

TABLE OF CONTENTS

VOLUME XLI – 2016

Introduction	
Prof. Albert Jan van den Berg, General Editor	v
Online Resources	xi
ICCA Events 2017	xiii
Note to the Reader	xv
Table of Contents	xvii
Part I – National Reports	1
<i>Note General Editor</i>	1
Table of Contents of <i>International Handbook on Commercial Arbitration</i>	1
Part II – Arbitration Rules	17
<i>New and Amended Arbitration Rules</i>	19
Part III – Recent Developments in Arbitration Law and Practice	21
<i>Recent Developments in Arbitration Law and Practice</i>	23
Part IV – Arbitral Awards	25
<i>Note General Editor</i>	27
Yearbook Comm. Arb'n XLI (2016)	xvii

TABLE OF CONTENTS

<i>France</i>	
<i>International Arbitration Chamber of Paris</i>	
• Final award in case no. 3193, 19 September 2013	28
<i>International Chamber of Commerce (ICC)</i>	
• Final award in case no. 16684	52
• Final award in case no. 17176	86
• Final award in case no. 17326	127
• Final award in case no. 17479	175
• Interim award in case no. 17669	250
• Final award in case no. 18203	276
<i>Italy</i>	
<i>Chamber of National and International Arbitration of Milan</i>	
• Final award in case no. 1115/16, 10 December 2015	303
Index of Arbitral Awards	Index Awards-1
<i>Introduction</i>	Index Awards-1
<i>Index of Arbitral Awards</i>	Index Awards-2
Part V – A. Court Decisions on the New York Convention 1958	331
<i>Introduction</i>	333
<i>List of Contracting States (as of 11 November 2016)</i>	336
<i>Index of Cases Reported in Volume XL (2016)</i>	
<i>Prof. Albert Jan van den Berg</i>	344
<i>Armenia</i>	
• No. 1. Supreme Court of Cassation of the Republic of Armenia, Civil and Administrative Chamber, 20 April 2015 <i>Interpipe Ukraine LLC v. Golden Field LLC</i>	368

TABLE OF CONTENTS

Australia

- No. 43. Court of Appeal, Supreme Court, New South Wales,
11 August 2015
Aircraft Support Industries Pty Ltd v. William Hare UAE LLC 372
- No. 44. Federal Court of Australia, General Division,
New South Wales District Registry, 2 November 2015 and
13 November 2015
Johnson Ye v. Ronghuo Zeng (a/k/a Andrew Tsang) et al. 376
- No. 45. Supreme Court of Western Australia, 4 December 2015
Roy Hill Holdings Pty Ltd et al. v. Samsung C&T Corporation 380
- No. 46. Supreme Court of Victoria, Commercial Court,
Arbitration List, 21 December 2015 and 22 December 2015
*Indian Farmers Fertiliser Cooperative Limited et al. v. Kisan International
Trading Fze et al.* 384
- No. 47. Supreme Court of Victoria, Court of Appeal,
9 February 2016
*Joseph Isaac Gutnick et al. v. Indian Farmers Fertiliser Cooperative
Limited et al.* 388

Austria

- No. 28. Landesgericht, Ried Im Innkreis, 27 August 2014
*Kinve Solar Power Co., Ltd v. SV Modulproduktion GmbH (formerly
Sun Value GmbH) et al.* 391
- No. 29. Landesgericht, Ried im Innkreis, 24 June 2015
*Kinve Solar Power Co., Ltd v. SV Modulproduktion GmbH (formerly
Sun Value GmbH) et al.* 393
- No. 30. Oberster Gerichtshof, 17 February 2016
Claimant: K Ltd v. S GmbH et al. 398

Bosnia and Herzegovina

- No. 2. Cantonal Court, Tuzla, 4 June 2002, Supreme Court
of the Federation of Bosnia and Herzegovina, 31 July 2002,
Cantonal Court, Tuzla, 15 January 2003, and
Supreme Court of the Federation of Bosnia and Herzegovina,
19 May 2003
Inkometal AG v. Koksno Hemijski Kombinat d. d. Lukavac 403

