VOLUME XXXIII – 2008

Introduction

Albert Jan van den Berg, General Editor	V
Online Resources	xi
Table of Contents	xiii
Part I – National Reports	1
Note General Editor	1
Table of Contents of International Handbook on Commercial Arbitration	1
Part II – A. Arbitral Awards	13
France Arbitration Chamber of Paris _ Case no. 9926, award	15
International Chamber of Commerce (ICC) Case no. 11307 of 2003, final award	24
_ Case no. 12073 of 2003, award	63
_ Case no. 12127, award	82
_ Case no. 12421/MS of 2005, final award	102
_ Case no. 13278, award	118
Netherlands Netherlands	
Netherlands Arbitration Institute _ Case no. 3310, award in summary arbitral proceedings	160

Index of Arbitral Awards	171
Introduction Index of Arbitral Awards Digest of Investment Treaty Decisions and Awards	171 173 179
Part II – B. Court Decisions on Arbitration	229
Germany _ Bundesgerichtshof, 1 March 2007 Claimant v. Defendant	231
 India Supreme Court of India, 10 January 2008 Venture Global Engineering v. Satyam Computer Services Ltd., et al. 	239
 United States of America Supreme Court of the United States, 25 March 2008 Hall Street Associates, L.L.C. v. Mattel, Inc. 	258
Part II – C. Court Decisions Applying the UNCITRAL Model Law	273
Part III – A. Arbitration Rules	275
New and Amended Arbitration Rules	277
Part III – B. Iran-US Claims Tribunal	279
Note	281

Part IV – Recent Developments in Arbitration Law and	
Practice	283
Introduction	285
Dubai International Financial Centre	285
European Court of Justice	286
Rwanda	286
Slovenia	286
Syria	286
Ukraine	287
Part V – A. Court Decisions on the New York Convention 1958	291
Introduction	293
List of Contracting States (as of 1 November 2008)	296
Index of Cases Reported in Volume XXXIII (2008) Albert Jan van den Berg	303
Argentina _ No. 1. Cámara Nacional de Apelaciones en lo Civil y Comercial Federal, Chamber II, 8 May 2007 Armada Holland BV v. Inter Fruit S.A.	322
No 2. Cámara de Apelación en lo Contencioso Administrativo, La Plata, 30 August 2007	
Milantic Trans. S.A. v. Ministerio de Producción de la Provincia de Buenos Aires, et al.	327
Australia No. 31. Federal Court of Australia, Queensland District Registry, 16 February 2007 APC Logistics Pty Ltd, et al. v. CJ Nutracon Pty Ltd, et al.	331
 No. 32. Supreme Court of Western Australia, Court of Appeal, 13 May 2008 	
Paharpur Cooling Towers Ltd v. Paramount (Wa) Ltd	342

_ No. 33. Supreme Court, New South Wales, 7 July 2008 Transpac Capital Pte Limited v. Anthony Buntoro	349
Austria No. 18. Oberster Gerichtshof, 23 October 2007 Kv. FAG	354
Belize _ No. 1. Supreme Court of Belize, 18 February 2005 Attorney General of Belize v. Carlisle Holdings Limited	360
Brazil No. 4. Superior Tribunal de Justiça, Special Court, 17 May 2006 and 3 March 2007 Oleaginosa Moreno Hermanos Sociedad Anónima Comercial Industrial Financeira Inmobiliaria y Agropecuaria v. Moinho Paulista Ltda	371
No. 5. Superior Tribunal de Justiça, Special Court, 21 March 2007 Mitsubishi Electric Corporation v. Evadin Indústrias Amazônia S.A.	381
No. 6. Superior Tribunal de Justiça, 16 May 2007 Bouvery International S.A. v. Valex Exportadora de Café Ltda	387
No. 7. Superior Tribunal de Justiça, 20 June 2007 International Cotton Trading Limited — ICT v. Odil Pereira Campos Filho	390
No. 8. Superior Tribunal de Justiça, 3 October 2007 Spie Enertrans S/A v. Inepar S/A Indústria e Construções	397
No. 9. Tribunal de Justiça, Paraná, 30 January 2008 Inepar Indústria e Construções v. Itiquira Energética S/A	404
British Virgin Islands _ No 1. Court of Appeal, 18 June 2008 IPOC International Growth Fund Limited v. LV Finance Group Limited	408
Canada _ No. 23. Court of Queen's Bench, Alberta, 27 June 2007	
Yugraneft Corporation v. Rexx Management Corporation	433
 No. 24. Supreme Court of Canada, 13 July 2007 Dell Computer Corporation v. Union des consommateurs, et al. 	446

