

TABLE OF CONTENTS

PREFACE	
Albert Jan van den Berg, General Editor	v
TABLE OF CONTENTS	vii
<i>Joint Plenary Opening Session A</i> <i>International Arbitration: The Coming of a New Age for Asia (and Elsewhere)</i>	
OPENING ADDRESS	
K. Shanmugam, The Minister of Foreign Affairs and Law of Singapore	3
KEYNOTE ADDRESS	
The Hon Sundaresh Menon SC, Attorney General of Singapore	6
<i>Moderators: The Hon Sundaresh Menon SC, Attorney General of Singapore</i> <i>Prof. Dr. Michael Pryles</i>	
Panelists	
Gerold Herrmann	
Introduction	28
Doug Jones	
Comments on the Speech of the Singapore Attorney General	29
Makhdoom Ali Khan	
The Need for More Information in Investment Arbitration	38
Kap-You (Kevin) Kim	
The Korean Perspective on International Arbitration Today and Tomorrow	42
Julian D.M. Lew	
Is There a “Global Free-standing Body of Substantive Arbitration Law”?	53
Michael J. Moser	
How Asia Will Change International Arbitration	62
Alexis Mourre	
Is the Free-Market of Adjudication Dysfunctional?	67
	vii

TABLE OF CONTENTS

Lucy Reed Achievable Reforms	74
David A.R. Williams QC Harmonization of Arbitration Law in the Asia-Pacific Region Appendix I – Note on PacLII – Pacific Islands Legal Information Institute	77
Ariel Ye A Perspective from China	86

***Breakout Session B1
Agreeing To and Initiating Arbitration***

Introduction: James Castello and Domitille Baizeau, Moderators	91
Rapporteurs:	
Aníbal Sabater Survivals and New Arrivals	96
Yu-Yin Tay Reflections on the Selection of Arbitrators in International Arbitration	112

***Breakout Session B2
The Arbitral Proceedings Commence, with an Introduction to E and I
Arbitration***

***Principal Moderator: Prof. Martin Hunter
Second Moderator: Jim Morrison***

Rapporteurs:	
Cavinder Bull SC Commencing Arbitration	135
Dominic Roughton Commencing Arbitration: Contemporary Paradoxes and Problems	174

***Breakout Session B3
Evidence, Document Production, Witnesses, Experts and Hearings***

***Principal Moderator: Teresa Cheng SC
Second Moderator: Adrian Lai***

TABLE OF CONTENTS

Rapporteurs:

Anne K. Hoffmann and Nish Shetty Evidence and Hearings	197
---	-----

***Breakout Session B4
The Tribunal Resolves the Dispute***

***Principal Moderator: Audley Sheppard
Second Moderator: Chester Brown***

Introduction: Audley Sheppard	223
--------------------------------------	-----

Rapporteurs:

Jakob Ragnwaldh <i>Compétence-compétence</i> – The Power of an Arbitral Tribunal to Decide the Existence and Extent of its Own Jurisdiction	224
---	-----

Minn Naing Oo A Survey of National Laws and Practices on Enforcement of Foreign Arbitral Awards in South and South East Asia	235
--	-----

Chester Brown The Enforcement of Interim Measures Ordered by Tribunals and Emergency Arbitrators in International Arbitration	279
---	-----

Summary of the Discussion: Audley Sheppard and Chester Brown	292
---	-----

***Breakout Session B5
Legal and Arbitration Costs***

***Principal Moderator: Siegfried H. Elsing
Second Moderator: John M. Townsend***

Rapporteurs:

Judith Gill SC Choices and Strategies: A Rules-Based Look at Different Approaches to International Arbitration in the Wake of UNCITRAL's 2010 Rules Revision Relating to Costs	297
---	-----

TABLE OF CONTENTS

Jean-Claude Najar	
How to Mitigate Legal and Arbitration Costs: Consideration by a User	305
Session Summary: Siegfried H. Elsing and John M. Townsend	321

Breakout Session B6
*The Use of Arbitral Secretaries under the New UNCITRAL Rules
and Otherwise: Opportunities and Pitfalls*

Principal Moderator: Constantine Partasides
Secondary Moderator: L. Andrew S. Riccio

Rapporteurs:

Constantine Partasides, Niuscha Bassiri, Ulrike Gantenberg, Leilah Bruton and Andrew Riccio	
Arbitral Secretaries	327
Appendix A – Bibliography	340
Appendix B – Survey Results	342
Appendix C – Slides	354

