

TABLE OF CONTENTS

VOLUME XIX – 1994

	Page
Introduction	
Prof. Dr. Albert Jan van den Berg, General Editor	v
Table of Contents	ix
Preface	
Prof. Giorgio Bernini, President of ICCA	xix
Part I – National Reports	1
<i>Note General Editor</i>	1
Part II – A. Arbitral Awards	9
Ad Hoc – UNCITRAL	
<i>Antoine Biloune and Marine Drive Complex Ltd. v. Ghana Investments Centre and the Government of Ghana</i>	
Awards of 27 October 1989 and 30 June 1990	11
Ad Hoc	
<i>Government of the United States of America v. Government of the United Kingdom of Great Britain and Northern Ireland (Heathrow Arbitration)</i>	
Award of 30 November 1992	33
Federal Republic of Germany	
<i>Arbitration Court of the German Coffee Association</i>	
Final award of 19 March 1987	44
Final award of 28 September 1992	48

<i>International Centre for Settlement of Investment Disputes</i>	
<i>Southern Pacific Properties (Middle East) Limited and Southern Pacific Properties Limited v. The Arab Republic of Egypt</i>	
Award of 20 May 1992 in case no. ARB/84/3	51
<i>International Chamber of Commerce</i>	
Case no. 5622 of 1988, final award	105
Case no. 6248 of 1990, final award	124
Case no. 6286 of 1991, partial award	141
Case no. 6610 of 1991, interim award	162
Case no. 6829 of 1992, final award	167
Case no. 6962 of 1992, final award	184
Index of Arbitral Awards, Volumes XVI (1991) – XIX (1994)	
	Index Awards – 1
<i>Introduction</i>	Index Awards – 1
<i>Index of Arbitral Awards, Volumes XVI (1991) – XIX (1994)</i>	
	Index Awards – 3
Part II – B. Court Decisions on Arbitration	195
<i>European Communities</i>	
Court of Justice of the European Communities, Case C-209/90, 8 April 1992 (<i>Commission of the European Communities v. Walter Feilbauer</i>)	197
<i>Federal Republic of Germany</i>	
Bundesgerichtshof, 10 October 1991 (<i>Seller v. Buyer</i>)	200
<i>France</i>	
Cour de cassation, 25 May 1992 (<i>Fougerolle S.A. v. Procofrance S.A.</i>)	205
<i>Hong Kong</i>	
Supreme Court of Hong Kong, High Court, 7 January 1993 (<i>Philips Hong Kong Limited v. Hyundai Electronics Industries Co. Ltd.</i>)	209
<i>Switzerland</i>	
Cour de Justice, Geneva, 17 November 1989 and Tribunal Fédéral, 17 April 1990 (<i>Omnium de Traitement et de Valorisation – OTV v. Hilmarton</i>)	214
<i>United Kingdom</i>	
High Court, Queen's Bench Division, 22 December 1992 (<i>Hassneh Insurance Co. of Israel et al. v. Stuart J. Mew</i>)	223

Queen's Bench Division (Commercial Court), 22 December 1992 (<i>Union of India v. McDonnell Douglas Corporation</i>)	235
<i>United States</i>	
United States Court of Appeals, Second Circuit, 29 June 1993 (<i>The Government of the United Kingdom of Great Britain and Northern Ireland ... Ministry of Defense v. The Boeing Company et al.</i>)	240
Part II - C. Court Decisions Applying the UNCITRAL Model Law	249
<i>Case Law On UNCITRAL Texts (CLOUT)</i>	251
User Guide, A/CN.9/SER.C/GUIDE/1, 19 May 1993 (excerpts)	251
UNCITRAL Model Law on International Commercial Arbitration 1985, Abstracts of Cases, A/CN.9/SER.C/ABSTRACTS/1, 17 May 1993 and A/CN.9/SER.C/ABSTRACTS/2, 4 November 1993 (excerpts)	254
<i>Argentina</i>	
Case 27. Cámara Nacional de Apelaciones en lo Comercial - Sala, 26 September 1988 (<i>Enrique C. Wellbers S.A.I.C. A. G. v. Extraktionstechnik Gesellschaft für Anlagenbau M.B.M.: S/ Ordi- nario</i>)	254
<i>Canada</i>	
Case 9. Federal Court of Canada, Trial Division, 2 November 1987 (<i>Coopers and Lybrand Limited (Trustee) for BC Navigation S.A. (Bankrupt) v. Canpotex Shipping Services Limited</i>)	255
Case 10. Superior Court of Quebec, 16 April 1987 (<i>Navigation Sonamar Inc. v. Algoma Steamships Limited and others</i>)	256
Case 11. Federal Court of Canada, Trial Division, 19 February 1988 (<i>Relais Nordik v. Secunda Marine Services Limited</i>)	256
Case 12. Federal Court of Canada, Trial Division, 7 April 1988 (<i>D. Frampton & Co. Ltd. v. Sylvio Thibeault and Navigation Harvey & Frères Inc.</i>)	257
Case 13. Ontario District Court, York Judicial District, 27 October 1989 (<i>Deco Automotive Inc. v. G.P.A. Gesellschaft für Pressenautomation mbH</i>)	258
Case 14. Federal Court of Canada, Appeal Division, 2 June 1989 (<i>Iberfreight S.A. et al. v. Ocean Star Container Line AG and J.W. Lunstedt KG</i>)	258
Case 15. Federal Court of Canada, Trial Division, 17 January 1989 (<i>Navionics Inc. v. Flota Maritima Mexicana S.A. et al.</i>)	259