TABLE OF CONTENTS

Brazil

- No. 41. Superior Tribunal de Justiça, Special Court, 4 March 2015,
SEC no. 8.242 - HK
*Huawei do Brasil Telecomunicações Ltda v. Zune Consultoria de
Telecomunicações Ltda* 408
- No. 42. Superior Tribunal de Justiça, Special Court, 4 March 2015,
SEC no. 10.702 - EX
Asia Steel & Metals Limited v. Mineração Vila Nova Ltda 411
- No. 43. Superior Tribunal de Justiça, 16 September 2015,
SEC no. 10.432 - EX
Mercovia S/A v. Comissão Mista Argentino-Brasileira – COMAB 413
- No. 44. Superior Tribunal de Justiça, 2 December 2015,
SEC no. 5.782 - EX
EDF International S/A v. Endesa Latinoamérica S/A et al. 415
- No. 45. Superior Tribunal de Justiça, 16 December 2015,
SEC no. 11.593 - EX
Biglift Shipping BV v. Transdata Transportes Ltda 418
- No. 46. Superior Tribunal de Justiça, Special Court,
16 December 2015, SEC No. 11.969 - EX
CMGCK v. M S/A et al. 420
- No. 47. Superior Tribunal de Justiça, Special Court,
16 December 2015, SEC no. 12.236 - EX
Thyssenkrupp Steel Europe AG v. Companhia Siderúrgica Nacional CSN 422

Canada

- No. 33. Court of Appeal, British Columbia 2 June 2014
*Sociedade-de-fomento Industrial Private Limited v. Pakistan Steel
Mills Corporation (Private) Limited* 424
- No. 34. Superior Court of Justice, Ontario, 18 February 2015
*Depo Traffic Facilities (Kunshan) Co. v. Vikeda International
Logistics and Automotive Supply Ltd* 428

Chile

- No. 2. Corte Suprema, First Chamber, 8 September 2009
Comverse Inc. v. American Telecommunication, Inc. Chile SA 432
- No. 3. Corte Suprema, First Chamber, 15 December 2009
Kreditanstalt für Wiederaufbau v. Inversiones Errázuriz Limitada 435

TABLE OF CONTENTS

• No. 4. Corte Suprema, First Chamber, 21 June 2010 <i>Stemcor UK Limited v. Compañía Comercial Metalúrgica Limitada</i>	439
• No. 5. Corte Suprema, First Chamber, 8 September 2011 <i>Claimant: EDF Internacional SA v. Endesa Latinoamericana SA et al.</i>	441
• No. 6. Corte Suprema [Supreme Court], First Chamber, 21 April 2016 <i>Qisheng Resources Limited v. Sociedad Contractual Minera “Minera Santa Fe”</i>	444
<i>China PR</i>	
• No. 12. Supreme People’s Court, 30 June 2014 <i>I. Schroeder KG (GmbH & Co) v. Dandong Jun’ao Food Co., Ltd</i>	447
• No. 13. No. 1 Intermediate People’s Court, Shanghai Municipality, 27 November 2015 <i>Siemens International Trade Co. Ltd (Shanghai) v. Shanghai Golden Landmark Co. Ltd</i>	450
<i>Colombia</i>	
• No. 10. Corte Suprema de Justicia, Civil Cassation Chamber, 24 June 2016 <i>HTM LLC v. Fomento de Catalizadores – FOCA S.A.S.</i>	454
<i>Dominican Republic</i>	
• No. 1. Suprema Corte de Justicia, Third Chamber, 30 January 2013 <i>Comercial Paraíso Tropical, SA et al. v. Carlos Sánchez Hernández et al.</i>	460
<i>France</i>	
• No. 59. Cour de Cassation, First Civil Chamber, 24 February 2016 <i>Weissberg srl v. Subway International BV</i>	463
<i>Germany</i>	
• No. 156. Oberlandesgericht, Koblenz, 31 January 2012 <i>Seller v. Buyer</i>	465
• No. 157. Hanseatisches Oberlandesgericht, Hamburg, 3 February 2012 <i>OAO C v. Y GmbH & Co. KG</i>	468
Yearbook Comm. Arb’n XLI (2016)	xxi

