

TABLE OF CONTENTS

VOLUME XX - 1995

	Page
Introduction	
Prof. Dr. Albert Jan van den Berg, General Editor	v
Preface	
Fali S. Nariman, President of ICCA	xix
Part I - National Reports	1
<i>Note General Editor</i>	1
Table of Contents of <i>International Handbook on Commercial Arbitration</i>	1
Part II - A. Arbitral Awards	9
<i>International Centre for Settlement of Investment Disputes</i> <i>Vacuum Salt Products Limited v. Government of the Republic of Ghana</i> Award of 1 February 1994	11
<i>International Chamber of Commerce</i>	
Case no. 5314 of 1988, interim award	35
Case no. 6149 of 1990, interim award	41
Case no. 6233 of 1992, final award	58
Case no. 6320 of 1992, final award	62
Case no. 6573 of 1991, final award	110

TABLE OF CONTENTS

Maritime Arbitration

USA

- Society of Maritime Arbitrators, Inc., New York
Nordic American Shipping A/S v. Bayoil (USA) Inc.*
Final award no. 2972, 26 April 1993 126

Index of Arbitral Awards, Volumes XVI (1991) - XX (1995) 133

Introduction 133

Index of Arbitral Awards, Volumes XVI (1991) - XX (1995) 135

Part II - B. Court Decisions on Arbitration 185

European Community

- Court of Justice of the European Community, 27 April 1994
(*Municipality of Almelo and others v. Energiebedrijf IJsselmij NV*) 187

France

- Tribunal de Grande Instance, Nanterre, 22 September 1993
(*Hilmarton Ltd. v. Omnium de traitement et de valorisation
- OTV*) 194

- Cour d'Appel, Paris, 30 September 1993 (*European Gas Turbines
SA v. Westman International Ltd.*) 198

United Kingdom

- House of Lords, 16 December 1993 (*L'Office Cherifien des
Phosphates and Unitramp SA v. Yamashita-Shinnihon Steamship
Co. Ltd., The Boucraa*) 208

- House of Lords, 5 May 1994 (*Coppée-Lavalin SA/NV
v. Ken-Ren Chemicals and Fertilizers Ltd. (in liquidation)*) 223

- High Court, 21 July 1994 (*Westland Helicopters Ltd. v. The Arab
Organisation for Industrialisation*) 237

**Part II - C. Court Decisions Applying the UNCITRAL
Model Law 269**

Case Law on UNCITRAL Texts (CLOUT) 271

TABLE OF CONTENTS

Canada

Case 28. <i>BWV Investments Ltd. v. Saskeferco Products Inc., UHDE-GmbH, et al.</i> Additional information: Appeal pending	272
Case 65. British Columbia Supreme Court, 28 November 1988 (<i>ODC Exhibit Systems Ltd. v. Lee, Expand International et al.</i>)	272
Case 66. Superior Court of Quebec, 14 March 1989 (<i>Jean Charbonneau v. Les Industries A.C. Davie Inc. et al.</i>)	273
Case 67. Saskatchewan Court of Appeal, 17 September 1991 (<i>AAMCO Transmissions Inc. v. Kunz</i>)	273
Case 68. Federal Court of Canada, Trial Division, 3 December 1993 (<i>Delphi Petroleum Inc. v. Derin Shipping and Training Ltd.</i>)	274
Case 69. Ontario Court of Justice, General Division, 24 January 1994 (<i>Onex Corp. v. Ball Corp.</i>)	275
Case 70. Federal Court of Appeal, 10 February 1994 (<i>Nanisivik Mines Ltd. and Zinc Corporation of America v. Canarctic Shipping Co. Ltd.</i>)	276
Case 71. British Columbia Supreme Court, 25 February 1994 (<i>Trade Fortune Inc. v. Amalgamated Mill Supplies Ltd.</i>)	277
Case 72. Federal Court of Canada, Trial Division, 22 March 1994 (<i>Continental Resources Inc. v. East Asiatic Co. (Canada) et al.</i>)	278
Case 73. Ontario Court of Appeal, 25 April 1994 (<i>Automatic Systems Inc. v. Bracknell Corp. (Canal Contractors) and Chrysler Canada Ltd.</i>)	279
Case 74. Ontario Court of Appeal, 25 April 1994 (<i>Automatic Systems Inc. v. E.S. Fox Ltd. and Chrysler Canada Ltd.</i>)	280

