TABLE OF CONTENTS

PREFACE
Andrea Menaker, General Editor v

ICCA CONGRESS 2018 vii

TABLE OF CONTENTS ix

Special Addresses

Mohamed ElBaradei
International Arbitration: The Big Picture 3

Sir Anerood Jugnauth, G.C.S.K.; K.C.M.G; Q.C.
Special Address 13

Ban Ki-moon
Keynote Address to International Council for Commercial Arbitration Congress 18

Lord Hoffmann
Closing Address 21

Plenary Session One
International Arbitration and Its Contribution to the Rule of Law

Chair: Andrea Menaker

Abdulqawi A. Yusuf
The Contribution of Arbitration to the Rule of Law —
The Experience of African Countries 27

Part A
Does Arbitration Contribute to the Rule of Law?

Moderator: Andrea Menaker
Rapporteur: Manish Aggarwal

Karl-Heinz Böckstiegel
Arbitration for Peace — The Iran-United States Claims Tribunal 37
TABLE OF CONTENTS

Loretta Malintoppi
Inter-State Arbitration of Disputed Sovereignty and Maritime Delimitation Issues 45

Payam Akhavan
The Contribution of Investment Arbitration to the Rule of Law 77

Part B
Debate: To What Extent Does International Arbitration Foster Economic Development?

Moderator: Meg Kinnear
Rapporteur: Kennedy Melly

Amanda Rawls
Improving the Impact of International Arbitration on Economic Development 85

Philip J. McConnaughay
The Potential of Private Commercial Arbitration for Facilitating Economic Growth in Less Developed Countries 100

A. PRACTICE STREAM


Moderator: John M. Ohaga

Charles Nairac
Due Process Considerations in the Constitution of Arbitral Tribunals 119

Sarah Grimmer
Three Scenarios That Raise Due Process Issues 142

A-2. Interim Measures Issued by Arbitral Tribunals and Domestic Courts

Moderator: Justice Shaheda Peeroo

Des Williams
Interim Measures Issued by Arbitral Tribunals and Domestic Courts – A South African Perspective 173
# TABLE OF CONTENTS

Daniel Levy  
Emergency Arbitrators: Characters in Search of Author  


**Moderator: Vladimir Khvalei**  

Claus von Wobeser  
The Corruption Defense and Preserving the Rule of Law  

Domitille Baizeau and Tessa Hayes  
The Arbitral Tribunal’s Duty and Power to Address Corruption  
 *Sua Sponte*  

Abdulhay Sayed  
Duplicity in Corruption and Arbitration: Dealing with the Evidentiary Gap  

_A-4. How to Prepare a Persuasive Case: 10 Things to Do and to Avoid When_  
**(i) Preparing Written Submissions,**  
**(ii) Examining Witnesses,**  
**(iii) Presenting Oral Argument**  

**Moderator: Barton Legum**  

Toby T. Landau QC  
Dysfunctional Deliberations and Effective Advocacy  

David J. A. Cairns  
The Premises of Witness Questioning in International Arbitration  
Annex: Ten Proposals for Effective Advocacy  

Brigitte Stern  
How to Prepare a Persuasive Case: The Ten Commandments  

_A-5. Do Post-award Remedies Appropriately Ensure Conformity of the Arbitral Process with the Rule of Law?_  

**Moderator: Malcom Holmes**  

Kamal Shah  
Conformity of the Arbitral Process with the Rule of Law in the Context of Post-award Remedies
TABLE OF CONTENTS

Annex I: Arbitration Centres in Africa 375
Annex II: African Signatories to the 1958 New York Convention 379

Sae Youn Kim and Marieke Minkkinen
An Asian Perspective on the Enforcement of Annulled Awards 382

Daphna Kapeliuk
Do Post-award Remedies Appropriately Ensure Conformity of the Arbitral Process with the Rule of Law? A View from the Middle East 422

B. ACADEMIC STREAM

B-1. The Interface Between Domestic Courts and Arbitral Tribunals

Moderator: Gaston Kenfack Douajni

George A. Bermann
The Role of National Courts at the Threshold of Arbitration 443

Carine Dupeyron
Shall National Courts Assist Arbitral Tribunals in Gathering Evidence? 458

Emilia Onyema
The Jurisdictional Tensions Between Domestic Courts and Arbitral Tribunals 481

B-2. Investment Arbitration in Africa and Beyond: What Does the Future Hold?

