## **TABLE OF CONTENTS**

Preface	vii
Tables of Contents	ix
Abbreviations	xiii
Table of Cases	XV
Table of Awards	xxxi
Table of Conventions, Model Laws and Rules	XXXV
Table of National Legislation	xliii
I—Commentary on the ICC Rules of Arbitration	
Introduction	1
Chapter 1	
Introductory Provisions	
Article 1 International Court of Arbitration	23
Article 2 Definitions	46
Article 3 Written Notifications or Communications; Time Limits	51
The Emile Programme of Communications, Time Emiles	51
Chapter 2	
Commencing the Arbitration	
Article 4 Request for Arbitration	64
Article 5 Answer to the Request; Counterclaims	85
Article 6 Effect of the Arbitration Agreement	99
Chapter 3	
Multiple Parties, Multiple Contracts and Consolidation	
F	
Article 7 Joinder of Additional Parties	151
Article 8 Claims Between Multiple Parties	163
Article 9 Multiple Contracts	168
Article 10 Consolidation of Arbitrators	172
Chapter 4	
The Arbitral Tribunal	
Article 11 General Provisions	175
Article 12 Constitution of the Arbitral Tribunal	192

Chapter 5

210 225

250

261265

268

281

284

295

322

346

369 375

402

416

421

442

497

509

537

549

565

594 599

610

Article 13 Appointment and Confirmation of the Arbitrators

Article 16 Transmission of the File to the Arbitral Tribunal

Article 24 Case Management Conference and Procedural Timetable

Article 27 Closing of the Proceedings and Date for Submission

Article 34 Notification, Deposit and Enforceability of the Award

Article 36 Advance to Cover the Costs of the Arbitration

Article 37 Decision as to the Costs of the Arbitration

Article 35 Correction and Interpretation of Awards; Remission of Awards

Article 14 Challenge of Arbitrators Article 15 Replacement of Arbitrators

The Arbitral Proceedings

Article 17 Proof of Authority

Article 26 Hearings

Chapter 6

Chapter 7

Chapter 8

Miscellaneous

Article 39 Waiver

Article 38 Modified Time Limits

Article 40 Limitation of Liability

Costs

Awards

Article 18 Place of the Arbitration

Article 19 Rules Governing the Proceedings

Article 25 Establishing the Facts of the Case

Article 28 Conservatory and Interim Measures

Article 30 Time Limit for the Final Award

Article 33 Scrutiny of the Award by the Court

Article 20 Language of the Arbitration

Article 21 Applicable Rules of Law

Article 22 Conduct of the Arbitration Article 23 Terms of Reference

of Draft Awards

Article 29 Emergency Arbitrator

Article 31 Making of the Award Article 32 Award by Consent

Article 41 Gener Annex 1 The ICC	al Rule C Court's Sessions in a Nutshell	62 62					
II—Models, Precedents and Examples							
A. List of Models, Precedents and Examples 64							
B. Introduction r	egarding Models, Precedents and Examples	64					
Document 1:	Standard ICC Arbitration Clauses	649					
Document 2:	List of Addresses for Notification of the Request	65					
Document 3:	Document 3: Secretariat Letter Notifying the Request for						
Document 4:	Arbitration to the Respondent Request for Additional Time and Details of Arbitrator	65. 65.					
Document 5:	Secretariat's Notification of the Answer	65					
Document 6: Secretariat's Notification of ICC Court Decision(s) Setting in Motion the Arbitration 6							
Document 7:	Secretariat's Notification to the Claimant's Nominee as	05					
Arbitrator (1)							
Document 7.1:	ICC Arbitrator's Statement of Acceptance, Availability,	05.					
	Impartiality and Independence	660					
Document 7.2:	ICC Model Curriculum Vitae for Arbitrators	662					
Document 7.3:	Secretariat's Case Information Summary	666					
Document 7.4:	Financial Table	669					
Document 8.1:	Transmittal of Statement of Acceptance, Availability,						
	Impartiality and Independence and Curriculum Vitae of						
	Claimant's Nominee to Respondent when the Nominee						
	Provided an Unqualified Statement of Independence	670					
Document 8.2:	Transmittal of Statement of Acceptance, Availability,						
	Impartiality and Independence and Curriculum Vitae of						
	Claimant's Nominee to Respondent when the Nominee						
D	Provided a Qualified Statement of Independence	67					
Document 9.1:	Secretariat's Notification to the Respondent To	<i>(</i> <b>7 7</b>					
Document 9.2:	Propose an Arbitrator	672					
Document 9.2.	Respondents' Nomination of an Arbitrator and Comments on the Qualified Statement of Independence						
	of Claimants' Nominee	673					
Document 10.1:	Secretariat's Notification of the Confirmation of the Two	07.					
Document 10.1.	Co-Arbitrators by the Court	674					
Document 10.2:	Secretariat's Notification of the Confirmation of by the	07-					
	Secretary General	675					
Document 11:	Secretariat's Notification of Appointment of the	07.					
	President of the Arbitral Tribunal by the Court	676					
Document 12:	Secretariat's Transmittal of the File to the Tri-Bunal	678					
Document 12.1:							
Document 12.1: Note on Personal and Arbitral Tribunal Expenses  68  Document 12.2: Explanatory Note by the President of the Court on							
	Per Diem Allowances to all Serving Arbitrators and						
	to all Newly Constituted Tribunals	683					

