

TABLE OF CONTENTS

VOLUME XXVII – 2002

Introduction	
Prof. Dr. Albert Jan van den Berg, General Editor	v
Table of Contents	xi
Part I – National Reports	1
<i>Note General Editor</i>	
Table of Contents of <i>International Handbook on Commercial Arbitration</i>	1
Part II – A. Arbitral Awards	11
<i>International Centre for Settlement of Investment Disputes (ICSID)</i>	
• Procedural Order No. 2 [request for provisional measures] of 28 October 1999, Decision of the Tribunal on Objections to Jurisdiction of 25 January 2000, Award of 13 November 2000 in case no. ARB/97/7 <i>Maffezini v. The Kingdom of Spain</i>	13
• Decision on Jurisdiction of 8 August 2000 and Award of 26 July 2001 in case no. ARB/98/5 <i>Olguín v. The Republic of Paraguay</i>	48
• Award of 25 June 2001 in case no. ARB/99/2 <i>Genin v. The Republic of Estonia</i>	61
• Award of 15 March 2002 in case no. ARB/00/2 <i>Mihaly International Corporation v. Sri Lanka</i>	84
<i>International Centre for Settlement of Investment Disputes (ICSID) (Additional Facility)</i>	
• Award of 2 June 2000 in case no. ARB(AF)/98/2; Decision of 8 June 2001 in case no. ARB(AF)/00/3 <i>Waste Management Inc. v. The United Mexican States</i>	98
Yearbook Comm. Arb'n XXVII (2002)	xi

TABLE OF CONTENTS

• Award of 18 September 2000 in case no. ARB(AF)/98/1 <i>Lemire v. The Government of Ukraine</i>	133
<i>International Chamber of Commerce (ICC)</i>	
• Case no. 7893 of 1994, interim award	139
• Case no. 9427 of 1998, final award	153
• Case no. 9466 of 1999, final award	170
• Case no. 9787 of 1998, partial award	181
<i>World Intellectual Property Organization (WIPO) Arbitration and Mediation Center</i>	
• Case no. D99-0001 of 14 January 2000 <i>World Wrestling Federation Entertainment, Inc. v. Michael Bosman</i>	189
• Case no. D2000-0003 of 18 February 2000 <i>Telstra v. Nuclear Marshmallows</i>	194
• Case no. D2000-0044 of 16 March 2000 <i>Educational Testing Service v. TOEFL</i>	201
• Case no. D2000-0204 of 20 May 2000 <i>Penguin Books Limited v. The Katz Family</i>	209
• Case no. D2000-0210 of 29 May 2000 <i>Julia Fiona Roberts v. Russel Boyd</i>	214
Index of Arbitral Awards	219
<i>Introduction</i>	219
<i>Index of Arbitral Awards</i>	220
Part II – B. Court Decisions on Arbitration	225
<i>Canada</i>	
• Supreme Court of British Columbia, 31 October 2001 <i>The United Mexican States v. Metalclad Corporation</i>	227

TABLE OF CONTENTS

India

- Supreme Court of India, 13 March 2002
Bhatia International v. Bulk Trading S.A., et al. 234

United States

- Supreme Court of the United States, 21 March 2001
Circuit City Stores, Inc. v. Adams 249

Part II – C. Court Decisions Applying the UNCITRAL Model Law 259

Case Law on UNCITRAL Texts (CLOUT) 261

Germany

- Case 401: Bayerisches Oberstes Landesgericht, 11 August 2000 262
- Case 402: Bayerisches Oberstes Landesgericht, 16 March 2000 263
- Case 403: Bayerisches Oberstes Landesgericht, 15 December 1999 264
- Case 404: Bundesgerichtshof, 14 September 2000 265
- Case 405: Oberlandesgericht Hamm, 10 February 1999 266
- Case 406: Bundesgerichtshof, 3 April 2000 267
- Case 407: Bundesgerichtshof, 2 November 2000 269
- Case 408: Oberlandesgericht Düsseldorf, 23 March 2000 270

Index of Articles 272

Part III – A. Arbitration Rules 279

*American Arbitration Association (AAA) International Centre for
Dispute Resolution*

- The AAA ICDR International Arbitration Rules,
by Luis M. Martinez 281
- International Arbitration Rules, 1 November 2001 282

Domain Name Dispute Resolution Mechanisms

- Domain Name Dispute Resolution Mechanisms, by Francis Gurry 299
Internet Corporation for Assigned Names and Numbers (ICANN)

