noël, en Suisse, pour passer les Fêtes ensemble. À cause de la distance, du travail et du temps de l'année, je n'ai jamais pu y aller, mais les ami(e)s m'envoyaient toujours une carte qui me rendait mélancolique lorsque je la lisais.

Grâce à l'enthousiasme, à l'entrepreneuriat et au génie de Michel DOYON de Québec, l'AIJA traverse a traversé l'Atlantique pour la deuxième fois de son histoire en 1976. La première n'ayant pas été couronnée du succès escompté, inutile de vous dire les craintes qu'entretenait l'establishment face à cette proposition. Les sceptiques furent confondus. Ce fut un grand succès, grâce à l'implication du Comité organisateur local, bien branché, qui sut réunir les autorités politiques, judiciaires, civiles et celles du Barreau.

L'autre "hic" à un tel événement était mon accession à la présidence. Nous étions en 1976. À l'inquiétude provoquée par ma féminité, s'ajoutait ce que d'aucuns considéraient le danger que je tiens des réunions ailleurs qu'en Europe. On me fit promettre de ne pas le faire. En fait, c'était inutile: cela allait de soi.

Les réunions d'exécutif ou de bureau élargi ne pouvaient avoir lieu que dans des endroits où il y avait suffisamment de membres pour les organiser. Malgré tout, un de mes prédécesseurs exigea que je signe un document à cet effet. Je refusai: ma parole devait suffire, affirmai-je.

Je me remémore aussi les discussions que nous eûmes pour le choix des sujets. J'avais proposé que nous traitions du droit des minorités. Cela en inquiéta certains. Quand je constate aujourd'hui combien ce sujet est d'actualité, je me dis que nous aurions vraiment été des précurseurs si nous avions osé.

J'entraî en fonction à Oxford d'où je revins avec un Jeroboam de whisky J & B gagné à la tombola. Inutile de vous décrire les regards des passagers dans l'avion et celui des douaniers!

J'axai mon année sur le thème des droits de la personne (les droits de l'homme). La première réunion de l'exécutif eut donc lieu à Strasbourg, où nous rencontrâmes les représentants du Conseil de l'Europe et de la Cour Européenne des droits de l'homme. Ceux qui y étaient se souviennent encore du président: Félix LÉVY (qui déclara devant tous que la présidente était truculente!) et du bâtonnier BAUMANN qui composa un poème en mon honneur.



Milan 1978



Mon mandat se termina au congrès de Milan en octobre 1978. Lors de la séance d'ouverture, je butai sur le mot "organizzatione" dans le passage en italien de mon discours. Je vous laisse le soin d'imaginer ce que je dis à la place qui eut l'heur de provoquer les rires de tous, y compris du Ministre de la Justice italien qui nous honorait de sa présence. Comme c'était le bicentenaire de la Scala, nous eûmes droit à une représentation de Il Trovatore même si la saison ne commence habituellement que le 7 décembre, le jour de la Saint-Ambroise, le patron de Milan. Le ténor se fit huer par les spectateurs du poulailler. Moi qui (grâce au ciel! n'avait pas chanté, j'ai été applaudie à la fin de l'Opéra alors que les congressistes se tournèrent vers ma loge et m'acclamèrent aux cris de "Viva la presidentessa".

Puis, ce furent Alicante, Philadelphie (eh oui! l'AIJA avait bien pris son envol hors d'Europe car j'estimais qu'il fallait qu'elle reflète vraiment son nom), Dublin, Lausanne, Helsinki, Bordeaux, Lisbonne et Vancouver en 1986: encore l'Amérique du Nord! Et pour la première fois, la côte du Pacifique. Encore une fois, cela cause quelques remous.

Ce fut le dernier congrès auquel j'assistai car, par la suite, mes diverses fonctions m'empêchèrent de le faire.

Je suis heureuse de constater que l'AIJA est toujours là, bien vivante. Dans le temps, je répétais que d'autres, avant et après moi, ont dit que le "A" de "AIJA" représentait l'amitié qui nous anime et qui nous lie. Plus que jamais, le monde a besoin d'amitié et de fraternité et je formule le vœu que jamais elles ne disparaissent parmi les membres de l'AIJA.

Anne-Marie TRAHAN, j.c.s.  
Présidente d'Honneur

Le 27 janvier 2000

## A.I.J.A. - ANDORRE D'"HELSINKI" À "HELSINKI"

En 1983, quatre jeunes avocats andorrans, qui représentations alors le quart des Avocats en exercice en Principauté, participâmes, à Helsinki, au premier congrès de l'A.I.J.A. Il s'agissait de Marc FORNÉ, de Jaume BARTOMEU, de Josep CASADEVALL et de moi-même, Jesús BETRIU. Aujourd'hui, le premier est le Cap de Govern (le Chef du Gouvernement) de la Principauté d'Andorre; le deuxième est le Chef de l'Opposition; le troisième est Juge au Tribunal Européen des Droits de l'Homme et le quatrième continue d'exercer comme avocat, amoureux de sa profession, ami des trois autres avec lesquels il n'y a dîner ou réunion où ne soient évoqués, au milieu de grands éclats de rire, les bons moments passés à l'A.I.J.A.

Depuis 1983, et quel que soit le lieu où ils se célèbrent, l'Andorre a toujours tenu à envoyer un représentant aux différents Congrès annuels de l'A.I.J.A. J'y ai, personnellement, rencontré les "vieux" amis lors de toutes les réunions, j'en ai aussi connu de nouveaux qui l'année d'après étaient déjà devenus, eux-aussi, de "vieilles connaissances", et ainsi 17 ans durant.

Nous sommes un petit pays, mais nous organisâmes notre semaine de ski pour l'A.I.J.A. Nous sommes également le pays qui compte sur la participation la plus importante à l'A.I.J.A., puisque près de 10% des Avocats en exercice en Andorre en sont membres. Nous sommes finalement un peu comme le petit frère que tous les autres veulent protéger.

Lorsque se célèbrent les dîners de confraternité des pays voisins (et pas si voisins, parfois, comme Portugal, Brésil, Italie, etc.) les nombreuses invitations adressées aux représentants de l'Andorre ont toujours été reçues avec reconnaissance et émotion.

Il va sans dire que l'A.I.J.A. a ses bonnes fins, ses idéaux. Mais pour ma part, elle restera surtout un lieu où rencontrer de bons amis, un lieu où se réunissent de nombreux souvenirs et biens des espoirs. Dommage d'avoir atteint déjà les 43 ans!

Jesús BETRIU COMA  
Presidential Delegate



## Petite histoire de l'AIJA

### Carnets de route d'un congressiste

#### OXFORD 1977 : LA FIN D'UNE ÉPOQUE

Marc Willemart, président sortant, me présente une jeune fille de 15 ans, séduisante déjà (elle me séduira) mais encore mal assurée et incertaine quant à son avenir : l'AIJA.

Merci Marc.

Jusqu'à présent, les " Pères Fondateurs " ont veillé sur elle, mais demain, leur dernier représentant, Harro Gurland, esthète rhénan délicieux, amateur de musiques et de belles voitures, cédera le flambeau...

L'Assemblée Générale se passe mal : le commissaire aux comptes, le très alémanique Roland Huber refuse d'inviter l'A.G. à approuver les comptes du trésorier, Francis Bidaer, Liégeois adorable et fantasque. Il faut dire qu'à l'époque, point d'annuaire, point de liste de membres à jour et quant aux comptes ???

Harro clôturera le débat en souhaitant que dorénavant la comptabilité soit " crystal clear ". Il vient de tourner la page de l'AIJA " petit club européen de copains ", accessoirement avocats.

Une ère nouvelle s'ouvre avec l'arrivée à la présidence d'Anne-Marie Trahan : première femme à la tête de l'Association, elle est la plus jeune des présidents jamais connus et de surcroît vient d'outre-Atlantique.

Un vent nouveau va souffler du Québec et singulièrement secouer le cocotier : Anne-Marie veut une association véritablement internationale et un peu plus de rigueur comptable et scientifique.

#### Anecdotes :

*Le barman de l'hôtel Randolph, désespéré de ne pouvoir fermer à l'heure légale, finira par nous confier la clé du bar...*

*La colonie française, logée dans un collège, le mettra sous eau à la lance incendie, provoquant l'ire du portier : " Gentlemen, this is most unfair "*

*Quant à votre serviteur, il aura droit à une invitation dans un vieux moulin de campagne qui se terminera par une discussion sur le " fox hunting " (sic), côté messieurs, et une causerie sur l'art de la tapisserie (re-sic) pour les dames.*

#### MILAN 1978 : THE WET CONGRESS

" La Trahan " a dégagé le terrain et un véritable bulldozer va lui succéder : Anthony Slingsby, alias " Mr Megaphone " jette les bases de l'AIJA moderne et rajeunit les cadres : Marie-Anne Bastin à la Trésorerie ; Ulrich Feldmann, Jean-Daniel Théraulaz et le soussigné comme commissaire aux travaux, Thierry Garby à la tête de la première Commission permanente scientifique, modèle de celles qui suivront : la Commission des Affaires Internationales (International Business Law Commission).

Sur le plan institutionnel, Milan marque également un tournant. Un effet, il était de coutume que le vice-président du pays ayant organisé le Congrès devienne le 1<sup>er</sup> vice-président à l'issue de celui-ci et, ainsi automatiquement président l'année suivante. Or, à Milan, Emilio Bellegrandi refuse, pour raisons personnelles, cet honneur et cette charge, en sorte que, révolution, il faut procéder à une véritable élection avec " horresco referens ", trois candidats (il est bien connu que les élections avec plusieurs

candidats laissent un sentiment d'incertitude).

Christan Dieryck en sortira vainqueur : organisé et pince-sans-rire, il consolidera le travail d'Anne-Marie et d'Anthony.

#### Anecdote :

*Certains participants n'échapperont pas à l'œuvre des " monte-en-l'air " et autres " rats d'hôtel " milanais ; congrès coûteux donc pour certains et mouillé pour tous : Milan a justifié son surnom de pisse-pot de l'Italie.*

#### ALICANTE 1979 : LA SIESTA (" Dans mon pays l'Espagne, Olé...)

Ah les horaires espagnols, ah l'interminable discussion sur la peine de mort et, ô surprise et retour en arrière, la nomination sans élection du vice-président espagnol, Eduardo Ruiz de Luna y Bruges, à la première vice-présidence. Ultime résurgence de la tradition, Eduardo, charmant et tiré à quatre épingles, aura quelques difficultés à dominer son sujet mais qu'importe, rien n'arrêtera la marche en avant.