CONTENTS

хi

	and the state of the state of				
Document 12.3:	Note on the Appointment, Duties and Remuneration of	685			
	1 Iddining treet, a Section of	687			ADDDEVILATIONIC
Document 12.4:	Tiote on rightmodel, a rose	067			ABBREVIATIONS
Document 12.5:	Note to the Arbitral Tribunal on the Conduct	688			
- 10	Of the first decide	000		1 D 1	A D
Document 13:	Notification by the Tribunal to the Parties of the Case			ABA	American Bar Association
	Management Conference and Invitation to Comment on the Claims	693		Am Rev Int'l Arb	The American Review of International Arbitration
Document 14:	Points for Consideration for the Procedure	696		Arb Int	Arbitration International
Document 15:	Terms of Reference	698		A C A D11	Carried Ambituation Agraniation Dullatin
Document 16:	Procedural Timetable	705		ASA Bull	Swiss Arbitration Association Bulletin
Document 17:	Procedural Order No.1	708		CA	Cour d'appel (Court of Appeal)
Document 18:	Summary Minutes of the Hearing on Jurisdiction	711		Cass Civ le	Cour de acception lère Chambre Civile (Franch
Document 19:	Secretariat's Notification of Partial Award	712		Cass Civ le	Cour de cassation lère Chambre Civile (French
Document 20:	Procedural Order No.2	713			Supreme Court)
Document 21:	List of Attendance	716		Code of Ethics for	Code of Ethics for Arbitrators in Commercial
Document 22:	Power of Attorney	717		Arbitrators	Disputes (2004) (adopted by the AAA and ABA in
Document 23:	Letter Closing the Proceedings	718		cO'	2004)
Document 24:	Secretariat's Letter Extending the Date for			Colum J Transnat'l L	Columbia Journal of Transnational Law
	Rendering the Award	719		Colon J Translat I L	
Document 25:	ICC Award Checklist for Awards	720	Â	England	England and Wales
Document 26:	ICC Note on Correction and Interpretation of	700		Handbook Commercial	ICCA Handbook on International Commercial
	Arbitral Awards	722	00,	Arbitration	Arbitration
III—Appendice	s and Further Material	ò		JDI	Journal de droit international (Clunet)
1. ICC Rules o	f Arbitration with Appendices to the Rules	725		EU	European Union
2. Techniques f	for Controlling Time and Costs in Arbitration the ICC Commission on Arbitration) (2007)	760		IntlALR	International Arbitration Law Review
3. List of Other	r ICC Dispute Resolution Services (reference to		1	Int'l Am L R	International American Law Review
Websites on 4. New York C		780 781		Int'l Comp Law Quart	International and Comparative Law Quarterly
5. UNCITRAL	Model Law (with Recommendation regarding The		9	IBA	International Bar Association
Interpretatio	n of Article II, paragraph 2, and Article VII, paragraph 1, York Convention, adopted by UNCITRAL on 7 July 2006)	786		IBA Guidelines on	IBA Guidelines on Conflict of Interest in International
6 Excerpt from	n the French New Code of Civil Procedure	804		Conflict of Interest	Arbitration (2004)
7 Excerpt from	n the Swiss Private International Law	822		IBA Rules of Evidence	IBA Rules on Taking of Evidence in International
8 Excerpt from	n the US Federal Arbitration Act	827			Commercial Arbitration (1999)
<ol><li>Excerpt from</li></ol>	n the English Arbitration Act 1996	834		ICC	International Chamber of Commerce
10. IBA Rules o		870 882		ICCA	International Council for Commercial Arbitration
11. IBA Guideli	ines on Conflict of Interest	897			
12. IBA Guiden	ines on Party Representation in International Arbitration  1 Law Association Recommendation of June 2006	908		ICC Court	ICC International Court of Arbitration
13. International 14. Resolution		912		ICC ICArb Bull	ICC International Court of Arbitration Bulletin
				ICC Rules	ICC Rules of Arbitration (1998)
Selected bibliog	raphy	915			
Index		949		ILM	International Legal Materials

xiv ABBREVIATIONS

Internal Rules International Rules of the ICC Court (Appendix II to

the Rules)

