# TABLE OF CONTENTS

## VOLUME XXII – 1997

<table>
<thead>
<tr>
<th>Introduction</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prof. Dr. Albert Jan van den Berg, General Editor</td>
<td>v</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table of Contents</th>
<th>ix</th>
</tr>
</thead>
</table>

| Preface                        | xxi  |
| Fali S. Nariman, President of ICCA |      |

| Part I – National Reports      |     |
| Note General Editor            | 1    |
| Table of Contents of International Handbook on Commercial Arbitration | 1    |

| Part II – A. Arbitral Awards   | 11   |
| Egypt                         |      |
| Cairo Regional Centre for International Commercial Arbitration | 13   |
| Final award of 21 December 1995 |      |

| France                        | 28   |
| Paris Chamber of Arbitration  |      |
| Award of 8 March 1996         |      |

| Germany                       |      |
| Hamburg Chamber of Commerce  | 35   |
| Partial award of 21 March 1996 | and final award of 21 June 1996 |
| Award of 4 September 1996    | 51   |

| Hamburg Commodity Exchange (Grain Merchants’ Association) | 53   |
| Award of 18 March 1994 |      |
| Award of 7 December 1995 |      |

| Hamburg Friendly Arbitration  | 55   |
| Interim award of 30 August 1996 |    |

Yearbook Comm. Arb’n XXII (1997) ix
TABLE OF CONTENTS

International Centre for Settlement of Investment Disputes

American Manufacturing & Trading, Inc. v. Republic of Zaire
Award of 21 February 1997 60

International Chamber of Commerce

Case no. 7063 of 1993, final award 87
Case no. 7236 of 1994, interim award 92
Case no. 7453 of 1994, final award 107
Case no. 7528 of 1993, partial award 125
Case no. 7626 of 1995, final award 132
Case no. 7661 of 1995, final award 149
Case no. 8362 of 1995, final award 164

Italy
Italian Arbitration Association
Final award in case no. 41/92 of 1993 178
Final award in case no. 57/94 of 24 November 1995 182

Chamber of National and International Arbitration of Milan
Award of 2 February 1996 191

Sweden
Arbitration Institute of the Stockholm Chamber of Commerce
Interim award of 17 July 1992 and final award of 13 July 1993 197

Switzerland
Zurich Chamber of Commerce
Preliminary award of 25 November 1994 211

UNCITRAL
Challenge decision of 15 April 1993 222
Challenge decision of 11 January 1995 227

Index of Arbitral Awards 243

Introduction 243
Index of Arbitral Awards 245

Part II – B. Court Decisions on Arbitration 261

Austria
Oberster Gerichtshof, 4 December 1994
(Respondent v. Arbitral tribunal) 263

Germany
Oberlandesgericht, Dresden, 5 December 1994
(Distributor v. Manufacturer) 266
# TABLE OF CONTENTS

**India**
Supreme Court of India, 18 November 1996
*(MMTC Limited v. Sterlite Industries (India) Ltd.)* 273

**United States**
Supreme Court of the United States, 22 May 1995
*(First Options of Chicago, Inc. v. Kaplan, et uxor and MK Investments, Inc.)* 278

## Part II – C. Court Decisions Applying the UNCITRAL Model Law
287

*Case Law on UNCITRAL Texts (CLOUT)* 289

**Bermuda**
Case 127. The Supreme Court of Bermuda, 21 January 1994
*(Skandia International Insurance Company and Mercantile & General Reinsurance Company and various others)* 290

**Hong Kong**
Case 128. Court of Appeal, 24 November 1995 *(Tai Hing Cotton Mill Limited v. Glencore Grain Rotterdam B.V. and another)* 292
Case 129. High Court of Hong Kong, 19 April 1996 *(Nassetti Ettore S.p.a. v. Lawton Development Limited)* 292

**Russian Federation**
Case 146. Moscow City Court, 10 November 1994 293
Case 147. Moscow City Court, 13 December 1994 294
Case 148. Moscow City Court, 10 February 1995 294
Case 149. Moscow City Court, 18 September 1995 295

## Index of Articles
297

## Part III – A. Arbitration Rules
301

*American Arbitration Association*
International Arbitration Rules, 1 April 1997 303

*Commercial Arbitration and Mediation Center for the Americas*
Mediation and Arbitration Rules, 15 March 1995 320

*International Chamber of Commerce*
Rules of Arbitration, 1 January 1998 347

*Japan Shipping Exchange: Tokyo Maritime Arbitration Commission (TOMAC)*
TOMAC Arbitration Rules, 1 September 1996 371
TOMAC Simplified Rules, 1 September 1996 383