#### Anecdote :

*La journée d'excursion se passe à Benidorm avec, en bouquet final, un dîner (à manger avec les doigts dans une écuelle) dans un château médiéval en carton-pâte pour assister à une joute de preux chevaliers - sans commentaires.*





## PHILADELPHIE 1980 : A L'OMBRE DE LA CLOCHE

Après de longues hésitations, suite au fiasco du congrès de Washington en 1971, l'AIJA retourne aux USA, dans une chaleur moite et torride, dans le cœur historique de l'indépendance américaine (cf. la cloche qui ne donne malheureusement guère d'ombre)

Organisation à l'américaine, R.A.S. sauf l'élection (à sa seconde tentative, il avait échoué une première fois contre Christian Dieryck) de Rolf Meurs-Gerken, alias P.R.M.G., alias le "workoholic", alias le "polyglotte fou".

Excellente nouvelle pour l'association, néfaste pour la santé des membres du Comité Exécutif et autres "officers", puisque l'ami Rolf travaillant 24 heures sur 24, 7 jours sur 7, et faisant la fête dans l'intervalle, il va de soi que tout le monde est sensé faire de même.

### Anecdote :

*Faisant la connaissance de Rolf à Oxford, je m'étais évertué toute une soirée à lui parler anglais. Ce n'est que bien plus tard que je découvrirai qu'il parle "belge" aussi bien que moi.*

## DUBLIN 1981 : LE CONGRES DE MON COEUR

Les Irlandais (et les Irlandaises) ont la réputation de rire, boire, chanter et danser : ils la méritent... Comme je suis commissaire en charge des travaux du congrès, j'essaie d'accomplir ma tâche entre deux mémorables "parties" et oublie de dormir : dur, dur ! Walter Semple fait campagne en défilant en kilt et au son de la cornemuse.

Il est dans le ton et dans la note, notre Ecossais sera élu...

### Anecdote :

*"In Dublin fair city, where the girls are so pretty,..." Pour le reste, black-out et censure. Le polyglotte fou (voir plus haut) nous gratifie d'un discours... en gaélique.*

## LAUSANNE 1982 : LA MINI GAZETTE ET LA REVUE

Les Suisses, qui sont des gens organisés, trouvent que la communication passe mal entre les participants et les organisateurs pendant les congrès et inventent de faire paraître une "mini-gazette" quotidienne. Sournois, ils délèguent mon amie Marguerite Florio pour me convaincre de tenir la plume. Marguerite me promet l'assistance de sa (ravissante) secrétaire : comment refuser ? Cette fois, mon compte est bon, à Dublin, je dormais peu, ici, je ne dormirai plus du tout.

Quant à Thierry Garby, il nous organise la première "revue de l'AIJA" : succès, en dépit du "concours de la plus mauvaise voix de l'Association, la mienne. Il y aura d'autres revues, mais sans moi.

L'Italien barbu, Giovanni de Berti est élu, sans kilt ni cornemuse. Comme c'est aussi un bourreau de travail, ça ne va pas rigoler ! En fait si, on rigolera beaucoup.

### Anecdotes :

*prière de vous référer à la mini-gazette, non mais !*

## HELSINKI 1983 : LE CONGRES ARCTIQUE

Plus au Nord, c'est le Pôle ! Mais entre sauna et vodka, entre la grosse voix d'Eero et le sourire de Marja, l'ambiance est chaude.

Pour le surplus, n'espérez pas de moi que je défile les surprises que sont en train de vous préparer nos amis finlandais pour le congrès 2000. Non mais ! (bis)

Jean-Daniel Théraulaz est élu : il parle lentement, conduit vite et surtout est dé-ter-mi-né : il lui en faudra, de la détermination, pour tenir la barre de ce qui commence à devenir "un grand machin"

## BORDEAUX 1984 : LE CONGRES GASTRONOMIQUE

Quand ils le veulent, les Français savent recevoir : champagne et vins fins, huîtres et foie gras, châteaux et feux d'artifices : c'était grandiose. Merci Jean-David.

Il m'est revenu que les caisses de Bordeaux, pardon, du Barreau, avaient mis quelque temps à s'en remettre... Si ça va mieux pour eux, on revient quand ils veulent !

Dans l'euphorie générale, Michael Carrigan est élu : un Irlandais pour gouverner un bateau ivre : c'est parfait.

### Anecdote :

*Ce congrès me vaudra, en ma qualité de "press officer" ma seule interview en direct à la radio, à l'heure du déjeuner : j'aurais préféré déjeuner.*

## LISBONNE 1985 : THE STANDING UP CON- GRESS

Qui dira la gentillesse et l'affabilité des Portugais, l'hospitalité d'Abel et le rire de Maria (pour plus de détails sur le rire de Maria, lire une précédente Gazette) ?

Merveilleux accueil, mais pourquoi toujours manger debout ? Je suggère que l'AIJA investisse dans une usine de chaises...

Murray Levin fait sa campagne à l'américaine : "Hi, friends !", badges, pins, groupies (tiens, il avait oublié les majorettes). En dépit d'un certain agacement que suscitent ces pratiques au sein de "l'European old fashioned establishment", il est élu.

### Anecdote :

*Le "cri de Coïmbra", trois étoiles, vaut le voyage (heureusement, car il nous a fallu 4 heures de train pour y aller et autant pour en revenir).*

## VANCOUVER 1986 : LE CONGRES DU BOUT DU MONDE

(enfin, à l'époque, depuis, je sais qu'on a trouvé un bout du monde plus lointain) 9 heures de décalage horaire, 12 heures de vol (heureusement qu'en ces temps civilisés on pouvait encore fumer dans les avions) mais ça valait le coup : superbe ville (on mangerait par terre), superbes hôtels (j'ai raté le bon, tant pis pour moi), superbe congrès.

Dans ce décor propre, un homme sort de l'ombre : Edo Groenewald ;

Après la " nouvelle vague " apparue à Oxford et à Milan, Edo est sans doute le précurseur au sein de l'Association d'une conception plus contemporaine et plus ouverte (plus anglo-saxonne aussi) de la profession. Qu'on le partage ou pas, il faudra désormais " faire avec ".

### Anecdote :

*Comment faire exploser (de rire) un taxi canadien ? Réponse : à demander à Marie-Anne Bastin, Philippe Xavier-Bender ou Vic Gillen. Le taxidriver a longtemps hésité sur la destination : restaurant ou l'asile ? En définitive, le homard était excellent.*

## COPENHAGUE 1987 : LE CONGRES SPORTIF

A pied, à vélo, à la nage, ce n'était plus un congrès, mais un triathlon..., mais avec une organisation " P.R.M.G. " : rigueur dans le travail, sourires et rires pour le reste (Ah, la gentillesse et le charme des petites hôtesse étudiantes, en training aux couleurs du congrès), pour la poésie et le rêve, voyez mon ami John Kahlke.

Thierry Garby finit par céder à l'horrible tentation : il se présente et est élu. La French Moustache " dirigera désormais autre chose que la Revue et la Commission Business Law où visiblement il commençait à s'embêter.

### Anecdote :

*aucune : un congrès "rolfique" ne peut être anecdotique.*

## MUNICH 1988 : LE CONGRES AUTOMOBILE

Michael Brauch a non seulement le sens de l'organisation mais aussi des relations : les grosses berlins et limousines sont là pour véhiculer les " happy few ". Le congressiste commun se console dans la bière (blanche) et le vin (nouveau).

De tout ce liquide répandu, un homme exceptionnel émergera des élections.

Hugo Pinheiro Torres.

Hugo était pour Patricia et moi (mais bien d'autres encore) l'incarnation du tact, de la délicatesse, de la diplomatie, de la finesse d'esprit, de l'intelligence subtile.

Je veux témoigner ici de l'émotion et de l'infinie tristesse qui s'accaparèrent de nous, lorsque, un soir funeste de ce magnifique congrès de Vichy, nous avons appris que nous ne te verrions plus jamais...

Adieu Hugo, on t'aimait bien, tu sais (Jacques Brel).

Avec la présidence d'Hugo Pinheiro Torres s'achève à mon sens (c'est pourquoi je m'arrêterai ici) la deuxième époque de l'AIJA, celle des " bâtisseurs " : l'AIJA est désormais définitivement reconnue comme une organisation sérieuse qui peut avoir du poids, de l'influence, bref, elle devient professionnellement attirante.

Dès lors, et c'était sans doute inévitable, les " business lawyers " vont y débarquer et, insensiblement, le climat va quelque peu se modifier.

Ce sera la " bataille des procurations " opposant les " Anciens " et les " Modernes ", la professionnalisation accrue des relations, l'occupation systématique du terrain par les grandes " law firms " etc.

Avant d'aborder brièvement l'avenir, il serait injuste d'ignorer les piliers permanents de l'Association, qui ont marqué ces années : les trésoriers et les secrétaires généraux.

En fait de trésorier, il s'est agi, pendant toute cette période, d'une seule trésorière : Marie-Anne Bastin, dite " MAB ". Que dire qui n'ait déjà été dit ? Ceci peut-être : Marie-Anne, tu fus " unique ".

Quant aux secrétaires-général, à mes débuts était Albert Dupont-Willemin ; d'une pondération toute genevoise, il était parfait dans son rôle. Dès que les Genevois l'ont " récupéré ", ils en ont fait un Bâtonnier, c'est tout dire.

Son successeur, le Colonnais Klaus Gunther fut discret et ne s'attarda guère dans la fonction.

Et enfin Malherbe vint : un mètre quatre-vingt quinze de lucidité, d'intelligence, de calme (sauf quand, tous les dix ans environ, il explosait dans une " gueulante " mémorable), le poil noir d'un hidalgo, la moustache tranchante, ce gentilhomme est français et se nomme Emmanuel Hayaux du Tilly.

Ses procès-verbaux étaient des chefs-d'œuvre du genre (en dépit de mes fréquentes observations. La critique est facile mais l'art est difficile) et lui succéder un vrai défi.