J Chart Inst Arb Journal of the Chartered Institute of Arbitrators

J Int'l Arb Journal of International Arbitration

Mealey's IAR Mealey's International Arbitration Report

NCPC French New Code of Civil Procedure

New York Convention United Nations Convention on the Recognition and

Enforcement of Foreign Arbitral Awards (1958)

PILA Swiss Private International Law Act

Rev Arb Revue de l'arbitrage

RDAI/IBLJ Revue de droit des affaires internationales International

Business Law Journal

Revue critique de Droit International Privé

s. Section

SAR or SIAR Stockholm Arbitration Report or Stockholm

International Arbitration Report

Secretariat Secretariat of the Court

Statutes Statutes of the ICC Court (Appendix 1 to the Rules)

TGI Tribunal de Grande Instance (French Court of First

Instance)

Tribunal Arbitral Tribunal

UNCITRAL Model UNCITRAL Model Law on International Commercial

Law Arbitration (1985) as amended in 2006

UNCITRAL Notes UNCITRAL Notes on Organising Arbitral Proceedings

(1996)

UNCITRAL Rules UNCITRAL Arbitration Rules (1976)

UNIDROIT Principles UNIDROIT Principles of International Commercial

Contracts (2004)

YBCA Yearbook of Commercial Arbitration

## TABLE OF CASES

Australia
Esso Australia Resources Ltd v Plowman (1995) 183 Commonwealth Law Reports 10; (1995) Arb Int Vol.11 No.3, p.235; (1996) YBCA Vol.XXI
p.137
Webb and Hay v The Queen, June 30, 1994; [1994] HCA 30; (1994) 181 CLR 41; (1994) 122 ALR 41; (1994) 68 ALJR 582; FC 94/030
Belgium
Colvi v Interdica, October 15, 2004
(2007) Journal des Tribunaux p.208, note Keutgen
Van Hopplynuz Instruments v Coherent Inc, November 16, 2006, S Ct, Case No.CG20445F
Canada
Ame: E & C Services Ltd v Nora Chemicals (Canada) Ltd, Ontario S Ct, June
20, 2003, (2003) 25 C.L.R. (3d) 298
Benedict v Ontario, Ontario Court of Appeal (2000) 51 O.R. (3d) 147
S.C.R. 369; 68 D.L.R. (3d)
Dalimpex Ltd v Janicki, Ontario Court of Appeal, May 30, 2003, 2003 CanLII
34234 (ON CA) (2003) 172 O.A.C. 312
Frontier International Shipping Corp v Tavros, Federal Court of Canada, December 23, 1999, (TD) [2000] 2 F.C. 427; 1999 CanLII 9389 (FC);
(2001) YBCA Vol.XXVI p.325
Jardine Lloyd Thompson Canada Inc, Jardine Lloyd Thompson Group Plc and JLT Risk Solutions Ltd v Western Oil Sands Inc, Western Oil Sands LP and
others, in the Matter of the International Commercial Arbitration Act 2005,
2005 A.B.Q.B. 509 (CanLII)
Powerex Corp v Alcan Inc, June 30, 2004, [2004] B.C.S.C. 876
B.C.L.R. (2d) 43 CA
European Court of Justice
Akzo Nobel Chemicals Ltd v Commission of the European Communities
(T-125/03 & T-253/03) [2008] All E.R. (EC) 1; [2008] Bus. L.R. 348; [2007] E.C.R. II-3523; [2008] 4 C.M.L.R. 3; [2007] C.I.L.L. 2513
Allianz SpA (formerly Riunione Adriatica di Sicurta SpA) (The Front Comor) v
West Tankers Inc (C-185/07) [2009] 1 A.C. 1138; [2009] 3 W.L.R. 696;
[2009] 1 All E.R. (Comm) 435; [2009] All E.R. (EC) 491; [2009] 1 Lloyd's
Rep. 413; [2009] E.C.R. I-663; [2009] 1 C.L.C. 96; [2009] C.E.C. 619;
[2009] I.L.Pr. 20; 2009 A.M.C. 2847
Eco Swiss China Time Ltd v Benetton International NV (C126/97) [1999] 2 All E.R. (Comm) 44; [1999] E.C.R. I-3055; [1999] U.K.C.L.R. 183; [2000] 5
C.M.L.R. 816 ECJ; (1999) YBCA Vol. XXIVa p.629; (1999) Rev Arb No.3
p.631, note Idot