# TABLE OF CONTENTS

## VOLUME XXIX – 2004

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

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>v</td>
</tr>
</tbody>
</table>

### Table of Contents

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>xi</td>
</tr>
</tbody>
</table>

### Part I – National Reports

#### Note General Editor
Table of Contents of *International Handbook on Commercial Arbitration*

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
</tbody>
</table>

### Part II – A. Arbitral Awards

#### International Chamber of Commerce (ICC)
- Case no. 8790 of 2000, final award
- Case no. 9762 of 2001, final award
- Case no. 9771 of 2001, final award
- Case no. 9839 of 1999, final award
- Case no. 10274 of 1999, final award
- Case no. 10329 of 2000, final award

#### Netherlands
*Netherlands Arbitration Institute*
- 6 April 2000, first interim award; 23 July 2001, second interim award; and 1 August 2003, final award

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
</tr>
</tbody>
</table>

### Index of Arbitral Awards

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>159</td>
</tr>
</tbody>
</table>

---

TABLE OF CONTENTS

Part II – B. Court Decision on Arbitration 165

Canada
• Superior Court of Justice of Ontario, 3 December 2003
  United Mexican States v. Marvin Roy Feldman Karpa 167
• Federal Court, 13 January 2004
  The Attorney General of Canada v. S.D. Myers, Inc. 183

France
• Cour d’Appel, Paris, 29 April 2003

Switzerland
• Tribunal Fédéral, 27 May 2003
  Cross-country skiers A and B v. International Olympic Committee, et al. 206

United States
• Supreme Court of the United States, 10 December 2002
• Supreme Court of the United States, 7 April 2003
• Supreme Court of the United States, 2 June 2003
  The Citizens Bank, et al. v. Alafabco, Inc. 243

Part II – C. Court Decisions Applying the UNCITRAL Model Law 249

Part III – A. Arbitration Rules 251

American Arbitration Association (AAA)
• Summary of Changes to the Commercial Rules and Mediation Procedures (Including Procedures for Large, Complex Commercial Disputes), by William K. Slate II 254
• Commercial Arbitration Rules and Mediation Procedures (Including Procedures for Large, Complex Commercial Disputes, 1 July 2003 259
# Table of Contents

**American Arbitration Association (AAA) and The American Bar Association**
- The 2004 Code of Ethics for Arbitrators in Commercial Disputes, by William K. Slate II
- The Code of Ethics for Arbitrators in Commercial Disputes, 1 March 2004

**International Bar Association**
- Guidelines on Conflicts of Interest in International Arbitration, 22 May 2004

**International Chamber of Commerce**
- Rules of ICC as Appointing Authority in UNCITRAL or other Ad Hoc Proceedings, 1 January 2004

**International Law Association**
- Presentation, by Pierre Mayer and Audley Sheppard
- Resolution 2/2002 International Commercial Arbitration
- Annex: International Law Association Recommendations on the Application of Public Policy as a Ground for Refusing Recognition or Enforcement of International Arbitral Awards

**Italy**
**Chamber of National and International Arbitration of Milan**
- The New Arbitration Rules of the Arbitration Chamber of Milan, by Rinaldo Sali
- Arbitration Rules, 1 January 2004
- Code of Ethics of Arbitrators

**Japan**
**The Japan Commercial Arbitration Association**
- Commercial Arbitration Rules, 1 March 2004

**Tokyo Maritime Arbitration Commission (TOMAC) of the Japan Shipping Exchange**
- The Rules of Arbitration, 1 March 2004
- The Rules of Simplified Arbitration, 1 March 2004
- The Rules of the Small Claims Arbitration Procedure (SCAP), 1 March 2004
- Conciliation Rules, 1 July 1992
TABLE OF CONTENTS

- Ethical Code for Arbitrators 436
- The Rules Relating to Expert Opinion, Appraisal and Certification, 1 September 2001 437

**Switzerland**
Chambers of Commerce and Industry of Basel, Bern, Geneva, Ticino, Vaud and Zurich
- Some Observations on the New Swiss Rules of International Arbitration, by Dr. Wolfgang Peter 440
- Swiss Rules of International Arbitration (Swiss Rules), 1 January 2004 447

