

TABLE OF CONTENTS

PREFACE		
Albert Jan van den Berg, General Editor		v
TABLE OF CONTENTS		vii
<i>Addresses</i>		
OPENING ADDRESSES		
Wan Jifei		1
Gerold Herrmann		3
Xiao Yang		7
Cheng Siwei		9
LUNCHEON ADDRESS		
William K. Slate II		
The Impact of Culture on International Commercial Arbitration		11
<i>Roundtable on Arbitration and Conciliation Concerning China</i>		19
<i>Chair:</i>	<i>Bernardo M. Cremades</i>	
Speaker:	Robert Briner	
	Arbitration in China Seen from the Viewpoint of the International Court of Arbitration of the International Chamber of Commerce	21
Speaker:	Wang Sheng Chang	
	CIETAC's Perspective on Arbitration and Conciliation Concerning China	27
Speaker:	Johan Gernandt	
	The Swedish Perspective on Arbitration and Conciliation Concerning China	47
Speaker:	Neil Kaplan CBE, QC	
	HKIAC's Perspective on Arbitration and Conciliation Concerning China	55
		vii

TABLE OF CONTENTS

Speaker:	Warren Khoo Interfacing with the World – A View from Singapore	70
Comment:	Jingzhou Tao Challenges and Trends of Arbitration in China	82
Comment:	Michael J. Moser Commentary on Arbitration and Conciliation Concerning China	89
	Annex I: Michael J. Moser and Peter Yuen Chinese Supreme People’s Court Provides Clarification – and Confusion – on Arbitration Issues	99
	Annex II: Certain Provisions Regarding the Handling by the People’s Courts of Cases Involving Foreign-related Arbitration and Foreign Arbitrations (Draft for Comment)	112
Comment:	Yoshio Iteya Case Study of Arbitration in China	119
	<i>Arbitration of Foreign Investment Disputes</i>	123
Chair:	<i>Karl-Heinz Böckstiegel</i>	
Introduction:	Karl-Heinz Böckstiegel Arbitration of Foreign Investment Disputes – An Introduction	125
Report:	Jan Paulsson What Authority Do International Arbitrators Have over States?	132
Comment:	Zhang Yuqing Arbitration of Foreign Investment Disputes in China	166
Comment:	M.I.M. Aboul-Enein Arbitration of Foreign Investment Disputes: Responses to the New Challenges and Changing Circumstances	181
Comment:	Iván Szász Some Disputable Issues in Investment Treaty Arbitration and in Contractual Arbitration of Foreign Investment Disputes	192
	<i>Provisional/Interim Measures</i>	201

TABLE OF CONTENTS

Chair:	<i>Marc Lalonde</i>	
Report:	Donald Francis Donovan The Allocation of Authority Between Courts and Arbitral Tribunals to Order Interim Measures: A Survey of Jurisdictions, the Work of UNCITRAL and a Model Proposal	203
Report:	V.V. Veeder QC The Need for Cross-border Enforcement of Interim Measures Ordered by a State Court in Support of the International Arbitral Process	242
Comment:	Kaj Hobér The Trailblazers v. the Conservative Crusaders, or Why Arbitrators Should Have the Power to Order Ex Parte Interim Relief	272
Comment:	Ge Liu UNCITRAL Model Law v. Chinese Law and Practice – A Discussion on Interim Measures of Protection	278
	<i>Enforceability of Awards</i>	285
Chair:	<i>Gabrielle Kaufmann-Kohler</i>	
Introduction:	Gabrielle Kaufmann-Kohler Enforcement of Awards – A Few Introductory Thoughts	287
Report:	Albert Jan van den Berg Why Are Some Awards Not Enforceable?	291
Comment:	Richard M. Mosk Comments on Enforceability of Awards	327
Comment:	Ahmed S. El-Kosheri Enforceability of Awards – Some Additional Problems	337
Comment:	Lu Xiaolong The Recognition and Enforcement of Foreign Arbitral Awards in China	346

TABLE OF CONTENTS

Comment:	Teresa Cheng SC, JP Comments on Enforceability of Awards	351
<i>Various Non-binding (ADR) Processes</i>		365
<i>Chair:</i>	<i>Werner Melis</i>	
Report:	Doug Jones Various Non-binding (ADR) Processes	367
Comment:	José Maria Abascal Some Remarks on the UNCITRAL Model Law on International Commercial Conciliation	415
Comment:	Julian D.M. Lew QC Multi-Institutional Conciliation and the Reconciliation of Different Legal Cultures	421
Comment:	Jay K. Lee Non-binding Dispute Resolution Process – Experience in Korea	430
<i>Issues in Integrated Dispute Resolution Systems</i>		437
<i>Chair:</i>	<i>Howard M. Holtzmann</i>	
Introduction:	Arthur W. Rovine Introduction to Session on Issues in Integrated Dispute Resolution Systems	439
Report:	James H. Carter Part I – Issues Arising from Integrated Dispute Resolution Clauses	446
Comment:	Martin Hunter Commentary on Integrated Dispute Resolution Clauses	470
Comment:	Ariel Ye Commentary on Integrated Dispute Resolution Systems in the PRC	478
Report:	James H. Carter Part II – Issues Involving Confidentiality	484

TABLE OF CONTENTS

Comment:	Michael Pryles Commentary on Issues Involving Confidentiality	497
Comment:	Lawrence Boo Commentary on Issues Involving Confidentiality	523
	<i>The Role of Arbitrators as Settlement Facilitators</i>	529
Chair:	<i>Fali S. Nariman</i>	
Introduction:	Fali S. Nariman The Role of Arbitrators as Settlement Facilitators – Introduction	531
Report:	Arthur Marriott QC Arbitrators and Settlement	533
Comment:	Tang Houzhi Combination of Arbitration with Conciliation – Arb-Med	547
Comment:	Pierre Lalive The Role of Arbitrators as Settlement Facilitators – A Swiss View	556
Comment:	Gerald Aksen Comments on the Role of Arbitrators as Settlement Facilitators	565
Comment:	Michael Hwang SC The Role of Arbitrators as Settlement Facilitators – Commentary	571
	Annex I: Michael Thomas CMG, QC Mediation at Work in Hong Hong	579
	Annex II: Michael Hwang SC Arb-Med in Singapore	580
Comment:	Carlos Nehring Netto The Brazilian Approach to Arbitrators as Settlement Facilitators	582
	LIST OF PARTICIPANTS	589
	LIST OF ICCA OFFICERS AND MEMBERS	619