



Mr. Yamamoto Succeeded Mr. Maeda as President of JCAA



Inaugural Message

*Kosuke Yamamoto
President, JCAA*

On September 1 this year, I succeeded Mr. Norihiko Maeda as President of The Japan Commercial Arbitration Association (JCAA). It is a great honor for me to assume the position of this major international arbitral institution in Japan.

I would like to take this opportunity to briefly introduce myself, to explain recent developments in Japan regarding arbitration, and to convey the ongoing commitment of JCAA to helping and supporting these developments.

I started off my career with a long stint of 33 years serving in the Ministry of Economy, Trade and Industry. During this time, my main responsibilities were as Head of the Minister's Secretariat, Director General of the Machinery and Information Industries Bureau, and Director General of the Industrial Policy Bureau. After leaving the Ministry, I served in the capacity of Advisor to the Sanwa Bank Ltd., for two years. I then joined Toyota Motor Corporation and served as Executive Vice President for seven years. After leaving that post, I have been Senior Advisor to Toyota Motor Corporation. Since April 2001, I have also been serving as a Commissioner on the Government's Central Labor Relations Commission, where I have handled numerous labor-related disputes through various methods of Alternative Dispute Resolution (ADR). I have also been Chairman of the New Energy Foundation


since July 2001.

Over the last 45 years, JCAA has been the primary international arbitral institution in Japan. JCAA has also been doing its best to settle international commercial disputes resulting from international business deals, and also to prevent such disputes by encouraging the use of its consultation and information services.

Last June, the Judicial Reform Council submitted its final report on reform in Japan's legal system to Prime Minister Koizumi. (See JCA Newsletter #11.) The report calls for the improvement of judicial system to support Japan in the 21st century through a new legal system capable of meeting the requirements of the new age of internationalization and deregulation. Following the report, the Judicial Reform Law was enacted. The government will soon establish the Judicial Reform Headquarters, which will be the stronghold of the activities by the government to implement many objectives laid down in the report.

One of the policies to improve legal service and the legal system in Japan will be ADR (including arbitration), the vital importance of which is stressed in the above report. There are plans, among other things, to update the Japanese Arbitration Law, taking the UNCITRAL Model Arbitration Law into consideration.

The next three years look likely to be remembered as an epoch-making period in Japan both for judicial reform in general and for promotion of ADR in particular. In this sense, it is a personal pleasure for me to assume the position of new JCAA President at this time. I believe that the movements of judicial reform will definitely lead to

more vitalization of international arbitration in Japan. I would like to assure you that JCAA will be just as dedicated as it always has been, if not more dedicated than ever before, to providing the most reliable ADR in Japan in the field of both international and domestic commercial transactions. 



Retirement Message

*Norihiko Maeda
Ex-President, JCAA*

On September 1 this year, having received the approval of a JCAA Board of Directors' meeting held on August 29, I stepped down from the post of JCAA President and became Senior Advisor.

In 1947, when the Occupation ended and Japanese private corporations were allowed to resume international trade, Japanese industry had absolutely no reputation in the quality of goods it produced. This looked likely to pose a great obstacle in the pursuance of the export trade, which was so vital to earn the foreign exchange needed for the recovery, survival, and growth of the Japanese economy. The Ministry of International Trade and Industry decided on two major policy measures to build up the reputation of Japanese export goods. One was to enact the Export Inspection Law, designed to prevent the export of goods of inferior quality. The other was to solve commercial claims to the satisfaction of importers through the establishment of JCAA. As exports increased, the number of such claims increased to nearly 900 cases in 1965. After that, notwithstanding the substantial increase in exports that had taken place, the great improvement in the quality of Japanese exports gradually reduced the number of claims.

Throughout these years of recovery and expansion, the number of cases of actual arbitration received by JCAA was always very small, and in fact remained in one-digit figures annually right up to 1996. I always wondered why, and even now at the end of four years as President, I am still not quite sure of the answer. I have, however, been able to make a few surmises. The first is that ADR has still yet to become widespread and fully

accepted in Japan itself. The second is that a vicious circle inevitably arises out of the limited number of arbitration cases: the small number leads to little visibility, negligible reputation, and thence to no rise in the number. Regarding the first issue, I do see a few changes for the better. My successor refers to these in his message. After more than 100 years, the Japanese Arbitration Law is finally going to be amended. While the culture of avoiding open disputes in Japan will change only very slowly, JCAA will continue to work for the promotion of domestic ADR in addition to international ADR.

Regarding the second issue, the vicious circle arising out of the small number of cases, this does show signs of being cut. In 1997, the number of arbitration cases received by JCAA reached two digits for the first time in its long history. I joined JCAA in August 1997, so this increase had nothing to do with my contribution. But the ongoing efforts will make JCAA more visible, if they are accumulated in the years to come. One example of such efforts is the APEC ADR EEP 2000, which has often been reported on in this newsletter. Another example is this JCA Newsletter itself. For many years before I took up the post of president, this newsletter was issued only once a year. Last year, however, we had four issues. But this is only the start of many more efforts that must be made to increase JCAA's visibility. We have done as much as we can in this regard: before we can do more, we need more resources.