TABLE OF CONTENTS

• No. 158. Oberlandesgericht, Munich, 6 March 2012 <i>OOO “M. T.” v. 3-S F. Vertriebs GmbH</i>	472
• No. 159. Oberlandesgericht, Munich, 19 November 2012 <i>F sp. z.o.o v. Franz W</i>	476
• No. 160. Oberlandesgericht, Frankfurt am Main, 16 January 2014 <i>Chinese Owner v. German Leasee</i>	480
• No. 161. Oberlandesgericht, Cologne, 26 February 2014 <i>Buyer v. German Seller</i>	484
<i>Hong Kong SAR</i>	
• No. 27. High Court of the Hong Kong Special Administrative Region, Court of First Instance, Construction and Arbitration Proceedings, 14 March 2016 <i>T v. C</i>	487
• No. 28. High Court of the Hong Kong Special Administrative Region, Court of First Instance, Construction and Arbitration Proceedings, 5 May 2016 <i>L v. B</i>	490
<i>Israel</i>	
• No. 12. Supreme Court of Israel, 13 August 2014, no. 3331/14 <i>Siemens AG et al. v. Israeli Electric Cooperation Ltd et al.</i>	494
<i>Italy</i>	
• No. 188. Corte di Cassazione, First Civil Chamber, 19 August 2015, no. 16901 <i>Hotel Columbus srl (Italy) v. Ordine Equestre del Santo Sepolcro di Gerusalemme</i>	499
• No. 189. Corte di Cassazione, Plenary Session, 24 November 2015, no. 23893 <i>Government and Ministries of the Republic of Iraq v. Armamenti e Aerospazio SpA, in liquidation et al.</i>	503
<i>Lithuania</i>	
• No. 4. Supreme Court of Lithuania, 25 September 2015 <i>Interperformances Inc. v. R. J.</i>	507

TABLE OF CONTENTS

<ul style="list-style-type: none"> • No. 5. Supreme Court of Lithuania, 23 October 2015 <i>OAO “Gazprom” v. The Republic of Lithuania, Ministry of Energy of the Republic of Lithuania</i> 	510
<i>Netherlands</i>	
<ul style="list-style-type: none"> • No. 54. Gerechtshof, Amsterdam, 24 June 2014 and Hoge Raad, First Chamber, 1 May 2015 <i>Çukurova Holding A.S. v. Sonera Holding B.V.</i> 	517
<ul style="list-style-type: none"> • No. 55. Voorzieningenrechter, Rechtbank, Rotterdam, 3 April 2015 and 5 August 2015 <i>Marvesa AG v. OOO Gamma-Trade</i> 	522
<i>New Zealand</i>	
<ul style="list-style-type: none"> • No. 5. High Court of New Zealand, Auckland Registry, 21 April 2015, CIV-2015-404-100 <i>Makan Distiller Limited v. Natural Sugars (New Zealand) Limited</i> 	526
<i>Nigeria</i>	
<ul style="list-style-type: none"> • No. 2. Court of Appeal, Lagos Judicial Division, 23 July 2010 <i>Agro-Allied Development Ent. Limited v. United Shipping Trading Co. Inc.</i> 	531
<ul style="list-style-type: none"> • No. 3. Court of Appeal, Lagos Judicial Division, 7 February 2014 <i>Sundersons Limited et al. v. Cruiser Shipping PTE Limited et al.</i> 	535
<i>Poland</i>	
<ul style="list-style-type: none"> • No. 2. Sąd Najwyższy, 23 January 2015 <i>H.H.I.S. Co., Ltd v. L.M.H. Sp. z o.o.</i> 	538
<i>Qatar</i>	
<ul style="list-style-type: none"> • No. 2. Court of First Instance, Civil and Commercial Matters, Ninth Circuit, 28 May 2015 <i>Company X v. Company Y et al.</i> 	542
<ul style="list-style-type: none"> • No. 3. Court of First Instance, Civil and Commercial Matters, Exequatur Circuit, 21 September 2015 <i>Main Contractor v. Subcontractor</i> 	545
<i>Russian Federation</i>	
<ul style="list-style-type: none"> • No. 39. Arbitrazh Court, Volgo-Vyatskiy District, 17 April 2015 <i>Brandford LLC Russian v. SL Graphika LLC</i> 	547
Yearbook Comm. Arb'n XLI (2016)	xxiii