Case 16. British Columbia Court of Appeal, 24 October 1990 (<i>Quintette Coal Limited v. Nippon Steel Corp. et al.</i>)	259
Case 17. British Columbia Court of Appeal, 26 February 1990 (<i>Stancroft Trust Limited, Berry and Klausner v. Can-Asia Capital Company, Limited, Mandarin Capital Corporation and Asiamerica Capital Limited</i>)	260
Case 18. Ontario Court of Justice – General Division, 1 March 1991 (<i>Rio Algom Limited v. Sammi Steel Co.</i>)	261
Case 19. British Columbia Supreme Court, 22 November 1991 (<i>Krutov v. Vancouver Hockey Club Limited</i>)	262
Case 28. Saskatchewan Court of Queen's Bench, 19 March 1993 (<i>BWV Investments Ltd. v. Saskferco Products Inc., UHDE-GmbH, et al.</i>)	262
Case 29. Ontario Court, General Division, 30 January 1992 (<i>Kanto Yakin Kogyo Kabushiki-Kaisha v. Can-Eng Manufacturing Ltd.</i>)	263
Case 30. Ontario Court, General Division, 13 February 1992 (<i>Robert E. Schreter v. Gasmac Inc.</i>)	264
Case 31. British Columbia Court of Appeal, 10 March 1992 (<i>Gulf Canada Resources Ltd. v. Arochem International Ltd.</i>)	264
Case 32. Ontario Court, General Division, 30 April 1992 (<i>Mind Star Toys Inc. v. Samsung Co. Ltd.</i>)	265
Case 33. Federal Court of Appeal, 29 May 1992 (<i>Ruhrkohle Handel Inter GmbH and National Steel Corp. et al. v. Fednav Ltd. and Federal Pacific (Liberia) Ltd. and Federal Calumet (The)</i>)	266
Case 34. Federal Court of Canada, Trial Division, 30 September 1992 and 9 October 1992 (identical decisions) (<i>Miramichi Pulp and Paper Inc. v. Canadian Pacific Bulk Ship Services Ltd.</i>)	266
Case 35. Ontario Court, General Division, 1 October 1992 (<i>Canada Packers Inc. et al. v. Terra Nova Tankers Inc. et al.</i>)	267
Case 36. Federal Court of Canada, Trial Division, 19 January 1993 (<i>Nanisivik Mines Ltd. and Zinc Corporation of America v. F.C.R.S. Shipping Ltd., Canarctic Shipping Co. Ltd. et al.</i>)	268
Case 37. Ontario Court, General Division, 12 March 1993 (<i>Arcata Graphics Buffalo Ltd. v. Movie (Magazine) Corp.</i>)	268
<i>Hong Kong</i>	
Case 20. High Court of Hong Kong, 29 October 1991 (<i>Fung Sang Trading Limited v. Kai Sun Sea Products and Food Company Limited</i>)	269
Case 38. High Court of Hong Kong, 2 March 1991 (<i>China State Construction Engineering Corporation, Guangdong Branch v. Madiford Limited</i>)	270