Hong Kong

Case 57. High Court of Hong Kong, 5 May 1993 (<i>Lucky-Goldstar International (H.K.) Limited v. Ng Moo Kee Engineering Limited</i>)	280
Case 58. High Court of Hong Kong, 22 June and 12 July 1993 (<i>Ananda Non-Ferrous Metals Ltd. v. China Resources Metal and Minerals Co. Ltd.</i>)	281
Case 59. High Court of Hong Kong, 28 September 1993 (<i>China Ocean Shipping Company v. Mitrans Maritime Panama S.A.</i>)	282
Case 60. High Court of Hong Kong, 6 October 1993 (<i>Safond Shipping Sdn. Bhd. v. East Asia Sawmill Corp.</i>)	283
Case 61. High Court of Hong Kong, 21 January 1994 (<i>Zhan Jiang E & T Dev Area Service Head Co. v. An Hau Company Limited</i>)	283
Case 62. High Court of Hong Kong, 2 February 1994 (<i>Oonc Lines Limited v. Sino-American Trade Advancement Co. Ltd.</i>)	284

TABLE OF CONTENTS

Case 63. High Court of Hong Kong, 31 March 1994 (<i>Joong and Shipping Co. Limited v. Choi Chong-sick (alias Choi Chong-sik) and Chu Ghin Ho trading as Chang Ho Company</i>)	284
Case 64. High Court of Hong Kong, 13 May 1994 (<i>H. Small Limited v. Goldroyce Garment Limited</i>)	285
Case 75. High Court of Hong Kong, 7 July 1994 (<i>China Resources Metal and Minerals Co. Ltd. v. Ananda Non-Ferrous Metals Ltd.</i>)	286
Case 76. High Court of Hong Kong, 13 July 1994 (<i>China Nanhai Oil Joint Service Corporation, Shenzhen Branch v. Gee Tai Holdings Co. Ltd.</i>)	287
Case 77. High Court of Hong Kong, 15 August 1994 (<i>Vibrofotation A.G. v. Express Builders Co. Ltd.</i>)	287
Case 78. High Court of Hong Kong, 18 August 1994 (<i>Astel-Peiniger Joint Venture v. Argos Engineering & Heavy Industries Co. Ltd.</i>)	288
<i>Index of Articles</i>	290
Part III - A. Arbitration Rules	293
<i>Hungarian Chamber of Commerce</i>	
Rules of Procedure of the Court of Arbitration, 15 March 1993	295
<i>Society of Maritime Arbitrators, Inc.</i>	
Maritime Arbitration Rules, 10 May 1994	321
<i>World Intellectual Property Organization</i>	
WIPO Mediation Rules, 1 October 1994	331
WIPO Arbitration Rules, 1 October 1994	340
WIPO Expedited Arbitration Rules, 1 October 1994	374
Recommended Contract Clauses and Submission Agreements	377
Part III - B. Iran-US Claims Tribunal	381
<i>Introduction</i>	383
<i>Survey of Awards, Decisions and Orders</i>	387
<i>Order of the Full Tribunal</i>	
Case A15 (I:D & I:H), 24 May 1993 (<i>The Islamic Republic of Iran v. The United States of America</i>)	401

TABLE OF CONTENTS

<i>Awards and Orders of the Chambers</i>	
Cases 44, 46 and 47 (560-44/46/47-3), 12 October 1994 (<i>Shahin Shaine Ebrahimi, Cecilia Radene Ebrahimi and Christina Tandis Ebrahimi</i>)	404
Case 118 (553-118-1), 8 December 1993 (<i>Ninni Ladjevardi</i>)	454
Case 178 (558-178-2), 30 June 1993 (<i>Faith Lita Khosrowshahi, Susanne P. Khosrowshahi, Marcene P. Khosrowshahi, Kevin Kayvan Khosrowshahi and Cameron Kamran Khosrowshahi</i>)	460
Cases 213 and 215, 22 July 1994 (<i>Dadras International, Per-Am Construction Corporation</i>)	478
Case 221 (559-221-1), 24 August 1994 (<i>Mohsen Asgari Nazari</i>)	496
Case 319 (554-319-1), 23 March 1994 (<i>Catherine Etezadi</i>)	516
Case 368 (551-368-3), 10 November 1993 (<i>Unidyne Corporation</i>)	544
Case 950 (557-950-2), 25 May 1994 (<i>Jalal Moin</i>)	577
Part IV - Recent Developments in Arbitration Law and Practice	581
<i>Bahrain</i>	583
<i>China, People's Republic of</i>	584
<i>Czech Republic</i>	585
<i>Egypt</i>	587
<i>Hungary</i>	589
<i>Ivory Coast</i>	591
<i>Romania</i>	592
<i>Singapore</i>	594
<i>Ukraine</i>	596
Part V - A. Court Decisions on the New York Convention 1958	599
Prof. Dr. Albert Jan van den Berg	
<i>Introduction</i>	601
<i>List of Contracting States (as of 31 May 1995)</i>	603
<i>Index of Cases Reported in Volume XX (1995)</i>	608
<i>Excerpts of Court Decisions</i>	
<i>Australia</i>	
No. 10. Supreme Court of New South Wales, Admiralty Division, 19 July 1993 (<i>Roy Saunderson v. Caltex Tanker Company (Australia) Pty Limited et al.</i>)	622