No. 25. Cour d'Appel, Québec, 11 March 2008 Smart Systems Technologies Inc. v. Domotique Secant Inc.	464
Chile No. 1. Corte Suprema, First Chamber, 11 January 2007 Max Mauro Stubrin, et al. v. Inversiones Morice S.A.	473
France _ No. 43. Cour de Cassation, First Civil Chamber, 9 January 2008 HGL sas v. Spanghero SA, et al.	478
 No. 44. Cour d'Appel, Paris, 10 January 2008 Robert Fayez Mouawad, et al. v. Henco Heneine Construction & Developpement Co. SARL 	480
 No. 45. Cour d'Appel, Paris, 17 January 2008 SA SDMS International v. Cameroon Telecommunications — Camtel 	484
 No. 46. Cour d'Appel, Aix-en-Provence, 12 February 2008 Delia Cusano d/b/a Savonnerie Le Sérail v. Peter Cremer GmbH 	487
No. 47. Cour de Cassation, First Civil Chamber, 4 June 2008 SNF sas v. Cytec Industries BV	489
Germany	
_ No. 107. Oberlandesgericht, Thuringia, 10 March 2004 Buyer v. Seller	495
 No. 108. Oberlandesgericht, Thuringia, 8 November 2004 Seller v. Buyer 	500
 No. 109. Bundesgerichtshof, 18 January 2007 Claimant v. Defendant 	506
No. 110. Oberlandesgericht, Dresden, 31 January 2007 Supplier v. State enterprise	510
No. 111. Oberlandesgericht, Munich, 23 February 2007 Company A v. Company B	517
No. 112. Oberlandesgericht, Celle, 31 May 2007 Licensor v. Licensee	524
No. 113. Oberlandesgericht, Thuringia, 8 August 2007	J
Company A v. Company S, et al.	534

 No. 114. Oberlandesgericht, Karlsruhe, 14 September 2007 Creditor under the award v. Debtor under the award 	541
 No. 115. Oberlandesgericht, Dresden, 7 December 2007 Subsidiary company of franchiser v. Franchisee 	549
Greece _ No. 14. Polimeles Protodikio, Rodopi, decision no. 84 of 2005	
 Consortium member A v. Consortium member B No. 15. Efetio, Piraeus, decision no. 475 of 2005 and Areios Pagos, decision no. 1932 of 2006 	552
Interpoint Shipping Limited v. Myloi Soyas	555
 No. 16. Monomeles Protodikio, Piraeus, decision no. 3965 of 2005 S.K.S. SA v. Legal representative of 2nd defendant, et al. 	560
$_$ No. 17. Monomeles Protodikio, Athens, decision no. 1741 of 2007 Company X v. Republic of Z	563
_ No. 18. Areios Pagos, decision no. 1066 of 2007 Shipowner v. Contractor	565
No. 19. Areios Pagos, decision no. 1618 of 2007 Company A v. Company B	570
Hong Kong No. 20. High Court of the Hong Kong Special Administrative Region, Court of Appeal, 9 October 2007 and 16 June 2008 Karaha Bodas Company LLC v. Persusahaan Pertambangan Minydak Dan Gas Bumi Negara	574
Ireland _ No. 2. Supreme Court of Ireland, 23 April 2002 VIA Net Works Limited v. Stuart Fogarty, et al.	591
Italy No. 174 Corto di Cossegione Planary Session E January 2007	
_ No. 174. Corte di Cassazione, Plenary Session, 5 January 2007 Heraeus Kulzer GmbH v. Dellatorre Vera SpA	596
No. 175. Corte di Cassazione, Plenary Session, 12 January 2007 Islamic Republic of Pakistan, Department of Communications and Works,	
Government of Punjab v. Rizzani De Eccher SpA, et al.	600