Case 39. High Court of Hong Kong, 29 June 1992 (<i>Katran Shipping Co. Ltd. v. Kenven Transportation Ltd.</i>)	271
Case 40. High Court of Hong Kong, 30 July 1992 (<i>Pacific International Lines (PTE) Ltd. & Another v. Tsinlien Metals and Minerals Co. Ltd.</i>)	271
Case 41. High Court of Hong Kong, 24 September 1992 (<i>Guangdong Agriculture Company Limited v. Conagra International (Far East) Limited</i>)	272
Case 42. High Court of Hong Kong, 2 March 1992 (<i>Interbulk (Hong Kong) Ltd. v. Safe Rich Industries Ltd.</i>)	273
Case 43. High Court of Hong Kong, 8 September 1992 (<i>Hissan Trading Co. Ltd. v. Orkin Shipping Corporation</i>)	273
Case 44. High Court of Hong Kong, 17 February 1993 (<i>William Company v. Chu Kong Agency Co. Ltd. and Guangzhou Ocean Shipping Company</i>)	274

Part III – A. Arbitration Rules 277

<i>American Arbitration Association and the Chamber of Commerce and Industry of the Russian Federation</i>	
Optional Arbitration Clause for Use in Contracts in U.S.A.-Russian Trade and Investment – 1992	279
<i>Japan Commercial Arbitration Association</i>	
The New Commercial Arbitration Rules of the Japan Commercial Arbitration Association, by Hiroshi Hattori	283
The Japan Commercial Arbitration Association Commercial Arbitration Rules, 1 October 1992	285
<i>Netherlands Arbitration Institute</i>	
Netherlands Arbitration Institute, amended Arbitration Rules, 1 January 1993	305
<i>Permanent Court of Arbitration</i>	
The New Permanent Court of Arbitration Optional Rules, by P.J.H. Jonkman	309
Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two States, 20 October 1992	313
Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two Parties of Which Only One is a State, 6 July 1993	338
Resolution I, 11 September 1993	362
Resolution II, 11 September 1993	364

Part III – B. Iran-US Claims Tribunal	367
<i>Introduction</i>	369
<i>Survey of Awards, Decisions and Orders</i>	373
<i>Decision of the Full Tribunal</i>	
Cases A15(IV) and A24 (DEC 116-A15(IV) & A24-FT), 18 May 1993 (<i>The Islamic Republic of Iran v. The United States of America</i>)	389
<i>Awards of the Chambers</i>	
Case 250 (547-250-3), 5 March 1993 (<i>Fedders Corporation</i>)	395
Case 298 (544-298-2), 22 January 1993 (<i>James M. Saghi; Michael R. Saghi and Allan J. Saghi</i>)	399
Cases 412 and 415 (550-412/415-3), 19 October 1993 (<i>Zaman Azar Nourafchan and George Nourafchan</i>)	416
Case 812 (546-812-3), 2 March 1993 (<i>Abraham Rahman Golshani</i>)	421
Case 967 (549-967-2), 6 July 1993 (<i>Harold Birnbaum</i>)	435
 Part IV – Recent Developments in Arbitration Law and Practice	 443
<i>Algeria</i>	445
<i>Bermuda</i>	447
<i>Bulgaria</i>	449
Prof. Zhivko Stalev	
<i>Colombia</i>	451
<i>Federal Republic of Germany</i>	452
Dr.Dr. Ottoarndt Glossner	
<i>Finland</i>	453
<i>Italy</i>	454
Prof. Giorgio Bernini	
<i>Mexico</i>	457
Prof. José Luis Siqueiros	
<i>Peru</i>	460