TABLE OF CONTENTS

No. 11. Supreme Court of Queensland, 29 October 1993 (<i>Resort Condominiums International Inc. v. Ray Bolwell and Resort Condominiums (Australasia) Pty. Ltd.</i>)	628
<i>Colombia</i>	
No. 2. Corte Suprema de Justicia, 20 November 1992 (<i>Sunward Overseas SA v. Servicios Marítimos Limitada Semar (Ltda.)</i>)	651
<i>France</i>	
No. 21. Cour d'Appel, Grenoble, 13 September 1993 (<i>SA CFTE – Compagnie Française Technique d'Étanchéité v. Jacques Dechavanne</i>)	656
No. 22. Cour de Cassation, 9 November 1993 (<i>Bomar Oil NV v. ETAP – L'Entreprise Tunisienne d'Activités Pétrolières</i>)	660
No. 23. Cour de Cassation, 23 March 1994 (<i>Hilmarton Ltd. v. Omnium de traitement et de valorisation – OTV</i>)	663
<i>Germany</i>	
No. 42. Bundesgerichtshof, 3 December 1992 (<i>Buyer v. Seller</i>)	666
<i>Hong Kong</i>	
No. 8. Supreme Court of Hong Kong, High Court, 13 July 1994 (<i>China Nanhai Oil Joint Service Corporation Shenzhen Branch v. Gee Tai Holdings Co. Ltd.</i>)	671
<i>India</i>	
No. 22. Supreme Court of India, 7 October 1993 (<i>Renusagar Power Co. Ltd v. General Electric Co.</i>)	681
<i>Italy</i>	
No. 131. Corte di Cassazione, 28 October 1993 (<i>Robobar Limited v. Finncold sas</i>)	739
<i>Japan</i>	
No. 5. High Court, Tokyo, 27 January 1994 (<i>Buyer v. Seller</i>)	742
No. 6. High Court, Tokyo, 30 May 1994 (<i>Japan Educational Corporation v. Kenneth J. Feld</i>)	745
<i>Netherlands</i>	
No. 17. Gerechtshof, 's Hertogenbosch, 28 October 1994; President, Court of First Instance, Maastricht, 15 June 1994 (<i>Karl F. Ungerer GmbH v. Rapid Metaal B.V.</i>)	750
<i>New Zealand</i>	
No. 1. Court of Appeal, 30 June 1994 (<i>Baltimar Aps. Ltd v. Nalder & Biddle Ltd. and Port Nelson Ltd.</i>)	755
<i>Switzerland</i>	
No. 23. Camera di Esecuzione e Fallimenti, Canton Tessin, 19 June 1990 (<i>K.S. AG v. C.C. SA</i>)	762
No. 24. Tribunal Fédéral, 23 June 1992 (<i>Fincantieri-Cantieri navali italiani SpA and Oto Melara SpA v. M. and arbitral tribunal</i>)	766

