

INTERNATIONAL COUNCIL
FOR COMMERCIAL ARBITRATION

INTERNATIONAL DISPUTE RESOLUTION:

TOWARDS AN INTERNATIONAL
ARBITRATION CULTURE

GENERAL EDITOR: ALBERT JAN VAN DEN BERG

with the assistance of the
International Bureau of the
Permanent Court of Arbitration
The Hague

Published by Kluwer Law International
P.O. Box 85889
2508 CN The Hague, The Netherlands

Sold and distributed in the USA and Canada by
Kluwer Law International
675 Massachusetts Avenue
Cambridge, MA 02139, USA

Sold and distributed in all other countries by
Kluwer Law International
Distribution Centre
P.O. Box 322
3300 AH Dordrecht, The Netherlands

A C.I.P. Catalogue record for this book is available from the Library of Congress

Printed on acid-free paper

ISBN: 90 411 0560 3

© 1998 Kluwer Law International

Kluwer Law International incorporates the publishing programmes of Graham & Trotman Ltd, Kluwer Law and Taxation Publishers and Martinus Nijhoff Publishers

This publication is protected by international copyright law.
All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the publisher.

TABLE OF CONTENTS

PREFACE	
Albert Jan van den Berg, General Editor	v
TABLE OF CONTENTS	vii
OPENING ADDRESS	
Soonwoo Lee	1
WELCOMING ADDRESS	
Pyong-Hwoi Koo	3
WELCOMING ADDRESS	
Fali S. Nariman	5
CONGRATULATORY ADDRESS	
Jae-Yoon Park	9
WELCOMING ADDRESS	
Sang-Ha Kim	11
INTRODUCTORY REMARKS	
Bernardo M. Cremades	13
<i>Is There a Growing International Arbitration Culture?</i>	21
Report: Whitmore Gray	
Is There a Growing International Arbitration Culture?	23
Report: Yasuhei Taniguchi	
Is There a Growing International Arbitration Culture? An Observation from Asia	31
Comment: Giorgio Bernini	
Is There a Growing International Arbitration Culture?	41
Comment: Ahmed S. El-Kosheri	
Is There a Growing International Arbitration Culture in the Arab-Islamic Juridical Culture?	47

TABLE OF CONTENTS

Comment: Gerold Herrmann UNCITRAL's Basic Contribution to the International Arbitration Culture	49
Comment: Iván Szász Is There a Growing International Arbitration Culture in Central and Eastern Europe?	53
<i>Is There an Expanding Culture that Favours Combining Arbitration, Conciliation or Other Dispute Resolution Procedures?</i>	55
Report: Michael E. Schneider Combining Arbitration with Conciliation	57
Report: Tang Houzhi Is There an Expanding Culture that Favours Combining Arbitration with Conciliation or Other ADR Procedures?	101
Comment: Michael Hoellering Comments on the Growing Inter-Action of Arbitration and Mediation	121
Comment: Tinuade Oyekunle Is There an Expanding Culture in Nigeria that Favours Combining Arbitration with Conciliation or Other Dispute Resolution Proceedings?	125
Comment: Carlos Nehring Netto Is There an Expanding Culture that Favours Combining Arbitration, Conciliation or Other Dispute Resolution Procedures?	133
<i>To What Extent Do Arbitrators in International Cases Disregard the Bag and Baggage of National Systems?</i>	137
Report: Guillermo Aguilar Alvarez To What Extent Do Arbitrators in International Cases Disregard the <i>Bag and Baggage</i> of National Systems?	139
Report: Soonwoo Lee To What Extent Do Arbitrators in International Cases Disregard the <i>Bag and Baggage</i> of National Systems? The Situation in The Republic of Korea	157

TABLE OF CONTENTS

Comment: Robert Briner To What Extent Do Arbitrators in International Cases Disregard the Bag and Baggage of National Systems?	167
<i>When and Where Do National Courts Reflect an International Culture When Deciding Issues Relating to International Arbitration?</i>	171
Report: R.S. Pathak When and Where Do National Courts Reflect an International Culture When Deciding Issues Relating to International Arbitration?	173
Report: Neil Kaplan A Case by Case Examination of Whether National Courts Apply Different Standards When Assisting Arbitral Proceedings and Enforcing Awards in International Cases as Contrasting with Domestic Disputes. Is There a Worldwide Trend towards Supporting an International Arbitration Culture?	187
Comment: Karl-Heinz Böckstiegel The Role of National Courts in the Development of an Arbitration Culture	219
Comment: Alexander Komarov The Development of an Arbitration Culture within the State Judiciary in the Russian Federation	229
Comment: Howard M. Holtzmann When and Where Do National Courts Reflect an International Culture?	233
Comment: Jan Paulsson Discrimination in Favour of International Arbitration by National Courts: Does It Look Good? Does It Taste Good? Is It Good for You?	237
LIST OF ORAL INTERVENTIONS	241
LIST OF PARTICIPANTS	243
LIST OF ICCA OFFICERS AND MEMBERS	263