**Part III – B. Iran-US Claims Tribunal** 477

Introduction 479

**Part IV – Recent Developments in Arbitration Law and Practice** 481

Introduction 483
Croatia 484
Japan 485
Spain 488

**Part V – A. Court Decisions on the New York Convention 1958** 491

Introduction 493
List of Contracting States (as of 21 October 2004) 495

  Prof. Albert Jan van den Berg 502

**Australia**
- No. 22. Supreme Court of New South Wales, Commercial Division, 10 June 1999
### TABLE OF CONTENTS

- No. 23. Supreme Court of New South Wales, 4 October 2002  
  *ACD Tridon Inc v. Tridon Australia Pty Ltd, et al.*  
  533

**Canada**

- No. 10. Supreme Court of British Columbia, 24 March 1997  
  *Food Services of America, Inc. (Amerifresh) v. Pan Pacific Specialties Ltd.*  
  581
- No. 11. Supreme Court of British Columbia, 11 May 1998  
  *Canadian National Railway Company v. Southern Railway of British Columbia Ltd*  
  590
- No. 12. Supreme Court of British Columbia, 6 March 2003  
  596
- No. 13. Supreme Court of British Columbia, 10 July 2003  
  *Powerex Corp. v. Alcan Inc.*  
  603
  607

**Colombia**

- No. 4. Consejo de Estado, Sala de lo Contencioso Administrativo, Seccion Tercera, 24 October 2003 and 22 April 2004  
  *Empresa Colombiana de Vías Férreas (Ferrovías) v. Drummond Ltd.*  
  643

**France**

- No. 34. Cour d’Appel, Paris, 4 December 2002  
  *American Bureau of Shipping v. Copropriété Maritime Jules Verne*  
  657

**Germany**

- No. 55. Hanseatisches Oberlandesgericht, Hamburg, 12 March 1998  
  *Syrian Claimant v. Defendant (nationality not indicated)*  
  663
- No. 56. Oberlandesgericht, Dresden, 20 October 1998  
  *Claimant (nationality not indicated) v. Defendant (nationality not indicated)*  
  673
- No. 57. Oberlandesgericht, Dresden, 13 January 1999  
  *Manufacturer v. Buyer 1 and Buyer 2*  
  679
- No. 58. Oberlandesgericht, Schleswig, 24 June 1999  
  *Slovenian Manufacturer v. German Exclusive Distributor*  
  687

---


xv
• No. 59. Oberlandesgericht, Brandenburg, 2 September 1999
  Seller (nationality not indicated) v. German Buyer  697

• No. 60. Oberlandesgericht, Stuttgart, 18 October 1999;
  Bundesgerichtshof, 1 February 2001
  Dutch Shipowner v. German Cattle and Meat Dealer  700

• No. 61. Oberlandesgericht, Cologne, 15 February 2000
  Spanish Exclusive Distributor v. German Seller  715

• No. 62. Oberlandesgericht, Cologne, 13 November 2000
  Claimant (nationality not indicated) v. Defendant (nationality
  not indicated)  722

• No. 63. Bundesgerichtshof, 22 February 2001
  Claimant (nationality not indicated) v. Defendant (nationality
  not indicated)  724

• No. 64. Oberlandesgericht, Stuttgart, 20 September 2001
  Belarus Seller G v. German Buyer  729

• No. 65. Oberlandesgericht, Rostock, 22 November 2001
  United Kingdom Claimant (UK) v. German Defendant  732

• No. 66. Oberlandesgericht, Stuttgart, 6 December 2001
  Seller (nationality not indicated) v. Buyer (nationality not indicated)  742

• No. 67. Brandenburgisches Oberlandesgericht, 13 June 2002
  Forwarding Agent (nationality not indicated) v. Dealer (nationality
  not indicated)  747

• No. 68. Bayerisches Oberstes Landesgericht, 22 November 2002
  Film Distributor v. Film Producer  754

• No. 69. Bayerisches Oberstes Landesgericht, 12 December 2002
  Yugoslav Exporter v. German Importer  761

• No. 70. Bundesgerichtshof, 25 September 2003
  Claimant (nationality not indicated) v. Defendant (nationality not
  indicated)  767