Philippe Xavier-Bender, sorti du "Marais" et armé de ses quarante montres y a réussi. Devinez pourquoi je l'avais baptisé le "Florentin".

Alors quel avenir pour notre chère Association ?

D'abord, il est clair que l'avenir de l'AIJA appartient aux jeunes, à ceux dont je découvre le nom dans les "pages jaunes", et que je ne connais pas, que je ne connais plus.

A cet égard, je veux soutenir totalement l'opinion d'Antonio Plasencia dans sa récente lettre ouverte à Keith Oliver : de grâce, et pour les excellents motifs exposés par Antonio, ne supprimez pas la limite d'âge et même ne la changez pas.

Ensuite, faites en sorte que ne s'installe pas une "AIJA à deux vitesses", comme c'est déjà le cas dans certains grands barreaux. Pour cela il me paraît indispensable de rester fermement attaché aux principes fondateurs de l'Association, inscrits dans ses statuts : la défense des droits de l'homme, la défense de la défense, la défense de la profession sont essentielles (c'est un magistrat qui vous parle), même si elles ne sont pas immédiatement "rentables".

Pour cela aussi, il faut que l'Association reste ouverte à tous les avocats : praticien solitaire ou associé d'un grand cabinet.

Enfin que l'amitié demeure...

A défaut de continuer à réunir ces trois conditions (jeunesse, ouverture à tous et amitié), l'AIJA y perdrait sa spécificité, son âme, son charme, bref ce que Christian Dieryck avait joliment baptisé "l'AIJA spirit".

Que vive à jamais l'AIJA SPIRIT !

Good Luck and farewell,

Georges STEVENS  
Vice-Président d'Honneur

## Democracy in AIJA

In the early years of A.I.J.A.'s existence, the practice grew up of electing as First Vice-President the national Vice-President of the host country of the Annual Congress - and s/he would then become President a year later. This was generally agreed to be a bad practice, because it was not democratic, and often did not result in the election of good presidents - but no one wanted to offend the vice-President of the host country by challenging him or her.

Finally the Italian Vice-President Emilio Bellegrandi decided that he would not stand for election at the Milan Congress in 1978, and we had the first elections for a new first Vice-President. The post was notly contested by three candidates, and after the vote there was a tense pause while the votes were counted.

Finally the senior ex-President, Mario Scamoni came in and lifted his arms and declared to the hushed audience «Habemus Papa» - and announced that Christian Dieryck from Antwerp had won the election (and he proved an excellent president). Sadly Mario died recently, but we will all remember his humour and charm as exemplified by that announcement.

After that there were always elections - even when one national vice-President of a host country stood, the writer (votre serviteur) was persuaded to stand as a «no-hoper» to ensure a democratic election - and AIJA has been more vibrant as a democratic association.

Good luck to AIJA in the 21st century!

Michael ELLMAN  
Honorary Vice-President

## Congrès d'Athènes 1966



Le Président de la 1ère Commission et rapporteur général,  
Nicolas Antonopoulos présente son rapport



Séance d'ouverture, Monsieur le Ministre de la Justice Constantin Stefanakis, le Vice-  
Président Nicolas Antonopoulos, le Secrétaire Général Georges Poulle



Lorsque le rédacteur en chef me pressa d'écrire quelques lignes sur le passé et l'avenir de l'AIJA il me sembla qu'il m'attribuait plutôt le passé. Et pour cause, mon année de présidence s'est achevée au congrès de Philadelphie en 1980.

Mes premières impressions de l'AIJA remontent à 1974 au congrès de Salzbourg où Anne Marie Trahan, à l'époque sur le point d'être élue à la Première Vice-Présidence, soumit les structures de cette institution presque respectable à une tornade de jouvence en dansant sur les tables et en apportant un souffle nouveau de sa Belle Province, enthousiasmant les un et en surprenant - c'est un euphémisme - les autres.

Ce fut pour l'AIJA le premier tournant de génération, un souffle nouveau et un nouveau départ vers l'Amérique. J'avais entendu dire que le premier congrès de Washington n'avait pas été un succès ; celui qu'Anne Marie nous réservait à Québec en 1976 fut un ravissement.

C'est également à cette époque qu'avec un petit groupe, beaucoup de bonne volonté et peu de moyens, nous avons pu lancer le Secrétariat Permanent pour

l'Echange des Stagiaires, baptisé S.P.E.S. pour nous permettre de clamer nos espoirs pour ne pas entendre les craintes des sceptiques qui nous attendaient au tournant. Porté à bout de bras le S.P.E.S. a marché et il me semble qu'il a contribué à la nouvelle identité de l'AIJA.

Quelques années plus tard la commission de l'Arbitrage vit le jour au congrès d'Helsinki et son élan procéda de la même verve. Sans qu'il fut besoin de la proclamer l'AIJA de ces années exigeait beaucoup de ceux qui en constituaient les rouages et les payait d'une amitié indestructible.

Les années ont passé mais cette amitié, née de l'effort et de quelques échecs vécus en commun, est toujours aussi vivante. N'étant pas un fana de banderoles et d'anciens combattants - tout au moins lorsque j'en suis -, j'avoue avoir décroché quelque peu. Il n'en subsiste pas moins que la réunion des anciens, inaugurée en tout petit comité au congrès de Philadelphie, me comble de joie lorsque je parviens à y assister.

Les avocats sont amenés par l'exercice de la profession à prendre les devants pour persuader et arracher la conviction ce qui leur donne une aura redoutable. Mais il

ya derrière ces carapaces des sentiments, plus fragiles et plus profonds, qui n'effleurent pas facilement ; ce quelque-chose-de-plus qui fait qu'on se comprend à demi-mot ou même au delà des mots. L'AIJA nous a permis de connaître ces valeurs, je souhaite qu'elle le puisse encore lorsque portée par la vague de son succès elles risquent de s'évanouir.

Christian Dieryck,  
Président d'Honneur



## I HAVE THREE ANNOUNCEMENTS



En fait, plutôt que d'annoncements, il s'agit plutôt, à l'occasion de la parution de ces quelques lignes à compte d'auteur, d'une revanche : la revanche de celui qui, de par les statuts de l'AIJA, devait gratuitement la fermer par opposition à ceux qui devaient l'ouvrir, ou encore ceux qui payaient pour écouter !

C'est d'ailleurs assez paradoxal car pour être tout à fait honnête, je dois avouer avoir à de nombreuses reprises enfreint la loi implacable que mon très illustre prédécesseur s'était imposée : disons que celui-ci avait marqué son époque du poids très lourd de son silence et que j'ai marqué la mienne de la légèreté du mien (il est vrai que je suis un peu vantard, mais Emmanuel est vraiment beaucoup plus... grand que moi !).

Au lieu de vous remémorer toutes les annonces très importantes que j'ai pu faire avec autant de sérieux qu'elles étaient souvent vaines comme la réunion de telle Commission à telle heure "sharp", suggérer de ne pas venir en maillot de bain à telle autre activité hautement intellectuelle, refuser de fournir à untel tel numéro de chambre qu'il désirait absolument connaître, ou encore rappeler pour... la troisième fois avec un brin d'angoisse que le petit Robert

attend toujours son Papa depuis la veille au desk de l'AIJA, je vais aujourd'hui me donner le beau rôle, celui du narrateur détaché : après avoir beaucoup écrit (348 pages de procès-verbaux en 4 ans, je viens de recompter !), j'aimerai cette fois seulement vous dire !

J'aimerai seulement vous dire, and this is not a scoop : AIJA prides itself of having created a new language now recognized in all international circles : this new language is called "**Aijas**". We all speak **Aijas** : it is not English, it is not French, it's no German nor Spanish or Italian neither Portuguese or even any language of origin from any of us here : **it's Aijas**.

**Aijas** is no pidgin talk, it's the language that members automatically get (as if they were new bornes) after two Congresses on the third night of a long working session at... the hotel bar. the more empty bottles left, the better **Aijas** they speak, and counting :

Je me souviens d'un Président qui, ouvrant les travaux du Comité Exécutif de Palerme, n'a pas hésité à dire : " Depuis très peu, mon don du français est beaucoup plus mieux " ! Ce à quoi un charmant camarade (qui parlait très mal l'**Aijas**) lui a répondu : " C'est bien plus meilleur ! "

Le même Président avait par ailleurs des raccourcis saisissants : " Viens, on se fait une téléphonade car, you know, il faut liaiser souvent, c'est bon pour all of us ! ". Edo, tu es quand même le seul qui m'ait aussi fait écrire dans un procès verbal du Bureau : " Je dois absolument avoir une liaison avec ce type ".



Ma femme l'a lu et ne m'a jamais pardonné !

Edo had a predecessor who was even more fluent in **Aijas** : Murray was so keen in learning this language that he translated one day " the courts are jammed, damned " by " les cases des cours sont en marmelade, damit ".

**Sky, my Aijas !**



J'en connais un autre qui voulait toujours faire des "massages" à ceux qui n'étaient pas d'accord avec ses brillantes idées : il avait un succès fou auprès des filles !

Sacré Siegfried : c'est qu'il a de la monnaie le bougre !

Nous avons même eu une Présidente qui a voulu vérifier si "ce garçon-là est bien de matière AIJA car ses instruments sont très performants"...

Il faut dire qu'Elisabet chantait à la perfection !

Finally, somebody told me once "Il faut assouvir l'objet de l'AIJA car j'ai vu de l'argent marcher là sous la table !".

Michael, je ne dévoilerai pas mes sources, mais cela fait un peu trop longtemps que tu n'as pas alimenté mon compte à Vaduz...

Isn't that great ! Vous tous, nous tous, nous parlions si bien l'**Aijas**.

Tout ceci "n'est pas grave" (Hugo, why did you decide to move to an even better AIJA ?). De tout ceci pourtant, je garde "un souvenir très précis", car les rires hénaurmes de Thierry et les sourires malicieux de derrière leurs lunettes de mes vieilles complices Marie-Anne et Suzy, "have made me heureux so tellement".



Si j'ai commencé par le passé, c'est précisément pour nous rappeler à tous que nous représentons une communauté tout à fait bizarre : celle de femmes et d'hommes qui, malgré tous les prétextes professionnels qu'ils puissent donner avec beaucoup de sérieux à leur contrôleur fiscal, se font plaisir d'avoir le plaisir d'être en semble partout où ils se retrouvent.