TABLE OF CONTENTS

• No. 40. Arbitrazh Court, Moscow District, 11 December 2015 <i>Core Carbon Group ApS v. ROSGAZIFICAZIA OJSC et al.</i>	550
<i>Spain</i>	
• No. 83. Tribunal Superior de Justicia de Catalunya, Civil and Penal Chamber, First Section, 19 February 2014 <i>Tele-Radio i Lysekil AB v. Motorman Radio Sistemas y Aplicaciones, S.L.</i>	553
• No. 84. Tribunal Superior de Justicia da Catalunya, Civil and Penal Chamber, First Section, 28 April 2014 <i>Prodalcom Group, srl v. Piasa Engineering Trading, SA</i>	556
• No. 85. Tribunal Superior de Justicia de Catalunya, Civil and Penal Chamber, First Section, 19 September 2014 <i>Hochtief Solutions, AG v. Equip Tècnic Santandreu, S.A.</i>	558
• No. 86. Tribunal Superior de Justicia de Catalunya, Civil and Penal Chamber, First Section, 16 October 2014 <i>Mediterranean Shipping Company, S.A. v. Fruta del Pacifico, S.A.</i>	560
<i>Switzerland</i>	
• No. 47. Bundesgericht, Second Civil Chamber, 25 September 2014 <i>X SA v. Y GmbH</i>	564
• No. 48. Tribunal Fédéral, First Civil Chamber, 26 February 2015 <i>Club A v. B et al.</i>	567
• No. 49. Tribunal Fédéral, Second Civil Chamber, 4 February 2016 <i>A SA v. B Ltd</i>	573
<i>Ukraine</i>	
• No. 8. Court of Appeal, Kyiv, 17 September 2015 <i>The Ministry of Justice of Ukraine v. JKX Oil & Gas Plc et al.</i>	577
• No. 9. High Specialized Court of Ukraine for Civil and Criminal Matters, Civil Chamber, 24 February 2016 and Court of Appeal, Kyiv, Civil Chamber, 17 May 2016 <i>JKX Oil & Gas Plc et al. v. The Ministry of Justice of Ukraine</i>	581
<i>United Kingdom</i>	
• No. 101. High Court of Justice, Queen’s Bench, Commercial Court, 19 February 2015 <i>Malicorp Limited v. Government of the Arab Republic of Egypt et al.</i>	585