*Permanent Court of Arbitration*
Optional Rules for Arbitration involving International Organizations and States, 1 July 1996 388
Optional Rules for Arbitration between International Organizations and Private Parties, 1 July 1996 409
## Table of Contents

Optional Conciliation Rules, 1 July 1996  
430

Stockholm Chamber of Commerce  
Rules for Expedited Arbitrations, 1 July 1995  
439

UNCITRAL  
Background Remarks by Jernej Skolec  
448

UNCITRAL Notes on Organizing Arbitral Proceedings, 1996  
452

### Part III – B. Iran-US Claims Tribunal

Introduction  
479

Survey of Awards, Decisions and Orders  
482

Decision of the Full Tribunal  
Cases A15 and A24 (DEC 125-A15(IV) and A24-FT), 11 October 1996 (The Islamic Republic of Iran v. The United States of America)  
497

Awards and Decisions of the Chambers  
504

Case 419 (569-419-2), 6 March 1996 (Roubollah Karubian v. The Government of the Islamic Republic of Iran)  
541

Case 967 (DEC 124-967-2), 14 December 1995 (Harold Birnbaum v. The Islamic Republic of Iran)  
560

### Part IV – Recent Developments in Arbitration Law and Practice

Introduction: Guatemala, Hong Kong, Malta, Sri Lanka and others  
569

Brazil: Carlos Nehringer  
572

New Zealand: Tomás Kennedy-Grant  
575

Zimbabwe  
580

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

Prof. Dr. Albert Jan van den Berg  
585

Introduction  
585

List of Contracting States (as of 21 July 1997)  
588

Index of Cases Reported in Volume XXII (1997)  
593

Excerpts of Court Decisions  

Australia  
No. 12. Supreme Court of New South Wales, Commercial Division, 6 August 1996 (Shanghai Foreign Trade Corp. v. Sigma Metallurgical Co. Pty Ltd. et al.)  
609