TABLE OF CONTENTS

• Uniform Domain Name Dispute Resolution Policy, 24 October 1999	305
• Rules for Uniform Domain Name Dispute Resolution Policy, 24 October 1999 <i>World Intellectual Property Organization (WIPO),</i>	311
• Supplemental Rules for Uniform Domain Name Dispute Resolution Policy, 1 December 1999	324
<i>Inter-American Commercial Arbitration Commission (IACAC)</i>	
• Introduction, by Adriana Polania	331
• Rules of Procedure, 1 April 2002	333
• IACAC's Internal Administrative Procedures for Cases Administered under Its Own Rules	349
<i>Permanent Court of Arbitration (PCA)</i>	
• The PCA Environmental Conciliation Rules, by Tjaco T. van den Hout	353
• Optional Rules for Conciliation of Disputes Relating to Natural Resources and/or the Environment, 16 April 2002	357
Part III – B. Iran-US Claims Tribunal	369
<i>Introduction</i>	371
Part IV – Recent Developments in Arbitration Law and Practice	373
<i>Introduction</i>	375
<i>Bangladesh</i>	376
<i>Croatia</i>	381
<i>Singapore</i>	386
<i>Thailand</i>	390
<i>Turkey</i>	393

TABLE OF CONTENTS

UNCITRAL

- Introduction to the UNCITRAL Model Law on International Commercial Conciliation, by Jernej Sekolec 398
- Model Law on International Commercial Conciliation 414

Part V – A. Court Decisions on the New York Convention 1958 421

- Introduction* 423
- List of Contracting States (as of 12 November 2002)* 426

France

- No. 32. Cour d’Appel, Paris, 22 March 2001
Russian Federation v. Compagnie NOGA d’Importation et d’Exportation 433
- No. 33. Cour d’Appel, Paris, 28 June 2001
Abraham Rahman Golshani v. The Government of the Islamic Republic of Iran, Bureau for International Legal Services 439

Germany

- No. 53. Bayern Oberlandesgericht, 16 March 2000
Russian seller v. German Buyer 445
- No. 54. Bayern Oberlandesgericht, 11 August 2000
Company X v. Company Y 451

India

- No. 35. Bombay (Mumbai) High Court, 19 November 1999
Faircot S.A. v. Tata SSI Ltd. 455
- No. 36. Supreme Court, 4 May 2001
Fuerst Day Lawson Ltd. v. Jindal Exports Ltd. 466
- No. 37. Supreme Court, 20 August 2001
Owners, etc. “Baltic Confidence” v. State Trading Company of India, et al. 478
- No. 38. Supreme Court, 31 August 2001
Smita Conductors Ltd. v. Euro Alloys Ltd. 482

Italy

- No. 158. Corte di Cassazione, 21 January 2000
De Maio Giuseppe e Fratelli snc v. Interskins Ltd. 492

TABLE OF CONTENTS

• No. 159. Corte di Cassazione, 16 November 2000 <i>Conceria Madera srl v. Fortstar Leather Ltd.</i>	500
• No. 160. Corte di Cassazione, 22 December 2000 <i>Granitalia v. Agenzia Marittima Sorrentini</i>	506
• No. 161. Corte di Cassazione, 26 June 2001 <i>American Bureau of Shipping v. Tencara S.p.A.</i>	509
<i>Japan</i>	
• No. 8. District Court, Yokohama, 25 August 1999 <i>Chinese seller v. Japanese buyer</i>	515
<i>Norway</i>	
• No. 1. Hålogaland Court of Appeal, 16 August 1999 <i>Charterer v. Shipowner</i>	519
<i>Philippines</i>	
• No. 1. Second Division, Republic of the Philippines Supreme Court, 26 April 1990 <i>National Union Fire Insurance Company of Pittsburgh v. Stolt-Nielsen Philippines, Inc.</i>	524
<i>Spain</i>	
• No. 33. Tribunal Supremo, 16 April 1996 <i>Actival Internacional SA v. Conservas El Pilar SA</i>	528
• No. 34. Tribunal Supremo, 17 February 1998 RJ 1998/760 <i>Unión de Cooperativas Agrícolas Epis-Centre v. La Palentina SA</i>	533
• No. 35. Tribunal Supremo, 5 May 1998 <i>ETS Louis Zanatta v. Pillanet</i>	540
• No. 36. Tribunal Supremo, 26 May 1998 <i>Not indicated v. not indicated</i>	543
• No. 37. Tribunal Supremo, 7 July 1998 <i>Unión de Cooperativas Agrícolas Epis-Centre v. Agucersa SL</i>	546
<i>Sweden</i>	
• No. 5. Svea Court of Appeal, 21 March 2001 <i>American Pacific Corporation v. Sydsvensk Produktutveckling AB et al.</i>	551