xviii

Malaysia No. 2. Court of Appeal Putraious, 14 Morch 2006	
_ No. 2. Court of Appeal, Putrajaya, 14 March 2006 Sri Lanka Cricket v. World Sport Nimbus Pte Ltd 6	607
Netherlands _ No. 30. Rechtbank, Leeuwarden, 3 September 2008 I.S.S. Tanks B.V. v. CMB Maschinenbau & Handels GmbH 6	513
Peru _ No. 1. Corte Suprema de Justicia, Civil Chamber, 7 January 2006 Energoprojekt Niskogradnja v. El Pacífico Peruana Suiza Compañía de Seguros y Reaseguros 6	516
 No. 2. Corte Suprema de Justicia, Permanent Civil Chamber, 27 January 2007 Geb Shipping Company Limited v. Transportes Marítimos del Pacífico S.A. 	518
Philippines _ No. 3. Court of Appeals, Manila, Seventh Division, 31 July 2006 Cargill Philippines, Inc. v. Lucia Violago Isnani, in her capacity as Presiding Judge, Regional Trial Court of Makati, Branch 59, et al.	520
 No. 4. Supreme Court of the Philippines, Special Second Division, 22 January 2007 Jorge Gonzales, et al. v. Climax Mining Ltd., et al. 	525
 No. 5. Supreme Court of the Republic of the Philippines, Second Division, 7 January 2008 Korea Technologies Co. Ltd. v. Hon. Alberto A. Lerma, in his capacity as Presiding Judge of Branch 256 of Regional Trial Court of Muntinlupa City, et al. 	532
 No. 6. Court of Appeals, Manila, Thirteenth Division, 5 July 2006 Ting Guan Trading Corp. v. Hon. Cesar D. Santamaria, as Presiding Judge, Branch 145, RTC, Makati City, et al. 	546
Russian Federation No. 14. Presidium of the Supreme Arbitrazh Court of the Russian Federation, 22 June 2004	
Forever Maritime Ltd. v. State Unitary Enterprise Foreign Trade Enterprise Mashinoimport 6	550

No. 15. Federal <i>Arbitrazh</i> Court, Moscow District, 1 November 2004	
AO Slovenska Konsolidachna, A.S. v. KB SR Yakimanka	654
 No. 16. Federal Arbitrazh Court, Northwestern District, 9 December 2004 Dana Feed A/S v. OOO Arctic Salmon 	658
	030
 No. 17. Presidium of the Supreme Arbitrazh Court of the Russian Federation, 22 February 2005 Codest Engineering v. 000 Grupa Most 	666
No. 18. Federal <i>Arbitrazh</i> Court, North Caucasus District, 18 April 2005	
Itera PET v. 000 Zavod Kavminkurortrozliv	673
 No. 19. Federal Arbitrazh Court, Moscow District, 22 September 2005 	
Indosuez International Finance B.V. v. OAO AB Inkombank	678
No. 20. Federal Arbitrazh Court, Moscow District,29 September 2005	
S.G. Industrial Finance AG v. OAO Foreign Trade Enterprise Stankoimport	683
 No. 21. Federal Arbitrazh Court, Urals District, 12 October 2005 O & Y Investments Ltd. v. OAO Bummash 	687
 No. 22. Federal Arbitrazh Court, Northwestern District, 12 February 2007 	
000 Inko Food v. 000 Myasokombinat Gvardeiskii plius	695
Spain	
No. 63. Tribunal Supremo, First Civil Chamber, 17 May 2007	
Cerámicas Casao, S.A. v. I.A.G. Impianti Automazione Gestione srl	698
 No. 64. Tribunal Supremo, First Civil Chamber, 14 November 2007 	
Limber, S.A. v. Cutisin, A.S.	703
United Kingdom	
No. 78. House of Lords, 21 February 2007	
RAS Riunione Adriatica di Sicurtà SpA v. West Tankers Inc	710
 No. 79. High Court of Justice, Queen's Bench Division, Commercial Court, 22 March 2007; Court of Appeal (Civil Division), 17 October 2007 and High Court of Justice, 	
yy	

	Queen's Bench Division, Commercial Court, 15 February 2008 Gater Assets Limited v. NAK Naftogaz Ukrainiy	721
_	No. 80. High Court of Justice, Queen's Bench Division, Commercial Court, 28 June 2007 and Court of Appeal (Civil Division), 5 December 2007	752
_	C v. D No. 81. High Court of Justice, Queen's Bench Division, Commercial Court, 16 July 2007	752
	Tamil Nadu Electricity Board v. ST-CMS Electric Company Private Limited	779
_	No. 82. High Court of Justice, Queen's Bench Division, Commercial Court, 17 April 2008 and Court of Appeal (Civil Division (21 October 2008	
	Nigerian National Petroleum Corporation v. IPCO (Nigeria) Limited	788
_	No. 83. High Court of Justice, Queen's Bench Division, Commercial Court, 30 July 2008	
	Ace Capital Ltd v. CMS Energy Corporation	803
<i>U</i> .	No. 612. United States District Court, Southern District of Florida, 16 February 2006 and 26 March 2006 and United States Court of Appeals, Eleventh Circuit, 7 June 2007 Inacio Eufemio Lobo v. Celebrity Cruises, Inc.	820
_	No. 613. United States District Court, Eastern District of New York, 16 March 2006 and United States Court of Appeals, Second Circuit, 23 August 2007	020
	Mayer Zeiler, et al. v. Joseph Deitsch, et al.	839
_	No. 614. United States District Court, Northern District of Illinois, Eastern Division, 8 August 2006 and United States Court of Appeals, Seventh Circuit, 29 August 2007	
	Certain Underwriters at Lloyd's v. Argonaut Insurance Company	856
_	No. 615. United States District Court, Southern District of Florida, 21 February 2007	
	Regent Seven Seas Cruises, Inc. v. Rolls Royce, PLC, et al. and Alstom Power Conversion, et al. v. Radisson Seven Seas (France) snc, et al.	879
_	No. 616. United States District Court, Southern District of West Virginia, Huntington Division, 5 March 2007	
	Felman Production Inc., et al. v. Boris Bannai et al.	893
		xxi

