Editorial

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Better Laws, Better Arbitrators

Switzerland has a new international arbitration law. Its text was printed in our December 1987 issue and a detailed commentary on it will appear in our June edition this year.

The new Swiss law is part of the movement to reform the various national arbitration laws which has been active for a good number of years, led by the example of England and France. One element dominates and characterises this movement: the desire to provide more protection for the autonomy of the parties' will, thereby ensuring a better recognition in legislation of the essential features and very particular needs of international arbitration. Long-awaited, the new Swiss law will prove to be very important in an international context. Traditionally Switzerland has been, and still is, an important country to international arbitration because of its unique geographical, historical and political environment exceptionally conducive to the peaceful settlement of disputes. Having participated from the very beginning in the settlement of international business disputes by arbitration, the Swiss have contributed substantially to its present growth and wide acceptance and, in various parts of the world, neutral settlement of these disputes is automatically associated with their country. Any improvement in the Swiss legal situation will consequently benefit arbitration in general.

Good laws, however, go only half the way. The other half is the provision of good arbitrators. In many traditional arbitration countries, the opinion still prevails that being a university lecturer, retired judge, or all-round lawyer, and having a general grasp of commercial law, are sufficient qualifications for being a competent international arbitrator. This opinion can lead to a dangerous amateurism. An arbitrator who, during the course of maritime or oil arbitration hearings, stumbles over the terms of a charter party, a bill of lading or Platt's oil assessments, or is at a loss when faced with

the FIDIC conditions in an international construction case, or who cannot manage a procedure involving parties from various cultures and legal systems, damages the reputation of international arbitration as much as bad law, or bad case-law, does. Those arbitral communities which have devoted so much effort to seeing that their national laws are better adapted to the present requirements of international arbitration users should now turn their efforts to offering litigating parties, throughout the world, a large enough choice of professionally competent international arbitrators.