# TABLE OF CONTENTS

**VOLUME XXX – 2005**

## Introduction
Albert Jan van den Berg, General Editor v

## 18th ICCA Congress
xi

## Table of Contents
xiii

## Part I – National Reports
1

*Note General Editor*

Table of Contents of *International Handbook on Commercial Arbitration* 1

## Part II – A. Arbitral Awards
11

### Germany

*German Maritime Arbitration Association*
- Award of 30 November 2000 13

*Hamburg Friendly Arbitration*
- Award of 27 May 2002 17

*International Chamber of Commerce (ICC)*
- Case no. 9781 of 2000, interim award 22
- Case no. 10060 of 1999, final award 42
- Case no. 10596 of 2000, interlocutory award 66
- Case no. 10973 of 2001, interim award 77
- Case no. 11443 of 2001, award by consent 85
# TABLE OF CONTENTS

## Index of Arbitral Awards

- Introduction 91
- Index of Arbitral Awards 93

## Part II – B. Court Decisions on Arbitration

### Canada
- Court of Appeal for Ontario, 11 January 2005
  *United Mexican States v. Marvin Roy Feldman Karpa* 99

### European Court of Justice
- European Court of Justice, Fourth Chamber, 27 January 2005
  *Guy Denuit, et al. v. Transorient – Mosaïque Voyages et Culture S.A.* 113

### France
- Cour d’Appel, Paris, 17 June 2004
- Cour de Cassation, 1 February 2005
  *State of Israel v. National Iranian Oil Company (NIOC)* 125

### Pakistan
- Sindh High Court, Karachi, 20 October 2003
  *Lithuanian Airlines v. Bhoja Airlines (Pvt.) Ltd.* 129

### Sweden
- Svea Court of Appeal, Division 2, 28 February 2005
  *The Titan Corporation v. Alcatel CIT SA* 139

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

- Case Law on UNCITRAL Texts (CLOUT) 147

### Canada
- Case 501: Prince Edward Island Supreme Court, Trial Division, 23 March 2001 149
**TABLE OF CONTENTS**

- Case 502: British Columbia Supreme Court, 2 May 2001 150
- Case 503: Alberta Court of Appeal, 18 June 2001 151
- Case 504: Ontario Superior Court of Justice, 17 April 2002 152
- Case 505: Ontario Superior Court of Justice, 30 April 2002 152
- Case 506: Ontario Superior Court of Justice, 26 June 2002 153
- Case 507: Ontario Superior Court of Justice, 20 September 2002 153
- Case 508: Ontario Superior Court of Justice, 8 October 2002 154
- Case 509: Ontario Court of Appeal, 30 May 2003 154
- Case 510: British Columbia Supreme Court, 6 March 2003 156
- Case 511: Supreme Court of Canada, 21 March 2003 157
- Case 512: British Columbia Court of Appeal, 15 January 2004 158
- Case 513: Alberta Court of Queen’s Bench, 2 February 2004 158
- Case 514: British Columbia Supreme Court, 10 July 2003 159
- Case 515: Ontario Superior Court of Justice, 30 June 2003 159
- Case 516: Quebec Superior Court, 14 March 2003; Quebec Court of Appeal, 2 June 2003 160

**Hong Kong**

- Case 517: High Court of Hong Kong Special Administrative Region, Court of First Instance, 6 July 2000 161
- Case 518: High Court of Hong Kong Special Administrative Region, Court of First Instance, 17 November 2000 162
- Case 519: High Court of Hong Kong Special Administrative Region, Court of First Instance, 8 December 2000 163
- Case 520: High Court of Hong Kong Special Administrative Region, Court of First Instance, 2 February 2001 163
- Case 521: High Court of Hong Kong Special Administrative Region, Court of First Instance, 23 February 2001 164
- Case 522: High Court of Hong Kong Special Administrative Region, Court of First Instance, 6 March 2001 165
- Case 523: High Court of Hong Kong Special Administrative Region, Court of First Instance, 6 March 2001 166