TABLE OF CONTENTS

• No. 102. Court of Appeal (Civil Division), 10 November 2015, <i>IPCO (Nigeria) Limited v. Nigerian National Petroleum Corporation</i>	590
<i>United States</i>	
• No. 848. United States District Court, Southern District of New York and 30 June 2014, and United States Court of Appeals, Second Circuit, 28 January 2016 <i>Zurich American Insurance Company and another v. Team Tankers A.S. et al.</i>	596
• No. 849. United States Court of Appeals, Eleventh Circuit, 25 June 2015 <i>Jorge Escobar v. Celebration Cruise Operator, Inc.</i>	603
• No. 850. United States District Court, District of Columbia, 7 August 2015 <i>Newco Limited v. The Government of Belize</i>	607
• No. 851. United States District Court, District of Colorado, 27 August 2015 and 29 September 2015 <i>DynaResource de Mexico, S.A. de C.V. et al. v. Goldgroup Resources, Inc.</i>	610
• No. 852. United States District Court, Southern District of New York, 1 September 2015 <i>PDV Sweeny, Inc. et al. v. ConocoPhillips Co. et al.</i>	615
• No. 853. United States District Court, District of the Virgin Islands, Division of St. Thomas and St. John, 30 September 2015 <i>Richard Vento et al. v. Duane Crithfield et al.</i>	620
• No. 854. United States District Court, Northern District of California, 16 October 2015 <i>Intel Capital (Cayman) Corporation et al. v. Angie Hsia et al.</i>	625
• No. 855. United States District Court, Southern District of Alabama, Southern Division, 20 October 2015 <i>Outokumpu Stainless, LLC, f/k/a Thyssenkrupp Stainless USA, LLC v. Siemens Industry, Inc., successor in interest to Siemens Energy & Automation, Inc.</i>	627
• No. 856. United States District Court, District of Columbia, 3 November 2015 <i>Getma International v. The Republic of Guinea</i>	630

TABLE OF CONTENTS

• No. 857. United States District Court, Eastern District of Louisiana, 9 November 2015 <i>Don Crowden v. Entergy Corporation et al.</i>	634
• No. 858. United States Court of Appeals, Eleventh Circuit, 10 November 2015 <i>Claudia Ester Sierra v. Cruise Ships Catering and Services International, N.V. et al.</i>	636
• No. 859. United States District Court, Eastern District of Michigan, Southern Division, 13 November 2015 <i>Intel Capital (Cayman) Corporation et al. v. Shan Yi</i>	639
• No. 860. United States District Court, Southern District of New York, 18 November 2015 <i>Navig8 Chemicals Asia Pte, Ltd v. Crest Energy Partners, LP</i>	642
• No. 861. United States District Court, Northern District of California, San Jose Division, 19 November 2015 <i>BaySand Inc. v. Toshiba Corporation</i>	645
• No. 862. United States District Court, District of Columbia, 20 November 2015 <i>Gold Reserve Inc. v. Bolivarian Republic of Venezuela</i>	648
• No. 863. United States District Court, Southern District of New York, 23 November 2015 <i>GE Transportation (Shenyang) Co., Ltd v. A-Power Energy Generation Systems, Ltd</i>	653
• No. 864. United States District Court, Northern District of California, San Francisco Division, 10 December 2015 <i>KVEN OJSC v. Thunderbolt Enterprises, Ltd.</i>	656
• No. 865. United States District Court, Eastern District of Virginia, Norfolk Division, 15 January 2016 <i>Bayer Cropscience AG et al. v. Agrosiences LLC et al.</i>	658
• No. 866. United States District Court, Southern District of New York, 21 January 2016 <i>Euro Pacific Capital Inc., individually and in its capacity as Investor Representative and attorney-in-fact for Bruce Walker Ravenel, et al. v. Bohai Pharmaceuticals Group, Inc.</i>	662