C'est suffisamment rare pour que quelqu'un le dise au moins "one fois" : quelle que soit l'heure du jour ou de la nuit, chaque membre de l'AIJA peut en joindre un autre en tous les points du globe et lui dire non seulement qu'il a besoin d'un coup de main sur un dossier mais aussi qu'il préfère sa bière un peu plus fraîche, deux croissants plutôt qu'un au petit déjeuner ou que le lit de la chambre d'amis était un peu dur.

This reminds me of those words said a long time ago and to a very different crowd but remain very accurate and dramatically on-line with our goals : "Some people see the world as it is, and it is not : I see the world as you think it, and why not ?".

Voilà pourquoi j'ai été actif à l'AIJA, voilà pourquoi j'ai un jour voulu me faire élire au Bureau : j'y ai trouvé plus encore que je ne pensais. Pour le surplus, merci de me l'avoir donné : je ne savais pas que cela pouvait exister.

Un jour pourtant j'ai dû rendre mes crayons, mes procès verbaux et mes announcements, malheureusement pardonner (un peu, pas tout) à ceux qui avaient dit du mal de moi (de toutes façons, j'ai gardé la liste) et partir un matin gris d'Amsterdam vers le cimetière des éléphants de l'AIJA.

A propos, ce cimetière que tout le monde redoute sous prétexte qu'il faut avoir atteint l'âge fatidique de 45 ans pour pouvoir y prétendre, ce n'est pas si mal vous savez, c'est même plutôt bien. It's a win win situation : you can't go back and all the others will go through it.

Et nous y sommes nombreux !

On y travaille comme avant (en plus relax car on n'a même plus besoin de se faire élire), mais on y rigole beaucoup plus : l'autre jour,

j'ai vu arriver avec une certaine défection le fameux type qui cherchait désespérément ce numéro de chambre... accompagné de celle qui nous avait dit avec beaucoup de sérieux qu'elle "préférerait quitter l'AIJA que de reach the cutting age".

**Aijas always !**

Mais c'est surtout là que sont écrits ces mots en lettres d'or :

**L'AIJA c'est un mot,  
Mais c'est aussi une chose :  
Quand on en parle, c'est un bon mot,  
Et quand on y est, c't'une sacrée chose.  
Mais c'est la chose avec le mot  
Et c'est le mot avec la chose,  
Car sans la chose et sans le mot,  
Ce serait une tout'p'ite chose.**

**Pourtant, je vois dans l'mot  
Plus d'avantages que dans la chose :  
Car en parlant Aijas  
On s'y croirait déjà,  
Et en disant tous le même mot,  
On pense tous à la même chose,  
Car on n'a pas fini le mot  
Que l'on est encore prêt à la chose !  
Alors quand je dis que le mot  
A mes yeux vaut plus que la chose,  
Croyez-moi à demi mot,  
Et j'ai largement vécu la chose :  
Le jour où le mot  
Vient malheureusement sans la chose,  
Il ne reste plus que le mot  
Pour se consoler de la chose !**

Et c'est toujours vrai.

Promis !

Philippe Xavier-Bender  
Honorary Secretary General



This could be our motto.

We were a handful of young lawyers. At the time, large firms did not really exist. We were our own bosses, had started our practices as independants, in the true sense of the term, had no auto-regulatory body and money laundering was a crime unheard of.

In other words, those were the days my Friend. I don't know whether they have ended.

So, asked how it all started and to lie down, on paper, a couple of souvenirs, the following moments immediately come to my mind.

Jean-Daniel THERAULAZ, from Lausanne, explained to me one evening, in 1981 or so, at a dinner of the Geneva Bar, that a budding Lawyer could not not be member of AIJA.

Since we were having a lot of fun, I decided to register for the next Congress that he was, by the way, organizing in Lausanne in 1982.

On opening night, I quickly realized that the week ahead would be a drudge since I knew no one.

On a cruise during which we stopped at each small village along the shore, discovering all the local wines, I decided to grab a bottle, two glasses so I could share a drink with the first lonely person I would meet.

It so happened to be Philippe XAVIER-BENDER (who later became Secretary General of AIJA), for whom it was also the first Congress and who looked as abandoned as I was.

That was the beginning of a great Friendship.

And this represents, in many ways, the Great Story of AIJA.

AIJA is a story of Friendship. *"Chacun se dit Ami. Mais fou qui s'y repose. Rien n'est plus commun que le nom. Rien n'est rare que la chose"* (and a bottle of Champagne to the first reader who gives me the Author of these verses as well as the name of the person to whom they were addressed!)

The second person I met in Lausanne was a crazy Dane by the name of Rolf MEURS-GERKEN, whom I never fail to visit when in Copenhagen. Rolf later organised the Copenhagen Congress during which he had six hundred people running around in white training suits with little red flags printed all over (we just all hoped, at that moment, that we would not bump into a client).

One day, we were told (i.e. by the Bureau who promptly convinced the Executive Committee) that we should all go to Africa, more precisely to Mali where our presence was urgently required. Indeed, the Minister of Justice had just declared illegal the Malian Bar who was to be dissolved within a matter of weeks.





Mountaga TALL, asked us to come in numbers, which we did. Describing what really took place in the UTA plane which all brought us from Paris to Bamako is impossible.



However, what then happened can be told. The day after our arrival, Pope John-Paul II, decided to conquer Mali and arrived in a 747 loaded with Priests and Journalists. Since there was only one hotel in Bamako, we were swiftly whisked away in a Malian Air Forces para-trooper plane to Timbuktu, parked on camels and taken in to the desert and brought back when His Holiness and his suite left the country. Here again, what really happened in the desert cannot be described. The main point is that we were later able to convince the Law Minister of Mali that the Malian Bar could not be dissolved and that independence of Lawyers had to be recognized and respected and, furthermore, that Lawyers could not be imprisoned for defending clients in political matters. Having achieved this, we toured Mali, the discovery of which remains one of the highlights of my life with AIJA.

Undoubtedly the Congress is the main event at AIJA, reason for which I was thrilled to go to Lisbon, 1985 and experience the joys of an improvised Congress. Our Portuguese Organisers were such wonderful people that we quickly decided, on the second day, to throw our watches away and let our self drift at the rhythm of Fados and Vinho Verde.

Much is to be said about the time we spent waiting for the train that took us to Coimbra (the journey lasting practically the same

amount of hours). While we waited, we tested vinho verde, I mean a lot of it, and the train, which took us back in the evening, looked more like a sanitary convoy than a train leading back distinguished Attorneys.

AIJA gatherings that take place close to a brewery or a distillery are, for some strange reasons, more attended than any other event.

Therefore much is to be said about an Executive Committee in O'Porto. Obviously the main sponsor was Sanderman Port and the "Informal first evening" took place in their cellars. I still believe that AIJA left a couple of corpses there, not to speak of a Secretary General who decided, voluntarily, to repatriate himself to Paris next morning. For the same reasons the readers will excuse me for not remembering the main topics which were discussed. However, the episode concerning Horacio BERNARDES NETO cannot remain untold. On the last day of the Executive Committee (Sunday) the organisers had planned a lavish lunch in wonderful settings of a private domain located in the very far outskirts of O'Porto. I mean very far out. A bus took us from the Hotel to this marvellous fazenda, the address of which was known only by the owner. Obviously, the bus driver did not know where he was taking us to and Horatio had a plane to catch, back to Brazil at 3:00PM. Since Horacio is a very well organised AIJA member, he packed all his luggage in a taxi, which followed the bus, being understood that if the bus was late getting back, Horacio could take his taxi directly to the airport, which he ultimately did. In between, he was with us in the bus, which covered practically all the roads of Northern Portugal, before reaching, at 2:10 PM the property where we ultimately had lunch. Horacio, feeling that he would not be able to make it, decided to jump in his cab and be driven swiftly to the airport. This was forgetting that the taxi had in between become our guide and the driver

seemed to believe he knew where he was going; was therefore ahead of the bus; was stuck by road works and was followed by the bus, as you have now understood, which remained stuck in a 90 ° turn in a very narrow street (we tried but were unable to move the walls of the buildings) and could not go ahead or back...

Relâche-toi, Horacio

Horacio is the same guy who later became President of AIJA.



In between, he co-organised a memorable Congress in Rio, following an also memorable Executive Committee in the same city.

Horacio was not exactly in charge of the academic part of the Congress.

However, in the tasks that were allotted to him, he was excellent, brilliant. He was just in charge of the Fun and the Samba. He could not have done better. No one else could have done better.

Again, I apologize and must admit that I do not remember which were the main topics of the Rio Congress. I can notwithstanding give you **all** the details of **all** the social events, be it at the top of the sugar loaf with Beth Carvalho, the Goddess of Samba music; the closing banquet where Horacio had 600 participants dressed up in all kind of costumes. At this Congress, Marianne BASTIN (the most glamorous President AIJA ever had) became the Queen of the Carnival after having addressed the Delegates and local Authorities with what is probably the most brilliant speech ever given at AIJA.

Rio is known for its *assaltos* (that is when you walk out of your Hotel with a lot of money in your back pocket and return without the pocket which has been slit out with a knife). We were however assaulted, every moment, with Samba, noise, fun, an overwhelming joy,...

AIJA is also organizing a Congress. I did so in Montreux together with Gérald PAGE, Yves SIEGRIST, our Past President Felix ERHAT and Christophe PIGUET. I enjoyed it immensely. Gérald had decided to pass the Organizing Committee through a series of tests to determine whether we would be able to cohabitate one with another during the three years it would take us to get things more or less together. So we went mountain climbing at night, elastic jumping, trekking in strange woods and made fools of ourselves on every possible occasion. Especially me. It took me in deed quite some time to find out who was the filthy pig, calling me on my portable phone, at every Organizing Committee meeting, and breathing heavily, uttering obscene words. He was in fact across the table from me hiding behind files. Thank you Deep Throat. Sorry, I mean, Christophe. The best thing that happened to us after Montreux is that we still speak to each other. In fact, we even laugh and have fun together!



The good thing of AIJA is that the friends you make there will always remain friends. You arrive for a day, or the weekend, in the city where lives an AIJA member; you make a call and there you are dwelling about good old times.