<i>Russian Federation</i>	461
<i>Tunisia</i>	462
<i>United Arab Emirates</i>	463
Part V – A. Court Decisions on the New York Convention 1958	465
Prof. Dr. Albert Jan van den Berg	
<i>Introduction</i>	467
<i>List of Contracting States (as of 19 April 1994)</i>	470
<i>New York Convention of 1958 Consolidated Commentary Cases Reported in Volumes XVII (1992) – XIX (1994)</i>	475
<i>Excerpts of Court Decisions</i>	
<i>Australia</i>	
No. 7. Federal Court of Australia, New South Wales District Registry, General Division, 11 April 1990 (<i>Dodwell & Co. Pty v. Moss Security, Moss Security Pty and Kevin McDonnell</i>)	615
No. 8. Federal Court of Australia, New South Wales District Registry, General Division in Admiralty, 5 June 1991 (<i>Bakri Navigation Co. Ltd. v. Ship Golden Glory, Glorious Shipping S.A.</i>)	624
No. 9. Supreme Court of New South Wales, Common Law Division, 14 August 1992 (<i>Aerospatiale Holdings Australia Pty Ltd. and Eurocopter International Pacific Ltd. v. Elspan International Pty Ltd. et al.</i>)	635
<i>Canada</i>	
No. 6. Alberta Court of Appeal, 16 January 1992 (<i>Kaverit Steel and Crane Ltd. et al. v. Kone Corporation, et al.</i>)	643
<i>Federal Republic of Germany</i>	
No. 41. Bundesgerichtshof, 15 June 1987 (<i>German individual v. New York corporation</i>)	653
<i>France</i>	
No. 18. Cour d'appel, Paris, 19 December 1991 (<i>Hilmarton Ltd. v. Omnium de Traitement et de Valorisation – OTV</i>)	655
No. 19. Cour d'appel, Paris, 12 February 1993 (<i>Société Unichips Finanziaria SpA S.A. and Unichips International BV, Netherlands v. François et Michèle Gesnouin</i>)	658
No. 20. Cour de cassation, 10 March 1993 (<i>Polish Ocean Line v. Jolasry</i>)	662

Hong Kong

No. 6. Supreme Court of Hong Kong, High Court, 15 January 1993 (*Paklito Investment Ltd. v. Klockner East Asia Ltd.*) 664

No. 7. Supreme Court of Hong Kong, High Court, 5 January 1993 (*Qinhuangdao Tongda Enterprise Development Company, et al. v. Million Basic Company Ltd.*) 675

Italy

No. 124. Corte di Cassazione, 7 August 1992 (*Attika Shipping Company v. Bluemar S.A.*) 680

No. 125. Corte di Cassazione, 3 November 1992 (*Franco and Elisabetta Consolata Lucchetti and Maria Teresa Togna v. CO.SI.AC. – Compagnia Siciliana di Appalti e Costruzione SpA*) 685

No. 126. Corte di Cassazione, 10 November 1992 (*Le Swie Horng Steel Enterprises Co. Ltd. v. Guardian Shipping Corp.*) 687

No. 127. Corte di Cassazione, 12 November 1992 (*S.r.L. Ditta Michele Tavella v. Palmco Oil Mill L.D.N. B.M.D.*) 692

No. 128. Corte di Cassazione, 16 November 1992 (*ILET - Industria Legnami Trentina S.r.l. v. Ditta Holzindustrie Schweighofer S.r.l. and Co. S.a.s.*) 694

No. 129. Corte di Cassazione, 20 November 1992 (*Fratelli Pozzoni S.p.A. v. Graphic Security Systems Corporation*) 697

No. 130. Corte di Appello, Bologna, 4 February 1993 (*Subcontractor v. Contractor*) 700

Netherlands

No. 15. Gerechtshof, The Hague, 4 August 1993 (*Owerri Commercial Inc. v. Dielle Srl.*) 703

No. 16. Gerechtshof, Amsterdam, 16 July 1992 (*G.W.L. Kersten & Co. B.V. v. Société Commerciale Raoul-Duval et Cie*) 708

Russian Federation

No. 2. Moscow District Court (Civil Department), 23 January 1992 (*Frontline v. V/O Eksportkheleb*) 710

Sweden

No. 4. Supreme Court, 23 November 1992 (*Datema Aktiebolag v. Forenede Cresco Finans AS*) 712

United Kingdom

No. 34. High Court, Queen's Bench Division (Commercial Court), 22 March 1990 (*John William Hayter v. Edward Ernest Nelson and another and Home Insurance Co.*) 717

No. 35. High Court, Queen's Bench Division (Commercial Court) 18 February 1991 (*Paul Smith Ltd. v. H & S International Holdings Company, Inc.*) 725

No. 36. Court of Appeal, 8 October 1992 (*Greenmar Navigation Ltd. v. Romline Shipping Co.*) 731

