INTERNATIONAL COUNCIL
FOR COMMERCIAL ARBITRATION

50 YEARS OF
THE NEW YORK CONVENTION

GENERAL EDITOR:
ALBERT JAN VAN DEN BERG

with the assistance of the
Permanent Court of Arbitration
Peace Palace, The Hague
### TABLE OF CONTENTS

**PREFACE**
Albert Jan van den Berg, General Editor

**TABLE OF CONTENTS**

**WORKING GROUP A: ARBITRATION TREATIES/TREATY ARBITRATION**

*The Impact of Investment Treaty Arbitration: Identifying the Expectations, Testing the Assumptions*

**Moderator:** Gabrielle Kaufmann-Kohler

1. *Origins and Theory*

**Report:** Benedict Kingsbury and Stephan Schill  
Investor-State Arbitration as Governance: Fair and Equitable Treatment, Proportionality and the Emerging Global Administrative Law

Comment: Margrete Stevens  
The ICSID Convention and the Origins of Investment Treaty Arbitration

2. *Present Expectations and Realities*

Comment: Charles N. Brower  
Present Expectations and Realities – Comments from the Perspective of an Arbitrator

Comment: Brigitte Stern  
Present Expectation and Realities

**Investment Treaty Arbitration and Commercial Arbitration: Are They Different Ball Games?**

**Moderator:** V. V. Veecher QC  
Introduction to Investment Treaty Arbitration and Commercial Arbitration: Are They Different Ball Games?
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Authors</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. The Legal Framework</td>
<td>Investment Treaty Arbitration: The Legal Framework</td>
<td>Campbell McLachlan</td>
<td>95</td>
</tr>
<tr>
<td></td>
<td>Investment Treaty Arbitration and Commercial Arbitration: Are They Different Ball Games? The Legal Regime/Framework</td>
<td>Bernard Hanotiau</td>
<td>146</td>
</tr>
<tr>
<td></td>
<td>So You Want to Start an Investment Treaty Arbitration? Getting the Notice of Dispute Right</td>
<td>Sarah François-Poncet and Caline Mouawad</td>
<td>178</td>
</tr>
<tr>
<td></td>
<td>Reasons for Reasons: The Tribunal’s Duty in Investor-State Arbitration</td>
<td>Toby T. Landau QC</td>
<td>187</td>
</tr>
<tr>
<td></td>
<td>Compensation for Unlawful Expropriation, and Other Recent Manifestations of the Principle of Full Reparation in International Investment Law</td>
<td>Pierre Bienvenu and Martin J. Valasek</td>
<td>231</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS

6. The Enforcement of Investment Treaty Awards: Getting to Judgment

*Moderator: Yves Fortier C.C., O.Q., Q.C., LLD*

**Report:** Gaëtan Verhoosel  
Annulment and Enforcement Review of Treaty Awards: To ICSID or Not to ICSID? 285

**Comment:** Yas Banifatemi  
Defending Investment Treaty Awards: Is There an ICSID Advantage? 318

**Comment:** Guido Santiago Tawil  
Binding Force and Enforcement of ICSID Awards: Untying Articles 53 and 54 of the ICSID Convention 327

---

## WORKING GROUP B: RULES-BASED SOLUTIONS TO PROCEDURAL ISSUES

1. Multi-Party Disputes

*Moderator: Carlos Nehring Netto*

**Report:** Nathalie Vosser  
Multi-party Disputes and Joinder of Third Parties 343

**Comment:** Cristián Conejero Roos  
Multi-party Arbitration and Rule-making: Same Issues, Contrasting Approaches 411

2. Consolidation of Claims

*Moderator: Iván Száz*

**Report:** Michael Pryles and Jeffrey Waincymer  
Multiple Claims in Arbitration Between the Same Parties 437

**Comment:** Nayla Comair-Obeid  
Consolidation and Joinder in Arbitration – The Arab Middle Eastern Approach 500
TABLE OF CONTENTS

3. Summary Disposition

**Moderator:** Werner Melis

**Report:** Judith Gill QC

Applications for the Early Disposition of Claims in Arbitration Proceedings 513

**Comment:** Teresa Giovannini

Comments on Judith Gill’s Report on Applications for the Early Disposition of Arbitration Proceedings 526

**Comment:** Michael M. Collins SC

Summary Disposition in International Arbitration 532

4. Provisional Measures

**Moderator:** Tinuade Oyekunle

**Report:** Luis Enrique Graham

Interim Measures – Ongoing Regulation and Practices (A View from the UNCTRÂL Arbitration Regime) 539

Annex I: Status of the Working Group Regarding the Revision of the UNCTRAL Arbitration Rules 570

Annex II: Examples of Interim Measures Issued by an Arbitral Tribunal 575

Annex III: Anti-suit Injunctions 578


**Comment:** Nael G. Bunni

Interim Measures in International Commercial Arbitration: A Commentary on the Report by Luis Enrique Graham 583

**Comment:** Yang Ing Loong

Provisional Measures 606

5. The UNCITRAL Rules Revision: An Assessment

**Moderator:** David D. Caron

**Round Table:**

Round Table on the Assessment of the Revision of the UNCITRAL Rules on International Commercial Arbitration 615
TABLE OF CONTENTS

6. Recent Developments in International Arbitration

Moderators: Catherine Kessedjian and William W. Park

Open Discussion:
Quo Vadis Arbitration? 635

PLENARY SESSION: THE NEW YORK CONVENTION AT 50

The New York Convention at 50

Moderator: Donald Francis Donovan

Keynote Address: Albert Jan van den Berg
Hypothetical Draft Convention on the International Enforcement of Arbitration Agreements and Awards:
Explanatory Note 649
Annex II: Comparison of Texts: Proposal for Revisions to the 1958 New York Convention 670

Comment: Teresa Cheng BBS, SC, JP
Celebrating the Fiftieth Anniversary of the New York Convention 679

Comment: Emmanuel Gaillard
The Urgency of Not Revising the New York Convention 689

Comment: Carolyn B. Lamm
Comments on the Proposal to Amend the New York Convention 697

Comment: Rory Brady SC
Comments on a New York Convention for the Next Fifty Years 708

LIST OF PARTICIPANTS 713

LIST OF ICCA OFFICERS AND MEMBERS 757