I recently experienced this in London. I called my friend Carsten

IVERSEN and we had a big laugh recollecting the day when we all went to Cambridge to an Executive Committee, looking forward to this very good Hotel room and its attached bathroom. We stayed in a College; the toilet was on the same floor as the room. However, the bathroom was in another building, in another street. That did not prevent us from having a great time, back to College life.

That is also AIJA.

AIJA is also the New Delhi Congress, its Polo match on elephant backs in the presence of the Diplomatic Corps at the very distinguished Polo grounds; Colonel PURI, who made it a point to have the busses depart on the second (reason for which half the delegates had to grab a cab); the fifteen minutes long standing ovation which the Organising Committee got on the closing banquet. I was seated with the Organisers and the week had been so brilliant that we all had tears ready to roll down our cheeks when Arvind NARULA, Niti SARIN and Nalini THAKKER promptly got some cut onions, disposed them on the table so we could cry, without shame. Next day, a couple of us were off to tour Rajasthan and Carsten IVERSEN, Philippe XAVIER-BENDER, Marie-Anne BASTIN and the undersigned found themselves cooking in the kitchens of the Lake Palace in Udaipur, due to a slight misunderstanding on the departure time of the plane...

The Executive Committee also went to Dublin. What a beautiful city, especially the distillery, the visit of which was organised just before the closing banquet. On this occasion, we all gathered at the University. Very solemn. The floor being in thick stone and the tables in thick wood. Everyone listened, in religious silence, the wonderful address that was delivered by John COOK, President of the Law Society, and former AIJA Member. However, such an untamed crowd could not remain attentive for the whole evening. So,

when our President Murray LEVIN, took the chair (while Marianne BASTIN was giving a lecture on how to *skaal* the way Rolf the Great Dane had taught her), the audience was slightly more relaxed and awaiting the first signal to go wild. This happened when Marianne pushed back her very heavy chair on the very rough floor, which made a terrible noise, everyone followed immediately thus making sure that Murray could never deliver the vital message which he was trying to get across. He had earlier explained to us that he was following courses in communication...

AIJA went to Palermo where our very dear friend TORTORICCI had organised a wonderful Executive Committee... on Halloween weekend during an Alitalia strike (the only company that flies to Palermo). The first participants to reach Palermo arrived a couple of minutes before closing banquet while others had decided to make a U-turn already in Milan. I was however very lucky and was able, by miracle, to make it before the Executive Committee. I had met Jean-Frédéric MAURO, in the airport in Milan, on my way in ... I met him on my way out, three days later at the same place waiting for a plane back to Paris.

AIJA is also travelling light. Our Former President Michael CARRIGAN knows everything about it since he lived in Dublin and travelled through Heathrow airport to any destination in the world. Within three years, he maybe saw his luggage once.

Talking about travelling light, our Dear new Editor, Marc JOBERT, experienced "walking light" in Amsterdam during the excellent Congress which took place there. He decided, together with Hugo CALLENS, to rent a flat overlooking the canals and the pleasure of being *far from the madding crowd*. This was obviously not expecting Hugo CALLENS to return back to the flat, together with 12 merry Fellow Delegates at 3:30 AM; the said





Fellow Delegates and the three cases of wine and spirits that they were carrying remaining blocked in the lift (they apparently had not read the notice about the maximum capacity of the elevator), yelling and screaming for help; Marc JOBERT, fast asleep (we now know that he only wears a pyjama top when he sleeps, and nothing else), listening only to his courage leaped out of bed so he could be of assistance to his room mate and all their friends. While he was running to the lift, the door of the flat slammed... locked. Since hysteria was gaining some of the merry Ladies Fellow Delegates, a fire brigade had to be called upon, and that was at the time when people did not sleep with their mobile phone in the pocket of their pyjama top. Marc, listening again only his duty, ran out of the building and the main door slammed and locked! And there he was looking for a fire brigade in the streets of Amsterdam, at dawn trying to explain to the police officer who only spoke Dutch what had really happened.

This is also AIJA.

AIJA is obviously all the places we went to and discovered such as Munich, Helsinki, Vienna, Bruges, Bombay, Windermere, Baden-Baden, London, Strasbourg (all the times we went there and all the times we were supposed to go there!).

During many years our Finnish and Swedish Members left very keen souvenirs with all the barmen of all the bars of all the places where AIJA had any type of event. And I must admit that the parties were endless and if one went by the noise in a hotel, he would always end up where the Scandinavian community was having a get-together.

AIJA is not only the fun of getting together and having a good drink or a good laugh. It is also the tremendous happiness and pride when another Member receives an Award or is selected by his Peers, or through political channels, to

accept a public charge. This honour was bestowed to many of our Members and I greet here very warmly Manmohan Lal (Mac) SARIN, Attorney-General of the State of Haryana, in India. I recall very vividly when having supper at the Café Sacher in Vienna, after the Opéra, Anne-Marie TRAHAN was called to the telephone, a member of her family calling from Canada, and returned in tears. At the table, we could not imagine anything else that she had lost a very dear member of her family. We soon discovered that the tears were of joy, her mother having just informed her that the national TV Network had announced her nomination as Deputy Minister of Justice of the State of Quebec. Our immense sadness turned immediately into a tremendous joy... and a lot of Champagne.

AIJA is also politics during election time and during the "primaries" and, obviously, a little bit of bad-mouthing during the same period.

AIJA is also travelling so much that, at times you don't exactly remember which city you are visiting. Edo GROENEWALD, our Former flying Dutch President is a vivid example. This President who liked to *liaise* and to *make a telefonade* (yes, he believed that he was talking French), when at a reception at the City Hall in Stockholm, reminded the Mayor what a great pleasure it was to be back in ...Copenhagen!

AIJA is also the endless discussions, at night, with members of the Bureau, in the President's or Secretary General's suite, with gallons of beer, discussing the past, the present, the future... and not remembering the subject of the conversation.

The hours spent with our great Secretary General Emmanuel HAYAUX DUTILLY and his flamboyant successor, Philippe XAVIER-BENDER, will never be forgotten.



AIJA is also the women, Anne-Marie TRAHAN (who later became Minister of Justice of the Province of Quebec and is now Magistrate at the Federal Court), Marianne BASTIN, Elisabeth FURA SANDSTRÖM (now President of the Swedish Bar) and so many others who would have been brilliantly elected as President of the Association, had they decided to run, such as Marja RAMM-SCHMIDT (President of the Finnish Bar), Claudia SEIBEL, Maria LOURDES, Isabel-Clara CANALS-FROSCH, Saskia LEINSCITZ, Chantal COUTURIER-LEONI, Louise LEVESQUE, Clare GRAYSTON, Helena de BACKER, and all those who will excuse me, not for not remembering them, but for being unable to mention them all.

AIJA is also respectable Lawyers behaving like school children when, at 3:00 AM, they run around Hotel corridors removing breakfast orders (fresh orange juice and fruit salad for one person) and exchanging them with hot chocolate and eggs and bacon for two, creating a total confusion in the Hotel (N'est-ce pas Marguerite et Marie-Anne?).

AIJA is also Jean-Frédéric MAURO who will not only be remembered as the Editor of the Gazette but as a *chroniqueur* of AIJA moments. His absolute *zen attitude* in any circumstance, his humour and his extreme kindness and tolerance have contributed immensely to all the absurd situations we have sometimes found ourselves in (Jean-Fred, remember Athens, Washington, Tunis, Marrakech and - obviously - the extraordinary Vichy congress with

your inevitable friend, past President Jean-Yves FELTESSE sharing your amusement). I have been all over the world with Jean-Frederic, and still am, under a new banner, always with the same pleasure.

AIJA is also the memorable laugh few of us had in Portugal, walking out from a very refined restaurant where we had a local fish which really tasted of sewage, and discovering that this was exactly the place where the cook was keeping it "fresh".

I could go on for many more hours or pages. So many places, so many good moments, so many friends, also sadness, from time to time, namely when Ron BOZZER or Girolamo ABBATESCIANNI did not make it to President, or when a couple of members (very few) give others a (very) hard time with their ego trip.

I recently calculated that had I contributed to a pension fund all the money I have allotted to AIJA gatherings, I could have retired, comfortably, long before hitting the fifties.

I ask so many friends to forgive me for not mentioning them all (sorry, Manfred KRAEMER) but they – and their roar of laughters still resounding into my ears (n'est-ce pas Thierry GARBY and Lars PERHARD?) or their sweet words (merci Xavier-Jean KEITA) must rest assured that they will remain very close to my heart.

This article is dedicated to all the glamorous and obscure members of AIJA who have spent a whole Congress locked up in the cell of an airport (for having forgotten to bring with them their vaccination certificate, you know that little yellow piece of cardboard) or in a dark room, in a dingy cupboard, photocopying work papers, day and night, night and day, day and night, etc... (remember, Robert BOSMAN in Washington?).

One day, I was told my time had come so they made me Honorary Vice-President. My respectable age seems to be the reason why I have been asked to *spit the beans*.

So, Arivederci. A presto and remembèr... Ce n'est qu'un Au revoir.

Long live AIJA !

Susannah L. MAAS  
Vice-Présidente d'Honneur



## A token from Chile

"Accordingly to the spirit of the Aija members, we think that the following should be ten mandatory things that should be done during our lives:

- 1.- Ski in an active volcano or, at least hike one;
- 2.- Drink a good glass of wine;
- 3.- Sail through fiords and channels surrounded by deep and wild forest with no dangerous animals;
- 4.- Have fun in pubs and discos until 6 A.M.;
- 5.- Visit the most isolated island of the world;
- 6.- Drink scotch on the rocks, with ice taken from a millenary glacier - being beside the glacier;
- 7.- Travel the driest desert on earth;
- 8.- Know friendly people and have good friends;
- 9.- Be a good lawyer;
- 10.- Send the reports to the AIJA committees almost out of schedule.

If you would like to try or you feel yourself identified with at least eight of the above mentioned items, then you are a serious candidate to come to a long and narrow country placed in the far end of the world as Chile, which is a country that gathers the 10 items (all this is just to encourage people to come when ever we decide to do a seminar in Chile)".