It is particularly in this sense, as well as in general, that I am extremely pleased to have Mr. Kosuke Yamamoto as my successor. In recent

years, as Japanese business has come under the pressure of restructuring, many people are simply too overwhelmed with the need to take care of their own firms to contribute to the common interest of the society. As you will see from his message, however, Mr. Yamamoto has assumed many important positions of responsibility both in the government and in private industry. JCAA is extremely fortunate to have someone like him at

this crucial moment. I would ask that you extend to him the same kind support that you have extended to me over the past four years.

Finally, I would like to take this opportunity to thank all of you who have helped me in my effort to make JCAA more visible and to promote ADR both in Japan and in the international community.

ADR EEP 2000 in Mexico City

ADR EEP 2000 refers to the APEC Executive Education Project started in 2000 to promote ADR in business activities in the Asia-Pacific region. As briefly mentioned in the last JCA Newsletter, the second seminar for the project was held in Mexico City on June 26, 2001.

In addition to APEC, JCAA, and the Institute for International Studies and Training (IIST), which represents Japan at the APEC Human Resources Development Working Group-Capacity Building Network, four Mexican organizations sponsored this seminar. They were the Ministry of Economy of the Mexican Government, the Center of Mexican Arbitration (CAM), the Mexican Institute of Mediation (IMM), and the Mexico Autonomous Institute of Technology (ITAM). The venue of the seminar was an auditorium on ITAM's campus.

The seminar, which was titled "Mechanisms to Resolve International Disputes in Asia-Pacific Commercial Relations," provided an audience of 108 people with lectures on both APEC and ADR. It was opened by the Project Overseer, Mr. Norihiko Maeda, then JCAA President, and had two APEC

SOMs* as keynote speakers. Mr. Gerardo Traslosheros, present APEC SOM for Mexico, provided the audience with an outline of APEC and its importance to the region. Mr. Takato Ojimi, 1996-7 APEC SOM for Japan and present Managing Director of IIST, spoke on "Regional Economic Cooperation in APEC," touching on its implications for the

possible Mexico-Japan Free Trade Area Agreement. On the basis of this background information, Mr. Ricardo Ramirez, Deputy General Counsel of the Ministry of Economy, spoke on "Disputes in APEC."

The second session began with a lecture on "Alternative Dispute Resolution Methods (ADRs)," delivered by Mr. Carlos Rodriguez, Mexican Expert for ADR EEP 2000 and chief organizer of the seminar.

This lecture was important because many businessmen and government officials, as well as some lawyers, who occupied a large portion of the audience, were not very familiar with ADR. Mr. Rodriguez' speech was followed by that of Mr. Guillermo Aguilar Alvalez, Advisor to CAM, who gave an explanation of "Arbitration in Mexico," and that of Mr. Enrique Gonzalez Calvillo, IMM

APEC EXPERTS FOR ADR EEP 2000



Left to Right : Dr. Soonwoo Lee, Mr. Loon, Seng Onn, Mr. Takato Ojimi, Mr. Norihiko Maeda, Dr. Arthur B. Ridgeway, Mr. Carlos E. Jorquiera M., Mr. Carlos Rodoriguez Gonzalez-Valadez, and Ms Etu Inaba, Director of IIST


President, who talked about “ Mediation in Mexico. ”

The last session consisted of lectures by ADR EEP 2000 Experts from other APEC countries. Mr. Carlos Jorquiera, President of the Santiago Arbitration and Mediation Center of Chile and President of the Inter-American Commercial Arbitration Commission, provided a succinct overview of “ ADR in South America, ” which actually covered such a wide area both geographically and historically, even mentioning e-commerce and on-line arbitration, that it was clear that the subject could have taken a whole day given the opportunity. Dr. Arthur B. Ridgeway of the Justice Institute of British Columbia of Canada then talked about the situation in North America.

There were three speakers representing Asia. The Korean expert for ADR EEP 2000 was Dr. Soon Woo Lee, former President of The Korean Commercial Arbitration Board (KCAB). His well-prepared lecture enabled the audience to understand how KCAB was educating business people and promoting ADR in Korea. Mr. Seng Onn Loong, an APEC Expert for ADR EEP 2000 from Singapore and Secretary-General of the Singapore Mediation Centre, talked about ADR in Singapore, which has a markedly different environment from other Asian countries. Mr. Norihiko Maeda, JCAA President at the time, began his speech with an outline of the tendency to avoid open dispute in Japanese culture,

which has impeded the development of ADR. He also touched on the changes now taking place in Japan, explaining that in the past 10 years more than a dozen of the Bar Association-affiliated ADR centers have emerged, and mentioning that a report recently made public by the Judicial Reform Council stated that ADR be developed and promoted equally with litigation.

Questions from the audience were entertained, but on the whole the audience was rather muted. This did not, however, signify a lack of interest. The number of participants (62 male and 46 female; 36 government officials; 29 business people; 43 lawyers, 24 from law firms, and 19 from universities) showed no sign of having depleted by the end. The number and quality of comments and suggestions for future activities that the participants gave us in the distributed evaluation sheet attests to their enthusiasm for the subject, and did much to encourage the organizers in their original conviction of the relevance and validity of this seminar.

* SOM was originally for the abbreviation for APEC “ Senior Official Meeting, ” the highest decision-making gathering for the preparation of formal APEC Ministerial Meetings. A SOM consists of the representative of each APEC member, and it has become practice to refer to that actual member as a “ SOM. ” A SOM is thus equivalent to the “ shelpa ” in the Economic Summit Meetings. 

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