Yearbook Comm. Arb’n XXX (2005) xv
# Table of Contents

- Case 524: High Court of Hong Kong Special Administrative Region, Court of First Instance, 17 March 2001
- Case 525: High Court of Hong Kong Special Administrative Region, Court of First Instance, 7 June 2001
- Case 526: High Court of Hong Kong Special Administrative Region, Court of First Instance, 12 June 2001
- Case 527: High Court of Hong Kong Special Administrative Region, Court of First Instance, 11 October 2001
- Case 528: High Court of Hong Kong Special Administrative Region, Court of First Instance, 15 October 2001
- Case 529: High Court of Hong Kong Special Administrative Region, Court of First Instance, 14 December 2001
- Case 530: High Court of Hong Kong Special Administrative Region, Court of First Instance, 20 December 2001

Index of Articles

## Part III – A. Arbitration Rules

*China International Economic and Trade Arbitration Commission (CIETAC)*
- Arbitration Rules, 1 May 2005
- Financial Disputes Arbitration Rules, 1 May 2005

*China Maritime Arbitration Commission*
- Arbitration Rules, 1 October 2004

*International Chamber of Commerce*
- Dispute Board Rules of the International Chamber of Commerce, 1 September 2004
TABLE OF CONTENTS

**Part III – B. Iran-US Claims Tribunal** 269

*Introduction* 271

*Survey of Awards, Decisions and Orders* 274

*Awards of the Full Tribunal*

- Decision in Case No. A33 (132-A33-FT) of 9 September 2004  
  *United States of America v. The Islamic Republic of Iran* 279

- Award in Case No. B1 (Counterclaim) (ITL 83-B1-FT) of 9 September 2004  
  *United States of America v. The Islamic Republic of Iran* 303

**Part IV – Recent Developments in Arbitration Law and Practice** 333

*Introduction* 335

Chile 336

Denmark 336

Norway 337

Philippines 338

Poland 340

**Part V – A. Court Decisions on the New York Convention 1958** 341

*Introduction* 343

*List of Contracting States (as of 28 October 2005)* 346

*Index of Cases Reported in Volume XXX (2005)*  
  Albert Jan van den Berg 353

*Australia*

- No. 24. Supreme Court of Tasmania, 14 August 2002 and 22 November 2002  
## TABLE OF CONTENTS

- No. 25. Supreme Court of New South Wales, Equity Division, Commercial List, 29 July 2004  
  *Corvetina Technology Limited v. Clough Engineering Limited*  409

### Austria
- No. 12. Oberster Gerichtshof, 19 February 2004  
  *Croatian Manufacturer v. Austrian Buyer*  416
- No. 13. Oberster Gerichtshof, 26 January 2005  
  *Austrian Buyer v. Serbian and Montenegrin Seller*  421

### Brazil
- No. 1. Superior Court of Justice, 18 May 2005  
  *L’Aiglon SA v. Textil União SA*  437

### Canada
- No. 15. Court of Queen’s Bench, 30 June 2000  
  *Cangene Corporation (Canada) v. Octapharma AG*  440
- No. 16. Supreme Court, Province of Prince Edward Island, Trial Division, 23 March 2001  
- No. 17. Supreme Court of British Columbia, 30 June 2004; Court of Appeal of British Columbia, 4 October 2004  
  *Powerex Corp. v. Alcan, Inc.*  466
- No. 18. New Brunswick Court of Queen’s Bench, Trial Division, Judicial District of Saint John, 28 July 2004  
  *Adamas Management & Services Inc. v. Aurado Energy Inc.*  479
- No. 19. Alberta Court of Queen’s Bench, Judicial District of Edmonton, 9 December 2004,  