Enrique URIBE  
Presidential National Delegate



**Saudade :**

- sentiment profond, unique, particulier, subtil et personnel que connaissent bien les grands voyageurs ;

- forme de mélancolie teintée d'illusions, de rêve et d'utopie par rapport à

- *ce qui a été*

- *ce qui aurait pu être et ne l'a pas été*

- *ce qui pourrait être et ne l'est pas*

- *ce qui pourra être et le sera, peut-être ...*

- étonnante synthèse dynamique de sentiments, de souvenirs, d'expériences, d'idéal qui contient les germes de l'action et le ferment du départ vers de nouveaux horizons.

C'est cette définition toute personnelle qui traduit aujourd'hui mon état d'esprit comme un arrêt sur image.

Comment en effet faire défiler en quelques lignes tant d'années extraordinaires, tant de rencontres, de personnes exceptionnelles, de moments privilégiés, d'apprentissage, de créations, de rires, d'enthousiasmes partagés, de coups de folies, de lieux, de "sugar on the pie", de téléphonades, de paroles semées à tout vent, d'interminables réinventions de la Roue et du

Monde, d'annoncements, de regards complices, de "je m'en occupe", de "don't be anxious", de "don't worry, be happy", de kilomètres d'impertinences, de grouse fameuse, d'humour, de travail, d'insomnies, de décalages, de difficultés surmontées en équipe, de grenouilles, de bleu, d'horizons, de découvertes, de cailloux, de résolutions de conflits, de palabres au pied de l'arbre du même nom, de connivence, de couchers de soleil, de silences, de chiffres, de balance sheet, de procès-verbaux, de rapports, de manuels, de working papers, d'excédents de bagages, de bulles d'oxygène, de musique, de "ce n'est pas grave", de déguisements, de gadgets, de piles plates, de psychodrames, de "bises, bises", de cuisines exotiques et Tex-Mex, de "Non !" à combattre, de com. Fin., de breakfast briefings, d'émotions partagées, d'illusions, de réalisations, de satisfactions, de doutes, de remises en question.

Et tout cela ne fut ni vain, ni inutile, ni non rentable !

Le message que j'ai retenu de cette Ecole unique que j'ai essayé de transmettre, fidèle à l'esprit des Fondateurs, est **Alegria, Amitié, Action.**

Les outils que j'ai reçus et partagés sont le Respect de l'Autre, l'Esprit Critique et l'Humour.

Les Anciens et les vieux hiboux s'y retrouveront sans doute, et, comme le seul dogme que je cultive est celui de l'utopie, nul doute que les jeunes prendront la mesure de l'ivresse et connaîtront aussi cette étrange et douce ...

**Saudade.**

Marie-Anne BASTIN

Trésorière et Présidente d'Honneur



## SOUVENIRS



J'ai adhéré à l'AIJA fin 1962, recruté par le premier Président fondateur Georges-Patrick LANGLOIS. (...)

Je possède évidemment beaucoup de documents " sérieux " depuis la constitution de l'AIJA. Les souvenirs " amusants " sont plus difficiles à saisir sur le vif et à archiver !

Il y en a toutefois un qui a marqué quelques dirigeants de l'AIJA en 1971.

C'était à Washington : grande première au-delà des rivages méditerranéens. Notre Président, le cher Moussa PRINCE, l'un des pères fondateurs de l'AIJA-bien-aimée, tout droit venu de son Liban hyperbolique, avait, selon ses dires, mouillé voire abandonné sa dernière chemise pour que le Congrès soit réussi.

Quelques uns d'entre nous avaient des doutes : l'organisation en avait été confiée localement à un confrère, certes américain, mais vivant à Madrid, et dont, par charité, je tairai le nom.

Arrivés à Washington quarante-huit heures avant le Congrès (après qu'Ali HAROUN d'une part, et moi-même d'autre part, ayons organisé le voyage et le séjour à New York et sur la Côte Est qui avaient été laissés complètement à l'abandon par le même confrère américain, au point qu'il a été impossible de retrouver

de par le monde (!) la trace du Charter supposé bloqué pour notre groupe !!! Nous avons été reçu par le Comité d'accueil, composé... d'une seule et unique personne, totalement inefficace, sa propre et timide épouse hollandaise, munie d'une machine à écrire des années 20, type Underwood.

Rien n'était prêt, les autorités et les orateurs se révélant avoir décliné l'invitation et une polémique battant son plein avec l'American Bar Association dont le nom figurait sur un programme qu'elle avait totalement ignoré préalablement et qu'elle désapprouvait après en avoir fortuitement pris connaissance.

Seule subsistait une brillante réception ... à la CIA ! Même la Maison Blanche se déroba, acceptant seulement de laisser les congressistes (pourtant priés de venir en smoking et robes longues) faire la queue dans la rue aux heures habituelles des visites du public.

Nous étions effondrés (je me souviens des têtes de Mario SCAMONI, de Jacques HOCHSTAETTER, de Jean-Claude WOLTER et de quelques autres...).

Soudain un serviteur en queue de pie pousse un rideau d'apparat et avance avec un magnum de champagne et des coupes sur un pla

teau... suivi de nos épouses, venues transformer notre abattement en une attitude plus joviale.

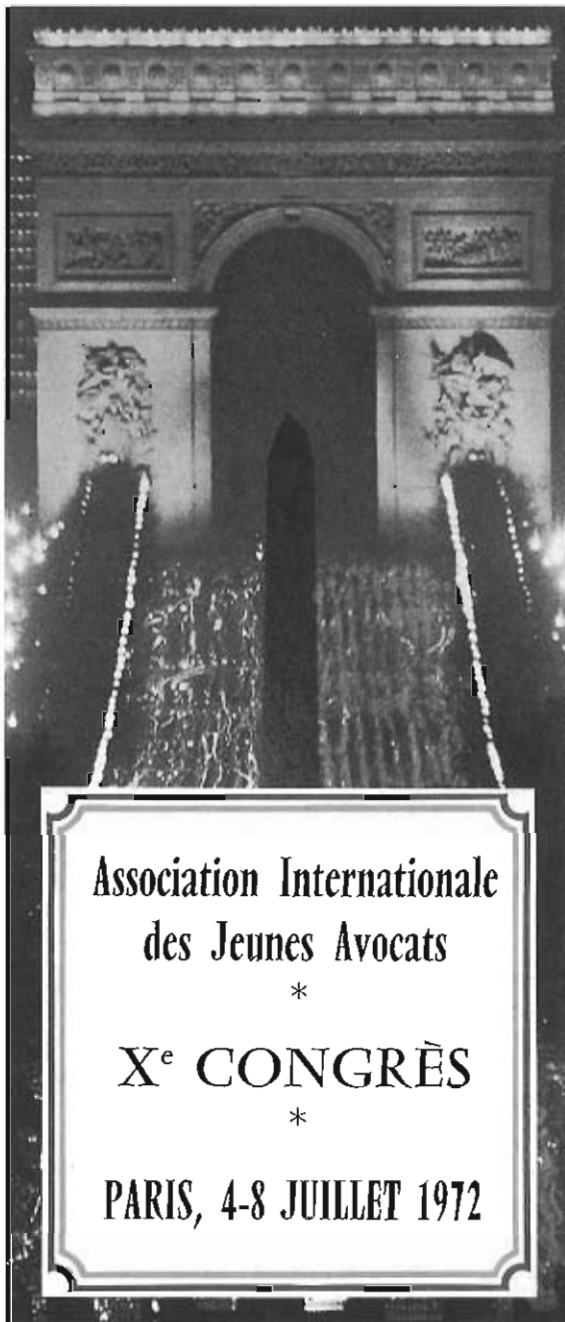
Nous étions soudain " regonflés " et de nouveau prêts à découvrir l'Amérique : dans les deux jours restants, nous avons secoué tous les confrères et relations que nous avions à Washington et à New York et nous avons eu des orateurs brillants et des réceptions dans les ambassades.

Ouf !

Philippe JACOB  
Président d'Honneur







Association Internationale  
des Jeunes Avocats

\*

X<sup>e</sup> CONGRÈS

\*

PARIS, 4-8 JUILLET 1972

PROGRAMME

**Mardi 4 Juillet**  
**PALAIS DE JUSTICE, 2, bd du Palais**  
14 h à 17 h **Accueil des Congressistes.**  
14 h 30 **Réunion du Bureau et du Comité Exécutif.**  
17 h 30 **Assemblée Générale des Membres du Comité Exécutif.**  
19 h **Réception par le Président de la République et le Président du Palais de Justice.**  
**Mardi 5 Juillet**  
**SENAT ; PALAIS DU LUXEMBOURG, 16, rue de Vaugrand**  
9 h **Examen de travail.**  
11 h 30 **Vote de la loi, suite des déclarations et discours.**  
14 h **Examen de travail.**  
14 h 30 **Pour les dames : Réunion à la gauche.**  
17 h 30 **Réception par le Président de la République, le Président du Palais de Justice et le Président du Sénat.**  
18 h 30 **Comité des Jeunes Avocats.**  
20 h 30 **Reception par le Président du Palais de Justice.**  
**Jeudi 6 Juillet**  
**« LILLE HOST FOR TODAY »**  
Art, technique, technique  
Information en l'honneur de la Conférence de Lille.  
**Vendredi 7 Juillet**  
9 h **SENAT**  
10 h 30 **Examen de travail.**  
12 h **HOTEL DE VILLE**  
13 h **Reception par le Président du Conseil de Paris.**  
14 h 30 **Examen de travail.**  
15 h **SENAT**  
16 h 30 **Examen de travail.**  
17 h **Réunion des Rapporteurs et de Bureau.**  
18 h 30 **Reception dans les Ambassades.**  
20 h 30 **Reception par le Président du Sénat.**  
**Samedi 8 Juillet**  
**PALAIS DE JUSTICE**  
9 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
11 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
13 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
15 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
17 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
19 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
21 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
23 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
**Dimanche 9 Juillet**  
**Assemblée Générale de l'Union des Jeunes Avocats.**  
10 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
12 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
14 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
16 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
18 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
20 h **Assemblée Générale de l'Union des Jeunes Avocats.**  
22 h **Assemblée Générale de l'Union des Jeunes Avocats.**