TABLE OF CONTENTS

• No. 6. Svea Court of Appeal, 7 September 2001 <i>Planavergne S.A. v. Kalle Bergander i. Stockholm AB</i>	554
<i>United Kingdom</i>	
• No. 59. Court of Appeal, Civil Division, 15 February 2002 <i>Capital Trust Investment Limited v. Radio Design AB, et al.</i>	557
• No. 60. Court of Appeal, Civil Division, 18 April 2002 <i>Yukos Oil Company v. Dardana Limited</i>	570
<i>United States</i>	
• No. 363. United States District Court, Eastern District of Louisiana, 3 November 2000 <i>Feliciano Lejano, et al. v. K.S. Bandak Assuranceforeningen Gard, et al.</i>	593
• No. 364. United States District Court, Eastern District of Louisiana, 17 May 2001 United States Court of Appeals, Fifth Circuit, 4 June 2002 <i>Ernesto Francisco v. M./T. Stolt Achievement, et al.</i>	600
• No. 365. United States District Court, District of Columbia, 30 May 2001 <i>Compagnie d'Enterprises CFE, S.A. v. Republic of Yemen</i>	613
• No. 366. United States District Court, Northern District of California, 1 June 2001 <i>Dandong Shuguang Axel Corporation, Ltd. v. Brilliance Machinery Company, et al.</i>	617
• No. 367. United States District Court, Northern District of Illinois, Eastern Division, 5 June 2001 <i>CNA Reinsurance Company Limited. v. Trustmark Insurance Company</i>	626
• No. 368. United States District Court, Eastern District of Pennsylvania, 13 June 2001 <i>Stephen Federico v. Charterers Mutual Assurance Association Ltd.</i>	635
• No. 369. United States District Court, Central District of California, 14 June 2001 <i>China National Metal Products Import/Export Company v. Apex Digital, Inc.</i>	647
• No. 370. United States District Court, Southern District of New York, 18 July 2001 <i>Intertec Contracting A/S, et al. v. Turner Steiner International, SA, et al.</i>	656

TABLE OF CONTENTS

• No. 371. United States District Court, Eastern District of Louisiana, 23 July 2001, 15 October 2001 and 23 November 2001 <i>Tobias D. Gavino v. Eurochem Italia</i>	672
• No. 372. United States Court of Appeals, First Circuit, 27 June 2001 as amended 30 July 2001 <i>First State Insurance Company v. Banco de Seguros del Estado</i>	680
• No. 373. United States District Court, Southern District of New York, 30 July 2001 <i>Thixomat, Inc. v. Takata Physics International, Co., Ltd.</i>	685
• No. 374. United States District Court, Southern District of New York, 27 August 2001 <i>In re The Singer Company N.V., et al.; Joseph A. Pardo as Trustee for The Singer Creditor Trust v. Akai Electric Company Limited</i>	690
• No. 375. United States Court of Appeals, Second Circuit, 28 August 2001 <i>Sphere Drake Insurance Limited v. Clarendon National Insurance Company, et al.</i>	700
• No. 376. United States District Court, Southern District of New York, 5 September 2001 <i>Monegasque de Reassurances s.a.m. (Monde Re) v. NAK Naftogaz of Ukraine and State of Ukraine</i>	710
• No. 377. United States District Court, Southern District of New York, 10 September 2001 <i>CME Media Enterprises B.V. v. Dr. Vladimir Zelezny</i>	721
• No. 378. United States District Court, Southern District of New York, 24 September 2001 <i>Dardana Limited v. AO Yuganskneftegaz and Yukos Oil Company</i>	727
• No. 379. United States Court of Appeals, Second Circuit, 26 September 2001 <i>Brian M. Freeman v. Joseph D. Pike, et al.</i>	735
• No. 380. United States District Court, Southern District of New York, 27 September 2001 <i>Arhontisa Maritime Ltd. v. Twinbrook Corp. and Constantine D. Nicopoulos</i>	752
• No. 381. United States District Court, Southern District of New York, 28 September 2001 <i>First Eagle SoGen Funds, Inc. v. Bank for International Settlements</i>	759