Austria  
619
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Country</th>
<th>Case Details</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No. 11. Oberster Gerichtshof, 30 November 1994 <em>(Not indicated v. Not indicated)</em></td>
<td>628</td>
</tr>
<tr>
<td>Belgium</td>
<td>No. 8. Rechtbank van Koophandel, Brussels, 6 May 1993 <em>(Pierreux NV v. Transportsmaschinen Handelshaus GmbH)</em></td>
<td>631</td>
</tr>
<tr>
<td>Canada</td>
<td>No. 7. Ontario Court of Justice (General Division), Weekly Court, 1 October 1992 <em>(Canada Packers Inc. et al. v. Terra Nova Tankers Inc. et al.)</em></td>
<td>669</td>
</tr>
<tr>
<td></td>
<td>No. 8. Alberta Court of Queen’s Bench, 13 July 1994 <em>(Kvaerner Enviropower Inc. v. Turner Industries Ltd. et al.)</em></td>
<td>673</td>
</tr>
<tr>
<td></td>
<td>No. 27. Cour de Cassation, 10 June 1997 <em>(Omnium de Traitement et de Valorisation – OTV v. Hilmarton)</em></td>
<td>696</td>
</tr>
<tr>
<td>Germany</td>
<td>No. 45. Oberlandesgericht, Frankfurt am Main, 10 November 1993 <em>(Not indicated v. Not indicated)</em></td>
<td>699</td>
</tr>
<tr>
<td></td>
<td>No. 46. Oberlandesgericht, Hamm, 6 July 1994 <em>(Not indicated v. Croatian company)</em></td>
<td>702</td>
</tr>
<tr>
<td></td>
<td>No. 47. Oberlandesgericht, Hamm, 15 November 1994 <em>(Slovenian company v. Agent)</em></td>
<td>707</td>
</tr>
<tr>
<td>India</td>
<td>No. 25. Supreme Court of India, 10 February 1994 <em>(RM Investment &amp; Trading Co. Pvt. Limited v. Boeing Co. and another)</em></td>
<td>710</td>
</tr>
<tr>
<td>Italy</td>
<td>No. 142. Corte di Cassazione, 11 July 1992 <em>(Vicerè Livio v. Prodesexport)</em></td>
<td>715</td>
</tr>
<tr>
<td></td>
<td>No. 143. Corte di Appello, Milan, 4 December 1992 <em>(Alliosp Automatic Inc. v. Tecnoki inc)</em></td>
<td>725</td>
</tr>
<tr>
<td></td>
<td>No. 144. Corte di Cassazione, 7 June 1995 <em>(WTB – Walter Thosti Bauwan Bauaktiengesellschaft v. Castriuine Coop. srl)</em></td>
<td>727</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Case</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>No. 7, Okayama District Court, Civil Section II, 14 July 1993</td>
<td>744</td>
</tr>
<tr>
<td></td>
<td>(Zhejiang Provincial Light Industrial Products Import &amp; Export Corp. v. Takeyari K.K.)</td>
<td></td>
</tr>
<tr>
<td>Kuwait</td>
<td>No. 1, Supreme Appeal Court of Kuwait, Cassation Circuit, 21 November 1988 (Contract party v. Contract party)</td>
<td>748</td>
</tr>
<tr>
<td>Malaysia</td>
<td>No. 1, High Court of Kuala Lumpur, 10 December 1993 (Harris Adacom Corp. v. Perkom Sdn Bhd)</td>
<td>753</td>
</tr>
<tr>
<td>Netherlands</td>
<td>No. 21, Arrondissementsrechtbank, Zwolle, 12 January 1994 (Jan Verhoef v. Cooper Queenship Yachts Inc.)</td>
<td>757</td>
</tr>
<tr>
<td></td>
<td>No. 22, Arrondissementsrechtbank, Rotterdam, 28 September 1995 (Petrasol BV v. Stolt Spur Inc.)</td>
<td>762</td>
</tr>
<tr>
<td></td>
<td>No. 23, Arrondissementsrechtbank, Zutphen, 3 September 1996 (Tianjin Stationary &amp; Sporting Goods Import and Export Corp. v. Verisport BV)</td>
<td>766</td>
</tr>
<tr>
<td>Netherlands Antilles</td>
<td>No. 2, Gemeenschappelijk Hof van Justitie van de Nederlandse Antillen en Aruba, 22 December 1992 (Princess Juliana International Airport NV v. ICLE – Istituto Nazionale di Credito per il Lavoro Italiano all’Estero SpA)</td>
<td>768</td>
</tr>
<tr>
<td>Singapore</td>
<td>No. 1, High Court, 29 September 1995 (Hainan Machinery Import and Export Corp. v. Donald &amp; McCarthy Pte Ltd)</td>
<td>771</td>
</tr>
<tr>
<td>Spain</td>
<td>No. 29, Audiencia Provincial, Seville, 10 December 1991 (J. de ME, S.A. v. D. Ltd., KSMA and KB5 de P., S.A)</td>
<td>780</td>
</tr>
<tr>
<td></td>
<td>No. 30, Tribunal Supremo, 18 February 1993 (Black Sea Shipping Co. v. Novo Viaje, S.A.)</td>
<td>785</td>
</tr>
<tr>
<td>Switzerland</td>
<td>No. 28, Tribunal Fédéral, 9 January 1995 (Inter Maritime Management S.A. v. Russin &amp; Vecchi)</td>
<td>789</td>
</tr>
<tr>
<td></td>
<td>No. 29, Tribunal Fédéral, 21 March 1995 (Insurance company v. Reinsurance company)</td>
<td>800</td>
</tr>
<tr>
<td>Turkey</td>
<td>No. 1, Court of Appeals, 15th Legal Division, 1 February 1996 (Oszuiskantua METEX Andelslag V.S. v. Türkiye Elektrik Kurumun Genel Müdürlüğü General Directorate, Ankara)</td>
<td>807</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>No. 41, Court of Appeal (Civil Division), 20 May 1993 (Star Shipping A.S. v. China National Foreign Trade Transportation Corp. (The STAR TEXAS))</td>
<td>815</td>
</tr>
<tr>
<td></td>
<td>No. 42, Queen’s Bench Division (Commercial Court), 21 March 1994 (Partenreederei M/S HEIDBERG et al. v. Grosvenor Grain and Feed Co. Ltd. et al.)</td>
<td>828</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS

No. 43. Court of Appeal (Civil Division), 17 May 1994 (Aggeliki Charis Compania Maritima S.A v. Pagnan SpA (THE ANGELIC GRACE)) 838
No. 44. Court of Appeal (Civil Division), 15 February 1995 (Daval Aciers d’Usinor et de Sacilor et al v. Armare Srl (The NERANO)) 849
No. 45. High Court, Queen’s Bench Division (Commercial Court), 14 December 1995 (Arab Business Consortium International Finance and Investment Co. v. Banque Franco-Tunisienne) 857
No. 46. Court of Appeal, 12 July 1996 (Philip Alexander Securities and Futures Ltd v. Werner Bamberger et al) 872