TABLE OF CONTENTS

• No. 867. United States District Court, Eastern District of Louisiana, Civil Action, 19 February 2016 <i>Kelly David Johnson v. NCL (Bahamas) Ltd d/b/a Norwegian Cruise Line</i>	666
• No. 868. United States District Court, Southern District of New York, 22 February 2016 <i>Crescendo Maritime Co. v. Bank of Communications Co. Ltd.</i>	671
• No. 869. United States District Court, Southern District of New York, 23 February 2016 <i>InterDigital Communications, Inc., et al. v. Huawei Investment & Holding Co., Ltd. et al.</i>	677
• No. 870. United States District Court, Southern District of Florida, 7 March 2016 <i>Emmanuel Navarette v. Silversea Cruises Ltd. et al.</i>	681
• No. 871. United States Court of Appeals, Ninth Circuit, 15 March 2016 <i>Casa Del Caffè Vergnano S.P.A. et al. v. ItalFlavors, LLC et al.</i>	685
• No. 872. United States District Court, Southern District of Florida, 5 April 2016 <i>Brian Leighton v. Royal Caribbean Cruises, Ltd.</i>	688
• No. 873. United States District Court, District of Massachusetts, 7 April 2016 <i>The University of Notre Dame (USA) in England v. TJAC Waterloo, LLC et al.</i>	691
• No. 874. United States District Court, Southern District of New York, 25 April 2016 <i>China Media Express Holdings, Inc., by Karl Barth as Receiver v. Nexus Executive Risks, Ltd. (f/k/a Torus Executive Risks, Ltd.) et al.</i>	695
• No. 875. United States District Court, Eastern District of Virginia, Norfolk Division, 26 April 2016 <i>Research and Development Center “Teploenergetika”, LLC v. EP International, LLC et al.</i>	701
• No. 876. United States Court of Appeals, Eleventh Circuit, 10 May 2016 <i>Willman Suazo v. NCL (Bahamas), Ltd.</i>	706

TABLE OF CONTENTS

• No. 877. United States Court of Appeals, District of Columbia Circuit, 13 May 2016 <i>The Government of Belize v. BCB Holdings Limited et al.</i>	710
• No. 878. United States Court of Appeals, District of Columbia Circuit, 13 May 2016 <i>Government of Belize v. Newco Limited</i>	713
• No. 879. United States District Court, District of Columbia, 8 June 2016 <i>The Belize Bank Limited v. Government of Belize</i>	715
• No. 880. United States District Court, District of Columbia, 9 June 2016 <i>Getma International v. The Republic of Guinea</i>	721
Part V – B. Court Decisions on the European Convention 1961	725
<i>List of Contracting States and Signatories (as of 11 November 2016)</i>	727
<i>Luxembourg</i>	
• No. E2. Cour d’Appel, 14 March 2012 <i>Company A v. Company B</i>	730
Part V – C. Court Decisions on the Washington Convention 1965	733
<i>List of Contracting States and Signatories (as of 11 November 2016)</i>	735
<i>Argentina</i>	
• No. W1. Cámara Nacional de Apelaciones en lo Comercial, 18 August 2015 <i>Republic of Peru v. CCI – Compañía de Concesiones de Infraestructura S.A.</i>	742
Part V – D. Court Decisions on the Panama Convention 1975	745
<i>List of Contracting States (as of 11 November 2016)</i>	747

TABLE OF CONTENTS

Part V – E. Other Court Decisions on Arbitration	749
<i>Austria</i>	
• Oberster Gerichtshof, 23 June 2015 <i>S SpA v. T GmbH</i>	751
<i>Denmark</i>	
• Højesteret, Second Chamber, 28 January 2016 <i>Taewoong Inc. v. AH Industries A/S</i>	755
<i>Kyrgyzstan</i>	
• Supreme Court of the Republic of Kyrgyzstan, 20 August 2013 <i>Berlin Chemie AG v. OsOO Vital Pharma</i>	758
<i>Malaysia</i>	
• Federal Court of Malaysia, 11 October 2011 <i>The Government of India v. Cairn Energy India Pty Ltd et al.</i>	760
• Federal Court of Malaysia, 16 July 2013 <i>Ajwa for Food Industries Co (MIGOP) v. Pacific Inter-link Sdn Bhd</i>	764
• Federal Court of Malaysia, 3 November 2014 <i>Christopher Martin Boyd v. Deb Brata Das Gupta</i>	767
Part VI – Bibliography	771
<i>I. General</i>	773
<i>II. Countries</i>	794
<i>III. Journals on Arbitration</i>	800
List of ICCA Officers and Governing Board Members	811
List of ICCA Members	829