_	No. 617. United States District Court, District of Connecticut, 9 March 2007	
_	Bahrain Telecommunications Co. v. DiscoveryTel, Inc., et al. No. 618. United States District Court, District of Columbia, 30 March 2007 and United States Court of Appeals, District of Columbia Circuit, 11 April 2008	899
_	Azhar Ali Khan, et al. v. Parsons Global Services, Ltd., et al. No. 619. United States District Court, Northern District of Georgia, Atlanta Division, 3 April 2007 Interested Underwriters at Lloyd's, et al. v. M/T SAN SEBASTIAN and her freights, in rem, et al.	911
_	No. 620. United States District Court, Eastern District of Virginia, Norfolk Division, 19 April 2007 Al-Haddad Commodities Corporation v. Toepfer International Asia Pte., Ltd.	944
_	No. 621. United States Court of Appeals, District of Columbia Circuit, 25 May 2007 TermoRio S.A. E.S.P., et al. v. Electranta S.P. (Colombia), et al.	955
_	No. 622. United States Court of Appeals, Sixth Circuit, 25 May 2007 Venture Global Engineering, LLC v. Satyam Computer Services, Ltd.	970
_	No. 623. United States District Court, Eastern District of Michigan, Southern Division, 7 June 2007 Hall Steel Company v. Metalloyd Ltd.	978
_	No. 624. United States District Court, Eastern District of New York, 20 June 2007 Apple & Eve, LLC v. Yantai North Andre Juice Co. Ltd.	985
_	No. 625. United States District Court, Southern District of New York, 1 August 2007 Caja Nacional de Ahorro y Seguros in Liquidation, et al. v. Deutsche Ruckversicherung AG	997
_	No. 626. Superior Court of California, County of Los Angeles, 15 August 2007 Princess Cruise Lines, Ltd. v. Christina Dean	1006
	Timess Claise Lines, Ltd. v. Cillisting Dean	1000

No. 627. United States Court of Appeals, Second Circuit,	
7 September 2007 Karaha Bodas Company, LLC v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara	1009
No. 628. United States District Court, District of Delaware, 28 September 2007	
URS Corporation v. The Lebanese Company for the Development and Reconstruction of Beirut Central District SAL	1024
No. 629. United States District Court, Southern District of Indiana, Indianapolis Division, 18 October 2007 Certain Underwriters at Lloyd's, London, Subscribing to Certificate Number 3g04-02597, et al. v. Helen Porter Simon	1032
No. 630. United States District Court, Southern District of New York, 2 November 2007 Telenor Mobile Communications AS v. Storm LLC	1041
 No. 631. United States District Court, District of New Jersey, 7 November 2007 Rhodia Inc. v. Bayer Cropscience Inc., et al. 	1078
No. 632. United States District Court, Eastern District of New York, 10 December 2007 Steelex SA v. Dasil Corp.	1086
No. 633. United States Court of Appeals, Fifth Circuit, 7 January 2008 Gulf Petro Trading Company Inc., et al. v. Nigerian National Petroleum Corporation, et al.	1089
 No. 634. United States District Court, Southern District of Texas, Houston Division, 25 January 2008 Allan Millmaker d/b/a Pentomino Producing LLC v. Joe Bruso, et al. 	
_ No. 635. United States District Court, Southern District of Florida, 1 February 2008 Nicolae Daniel Vacaru v. Royal Caribbean Cruises, Ltd.	1108
 No. 636. United States District Court, Southern District of New York, 6 February 2008 	
 Global Gold Mining, LLC v. Peter M. Robinson et al. No. 637. United States District Court, Western District of Pennsylvania, 6 February 2008 	1117
	xxiii