Moderator: Yas Banifatemi

Judge Charles N. Brower and Michael P. Daly
A Study of Foreign Investment Law in Africa: Opportunity Awaits 503

Ucheora Onwuamaegbu
Africa and the Changing Landscape of Investor-State Arbitration 539

Nicolas Angelet
Financing Investor-State Dispute Settlement: Is There a Role for the African Development Bank? 546
### TABLE OF CONTENTS

**B-3. Equality of Arms in International Arbitration:**
*Do Rules and Guidelines Level the Playing Field and Properly Regulate Conduct?*

**Moderator: Janet Walker**

Christopher Lau SC
- Do Rules and Guidelines Level the Playing Field and Properly Regulate Conduct? — *An Arbitrator's Perspective* 559
- Annex I: Questionnaire — Arbitrator 589
- Annex II: Questionnaire — Counsel 595

Paula Hodges QC

Felix Dasser

**B-4. The Effect of Foreign National Court Judgments Relating to the Arbitral Award: A Conceptual Framework**

**Moderator: Salim Moollan**

Sébastien Besson
- La Portée Internationale des « Jugements sur Sentence » 675
- Summary in English 690

Maxi Scherer
- The Effect of Foreign National Court Judgments Relating to the Arbitral Award: An Emerging Conceptual Framework? 691

Pierre Mayer
- The French Approach as a Starting Point for General Reflections on the Recognition of Foreign Award Judgments 706
## TABLE OF CONTENTS

### B-5. What Are Appropriate Remedies for Findings of Illegality in Investment Arbitration?

**Moderator: Mohamed Abdel Raouf**

Jean Kalicki, Mallory Silberman and Bridie McAsey  
*What Are Appropriate Remedies for Findings of Illegality in Investment Arbitration?*  
721

Constantine Partasides QC  
*Remedies for Findings of Illegality in Investment Arbitration*  
740

Nassib G. Ziadé  
*Curing the Illness Without Killing the Patient: Prescribing Appropriate Remedies for Findings of Illegality in Investment Arbitration*  
746

**Plenary Session Two**  
*International Arbitration and Its Conformity with the Rule of Law*

**Moderator: Doug Jones**  
**Rapporteur: Melissa Magliana**

**KEYNOTE ADDRESS:**  
James LB Allsop AO  
*International Arbitration and Conformity with International Standards of Due Process and the Rule of Law*  
763

Pallavi Shroff  
*Due Process in International Arbitration: Balancing Procedural Fairness and Efficiency*  
797

Philippe Pinsolle  
*The Need for Strong Arbitral Tribunals*  
823

**Plenary Session Three**  
*Spotlight on Africa: Perspectives on Arbitration*

**Moderator: Funke Adekoya, SAN**  
**Rapporteurs: Ina Popova and Bethlehem Asmamaw**
<table>
<thead>
<tr>
<th>Author and Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vlad Movshovich</td>
<td>865</td>
</tr>
<tr>
<td>International Commercial and Treaty Arbitration in South Africa and the Region</td>
<td></td>
</tr>
<tr>
<td>John Miles, Nicola Muriuki and Laura Lusiji</td>
<td>891</td>
</tr>
<tr>
<td>The Development of International Arbitration in Africa</td>
<td></td>
</tr>
<tr>
<td>Mohamed S. Abdel Wahab</td>
<td>909</td>
</tr>
<tr>
<td>Glocalizing Africa in a Globalized World: Trade, Investment and the Changing Landscape of International Arbitration – A Promise to Fulfill?</td>
<td></td>
</tr>
<tr>
<td>Benoît Le Bars</td>
<td>929</td>
</tr>
<tr>
<td>International Commercial Arbitration in Africa – The Whole Nine Yards</td>
<td></td>
</tr>
<tr>
<td>Olasupo Shasore, SAN</td>
<td>946</td>
</tr>
<tr>
<td>Arbitrating Disputes in African Seats and Arbitral Centres: A Nigerian Perspective</td>
<td></td>
</tr>
<tr>
<td>Rukia Baruti</td>
<td>956</td>
</tr>
<tr>
<td>International Arbitration: The Making of a Safe Seat in Africa</td>
<td></td>
</tr>
<tr>
<td>Thierry Koenig</td>
<td>970</td>
</tr>
<tr>
<td>The Development of International Arbitration in Mauritius</td>
<td></td>
</tr>
<tr>
<td>Marie-Andrée Ngwe</td>
<td>1005</td>
</tr>
<tr>
<td>Pratique de l'arbitrage OHADA: bilan et perspectives</td>
<td></td>
</tr>
<tr>
<td>Summary in English</td>
<td>1029</td>
</tr>
<tr>
<td>LIST OF PARTICIPANTS</td>
<td>1031</td>
</tr>
<tr>
<td>LIST OF ICCA OFFICERS AND GOVERNING BOARD MEMBERS</td>
<td>1079</td>
</tr>
</tbody>
</table>