• No. 71. Bayerisches Oberstes Landesgericht, 20 November 2003
  Seller (nationality not indicated) v. Buyer (nationality not indicated)  771
TABLE OF CONTENTS

Hong Kong
- No. 18. High Court of the Hong Kong Special Administrative Region, Court of First Instance, 20 December 2001
  Société Nationale d'Operations Petrolières de la Côte d'Ivoire – Holding v. Keen Lloyd Resources Limited 776

Italy
  Comune di Torre del Greco v. Lux Perpetua, et al. 784
- No. 165. Corte di Cassazione, Plenary Session, 18 April 2003
  Primary Industries (UK) Ltd. v. Franchini Lamiere, et al. 792

Netherlands
  Petrasol B.V. v. Stolt Spur Inc. 798

Switzerland
- No. 35. Obergericht, Zug, 27 February 1998
  Claimant/Appellant (nationality not indicated) v. Defendant/Appellee (nationality not indicated) 805
- No. 36. Tribunal Fédéral, 14 May 2001
  Fomento de Construcciones y Contratas S.A. v. Colon Container Terminal S.A. 809
- No. 37. Bezirksgericht, Zurich, 14 February 2003 and Obergericht, Zurich, 17 July 2003
  Italian party v. Swiss company 819
- No. 38. Tribunal Fédéral, 8 December 2003
  A SA (Switzerland) v. B Co Ltd (British Virgin Islands) and C SA (Ecuador) 834

United States
- No. 446. United States District Court, Eastern District of Louisiana, 29 August 2002
  Wilfredo Jaranilla v. Megasea Maritime Ltd., et al. 848
- No. 447. United States District Court, Southern District of New York, 30 August 2002

TABLE OF CONTENTS

New Avex, Inc. v. Socata Aircraft Inc. 851

• No. 448. United States District Court, Southern District of Florida, 26 September 2002
  *Elpidio E. Amon v. Norwegian Cruise Line, Ltd.* 859

• No. 449. United States District Court, District of Columbia, 29 October 2002
  *Joseph Walker and Company, LLC. v. Oceanic Fats and Oil(S) Pte, Ltd.* 864

• No. 450. United States District Court, Southern District of Florida, 17 March 2003
  *Mike Adolfo v. Carnival Corporation* 867

• No. 451. United States Court of Appeals, First Circuit, 1 April 2003
  *Restoration Preservation Masonry, Inc., et al. v. Grove Europe Ltd., et al.* 873

• No. 452. United States District Court, Southern District of Florida, Miami Division, 4 June 2003
  *Four Seasons Hotels and Resorts, B.V., et al. v. Consorcio Barr, S.A.* 882

• No. 453. United States District Court, Southern District of New York, 12 June 2003

• No. 454. United States District Court, Southern District of Alabama, Southern Division, 16 June 2003 and 19 September 2003

• No. 455. United States District Court, Southern District of Florida, 16 June 2003
  *Stuart Sheinberg, et al. v. Princess Cruise Lines, Ltd., et al.* 969

• No. 456. United States Court of Appeals, Sixth Circuit, 17 June 2003
  *Inland Bulk Transfer Co. v. Cummins Engine Co., et al.* 975

• No. 457. United States Court of Appeals, Third Circuit, 20 June 2003
  *Standard Bent Glass Corp. v. Glassrobots Oy* 978

• No. 458. United States District Court, Southern District of New York, 23 June 2003
  *Sea Spray Holdings, Ltd. v. Pali Financial Group, Inc., et al.* 990
TABLE OF CONTENTS

• No. 459. United States Court of Appeals, Third Circuit,
  26 June 2003
  China Minmetals Materials Import and Export Co., Ltd. v. Chi Mei
  Corporation 1003

• No. 460. United States Court of Appeals, Second Circuit,
  14 July 2003
  Photopaint Technologies, LLC v. Smartlens Corporation, et al. 1026

• No. 461. United States District Court, Southern District
  of New York, 6 August 2003
  Venconsul N.V. v. TIM International N.V. 1038

• No. 462. United States District Court, Northern District
  of California, 7 August 2003
  Boston Telecommunications Group, Inc., et al. v. Deloitte Touche
  Tohmatsu, et al. 1043