TABLE OF CONTENTS

No. 11. Supreme Court of Queensland, 29 October 1993 (<i>Resort Condominiums International Inc. v. Ray Bolwell and Resort Condominiums (Australasia) Pty. Ltd.</i>)	628
<i>Colombia</i>	
No. 2. Corte Suprema de Justicia, 20 November 1992 (<i>Sunward Overseas SA v. Servicios Marítimos Limitada Semar (Ltda.)</i>)	651
<i>France</i>	
No. 21. Cour d'Appel, Grenoble, 13 September 1993 (<i>SA CFTE - Compagnie Française Technique d'Étanchéité v. Jacques Dechavanne</i>)	656
No. 22. Cour de Cassation, 9 November 1993 (<i>Bomar Oil NV v. ETAP - L'Entreprise Tunisienne d'Activités Pétrolières</i>)	660
No. 23. Cour de Cassation, 23 March 1994 (<i>Hilmarton Ltd. v. Omnium de traitement et de valorisation - OTV</i>)	663
<i>Germany</i>	
No. 42. Bundesgerichtshof, 3 December 1992 (<i>Buyer v. Seller</i>)	666
<i>Hong Kong</i>	
No. 8. Supreme Court of Hong Kong, High Court, 13 July 1994 (<i>China Nanhai Oil Joint Service Corporation Shenzhen Branch v. Gee Tai Holdings Co. Ltd.</i>)	671
<i>India</i>	
No. 22. Supreme Court of India, 7 October 1993 (<i>Renusagar Power Co. Ltd v. General Electric Co.</i>)	681
<i>Italy</i>	
No. 131. Corte di Cassazione, 28 October 1993 (<i>Robobar Limited v. Finncold sas</i>)	739
<i>Japan</i>	
No. 5. High Court, Tokyo, 27 January 1994 (<i>Buyer v. Seller</i>)	742
No. 6. High Court, Tokyo, 30 May 1994 (<i>Japan Educational Corporation v. Kenneth J. Feld</i>)	745
<i>Netherlands</i>	
No. 17. Gerechtshof, 's Hertogenbosch, 28 October 1994; President, Court of First Instance, Maastricht, 15 June 1994 (<i>Karl F. Ungerer GmbH v. Rapid Metaal B.V.</i>)	750
<i>New Zealand</i>	
No. 1. Court of Appeal, 30 June 1994 (<i>Baltimar Aps. Ltd v. Nalder & Biddle Ltd. and Port Nelson Ltd.</i>)	755
<i>Switzerland</i>	
No. 23. Camera di Esecuzione e Fallimenti, Canton Tessin, 19 June 1990 (<i>K.S. AG v. C.C. SA</i>)	762
No. 24. Tribunal Fédéral, 23 June 1992 (<i>Fincantieri-Cantieri navali italiani SpA and Oto Melara SpA v. M. and arbitral tribunal</i>)	766

TABLE OF CONTENTS

United Kingdom

- No. 39. Court of Appeal, 28 January 1993 (*Harbour Assurance Co. (U.K.) Ltd. v. Kansa General International Insurance Co. Ltd. et al.*) 771

United States

- No. 159. United States District Court, District of Colorado, 16 April 1985 (*Paul G. Quinn v. CGR*) 791
- No. 160. United States District Court, District of Massachusetts, 17 March 1987 (*Sonatrach v. Distringas Corp.*) 795
- No. 161. United States Bankruptcy Appellate Panel, Ninth Circuit, 22 April 1987 (*Mor-Ben Insurance Markets Corp. v. Trident General Insurance Company, Ltd. et al.*) 805
- No. 162. United States District Court, Western District of Washington, 27 May 1987 (*O. Mustad & Sons, A/S et al. v. Seawest Industries, Inc.*) 811
- No. 163. United States Bankruptcy Court, Southern District of New York, 10 June 1987 (*In re Springer Penguin, Inc.*) 816
- No. 164. United States Bankruptcy Court, District of New Jersey, 13 August 1987 (*In re R.M. Cordova International, Inc.*) 825
- No. 165. United States Court of Appeals, Fourth Circuit, 4 November 1992 (*Silkworm Screen Printers, Inc. v. Robert Abrams et al.*) 830
- No. 166. United States Court of Appeals, Fifth Circuit, 6 January 1993 (*McDermott International, Inc. v. Underwriters at Lloyds Subscribing to Memorandum of Insurance No. 104207*) 838
- No. 167. United States Court of Appeals, Fifth Circuit, 6 January 1993 (*West of England Ship Owners Mutual Insurance Association (Luxembourg) v. American Marine Corporation et al.*) 844
- No. 168. United States District Court, Eastern District of New York, 5 March 1993 (*Cheshire Place Associates et al. v. The West of England Ship Owners Mutual Insurance Association et al.*) 847
- No. 169. United States District Court, Southern District of New York, 11 May 1993 (*York Hannover Holding A.G. v. American Arbitration Association and McDermott International Inc. et al.*) 856
- No. 170. United States Court of Appeals, Second Circuit, 2 June 1993 (*John S. Roby and others v. Corporation of Lloyd's and others*) 864
- No. 171. United States Bankruptcy Court, Northern District of Ohio, Eastern Division, 2 July 1993 (*Hupp Industries, Inc. v. Environmental Products Amalgamated Pty., Inc.*) 881

