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PREVENTING DELAY AND DISRUPTION OF ARBITRATION
EFFECTIVE PROCEEDINGS IN CONSTRUCTION CASES

PREFACE

Albert Jan van den Berg, General Editor

WELCOMING ADDRESSES

Mr. Sven Swarting, President Stockholm Chamber of Commerce
Mrs. Birgitta Blom, President Svea Court of Appeal
Mrs. Laila Freivalds, Minister of Justice of the Kingdom of Sweden

OPENING AND CLOSING ADDRESSES

Prof. Giorgio Bernini, President of ICCA

WORKING GROUP I

Preventing Delay and Disruption of Arbitration

Judge Howard M. Holtzmann, Editor of the Proceedings of Working Group

FOREWORD

Judge Howard M. Holtzmann and Mr. J. Martin H. Hunter

HOW TO PREVENT DELAY AND DISRUPTION OF ARBITRATION: LESSONS OF THE 1990 ICCA STOCKHOLM CONGRESS

Judge Howard M. Holtzmann

RAPPORTEURS

Judge Stephen M. Schwebel
Practice of Public International Law Arbitral Tribunals
Prof. Karl-Heinz Böckstiegel
Practices of Various Arbitral Tribunals
Prof. Emmanuel Gaillard
Laws and Court Decisions in Civil Law Countries
V.V. Veeder, Q.C.
Laws and Court Decisions in Common Law Countries and the UNCITRAL Model Law
Prof. Ivan Szász
Arbitration Rules and Practices of Institutions

EXPERT PANELISTS

(In alphabetical order of their subjects)

Mrs. Tinuade Ovekunle, Africa
Prof. Yasuhei Taniguchi, Asia
Prof. Alexander Komarov, Eastern Europe
Mr. Stephen Bond, International Chamber of Commerce
Dr. Aron Broches, International Centre for Settlement of Investment
Prof. José Luis Siqueiros, Latin America
Mr. Hatim S. Zu'bi, Middle East

Mr. Robert Coulson, North America
Mr. Ulf Franke, Western Europe

GENERAL REMARKS OF RAPORTEURS AND EXPERT PANELISTS

I. CONDUCT BY A PARTY TO DISRUPT ESTABLISHING THE TRIBUNAL AND STARTING THE ARBITRAL PROCEEDINGS

- Topic 1* Failure of a party to appoint an arbitrator, or of a party appointed arbitrator to agree on a chairman, with the purpose of delaying or disrupting the arbitration
- Topic 2* Refusal by a party (a) to make advance deposits for the costs of the arbitration, and (b) to submit a statement of defense
- Topic 3* Use by a party of challenges to delay or disrupt the arbitration
- Topic 4* Efforts by a party to seek intervention by a national court for the purpose of delaying or disruption the arbitration

II. CONDUCT BY A PARTY DURING THE ARBITRAL PROCEEDINGS

- Topic 5* Unjustified failure of a party to comply with directions of the tribunal relating to timely written submissions and presentation of evidence
- Topic 6* Unjustified failure of a party to participate in hearings

III. CONDUCT BY A PARTY-APPOINTED ARBITRATOR DURING THE ARBITRAL PROCEEDINGS

- Topic 7* Failure by a party-appointed arbitrator to participate in the arbitral proceedings
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- Topic 9* Remedies against arbitrators who obstruct the arbitral proceedings

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- Topic 10* Refusal of a party-appointed arbitrator to participate in deliberations
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WORKING GROUP II

Effective Proceedings in Construction Cases

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Me. Yves Derains, Chairman of Working Group II

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Mr. Hans Herrlin

Report on Various Types of Construction Contracts: Time Limitation for the Filing of Claims, Arbitration Rules and Applicable Law

Mr. Jean Cuisinier

Typical Construction Dispute Problems

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Mr. Michael F. Hoellering
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Mr. Guillermo Aguilar-Alvarez
Selecting Arbitrators for Construction Disputes

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Pre-arbitral Decisions and Their Impact on the Arbitration: The Decisions Made by the Consulting Engineer
Mr. Sigvard Jarvin
Alternative Solutions to the Intervention of the Engineer
Supplementary Comments: Rules for a Pre-arbitral Referee Procedure

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Mr. Humphrey Lloyd
Construction Arbitrations: Organization of the Proceedings
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Effective Proceedings in Construction Cases: Establishing the Programme
Mr. Jan Paulsson
Establishing Priorities in International Arbitrations with Multiple Claims
Mr. Piero G. Parodi
Interim Measures in Respect to Arbitration in the Construction Business

PRESENTATION OF DOCUMENTARY EVIDENCE AND WITNESSES

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Mr. Fali Nariman
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Mr. Svetozar Hanak
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DDr. Werner Melis
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Evidence by Experts during Arbitration
Mr. Max W. Abrahamson
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Prof. Ahmed S. El-Kosheri
Evidence Presented by Experts during the Arbitration

SUPPLEMENTARY COMMENTS

Federation Internationale des Ingenieurs-Conseils (FIDIC)
Conditions of Contract for Works of Civil Engineering Construction
Part I General Conditions. Fourth Edition 1987 as reprinted 1988,
Clause 67 Settlement of Disputes