• No. 463. United States District Court, Southern District
  of New York, 8 September 2003
  The Shaw Group, Inc., et al. v. Triplefine International Corporation 1051

• No. 464. United States District Court, Eastern District
  of Louisiana, 12 September 2003

• No. 465. United States Court of Appeals, Second Circuit,
  18 September 2003
  Banco de Seguros del Estado v. Mutual Marine Office, Inc., et al. 1070

• No. 466. United States Court of Appeals, First Circuit,
  22 September 2003
  InterGen N.V. v. Eric F. Grina, et al. 1080

• No. 467. United States District Court, Southern District
  of Florida, 14 October 2003

• No. 468. United States District Court, Northern District
  of Texas, Dallas Division, 23 October 2003
  Petroleum Corporation 1114

• No. 469. United States District Court, Southern District
  of New York, 31 October 2003
### TABLE OF CONTENTS

1129

- No. 470. United States Court of Appeals, Seventh Circuit, 20 November 2003  
  *Stawski Distributing Co., Inc. v. Browary Zywicz S.A.*  
  1134

- No. 471. United States District Court, Southern District of Florida, 24 November 2003  
  *Nicer International Corporation, et al. v. El Paso Corporation*  
  1140

- No. 472. United States Court of Appeals, Fifth Circuit, 26 November 2003  
  1160

- No. 473. United States District Court, Southern District of New York, 4 December 2003  
  1172

- No. 474. United States District Court, Eastern District of Louisiana, 9 December 2003  
  *Artemis Shipping and Navigation Company SA v. TorMar Shipping AS*  
  1185

- No. 475. United States District Court, Southern District of Florida, Miami Division, 12 December 2003  
  1193

- No. 476. United States Court of Appeals, Eleventh Circuit, 4 February 2004  
  *Czarina, LLC v. W.F. Poe Syndicate*  
  1200

- No. 477. United States District Court, Southern District of New York, 4 February 2004  
  *Shanghai Foodstuffs Import & Export Corporation v. International Chemical, Inc.*  
  1209

- No. 478. United States Court of Appeals, Second Circuit, 9 February 2004  
  *MGM Productions Group, Inc. v. Aeroflot Russian Airlines*  
  1215

- No. 479. United States District Court, Southern District of New York, 19 February 2004  
  *Sarhank Group v. Oracle Corporation*  
  1218

- No. 480. United States Court of Appeals, Second Circuit, 16 March 2004  
  *Compagnie Noga d’Importation et d’Exportation S.A. v. The*  
  
---

# Table of Contents

**Russian Federation**

- No. 481. United States District Court, District of Delaware, 16 March 2004  
  1251

- No. 482. United States Court of Appeals, Fifth Circuit, 23 March 2004  
  1262

**Part V – B. Court Decisions on the European Convention 1961**  
1299

*List of Contracting States (as of 21 October 2004)*  
1303

**Part V – C. Court Decisions on the Washington Convention 1965**  
1307

*List of Contracting States and Signatories (as of 21 October 2004)*  
1309

**Part V – D. Court Decisions on the Panama Convention 1975**  
1317

*List of Contracting States (as of 21 October 2004)*  
1319

  *Paramedics Electromedicina Comercial, Ltda. v. GE Medical Systems Information Technologies, Inc.*  
  1321

- No. P17. United States District Court, Northern District of Illinois, Eastern Division, 15 January 2004  
  *Unionamerica Ins. Co., Ltd., et al. v. Allstate Insurance Company*  
  1353

- No. P18. United States Court of Appeals, Seventh Circuit, 3 February 2004  
  *Employers Insurance of Wausau v. El Banco de Seguros del Estado*  
  1358

*Yearbook Comm. Arb’n XXIX (2004)*  
xxi
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part VI – Articles on Arbitration</td>
</tr>
<tr>
<td>Part VII – Bibliography</td>
</tr>
<tr>
<td>I. General</td>
</tr>
<tr>
<td>II. Countries</td>
</tr>
<tr>
<td>III. Journals on Arbitration</td>
</tr>
<tr>
<td>List of ICCA Officers and Members</td>
</tr>
</tbody>
</table>