### France
- No. 35. Cour d’Appel, Paris, 10 June 2004  
  *Banques Agro Industrie SA v. Young Pecan Company*  499

### Germany
- No. 72. Oberlandesgericht, 26 September 2002  
  *Russian Debtor v. Creditor (in fact: Franz Sedelmayer)*  505
<table>
<thead>
<tr>
<th>No.</th>
<th>Court</th>
<th>Date</th>
<th>Parties</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>73</td>
<td>Hanseatisches Oberlandesgericht, Hamburg</td>
<td>24 January 2003</td>
<td>Polish Buyer v. Polish Seller</td>
<td>509</td>
</tr>
<tr>
<td>74</td>
<td>Oberlandesgericht, Schleswig</td>
<td>15 July 2003</td>
<td>Ukrainian Seller v. German Buyer</td>
<td>524</td>
</tr>
<tr>
<td>75</td>
<td>Oberlandesgericht, Celle</td>
<td>4 September 2003</td>
<td>Buyer v. Seller</td>
<td>528</td>
</tr>
<tr>
<td>76</td>
<td>Oberlandesgericht, Celle</td>
<td>18 September 2003</td>
<td>Seller v. Buyer</td>
<td>536</td>
</tr>
<tr>
<td>77</td>
<td>Oberlandesgericht, Cologne</td>
<td>6 October 2003</td>
<td>Investor (in fact: Franz Sedelmayer) v. Russian State Agency</td>
<td>541</td>
</tr>
<tr>
<td>78</td>
<td>Oberlandesgericht, Celle</td>
<td>20 November 2003</td>
<td>Supplier v. Shipper</td>
<td>547</td>
</tr>
<tr>
<td>79</td>
<td>Oberlandesgericht, Dresden</td>
<td>1 March 2004</td>
<td>Claimant v. Defendant</td>
<td>555</td>
</tr>
<tr>
<td>80</td>
<td>Oberlandesgericht, Cologne</td>
<td>23 April 2004</td>
<td>Israeli Trading Company v. German Buyer</td>
<td>557</td>
</tr>
<tr>
<td>81</td>
<td>Bayerisches Oberstes Landesgericht</td>
<td>5 July 2004</td>
<td>Austrian Lawyer v. German Client</td>
<td>563</td>
</tr>
<tr>
<td>82</td>
<td>Bayerisches Oberstes Landesgericht</td>
<td>23 September 2004</td>
<td>K Trading Company v. Bayerischen Motoren Werke AG</td>
<td>568</td>
</tr>
<tr>
<td>83</td>
<td>Oberlandesgericht, Cologne</td>
<td>26 October 2004</td>
<td>Claimant v. Defendant</td>
<td>574</td>
</tr>
<tr>
<td>40</td>
<td>High Court, Andhra Pradesh</td>
<td>9 September 2002</td>
<td>International Investor KCSC v. Sanghi Polyesters Ltd.</td>
<td>577</td>
</tr>
<tr>
<td>1</td>
<td>High Court, Dublin</td>
<td>19 May 2004</td>
<td>Brostrom Tankers AB v. Factorias Vulcano SA</td>
<td>591</td>
</tr>
<tr>
<td>166</td>
<td>Corte di Cassazione, Plenary Session</td>
<td>1 March 2002</td>
<td>UMS Generali Marine SpA v. Clerici Agenti srl, et al.</td>
<td>599</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS

**Spain**
- No. 38. Tribunal Supremo, 14 January 2003  
  *Glencore Grain Limited v. Sociedad Ibérica de Moltunación, S.A.*  
  605
- No. 39. Tribunal Supremo, 9 May 2003  
  *Barconoya, S.A. v. Lavinia Corporation, S.A.*  
  610
- No. 40. Tribunal Supremo, 7 October 2003  
  *Shaanxi Provincial Medical Health Products I/E Corporation v. Olpesa, S.A.*  
  617
- No. 41. Tribunal Supremo, 9 October 2003  
  *Unión Naval de Levante S.A. v. Bisba Comercial Inc.*  
  623
- No. 42. Tribunal Supremo, 14 October 2003  
  *Fashion Ribbon Company, Inc. v. Iberband, S.L.*  
  627