Steel Corporation of the Philippines v. International Steel Services, Inc.	1125
 No. 638. United States Court of Appeals, Fifth Circuit, 20 February 2008 	
Wartsila Finland Oy, et al. v. Duke Capital LLC Intervener: Duke Energy International Guatemala y Cia., SCA, f/k/a Grupo Generador de Guatemala y Cia, SCA	1133
 No. 639. United States District Court, Southern District of New York, 4 March 2008 	
Land, Air & Sea Transport, d/b/a L.A.S.T. v. El Nasr Mining Co.	1141
 No. 640. United States District Court, Northern District of Texas Dallas Division, 8 April 2008 	,
ENSCO International Incorporated v. Certain Underwriters at Lloyd's and Insurance Companies Subscribing to Policy Numbers and Cover Notes PE0500247, B0621EL0EN0105, LCD070105(A), LCD070105(B), et al.	
 No. 641. United States District Court, Southern District of Florida 28 April 2008 	ì,
Geovanni Manuel Herrera Del Orbe v. Royal Caribbean Cruises, Ltd.	1148
 No. 642. United States District Court, District of New Jersey, 21 May 2008 	
Frank Szczepanik, et al. v. Through Transport Mutual Insurance Association, Ltd. d/b/a T.T.C., et al.	1155
 No. 643. United States Court of Appeals, First Circuit, 22 May 2008 	
Sourcing Unlimited, Inc., d/b/a Jumpsource v. Asimco International, Inc., et al.	1163
No. 644. United States District Court, Southern District of New York, 3 June 2008	
Sanluis Developments, LLC, et al. v. CCP Sanluis, LLC, et al.	1172
 No. 645. United States Court of Appeals, Ninth Circuit, 19 June 2008 	
Seung Woo Lee, as Co-Receiver for Medison Co. Ltd. a Korean corporation, et al. v. Imaging 3, Inc., f/k/a Imaging Services, Inc.	, 1180
 No. 646. United States Court of Appeals, Eleventh Circuit, 14 July 2008 	
Four Seasons Hotels and Resorts, BV, et al. v. Consorcio Barr, SA	1183

 No. 647. United States District Court, District of New Jersey, 24 July 2008 	
Alexander Razo v. Nordic Empress Shipping Ltd, et al.	1187
 No. 648. United States District Court, Southern District of New York, 30 July 2008 	
E.T.I. Euro Telecom International NV v. Republic of Bolivia, et al.	1198
_ No. 649. United States District Court, Northern District of Oklahoma, 8 August 2008	4.000
NPI, Inc. v. Pagoda Ventures, Ltd., et al.	1203
 No. 650. United States District Court, District of Columbia, 12 August 2008 	
CPConstruction Pioneers Baugesellschaft Anstalt v. The Government of the Republic of Ghana, Ministry of Roads and Transport	1211
 No. 651. United States District Court, Eastern District of New York, 22 August 2008 	
Magi XXI, Inc. v. Stato della Cittá del Vaticano a/k/a The Holy See, et al.	1216
_ No. 652. United States District Court, Southern District of New	
York, 27 August 2008 Firooz Ghassabian v. Fatollah Hematian, et al.	1224
Venezuela	
 No. 2. Juzgado Sexto de Primera Instancia, Caracas, 2 August 2006 and Tribunal Supremo de Justicia, 12 December 2006 	
Tanning Research Laboratories, Inc. v. Hawaiian Tropic de Venezuela C.A.	1228
Part V – B. Court Decisions on the European Convention 1961	1241
List of Contracting States (as of 1 November 2008)	1245
Part V- C. Court Decisions on the Washington	
Convention 1965	1249
List of Contracting States and Signatories (as of 1 November 2008)	1251

United Kingdom No. W2. High Court of Justice, Queen's Bench Division, Commercial Court, 11 July 2008 and Court of Appeal	
(Civil Division), 28 July 2008 E.T.I. Euro Telecom International NV v. Republic of Bolivia, et al.	1258
Part V – D. Court Decisions on the Panama Convention 1975	1293
List of Contracting States (as of 1 November 2008)	1295
 United States No. P22. United States District Court, Southern District of Texas, Houston Division, 11 December 2007 Terminales Portuarios Termiport, SA v. Saxon Energy Services del Ecuador, SA No. P23. United States District Court, Southern District of Florida, 	1297
Miami Division, 20 April 2008 Americatel El Salvador, S.A. de C.V. v. Compania de Telecomunicaciones de El Salvador, S.A. de C.V.	1302
Part VI – Articles on Arbitration	1307
Part VII – Bibliography	1309
I. General	1311
II. Countries	1327
III. Journals on Arbitration	1335
List of ICCA Officers and Members	1345