TABLE OF CONTENTS

PREFACE
Albert Jan van den Berg, General Editor v

TABLE OF CONTENTS vii

WORKING GROUP A: ARBITRATION TREATIES/TREATY ARBITRATION

The Impact of Investment Treaty Arbitration:
Identifying the Expectations, Testing the Assumptions

Moderator: Gabrielle Kaufmann-Kohler

1. Origins and Theory

Report: Benedict Kingsbury and Stephan Schill
Investor-State Arbitration as Governance: Fair and Equitable Treatment, Proportionality and the Emerging Global Administrative Law 5

Comment: Margrete Stevens
The ICSID Convention and the Origins of Investment Treaty Arbitration 69

2. Present Expectations and Realities

Comment: Charles N. Brower
Present Expectations and Realities – Comments from the Perspective of an Arbitrator 75

Comment: Brigitte Stern
Present Expectation and Realities 82

Investment Treaty Arbitration and Commercial Arbitration: Are They Different Ball Games?

Moderator: V. V. Veecher QC
Introduction to Investment Treaty Arbitration and Commercial Arbitration: Are They Different Ball Games? 91
TABLE OF CONTENTS

3. The Legal Framework

Report: Campbell McLachlan
Investment Treaty Arbitration: The Legal Framework 95

Comment: Bernard Hanotiau
Investment Treaty Arbitration and Commercial Arbitration: Are They Different Ball Games? The Legal Regime/Framework 146

Comment: Brooks W. Daly and Fedelma Claire Smith

4. The Actual Conduct

Report: Abby Cohen Smutny
Investment Treaty Arbitration and Commercial Arbitration: Are They Different Ballgames? The Actual Conduct 167

Comment: Sarah François-Poncet and Caline Mouawad
So You Want to Start an Investment Treaty Arbitration? Getting the Notice of Dispute Right 178

Comment: Toby T. Landau QC
Reasons for Reasons: The Tribunal’s Duty in Investor-State Arbitration 187

5. Remedies in Investment Treaty Arbitration: The Bottom Line

Moderator: Karl-Heinz Böckstiegel

Report: Carole Malinvaud
Non-pecuniary Remedies in Investment Treaty and Commercial Arbitration 209

Report: Pierre Bienvenu and Martin J. Valasek
Compensation for Unlawful Expropriation, and Other Recent Manifestations of the Principle of Full Reparation in International Investment Law 231
TABLE OF CONTENTS

6. The Enforcement of Investment Treaty Awards: Getting to Judgment

Moderator: Yves Fortier C.C., O.Q., Q.C., LLD

Report: Gaëtan Verhoosel
Annullment and Enforcement Review of Treaty Awards: To ICSID or Not to ICSID? 285

Comment: Yas Banifatemi
Defending Investment Treaty Awards: Is There an ICSID Advantage? 318

Comment: Guido Santiago Tawil
Binding Force and Enforcement of ICSID Awards: Untying Articles 53 and 54 of the ICSID Convention 327

WORKING GROUP B: RULES-BASED SOLUTIONS TO PROCEDURAL ISSUES

1. Multi-Party Disputes

Moderator: Carlos Nehring Netto

Report: Nathalie Voser
Multi-party Disputes and Joinder of Third Parties 343

Comment: Cristián Conejero Roos
Multi-party Arbitration and Rule-making: Same Issues, Contrasting Approaches 411

2. Consolidation of Claims

Moderator: Iván Száz

Report: Michael Pryles and Jeffrey Waincymer
Multiple Claims in Arbitration Between the Same Parties 437

Comment: Nayla Comair-Obeid
Consolidation and Joinder in Arbitration – The Arab Middle Eastern Approach 500
TABLE OF CONTENTS

3. Summary Disposition

_Moderator:_ Werner Melis

_Report:_ Judith Gill QC
Applications for the Early Disposition of Claims in Arbitration Proceedings 513

_Comment:_ Teresa Giovannini
Comments on Judith Gill’s Report on Applications for the Early Disposition of Arbitration Proceedings 526

_Comment:_ Michael M. Collins SC
Summary Disposition in International Arbitration 532

4. Provisional Measures

_Moderator:_ Tinuade Oyekunle

_Report:_ Luis Enrique Graham
Interim Measures – Ongoing Regulation and Practices (A View from the UNCITRAL Arbitration Regime) 539

Annex I: Status of the Working Group Regarding the Revision of the UNCITRAL Arbitration Rules 570

Annex II: Examples of Interim Measures Issued by an Arbitral Tribunal 575

Annex III: Anti-suit Injunctions 578


_Comment:_ Nael G. Bunni
Interim Measures in International Commercial Arbitration: A Commentary on the Report by Luis Enrique Graham 583

_Comment:_ Yang Ing Loong
Provisional Measures 606

5. The UNCITRAL Rules Revision: An Assessment

_Moderator:_ David D. Caron

_Round Table:_
Round Table on the Assessment of the Revision of the UNCITRAL Rules on International Commercial Arbitration 615
TABLE OF CONTENTS

6. Recent Developments in International Arbitration

Moderators: Catherine Kessedjian and William W. Park

Open Discussion:
Quo Vadis Arbitration? 635

PLENARY SESSION: THE NEW YORK CONVENTION AT 50

The New York Convention at 50

Moderator: Donald Francis Donovan

Keynote Address: Albert Jan van den Berg
Hypothetical Draft Convention on the International Enforcement of Arbitration Agreements and Awards:
Explanatory Note 649
Annex II: Comparison of Texts: Proposal for Revisions to the 1958 New York Convention 670

Comment: Teresa Cheng BBS, SC, JP
Celebrating the Fiftieth Anniversary of the New York Convention 679

Comment: Emmanuel Gaillard
The Urgency of Not Revising the New York Convention 689

Comment: Carolyn B. Lamm
Comments on the Proposal to Amend the New York Convention 697

Comment: Rory Brady SC
Comments on a New York Convention for the Next Fifty Years 708

LIST OF PARTICIPANTS 713

LIST OF ICCA OFFICERS AND MEMBERS 757