United States
No. 210. United States District Court, Eastern District of Louisiana, 28 September 1994 (Japan Sun Oil Co., Ltd. v. The M/V MAASDIJK et al) 884
No. 211. United States District Court, District of Alaska, 16 February 1995 (Fettinia Basargin v. Shipowners’ Mutual Protection and Indemnity Assoc) 894
No. 212. United States Court of Appeals for the Sixth Circuit, 7 June 1995 (George Fischer Foundry Systems, Inc. v. Adolph H. Hottinger-Maschinenbau GmbH) 897
No. 213. United States District Court, Western District of New York, 1 August 1995 (Comptek Telecommunications, Inc. v. IVD Corp.) 905
No. 214. United States District Court, Northern District of Illinois, Eastern Division, 20 October 1995 (National Education Corp. et al v. Dr. James Martin) 909
No. 216. United States Court of Appeals, First Circuit, 26 December 1995 (Menorah Insurance Co. Ltd. v. INX Reinsurance Corp.) 917
No. 217. United States District Court, Southern District of Mississippi, Western Division, 16 January 1996 (Mississippi Phosphates Corp. v. Unitramp Ltd. and Unitramp S.A.) 923
No. 219. United States District Court, Eastern District of Louisiana, 7 February 1996 (Arabian Homes for Foreign Trade v. Lyric Shipping, Ltd. and SAROC, S.p.a.) 942
No. 220. United States District Court, Southern District of New York, 15 February 1996 (American Diagnostica of Connecticut,
TABLE OF CONTENTS

Inc. v. Centrecem, Inc. and Gradipon Ltd.) 944

No. 221. United States District Court, Southern District of Florida, Miami Division, 3 March 1996 (Creative Tile Marketing, Inc. v. SICIS International, S.r.L.) 948

No. 222. United States District Court, Southern District of New York, 8 March 1996 (Celulosa del Pacifico S.A. v. A. Ahlstrom Corp.) 954

No. 223. United States District Court, Southern District of New York, 11 March 1996 (Ukrivnesprom State Foreign Economic Enterprise v. Tradeway, Inc.) 958

No. 224. United States District Court, District of Maryland, 3 April 1996 (Alamria v. Telcor International Operator Communications et al.) 967

No. 225. United States District Court, Eastern District of Louisiana, 3 May 1996 (Ocean Faith Shipping Co., Ltd. v. Union of India and Food Corp. of India) 976


No. 227. United States District Court, Eastern District of Louisiana, 29 May 1996 (McDermott International, Inc. v. Underwriters at Lloyd's et al) 984

No. 228. United States District Court, Eastern District of New York, 7 June 1996 (Agroengineering v. American Custom Service, Inc.) 990

No. 229. United States Court of Appeals, Sixth Circuit, 3 July 1996 (M&C Corp. v. Erwin Behr GmbH & Co., K.G.) 993


No. 231. United States District Court, Southern District of New York, 16 August 1996 (Todd's Point Marine, Ltd. v. Antonio Rojos d/b/a Venus Maritime and Comet Lines, Inc.) 1013


No. 233. United States District Court, District of South Carolina, 30 August 1996 (Ryobi North American, Inc. and Ryobi Motor Products Corp. v. The Singer Company, Ltd.) 1020

No. 234. United States District Court, Southern District of New York, 3 September 1996 (Texaco Panama, Inc. v. Duke Petroleum Transport Corp.) 1026

No. 235. United States District Court, Northern District of Illinois, Eastern Division, 18 September 1996 (Generica Ltd. v. Pharmaceutical Basics, Inc. et al) 1029
<table>
<thead>
<tr>
<th>No.</th>
<th>Court</th>
<th>Decision Date</th>
<th>Case Name</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>236</td>
<td>United States District Court, Southern District of New York</td>
<td>20 September 1996</td>
<td>Skandia America Reinsurance Corp. v. Seguros La Republica</td>
<td>1040</td>
</tr>
<tr>
<td>238</td>
<td>United States Court of Appeals, Seventh Circuit</td>
<td>18 February 1997</td>
<td>Landor Co., Inc. v. MMP Investments, Inc.</td>
<td>1049</td>
</tr>
</tbody>
</table>

**Part V – B. Court Decisions on the European Convention 1961**

List of Contracting States and Signatories (as of 20 July 1997) | 1061

**Part V – C. Court Decisions on the Washington Convention 1965**

List of Contracting States and Signatories (as of 14 July 1997) | 1065

**Part V – D. Court Decisions on the Panama Convention 1975**

List of Contracting States and Signatories (as of 25 July 1997) | 1073

**Part VI – Articles on Arbitration**

**Part VII – Bibliography**

I. General | 1095
II. Countries | 1112
III. Journals on Arbitration | 1124

List of ICCA Officers and Members | 1135