Breakout Session C1
*General Introduction - Transcending National Legal Orders for International
Arbitration, Both Commercial and Investment Arbitration; Legal Theories;
Emerging Transnational Legal Procedure; Roles of International Law and
Applicable National Laws; Lessons for ASEAN from the (Amended) EU
Brussels Regulation and Lugano Convention etc.*

Principal Moderator: Emmanuel Gaillard	
Transcending National Legal Orders for International Arbitration	371

Rapporteurs:

Sébastien Besson	
Is There a Real Need for Transcending National Legal Orders in International Arbitration? Some Reflections Concerning Abusive Interference from the Courts at the Seat of the Arbitration	378
Frédéric Bachand	
Do Transnational Rules Matter?	389

TABLE OF CONTENTS

Breakout Session C2

*The Relationship Between International Arbitration and the National Judge:
Both Arbitral Seat and Enforcement; Anti-Suit And Anti-Arbitration
Injunctions; Bad Faith Decisions Under the New York Convention; State
Liability for Interfering in the International Arbitration Process*

Principal Moderator: Prof. Gabrielle Kaufmann-Kohler

Second Moderator: Eva Kalnina

Introduction: Gabrielle Kaufmann-Kohler 399

Rapporteurs:

José E. Alvarez

Crossing the “Public/Private” Divide: *Saipem v. Bangladesh*
and Other Crossover Cases 400

Adriana Braghetta

The Framework of the International Arbitration System: the
Challenge Derived from the Improper Conduct of Judicial Courts 431

Panel Discussion: Gabrielle Kaufmann-Kohler and Eva Kalnina 456

Breakout Session C3

*The Relationship Between International Arbitration and the Regulator(s): The
Need for Ethical Codes, Guidelines and Best Practices for Arbitration Counsel,
Arbitrators, Arbitral Secretaries and Arbitral Institutions: The DB/MS Rio
Code, the ILA Code and the CCBE Draft Code*

Principal Moderator: Bernard Hanotiau

Second Moderator: Xiaomao Min

Presentation: Doak Bishop 465

Rapporteurs:

Doak Bishop and Margrete Stevens

Safeguarding the Fair Conduct of Proceedings – Report 473

Toby T. Landau QC and J. Romesh Weeramantry

A Pause for Thought 496

Annex I – Ethics Rules Comparative Table 529

TABLE OF CONTENTS

Breakout Session C4

The Future of European Community Investment Policy: Navigating Between a High Level of Investment Protection and Increasing Demands for “Policy Space” – Lessons from the US Experience

Principal Moderator: Kap-You (Kevin) Kim

Second Moderator: John P. Bang

Rapporteurs: Nikos Lavranos and Daniel M. Price

The Future of European Union Investment Policy:
Navigating Between a High Level of Investment Protection and
Increasing Demands for “Policy Space” – Lessons from the US Experience 541

Breakout Session C 5

The Future of ICSID, Ad Hoc Committees, Appellate Tribunals, International Investment Courts and Investment Arbitration

Principal Moderator: Brigitte Stern

Second Moderator: Emmanuelle Cabrol

Introduction: Brigitte Stern 559

Rapporteurs:

J. Christopher Thomas
The Evolution of the ICSID System as an Indication
of What the Future Might Hold 563

Andrea J. Menaker
Seeking Consistency in Investment Arbitration:
The Evolution of ICSID and Alternatives for Reform 607

Summary of the Debate: Emmanuelle Cabrol 637

Breakout Session C6

***General Lessons for the New Technological Age of International Arbitration:
“Let Not what Happened to Newspaper-Owners, Book-Publishers, and Candle-
Stick Makers Happen to Arbitration Practitioners...”***

Principal Moderator: William K. Slate II

Second Moderator: Philippe Pinsolle

Opening Remarks: William K. Slate II 641

TABLE OF CONTENTS

Rapporteurs:

Philippe Pinsolle Arbitration and New Technologies	643
The Honourable Lord Mark Saville Introduction to Opus 2 Magnum Presentation	652
Steve Fleming Opus 2 Magnum Presentation	653
Mohamed S. Abdel Wahab Online Arbitration: Tradition Conceptions and Innovative Trends	654

Joint Plenary Closing Session D
Judicial Debate on the General Theme: "State Courts and International
Arbitration: The Future"

Principal Moderator: Albert Jan van den Berg
Second Moderator: V.V. Veeder

Session Report: Silvia Borelli	671
LIST OF PARTICIPANTS	695
LIST OF ICCA OFFICERS AND GOVERNING BOARD MEMBERS	741