PROGRAMME

**Tuesday July 4**  
**PALAIS DE JUSTICE, 2, bd du Palais**  
14 h 30 **Registration of participants.**  
14 h 30 **Meeting of the Bureau and Executive Committee.**  
17 h 30 **General meeting of the members of the Executive Committee.**  
19 h **Reception given by the Paris Bar, the F.I.J.A., and S.J.A. of Paris in « Salle Colbert » of the « Palais ».**  
**Wednesday July 5**  
**SENAT ; PALAIS DU LUXEMBOURG, 16, rue de Vaugrand**  
9 h **Working sessions.**  
11 h 30 **Vote on the law followed by an informal lunch in the « Palais » restaurant (closed to the public).**  
14 h **Ladies : A « Meet » along the hill bank.**  
14 h 30 **Dinner (members and special invitees) to be received by the President of the French Republic.**  
17 h 30 **General Party given by the President of the Senate in the « Salle Colbert » of the Palais de Luxembourg.**  
20 h 30 **Reception given by groups of young lawyers.**  
**Thursday July 6**  
**« LILLE, OUR HOST FOR TODAY »**  
Art, industry, technique  
Information in « Musée Comptex » by « Les Chambres de Commerce de Lille ».  
**Friday July 7**  
**SENAT**  
9 h **Working sessions.**  
10 h 30 **Ladies : « Meet » in the Senate.**  
**HOTEL DE VILLE**  
12 h **Reception given by the President of the Paris Council.**  
14 h 30 **Dinner given in the Hotel de Ville for the Senate, Ladies : « Meet » in the « Salle Colbert ».**  
**SENAT**  
16 h 30 **Working sessions.**  
17 h **Meeting of Reporters and the Bureau.**  
18 h 30 **Reception at various national embassies.**  
20 h 30 **Small dinner given in « Salle Colbert ».**  
**Saturday July 8**  
**PALAIS DE JUSTICE**  
9 h **General Assembly followed by a meeting of the Bureau and Executive Committee.**  
11 h **Dinner in the « Salle Colbert » of the Palais de Justice.**  
13 h **Reception in Paris - « Gare d'Orléans ».**  
15 h 30 **Reception from Hotel de Ville.**  
**CHATEAU DE VERSAILLES**  
17 h **Reception.**  
19 h 30 **Reception in « Salle Colbert ».**  
21 h 30 **Reception in « Salle Colbert ».**  
**Sunday July 9 and following days**  
General assembly continues in the « Palais de Justice ».  
10 h **Meeting of the Group - in the presence of the U.J.A. of Angers and Nantes.**  
12 h **The French Review - At the invitation of the U.J.A. of Nice.**



**PROGRAMMO**

Martes 4 de Julio

**PALAIS DE JUSTICE, 2, bd du Palais**  
 14h 30 Asamblea y bienvenida a las Comisiones.  
 17h 30 Reunión del Buro y del Comité Ejecutivo.  
 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe con la presencia del Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 19h Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe con la presencia del Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.

Miércoles 5 de Julio

**SENAT / PALAIS DU LUXEMBOURG,**  
 15, rue de Vanclief  
 Sesión de trabajo.  
 9h Sesión de trabajo.  
 11h 30 Visita al « Donato » y comités en el Parlamento de las Comisiones (donde hay una sesión de trabajo).  
 14h Sesión de trabajo.  
 16h 30 Visita las cárceles - « Prison de gauche ».  
 17h 30 Reunión del Buro, en la que se discutirá con el Buro y el Parlamento de las Comisiones.  
 19h 30 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.

Jueves 6 de Julio

**VILLE « HOTEL D'OR »**  
 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.

Viernes 7 de Julio

**SENAT**  
 Sesión de trabajo.  
 9h Sesión de trabajo.  
 10h 30 Visita del « Donato » y comités en el Parlamento de las Comisiones (donde hay una sesión de trabajo).  
 14h 30 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 17h Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 19h 30 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.

Sábado 8 de Julio

**PALAIS DE JUSTICE**  
 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 9h Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 14h 30 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 17h Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 19h 30 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.

Domingo 9 de Julio y día siguiente

**CHATEAU DE VERSAILLES**  
 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 11h Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 14h 30 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 17h Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.  
 19h 30 Sesión plenaria de la AIJA con el CD presidido por la presidenta honoraria Sr. de MONTAUDO de la Zarbe y el Sr. de MONTAUDO de la Zarbe.

**THEMES DES TRAVAUX**

A. L'enseignement technique et social et la protection de l'individu.  
 - The protection of the individual in the social and technical environment of the day.  
 - La protección del individuo en su entorno ambiental, técnico y social.  
 Anticipo: A. CHAMBERY, Lorient.  
 AB. HENRI, Agde.

B. La dignité et la protection de la personne humaine.  
 - Dignity and the protection of mankind.  
 - La Dignité y la protección de la persona humana.  
 Anticipo: AB. HENRI, Agde.

C. L'impact de nouvelles diversification internationale des entreprises.  
 - Impact and restrictions in the international establishments of firms.  
 - Impact y restricciones en la internacionalización de las empresas.  
 Anticipo: M. GILLET, Bruxelles.  
 A. STOU, Rotterdam.

D. Le jeune avocat et l'avenir des professions libérales.  
 - The young lawyer and the future of the liberal professions.  
 - El joven Abogado y el porvenir de las carreras liberales.  
 Anticipo: A. STOU, Rotterdam.

**EXTRAIT DES STATUTS**

— L'AIJA, a été créée pour servir les intérêts de caractère professionnel de ses membres (Article 1).  
 — The AIJA, created to serve the interests of its members (Article 1).  
 — La AIJA se dedica a servir los intereses profesionales de sus miembros (Artículo 1).

\*

**A. I. J. A.**

Secrétariat général, 5, rue Genée, Luxembourg  
 1050 Luxembourg

Président	Henri SCHMIDT
Président Vice-Président	Jacques HOCHSTÄETTER
Président Sénior	Monique PRINCE
Secrétaire Général	Jean-Claude HOLLER
Treasorier	Daniel WEHRTZHEIM
Secrétariat Général Adjoint	Philippe JACOB

\*





La rédaction de la Gazette, où j'eus souvent jadis le bonheur d'écrire, vient de me demander de rassembler quelques souvenirs personnels à paraître dans un numéro spécial.

Ce travail de mémoire a éveillé en moi une forte nostalgie.

Je me suis lancé dans la vie de l'AIJA au Congrès de Philadelphie, il y a vingt ans déjà et alors que j'en avais à peine trente.

Le modeste Alsacien que j'étais (et que je suis resté) s'ouvrait pour la première fois sur le vaste monde.

En ces âges reculés, l'Association constituait une grande famille d'accueil, où tout un chacun se trouvait rapidement adopté par des parrains aussi humainement chaleureux qu'intellectuellement stimulants.

Ce fut pour moi le bon vieux temps de Rolf (MEURS-GERKEN) et Christian (DIERYCK), mes maîtres en arbitrage, domaine demeuré ensuite ma matière de prédilection.

J'en étais alors à l'heure de l'observation et de la découverte, au milieu de consœurs et confrères d'horizons et culture différents,

tous magiquement semblables en Amitié.

Le *business* passait alors au second rang.

On refaisait le monde, en danses et en chansons.

On travaillait certes le jour, mais on sortait surtout le soir ...

Avec mes fidèles compères Eduard (GRAFE) et Guedel (N'DIAYE), nous avons ainsi passé bien des nuits à refaire le monde devant un bon verre.

Puis vint le temps où le jeune Avocat prend «un peu de bouteilles» et se trouve appelé à assumer les responsabilités «*aijistés*» que les Anciens eux-mêmes, futurs jeunes retraités, choisissent de lui confier.

J'avais pour ma part pour objectif premier de faire aimer de tous les Aijistes ma Ville natale de STRASBOURG et d'y faire goûter la beauté de son architecture multiculturelle, la bonne chère de ses *winstubs* et de ses «3 Etoiles», ainsi que le charme de son peuple et de ses traditions.

C'est ainsi que j'organisais assidûment, à l'ombre de la Cathédrale, Comités exécutifs,

réunions de Bureau élargi, travaux de commissions et plusieurs séminaires.

Vint le temps de mon élection au Comité Exécutif, auquel j'ai eu la chance de pouvoir assister durant près de quinze ans, pour partie avec voix consultative, en ma qualité de représentant de l'AIJA auprès du Conseil de l'Europe.

Outre de multiples interventions à caractère juridique, il m'échut souvent l'honneur de porter outre-mers la bonne parole de l'Association.

Ce fut l'époque du lancement des «*Rencontres Intercontinentales de l'AIJA*», idée lancée un jour au cours d'une discussion avec ma sœur astrale Trésorière-Président Marie-Anne (BASTIN) et l'inoubliable Secrétaire Général de l'Association que fut Philippe (XAVIER-BENDER).

Nous avions à l'époque le sentiment de partir à la conquête de la planète, investis d'une mission de développement «*aijapostolique*».

C'était encore le temps d'Emmanuel (HAYAUX du TILLY) et de son humanisme inspiré, et déjà celui de la toujours charmante Elisabet (FURA-SANDSTRÖM), seconde femme portée à la

Présidence de l'AIJA, après la très honorable québécoise Anne-Marie (TRAHAN).

Le flirt entre l'AIJA et mon cher STRASBOURG se poursuit lorsque ma Ville, siège du Parlement Européen, fut désignée Ville de Congrès.

Elle l'eût effectivement été, si l'UIA n'avait en son temps brutalement décidé d'organiser, au cours de la semaine retenue par notre Comité exécutif, un Congrès à BERLIN.

Que ne l'ai-je regretté dans l'instant, alors que j'espérais secrètement postuler à son issue à la fonction suprême.

Je fus heureux en définitive d'avoir su renoncer mon ambition, évitant ainsi les affres d'une campagne et le verdict incertain de l'Assemblée Générale.

D'aucuns en ont souffert.

D'autres ont su renoncer, alors que leurs idées et mérites eussent sans doute mérité meilleur sort.

C'en fut ainsi pour John (MAYCOCK) et Freddi (MEILI) qui, comme Ulrich (FELDMANN) ou Michael (BRAUCH), font défaut dans la galerie d'honneur des Anciens Présidents.

J'eus aussi le plaisir de recevoir le Prix des Anciens Présidents des mains de sept d'entre eux, alors fidèlement présents au dîner de clôture.

Grande organisatrice de magnifiques voyages entre Amis, l'AIJA est aussi une école de la communication, où l'on s'exprime «en langues».