TABLE OF CONTENTS

- No. 382. United States Bankruptcy Court, District of Delaware, 28 September 2001
In re Harnischfeger Industries, Inc., et al.; Beloit Corporation, et al. v. Asia Pulp & Paper Company, Ltd., et al. 764
- No. 383. United States District Court, District of Colorado, 11 October 2001
James Associates (USA) Ltd. v. Anhui Machinery & Equipment Import and Export Corporation 769
- No. 384. United States District Court, Eastern District of Louisiana, 12 October 2001
Wilfredo Jaranilla v. Megasea Maritime Ltd., et al. 775
- No. 385. United States Court of Appeals, Third Circuit, 15 October 2001
Rhône Poulenc Fiber and Resin Intermediates S.A.S., et al. v. E.I. DuPont de Nemours and Company 779
- No. 386. United States Court of Appeals, Third Circuit, 31 October 2001
Deutz AG v. General Electric Company 795
- No. 387. United States District Court, Southern District of Texas, Houston Division, 4 December 2001
Karaha Bodas Company L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara 814
- No. 388. United States District Court, District of Connecticut, 11 December 2001
Signature Marketing Pty. Ltd., et al. v. Slim Print International LLC, et al. 839
- No. 389. United States District Court, District of Minnesota, 17 December 2001
Northwest Airlines, Inc. v. R&S Company S.A., et al. 849
- No. 390. United States District Court, Eastern District of Louisiana, 21 December 2001
Andy Ballester, et al. v. Thor Shipping, Ltd., et al. 858
- No. 391. United States District Court, Southern District of New York, 8 January 2002
Louise Henry v. Patrick J. Murphy 863

TABLE OF CONTENTS

- No. 392. United States District Court, Eastern District of Louisiana, 8 January 2002
Nissho Iwai Corp., et al. v. M/V Joy Sea, etc., et al. 869
- No. 393. United States District Court, Eastern District of Louisiana, 15 January 2002
Italtrade International USA L.L.C., et al. v. Sri Lanka Cement Corporation, et al. 876
- No. 394. United States District Court, Southern District of Texas, Galveston Division, 17 January 2002
Mourik International B.V. v. Reactor Services International, Inc., et al. 881
- No. 395. United States Bankruptcy Court, Eastern District of Pennsylvania, 22 February 2002
In re Reliance Group Holdings, Inc., et al.; M. Diane Koken, etc. v. Reliance Group Holdings, Inc. 889
- No. 396. United States District Court, District of Connecticut, 5 March 2002
Hartford Accident & Indemnity Co., et al. v. Equitas Reinsurance Ltd., et al. 893
- No. 397. United States Court of Appeals, Fourth Circuit, 6 March 2002
Base Metal Trading, Limited v. OJSC Novokuznetsky Aluminum Factory 902
- No. 398. United States Court of Appeals, Fifth Circuit, 19 March 2002
Fred E. Beiser v. Ibolya Weyler, et al. 909
- No. 399. United States Court of Appeals, Ninth Circuit, 26 March 2002
Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Company 922
- No. 400. United States District Court, Northern District of Illinois, Eastern Division, 27 March 2002
Abbott Laboratories v. Baxter International, Inc. 936
- No. 401. United States District Court, Southern District of New York, 28 March 2002
Millicom International V N.V. v. Motorola, Inc., et al. 948
- No. 402. Court of Appeal of Florida, Third District, 1 May 2002
Benefit Association International, Inc. v. Mount Sinai Comprehensive Cancer Center 960

TABLE OF CONTENTS

Part V – B. Court Decisions on the European Convention 1961	967
<i>List of Contracting States and Signatories (as of 9 October 2002)</i>	970
Part V – C. Court Decisions on the Washington Convention 1965	973
<i>List of Contracting States and Signatories (as of 1 November 2002)</i>	975
Part V – D. Court Decisions on the Panama Convention 1975	983
<i>List of Contracting States (as of 1 October 2002)</i>	985
<i>Excerpts of Court Decisions</i>	
<i>United States</i>	
• No. P11. United States Court of Appeals, Ninth Circuit, 12 February 2002, No. 00-56768 <i>Iseki v. Empresa Constructora Contex Limitada</i>	987
• No. P12. United States Court of Appeals, Seventh Circuit, 7 June 2002, No. 00 C 6703 <i>International Insurance Company v. Caja Nacional de Ahorro y Seguro</i>	990
Part VI – Articles on Arbitration	1001
Part VII – Bibliography	1003
<i>I. General</i>	1005
<i>II. Countries</i>	1021
<i>III. Journals on Arbitration</i>	1031
List of ICCA Officers and Members	1041