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FOR COMMERCIAL ARBITRATION

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VOLUME XXII – 1997

GENERAL EDITOR
ALBERT JAN VAN DEN BERG

with the assistance of
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INTRODUCTION

The twenty-second Volume of Yearbook Commercial Arbitration continues to be guided by the aims of ICCA to encourage the use of international commercial arbitration as a means of settling disputes in international trade and to promote knowledge of arbitration. The Yearbook strives to fulfil these aims by providing an up-to-date relevant selection of arbitral awards, court decisions, arbitration rules and similar texts which together provide a global perspective of the current state of international commercial arbitration.

While the basic framework of the Yearbook still adheres to the concept developed in the first Volume in 1976, National Reports which were originally contained in Part I have been transplanted to the Yearbook's companion publication, the loose-leaf *International Handbook on Commercial Arbitration* where each National Report is accompanied by the text of the arbitration legislation of the country concerned. To illustrate this link, the Table of Contents of the Handbook is reproduced in Part I of the Yearbook. The Yearbook has also sprouted several new branches. This year's new growth is represented by the new Part V - D which reports court decisions on the Panama Convention 1975.

Another recent addition to the Yearbook is Part II - C which reproduces the excerpts of court decisions applying the UNCITRAL Model Law on International Commercial Arbitration published in UNCITRAL's periodical, *Case Law on UNCITRAL Texts (CLOUT)*. The addition of this Part is symbolic of UNCITRAL's growing significance as a source of instruments and texts which are gaining ever increasing acceptance by States, arbitral institutions and practitioners of arbitration. Part II - A contains for the first time two challenge decisions taken by Appointing Authorities called upon to decide on the challenge of an arbitrator under the UNCITRAL Rules. Part III - A reproduces the newly issued UNCITRAL Notes on Organizing Arbitral Proceedings. The UNCITRAL Arbitration Rules have also served as the source for the Permanent Court of Arbitration arbitration rules reproduced in Part III - A. Moreover, Part III - B contains awards and decisions of the Iran-US Claims Tribunal, whose proceedings are conducted under an adapted version of the UNCITRAL Arbitration Rules. Part IV on Recent Developments in Arbitration Law and Practice provides summaries of new or amended arbitration legislation, all of which find their inspiration in the UNCITRAL Model Law.

The largest branch of the Yearbook framework is Part V - A reporting on the New York Convention 1958 which this year contains sixty-nine decisions

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from nineteen countries. The Yearbook concludes with a Bibliography announcing new publications both in the field of international commercial arbitration and closely related fields such as ADR and new commercial dispute resolution mechanisms established by the WTO and NAFTA.

I would like to thank each of the following persons for their unique contribution to the compilation of the Yearbook:

- Ms. Ellen Meijkamp, my secretary, for her assistance with the word processing of the manuscript;
- Ms. Mamie Mutchler, research assistant, who has assisted in every aspect of the production of the Yearbook;
- Ms. Hilmar Requena who has been solely responsible for the desk editing and production of the camera-ready-copies;
- D.ssa Silvia Borelli, former researcher at the Sanders Institute at the Erasmus University, Rotterdam, and presently employed by the Permanent Court of Arbitration as a member of the editorial staff, who once more prepared a great number of excerpts as well as translations of Dutch, German, French, Italian and Spanish language arbitral awards and court decisions (much of this in connection with her collaboration in the preparation of the second edition of *The New York Arbitration Convention of 1958*);
- Mrs. Judy Freedberg who has magnificently contributed to the substance of the Yearbook as well as managing the production of the Yearbook (also in connection with her collaboration in the preparation of the second edition of *The New York Arbitration Convention of 1958*).

In all of its publications, ICCA is advised by ICCA's Editorial Board composed of members and advisory members as follows: Prof. Giorgio Bernini, in his capacity as past President of ICCA; Prof. Karl-Heinz Böckstiegel (Germany); Mr. Robert Coulson (USA); M^e Yves Derains (France); Dr. Mauro Ferrante (Italy); M^e Michel Gaudet (France); Prof. Pierre Lalive (Switzerland); DDr. Werner Melis (Austria); Mr. Fali Nariman, President of ICCA (India); Prof. Tudor R. Popescu (Romania); Prof. José Luis Siqueiros (Mexico); Prof. Iván Szász (Hungary); Prof. Yasuhei Taniguchi (Japan); Prof. Pieter Sanders (Netherlands) as advisor and as of 1993 co-editor of the *International Handbook on Commercial Arbitration*, and the undersigned as General Editor of the ICCA publication.

The readers of the Yearbook throughout the world are also a major source of the materials which it contains. Therefore, may I call on you, as reader and user of the Yearbook, to submit texts concerning:

- recent changes in arbitration legislation

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- newly enacted arbitration rules
- arbitral awards (the confidentiality of which is ensured)
- court decisions of general interest and, in particular, court decisions applying the UNCITRAL Model Law or the New York, European, Washington or Panama Conventions.

The names of the readers who have provided materials for this Volume are acknowledged in the appropriate Parts.

1997 marked a change for the ICCA publications. The cooperation with the TMC Asser Institute came to an end and, as of 1 February 1997, the production of the ICCA publications will take place at the International Bureau of the Permanent Court of Arbitration (PCA) at the Peace Palace in The Hague. ICCA is most grateful to the International Bureau, and in particular to Mr. Hans Jonkman, Secretary-General of the PCA, for so generously arranging for this assistance in the production of the ICCA publications. ICCA was delighted that Mmes. Freedberg, Borelli and Requena, who have worked for many years on the ICCA publications, have assured the continuity of those publications by accepting employment at the International Bureau of the PCA. Special thanks also go to our publisher, Kluwer Law International, for facilitating the transition of the ICCA publications to their new address. Readers are kindly invited to take note of the new address at the Peace Palace (mentioned below), to which materials for the ICCA publications can be sent.

Amsterdam
August 1997

Albert Jan van den Berg
General Editor

Materials for the Yearbook are to be addressed to the General Editor or to the ICCA editorial staff at their new address at the International Bureau of the Permanent Court of Arbitration as indicated below.

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