J'y ai enseigné ardemment le français et participé avec enthousiasme à la préparation de nombre d'articles, interventions et autres discours de toutes natures.

C'était le temps du plus européen des américains, Murray (LEVIN), et aussi de mon voisin rhénan Siegfried (ELSING).

Je ne manquais pas, autour de la quarantaine, d'occasions nouvelles de me dépenser, d'abord en qualité de Président de la Commission d'Arbitrage, dont Rolf m'avait fait en son temps le Secrétaire, puis de celle que j'ai souhaité rebaptiser un jour «*Commission des Droits et Devoirs de l'Homme et de la Défense*», nom pour lequel nous nous sommes affrontés un jour, à STRASBOURG.

C'était au temps des charismatiques Xavier-Jean (KEITA) et Jean-Pierre (GASNIER) et de mes successeurs en arbitrage, les excellents Jean (DE SAUGY) et Thierry (BERNARD).

Puis vint progressivement le temps de ma retraite et ma désignation à VICHY en qualité de Vice-Président d'Honneur de l'Association.

Il y a déjà plus de cinq ans ...

Je suis revenu parfois depuis lors, à l'AIJA, où je me sens désormais accueilli comme une sorte de «*relique*», par ceux qui cultivent les traditions et entretiennent la mémoire.

Je n'ai malheureusement plus rendez-vous, plusieurs fois l'an, avec des Confrères-pèlerins d'autant plus «*fréquentables*» que nous ne serons jamais concurrents, venus de toutes parts partager le message de l'AIJA et le bonheur d'être ensemble, en «*vacances*» au cœur de villes superbes offertes généreusement et passionnément par les organisateurs à leurs hôtes ébahis.

On ne s'oublie pas, mais on se perd de vue.

Les cartes de vœux restent fidèles, mais le temps passe et l'on vieillit.

On s'échange parfois des dossiers, mais l'affection en est absente.

On observe surtout l'évolution de l'AIJA au fil des pages de sa vénérable Gazette, sans cesse liftée et toujours plus attrayante.

Merci à Jean-Frédéric (MAURO) et Marc (JOBERT) pour tout ce qu'ils ont ainsi apporté à l'AIJA, ainsi qu'à leurs équipes.

Dans l'effort quotidien, plus que jamais harassant en ces temps stressés et hostilisés du tournant du siècle, on feuillette parfois, avec mélancolie, les vieilles photos de sa jeunesse.

Le cœur bat alors un instant, dans la mémoire d'une belle histoire d'amour.

Mais trêve de bavardages ... c'en est assez.

Pour avoir débuté ma carrière comme barde de l'AIJA, au son de ma guitare, j'entends finir ici par quelques vers, dans les langues de travail de notre Association, dont j'espère qu'elles le demeureront au nouveau millénaire.

Clément MAROT écrivait, il y a bien longtemps :

*«Plus ne suis ce que j'ai été  
Et ne le saurais jamais être  
Mon beau printemps et mon été  
Ont fait le saut par la fenêtre».*

Retraités de l'AIJA, nous en sommes là.

Et SHELLEY, parodié, aurait alors pu ajouter :

*«The winds of AIJA mix for ever  
With a sweet emotion».*

Dans l'espoir d'une grande réunion des survivants AIJISTES du siècle qui s'éteint, pour un prochain anniversaire, à STRASBOURG peut-être, et celui que demeurent à l'AIJA quelques poètes à jamais ...

François RUHLMANN  
Vice-Président d'Honneur  
STRASBOURG



## UNE JOURNÉE DANS LA VIE D'IVAN DUPONT

La Peugeot-Fiat-Renault 909 progressait difficilement dans le flot de la circulation parisienne.

« Heureusement que j'ai un chauffeur ! » se dit Ivan, « sinon je deviendrais complètement fou ! ».

Ivan était de mauvaise humeur. Il était un des derniers avocats indépendants du barreau de Paris ; la quasi totalité des avocats se trouvant regroupée dans de grandes structures à dominante anglo-saxonne.

On avait pu croire que le barreau serait entièrement dominé par les cabinets d'audit mais l'arrivée en force des géants de la distribution avait réduit leur influence à peu de choses.

Environ la moitié des avocats faisait partie du cabinet Wal-Mart ou de ses affiliés ou franchisés ; le reste se répartissant entre les cabinets Auchan-Conseil, Carrefour Juridique et Mark and Spencer Juris.

« Ah, ces marchands de conserves qui veulent faire de l'avocat un produit calibré ! » pensa Ivan.

Pour se changer les idées, il sortit alors de sa serviette un vieux magazine aux pages jaunies qu'il avait retrouvé, par hasard, au fond d'un placard de son cabinet. Il datait de l'époque où il était lui même élève avocat à l'École de Formation du Barreau. Un de ses amis lui avait donné un exemplaire de la gazette de l'Association Internationale des Jeunes Avocats.

« Oh, qu'il a l'air bête celui là, avec son koala !, je me demande ce qu'il est devenu ? Peut-être qu'il s'occupe de la gazette de la maison de retraite de l'avocat ! ».

Les tours en verre du Palais de Justice de Paris étaient de plus en plus proches.

« - Nous voilà bientôt arrivés ! » pensa Ivan en pestant contre les bureaucrates qui avaient démenagé le Palais de Justice de la cité de Saint-Louis pour le transférer dans la très grande bibliothèque voulue par François Mitterrand.

La bibliothèque rendue obsolète par la numérisation du livre avait été transformée en un Palais de Justice aussi chargé de majesté et d'histoire que peut l'être un morceau de verre fumé, sale et ébréché.

Sur les marches du Palais, Ivan fut assailli par une meute d'élèves de l'École de Formation du Barreau à la recherche d'un stage.

La meute était essentiellement femelle, le Barreau ayant très fortement accentué la tendance à la féminisation de la profession commencée dans les années 80. Parmi la jeune génération, la proportion de femmes avait atteint les 90%.

Le nombre d'étudiants à l'école de formation du Barreau était passé de 250 en 1983 à 1200 en 1999 pour atteindre 4000 en 2010.

Les futurs avocats agitaient des billets de 1000 EUROS pour tenter d'attirer l'attention d'Ivan. Certains avaient mis leurs thèses de doctorat sur CDROM ou sur vidéo-puce (il était courant pour un étudiant d'avoir trois ou quatre doctorats) et tentaient de la glisser dans la poche d'Ivan.

Ivan fendit la foule de préstagiaires grâce à l'aide ses deux collaborateurs qui lui frayèrent un passage en frappant avec vigueur les élèves-avocats à coups de code Dalloz (édition papier 1999).

Ivan somnolait dans la salle d'audience. C'est à peine s'il jetait un regard distrait à sa montre vidéo pour suivre la finale du tournoi de Roland Garros.

Ses confrères s'agitaient beaucoup en revanche, déposant conclusions après conclusions, faisant incident sur incident.

Dans le box des accusés, le client d'Ivan lançait des regards vers son avocat qu'il trouvait bien passif.

« -Au prix où je le paye celui-là, il pourrait tout de même se remuer ! » pensa-t-il.

La présidente après avoir rejeté toutes les exceptions de procédures soulevées par les avocats de la défense glissa à l'une de ses assesseuses. "Ils ne sont pas très en forme ce matin. Me Dupont a l'air complètement éteint, le pauvre."

Elle fût interrompue dans son aparté par un murmure qui se propageait dans la salle. Me Dupont venait de se lever.

" -Madame la Présidente, je dépose des conclusions ".

La salle retint son souffle. Une femme s'évanouit.

" - L'ordinateur central du greffe n'est pas conforme au protocole TNS/CP3 ".

La Présidente se tourne vers la greffière agréée Microsoft. "« Est-ce vrai ? »"

Rougissante, la greffière dû admettre l'erreur de procédure informatico-judiciaire.

La Présidente ne put que prononcer la relaxe.

A la sortie de la salle d'audience, la meute avait doublé de volume.

De tous les couloirs du Palais les élèves-avocats affluaient attirés par la rumeur du coup d'éclat d'Ivan.

Une jeune pré-stagiaire se mit à dégrafer son corsage frénétiquement en criant d'une voix désespérée : « prenez-moi Maître, prenez-moi ! ». Son cri fût interrompu par un coup de coude bien placé d'une de ses voisines.

Cette agitation laissa Ivan de marbre. Son œil aguerri avait repéré dans un coin, une pré-stagiaire aux yeux de biche qui pleurait.

Il saurait bien la consoler, se dit-il, en murmurant discrètement des instructions à l'un de ses collaborateurs pour convoquer la belle plus tard pour un examen approfondi de son dossier de candidature !

Marc JOBERT





# List of Events - Calendrier

Events

**2000**

**Avril**  
21-22.04 Tokyo **Regional Meeting : Electronic Commerce** H. KANAE

**Mai**  
04-07.05 New York **Seminar : Cross-Border Mergers & Acquisitions** W.SCHMITZ  
18-21.05 Luxembourg **Executive Committee** V. DE MEESTER

**Août**  
27.08-01.09 Helsinki **XXXVIIIe Congrès** P. JAATINEN

**November**  
23-26.11 Porto **Executive Committee** C.PAIVA

**2001**

**Août**  
18-24.08 Montréal **XXXIXe Congrès** L.H.SENECAL  
M.A. FABIEN

**2002**

**Août**  
26-31.08 Lisboa **40e Congrès** M.AVILLEZ PEREIRA

Clôture des articles de cette édition

28/02/2000

Rédaction et mise en page terminée le 28/02/2000

La Rédaction n'assume aucune responsabilité concernant les textes qui n'engagent que leurs auteurs

Deadlines for Your Contributions  
15 avril - April 15  
31 mai - May 31  
30 septembre - September 30  
20 décembre - December 20

Do you want to know more about AIJA? Voulez-vous en savoir plus sur l'AIJA?  
Merci de retourner le formulaire ci-après. Please return the following form to:

AIJA - Avenue Louis Lepoutre, 59 / 20 - B-1050 Bruxelles - Fax: 32-2-347.55.22  
E-Mail : aija@pophost.eunet.be - WEB : http://www.aija.org

Name / Nom \_\_\_\_\_  
Firm / Firme \_\_\_\_\_  
Address / Adresse \_\_\_\_\_  
Tel. \_\_\_\_\_ Fax \_\_\_\_\_