No. 37. House of Lords, 21 January 1993 (<i>Channel Tunnel Group Ltd. and France Manche S.A. v. Balfour Beatty Construction Ltd., et al.</i>)	736
No. 38. Court of Appeal, 12 March 1993 (<i>Soleh Boneh International Ltd. and Water Resources Development (International) Ltd. v. Government of the Republic of Uganda and National Housing Corporation</i>)	748
<i>United States</i>	
No. 144. United States District Court, Southern District of New York, 18 October 1989 (<i>Midland Bright Drawn Steel Limited v. Erlanger & Company, Inc.</i>)	755
No. 145. United States Court of Appeals, Fifth Circuit, 16 March 1992 (<i>Sembawang Shipyard, Ltd. v. Charger, Inc. and M/V Charger</i>)	761
No. 146. United States District Court, District of New Jersey, 28 April 1992 and 1 July 1992 (<i>John H. Brier v. Northstar Marine, Inc.; Shamrock Marine Towing; and Cape May Marine Services, Inc. (d/b/a Sea Two of Southern New Jersey)</i>)	766
No. 147. United States Court of Appeals, Tenth Circuit, 17 July 1992 (<i>Ronald H. Riley v. Kingsley Underwriting Agencies, Ltd., et al.</i>)	775
No. 148. United States District Court, Eastern District of Pennsylvania, 16 November 1992 (<i>Euro-Mec Import, Inc. v. Pantrem & C., S.p.A.</i>)	781
No. 149. United States District Court, Southern District of New York, 21 December 1992 (<i>P.T. Reasuransi Umum Indonesia v. Evanston Insurance Company, et al.</i>)	788
No. 150. United States District Court, Eastern District of Louisiana, 28 December 1992 (<i>Sphere Drake Insurance plc v. Marine Towing, Inc. et al.</i>)	792
No. 151. United States District Court, District of New Jersey, 29 December 1992 (<i>Kwong Kam Tat Trading Company, Ltd. v. Comsup Commodities, Inc.</i>)	797
No. 152. United States District Court, Southern District of New York, 12 January 1993 (<i>InterCarbon Bermuda, Ltd. v. Caltex Trading and Transport Corporation</i>)	802
No. 153. United States Court of Appeals, Second Circuit, 19 January 1993 (<i>Filanto S.p.A. v. Chilewich International Corp.</i>)	808
No. 154. United States Court of Appeals, Second Circuit, 16 March 1993 (<i>Seetransport Wiking Trader Schiffahrtsgesellschaft mbH & Co. Kommanditgesellschaft v. Navimpex Centrala Navala and Uzinexportimport</i>)	812

No. 155. United States District Court, Southern District of New York, 16 March 1993 (<i>Remy Amerique, Inc. v. Touzet Distribution, S.A.R.L. and SICA Les Vignerons Provençaux</i>)	821
No. 156. United States District Court, Southern District of New York, 30 September 1992 and United States Court of Appeals, Second Circuit, 6 April 1993 (<i>Progressive Casualty Insurance Company, et al. v. C.A. Reaseguradora Nacional de Venezuela</i>)	825
No. 157. United States Court of Appeals, Second Circuit, 19 April 1993 (<i>Cargill International S.A. and Cargill B.V. v. M/T Pavel Dybenko, her engines, tackle, etc. in rem; Novorossiysk Shipping Co., in personam</i>)	835
No. 158. United States District Court, Eastern District of Pennsylvania, 9 June 1993 (<i>Technetronics, Inc. v. Leybold-Geaeus GmbH; Leybold AG and Leybold Technologies, Inc.</i>)	843
Part V – B. Court Decisions on the European Convention 1961	851
<i>List of Contracting States and Signatories (as of 1 February 1994)</i>	853
<i>Federal Republic of Germany</i>	
No. E10. Oberlandesgericht, Cologne, 18 May 1992 (<i>French seller v. German buyer</i>)	856
<i>France</i>	
No. E4. Cour d'appel, Lyon, 4 July 1991 (<i>SA France-Embryon v. Renato Argonauta</i>)	859
Part V – C. Court Decisions on the Washington Convention 1965	863
<i>List of Contracting States and Signatories (as of 4 February 1994)</i>	865
Part VI – Articles on Arbitration	871
Part VII – Bibliography	873
I. <i>General Bibliography</i>	875
II. <i>Countries</i>	898
III. <i>Journals on Arbitration</i>	905
List of ICCA Officers and Members	915