

MOSCOW MOVER



An interview with Sergei Lebedev (Institute of International Relations, Moscow, Maritime Arbitration Commission, Russian Chamber of Commerce and Industry, and CMI Executive Council).



“My grandfather was a seaman in the Czarist Navy, and my father, a peasant’s son, became a captain in the navy during the Soviet era,” says Sergei Lebedev. “It seemed that I, also, was destined for a career at sea until my father took me on a trial voyage on the Black Sea from Sebastopol to Odessa - it was a complete disaster although the storm was comparatively moderate! My father was hugely disappointed that I was not cut out to follow in the family tradition and decided that, instead, I would have to follow a career on the land.” Lebedev, therefore, embarked on a ‘dry’ career, enrolling at the Institute of Foreign Trade in Moscow and entering Law School in 1952 where he specialised in international and private commercial law. He then worked for three years for a Russian chartering company, before attending the Institute of International Relations (MGIMO) as a postgraduate, where he is now a Professor and for 30 years was the head of the private international and civil law department. Student teams from his Institute regularly take part in the well-known annual VIS arbitration Moot in Vienna.

In 1961/1962, at the height of the Cold War, Lebedev attended the University of Michigan becoming the first Soviet student to study law in the United States. Not surprisingly there was a good deal of interest among students, staff and the local media. However, Lebedev says that he had to be careful in the answers that he provided. Consequently, he “took up smoking to give himself more time to think of answers.” He recalls that, during one interview, an American Professor exclaimed “Don’t you like anything about our country?” After careful consideration the young Lebedev replied, “Yes – I like your Marlborough cigarettes very much!” A local radio station picked up on the story and a few days later Lebedev received a large package containing boxes of cigarettes with a message “We are glad you like our cigarettes.” As a matter of fact, he says, the year in Ann Arbor was also very helpful academically enabling him to write comparative chapters for his dissertation on commercial arbitration.

On returning to the Soviet Union Lebedev says that he had “no difficulty in reintegrating into Soviet life as the Institute of International Relations had provided a very thorough preparation in respect of international relations and contacts with foreigners.” This has certainly been a theme throughout his life. Even though he is now 77 years old he has just spent a week travelling to Stockholm (for an international

arbitration), Vienna (to discuss a new project for the investment arbitration rules) and then to Moscow for an arbitration. He also has been heavily involved in the development of international instruments and conventions, including the Hamburg and Rotterdam Rules particularly through his activities in UNCITRAL where he has acted as an expert for the national delegation since 1970. In the 1990s he was a member of the UN Compensation Commission in Geneva appointed by the Security Council.

The Maritime Arbitration Commission in Moscow, set up in 1930 through the efforts of Professor Alexander Keilin (his former professor), has been a central part of Sergei Lebedev’s professional life and he is clearly proud of its achievements. But surely, given the nature of the Soviet Union the outcome of arbitrations would have been subject to political control? Sergei Lebedev says “I have been involved in Russian maritime arbitration for over 50 years and for over 30 years as the President of the MAC - to my knowledge there has been no case where the outcome of the case has been determined by political pressure. The State had no interest in interfering with purely commercial cases that were not politically connected. After all, whether cargo had been damaged by seawater or which party was right in a more complicated dispute was not a political matter. Moreover, in terms of transparency the MAC in 1932 became one of the first arbitral institutions in the world to publish arbitral awards notwithstanding principles of confidentiality. This was to show the outside world that a correct decision had been reached without the influence of any superiors. Surprisingly perhaps, maritime arbitrators were different to State judges – they were private persons, dispensing private justice in private arbitrations.” To mark the 80th anniversary of the Commission, a new book has been published with a summary of recent MAC awards in Russian and English.

There have, of course, been great changes since the Soviet era. “As well as the development of principles such as human rights and freedom of speech, one of the most significant changes is the right to private property now enshrined in the Russian Constitution.” Although Lebedev clearly does not think that all the changes have been positive: “Previously, the commercial institutions, such as the major shipping companies, in the Soviet State had very good legal departments exercising very strong control on all

aspects of shipping and chartering. Now there are fewer larger shipping companies, but many medium/small shipping companies having sometimes 2-3 vessels.

Frankly, the standard of their legal work can be very poor: the managers are not concerned with the legal detail such as where disputes might be arbitrated but think more in terms of commercial risk.”

Interestingly, the Maritime Arbitration Commission in Moscow attracts disputes from parties based outside Russia. Lebedev gives a recent example of a case where a consignee from Turkey brought a cargo claim against a Turkish shipowner in relation to a voyage from the Ukraine to Turkey based on an “old Russian form of bill of lading.” Also, the Commission has a number of foreign arbitrators on its list. A party is free to appoint an arbitrator, Russian or foreign, who is not on the list. Lebedev thinks “The international credentials of the Arbitration Commission were greatly strengthened when in 1993 Russia introduced a new international arbitration code based on UNCITRAL’s model law both of which I had a hand in preparing.”

Sergei Lebedev’s childhood was spent in Sebastopol where his parents met (his mother was born in the Ukraine). His main interest in his youth was chess, which he describes as an “intellectual form of sport.” So while his friends were playing football, and other popular Soviet era sports at the Young Pioneer’s Camp on the Black Sea, he was winning the International Chess Championship. Lebedev’s wife is an artist and industrial designer. His daughter is an economist, while his grandson has followed him into the legal profession and travels with his grandfather assisting in relation to international arbitrations.

Sergei Lebedev has been widely published and in 2009 his colleagues published a book selection from his works. Among other awards, in 2003 Sergei Lebedev received from Sweden’s King Karl Gustaf the order of the “Polar Star” for his contribution to the development of international commercial arbitration.