TABLE OF CONTENTS

No. 172. United States District Court, District of Arizona, 9 July 1993 (<i>PPG Industries, Inc. v. Pilkington PLC and Libbey-Owens-Ford Co.</i>)	885
No. 173. United States District Court, Southern District of New York, 16 July 1993 (<i>Rosgoscirc v. Circus Show Corp. et al.</i>)	891
No. 174. United States Court of Appeals, Second Circuit, 21 July 1993 (<i>The Travelers Insurance Company et al. v. Richard John Ratcliffe Keeling et al.</i>)	899
No. 175. United States Court of Appeals, Eleventh Circuit, 15 September 1993 (<i>Robert Davis et al. v. Ricardo Deras</i>)	905
No. 176. United States Court of Appeals, Third Circuit, 21 October 1993 (<i>George F. Grode v. Mutual Fire, Marine & Inland Insurance Co.</i>)	908
No. 177. United States District Court, Northern District of Illinois, Eastern Division, 28 October 1993 (<i>Gerling-Konzern Globale Rueckversicherungs-AG et al. v. Stephen F. Selcke</i>)	916
No. 178. United States District Court, Southern District of New York, 29 October 1993 (<i>Westland Helicopters Ltd. v. The Arab Organization for Industrialization</i>)	922
No. 179. United States Court of Appeals, Seventh Circuit, 17 December 1993 (<i>Daihatsu Motor Co., Ltd. v. Terrain Vehicles, Inc.</i>)	925
No. 180. United States District Court, Southern District of New York, 15 March 1994 (<i>Concord Reinsurance Company Ltd. v. Caja Nacional de Ahorro y Seguro</i>)	932
No. 181. United States Court of Appeals, Fifth Circuit, 23 March 1994 (<i>Sphere Drake Insurance PLC v. Marine Towing, Inc., et al.</i>)	937
No. 182. United States District Court, Southern District of New York, 1 April 1994 (<i>Whirlpool Corporation v. Philips Electronics, N.V.</i>)	943
No. 183. United States District Court, Southern District of New York, 11 April 1994 (<i>Chios Charm Shipping Co. v. Rionda et al.</i>)	950
No. 184. United States Court of Appeals, Second Circuit, 18 April 1994 (<i>Productos Mercantiles e Industriales, S.A. v. Fabergé USA, Inc. et al.</i>)	955
No. 185. United States District Court, Southern District of New York, 5 May 1994 (<i>David Spector and Specurity Industrial Ltd. v. Dov Torenberg et al.</i>)	962

TABLE OF CONTENTS

No. 186. United States Court of Appeals, First Circuit, 7 July 1994; United States District Court, District of Massachusetts, 19 April 1993 (<i>Vimar Seguros y Reaseguros S.A. v. M/V SKY REEFER and M.H. Maritima S.A.</i>)	974
No. 187. United States Court of Appeals, Second Circuit, 8 July 1994 (<i>Seetransport Wiking Trader Schiffahrtsgesellschaft mbH & Co., Kommanditgesellschaft v. Navimpex Centrala Navala and Uzinexportimport</i>)	988
No. 188. United States Court of Appeals, Second Circuit, 25 July 1994 (<i>Charles C. Jones and Clara E. Jones v. Sea Tow Services Freeport NY Inc.</i>)	994
 Part V – B. Court Decisions on the European Convention 1961	 1001
<i>List of Contracting States and Signatories (as of 1 March 1995)</i>	1003
<i>European Convention on International Commercial Arbitration of 1961 – Commentary by Dominique T. Hascher</i>	1006
<i>List of European Convention Court Decisions and Arbitral Awards Excerpts of Court Decisions</i>	1042
 <i>Austria</i>	
No. E2. Oberster Gerichtshof, 20 October 1993 (<i>A v. B</i>)	1051
<i>Belgium</i>	
No. E5. Rechtbank van Koophandel, Kortrijk, 1 October 1993 (<i>Société Lorraine de Matériel Radio-Électrique (SLORA) v. NV Barco Electronic et al.</i>)	1057
<i>Italy</i>	
No. E16. Corte di Cassazione, 15 October 1992 (<i>Agrò di Reolfi Piera & C snc v. Ro Koprodukt oour Produktiva</i>)	1061
<i>Luxembourg</i>	
No. E1. President, Tribunal d'arrondissement de Luxembourg, 7 June 1993	1067
<i>Spain</i>	
No. E11. Audiencia Provincial, Barcelona, 22 January 1991 (<i>Domingo Torm Colóm and Saltor SA v. Mecánicas y Automatismos SA</i>)	1068

TABLE OF CONTENTS

Part V - C. Court Decisions on the Washington Convention 1965	1075
<i>List of Contracting States and Signatories (as of 1 March 1995)</i>	1077
Part VI - Articles on Arbitration	1083
Part VII - Bibliography	1085
<i>I. General</i>	1087
<i>II. Countries</i>	1105
<i>III. Journals on Arbitration</i>	1119
List of ICCA Officers and Members	1127