**United Kingdom**
- No. 65. High Court of Justice, Queen’s Bench Division, Commercial Court, 25 April 2002 and 14 October 2002; Court of Appeal, Civil Division, 3 July 2003  
  *Welex AG v. Rosa Maritime Limited*  
  633
- No. 66. High Court of Justice, Queen’s Bench Division, Commercial Court and Admiralty Court, 27 May 2004  
  *Atlanska Plovidba, et al. v. Consignaciones Asturianas S.A.*  
  649
- No. 67. Court of Appeal (Civil Division), 2 December 2004  
  *Through Transport Mutual Insurance Association (Eurasia) Limited v. New India Assurance Association Company Limited*  
  662
- No. 68. High Court of Justice, Queen’s Bench Division, Commercial Court, 11 January 2005  
  701
- No. 69. High Court of Justice, Queen’s Bench Division, Commercial Court, 21 March 2005  
  717

**United States**
- No. 483. United States District Court, Southern District of New York, 27 June 2003; United States Court of Appeals, Second Circuit, 3 August 2004  
  *Lucent Technologies Inc., et al. v. Tatung Co.*  
  747
<table>
<thead>
<tr>
<th>No.</th>
<th>Court and Circuit Details</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>486.</td>
<td>United States District Court, Eastern District of Louisiana, 8 April 2004; United States Court of Appeals, Fifth Circuit, 23 March 2005</td>
<td>Keytrade USA, Inc. v. M/V AIN TEMOUCHENT and Transports Maritime &amp; Compagnie Nationale Algérienne de Navigation Maritime</td>
<td>777</td>
</tr>
</tbody>
</table>
No. 494. United States Court of Appeals, District of Columbia Circuit, 29 June 2004
Raytheon Company v. Ashborn Agencies, Ltd. 860

No. 495. United States District Court, Southern District of New York, 12 July 2004

No. 496. United States Court of Appeals, Eleventh Circuit, 20 July 2004
Four Seasons Hotels and Resorts, B.V., et al. v. Consorcio Barr S.A. 872

No. 497. United States Court of Appeals, Third Circuit, 23 July 2004
Flexi-Van Leasing, Inc. v. Through Transport Mutual Insurance Association, Ltd., et al. 882

No. 498. United States Court of Appeals, Fifth Circuit, 9 August 2004
Fred Freudensprung v. Offshore Technical Services, Inc., et al. 891

No. 499. United States Court of Appeals, Ninth Circuit, 16 August 2004
China National Metal Products Import/Export Company v. Apex Digital, Inc. 908

No. 500. United States District Court, Southern District of New York, 31 August 2004
Pemex Refinacion v. Tbilisi Shipping Co. Ltd. et al. 915

No. 501. United States District Court, Northern District of Illinois, Eastern Division, 29 September 2004; United States Court of Appeals, Seventh Circuit, 4 March 2005
Stawski Distributing Co., Inc. v. Browary Zywiec S.A. 923

No. 502. United States Court of Appeals, Ninth Circuit, 7 October 2004

No. 503. United States District Court, Eastern District of Louisiana, 19 October 2004
Editha T. Amizola v. Dolphin Shipowner, S.A. 941

No. 504. United States Court of Appeals, Second Circuit, 22 October 2004
Motorola Credit Corporation, et al. v. Kemal Uzan, et al. 951
<table>
<thead>
<tr>
<th>No.</th>
<th>Court</th>
<th>Case Description</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>506</td>
<td>United States District Court, Eastern District of Louisiana, 10 November 2004</td>
<td>Francisca Umali Magino v. Spiaggia Maritime, Ltd., et al.</td>
<td>986</td>
</tr>
<tr>
<td>508</td>
<td>United States District Court, Southern District of New York, 10 December 2004</td>
<td>Energy Transport, Ltd., et al. v. M.V. SAN SEBASTIAN and Oilmar Co., Ltd.</td>
<td>1006</td>
</tr>
<tr>
<td>509</td>
<td>United States Court of Appeals, Second Circuit, 10 December 2004</td>
<td>Phoenix Aktiengesellschaft v. Ecoplas, Inc.</td>
<td>1026</td>
</tr>
<tr>
<td>510</td>
<td>United States Court of Appeals, Second Circuit, 20 December 2004</td>
<td>Stone &amp; Webster, Inc. v. Triplefine International Corporation</td>
<td>1035</td>
</tr>
<tr>
<td>511</td>
<td>United States District Court, Eastern District of Louisiana, 20 December 2004</td>
<td>Greg J. Lannes, III v. Operators International</td>
<td>1041</td>
</tr>
<tr>
<td>512</td>
<td>United States District Court, Southern District of West Virginia, Beckley Division, 13 January 2005</td>
<td>PinnOak Resources, LLC, et al. v. Certain Underwriters at Lloyd’s, London, et al.</td>
<td>1061</td>
</tr>
<tr>
<td>514</td>
<td>United States District Court, Southern District of New York, 7 February 2005</td>
<td>Bristol-Myers Squibb Company v. SRI International Business Insurance Company Ltd.</td>
<td>1086</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS

- No. 515. United States District Court, Eastern District of Pennsylvania, 10 February 2005  
  *IFC Interconsult, AG v. Safeguard International Partners, LLC* 1095

- No. 516. United States District Court, Southern District of Texas, Brownsville Division, 23 February 2005  
  *Enso Offshore Company v. Titan Marine L.L.C.* 1102

- No. 517. United States District Court, District of Columbia, 8 March 2005  
  *International Bechtel Company Limited v. Department of Civil Aviation of the Government of Dubai* 1113

- No. 518. United States Court of Appeals, Fifth Circuit, 24 March 2005  
  *Joselito Madriaga Lim, v. Offshore Specialty Fabricators, Inc.* 1118

- No. 519. United States District Court, Southern District of New York, 25 March 2005 and 10 May 2005  
  *Chemical Overseas Holdings, Inc., et al. v. Republica Oriental del Uruguay* 1130

- No. 520. United States Court of Appeals, Second Circuit, 31 March 2005  
  *Encyclopaedia Universalis S.A. v. Encyclopaedia Britannica, Inc.* 1136

- No. 521. United States Court of Appeals, Fourth Circuit, 1 April 2005  
  *Joseph C. Phillips v. Mowbray, L.L.C. (The White Mountain Mining Company)* 1144

- No. 522. United States District Court, Northern District of Illinois, Eastern Division, 12 April 2005  
  *Alto Mar Girassol v. Lumbermens Mutual Casualty Company* 1152

- No. 523. United States Court of Appeals, Second Circuit, 14 April 2005  
  *Sarhank Group v. Oracle Corporation* 1158

- No. 524. United States District Court, Northern District of Texas, Dallas Division, 20 May 2005  
  *Mitsui &Co., Ltd. v. Delta Brands, Inc., et al.* 1165

- No. 525. United States Court of Appeals, District of Columbia Circuit, 17 June 2005  
  *State Property Fund of Ukraine v. TMR Energy Limited* 1179
TABLE OF CONTENTS


List of Contracting States (as of 28 October 2005)  1197

France
• No. E6. Cour de Cassation, 30 March 2004
  S. a. r. l. UNI-KOD v. Ouralkali  1200

Russian Federation
• No. E1. Presidium of the Supreme Arbitration Court of the
  Russian Federation, Moscow, 30 March 2004
  Stroilensky Gorno-obogatitelny Combinat v. Interconstruction
  Project Management S.A., et al.  1204

Part V– C. Court Decisions on the Washington
Convention 1965  1209

List of Contracting States and Signatories (as of 25 May 2005)  1211

Part V – D. Court Decisions on the Panama Convention 1975  1219

List of Contracting States (as of 27 October 2005)  1221

United States
• No. P19. United States District Court, Southern District of
  New York, 24 June 2004
  Allstate Insurance Company v. Banco do Estado do Rio Grande
  do Sul, S.A.  1223
• No. P20. Supreme Court of New York, New York County,
  18 March 2005
  Corporation, et al.  1231

Part VI – Articles on Arbitration  1237

Yearbook Comm. Arb’n XXX (2005)  xxv
Part VII – Bibliography

I. General
II. Countries
III. Journals on Arbitration

List of ICCA Officers and Members