

Collection of  
ICC Arbitral Awards  
Recueil des sentences  
arbitrales de la CCI  
1974~1985

*Sigvard Jarvin & Yves Derains*

Kluwer



COLLECTION OF ICC ARBITRAL AWARDS

1974 - 1985

RECUEIL DES SENTENCES ARBITRALES DE LA CCI

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# Introduction

The Court of Arbitration of the International Chamber of Commerce (ICC) – since June, 1989: the International Court of Arbitration – enjoys an outstanding place in the field of the settlement of international business disputes.

Founded in 1923, the International Court of Arbitration has built up unique experience after having dealt with some 6.500 cases involving commercial agreements between parties from all over the world, in virtually every sphere of international commercial and financial activity.

This book is a selection of cases decided by ICC arbitrators during the period 1974-1985.

We hope that it will be useful as reference material for anyone who wants to be informed of the ICC arbitration procedure and the awards made applying the different laws of a variety of trading nations. It is hoped that it will be equally interesting to the practitioner involved in drafting, negotiating and resolving international commercial contracts, as it is to the scholar seeking source material as evidence of to-day's trends in international private and commercial law.

The book reproduces case notes in English and in French, with extracts of awards in their original language. All of these case notes were previously published in the *Yearbook Commercial Arbitration* (Kluwer) and *Journal du Droit International* (Clunet) respectively. The French awards are also commented by the authors, formerly respectively secretary general (Yves Derains) and general counsel (Sigvard Jarvin) of the International Court of Arbitration.

Thanks to three newly established indexes made exclusively for this collection, any questions dealt with in the cases can be easily found. The analytical index – in English and French – is based on the terminology used in the case notes and contains extensive cross-references.

The key word index contains the words appearing in the analytical index translated into English and French for quick reference.

The chronological index lists the cases in chronological order, and specifies if and where a particular case has been commented by scholars, in text books, in other case notes, in articles, in legal journals, etc.

This is the first time a significant number of ICC cases have been published in one single volume and indexed on the basis of a thorough analysis of their contents.

This first publication, covering 12 years, will be followed by further collections in the years to come.

## *How to use this book?*

The "*table analytique*" is in the style now used by Clunet and the Yearbook, but more detailed. It is composed of two indexes, one English and one French, where the English index will analyse the awards reprinted in the original English version in the book (pages 1-176) and the French index will refer to those published in their French original form (pages 179-564).

A reader who is looking at a particular question must consult the two indexes in order to be sure not to have missed an award. If he does not know the correct terms in the other language he will be helped by the two *key-word indexes*, which will carry translations of key-words in the other language, to find the particular question in the other analytical index.

The *chronological index* lists all the cases in chronological order. There is obviously only one such index. After the case number the reader will find an "F" or an "E" depending on whether the case is available in one or the other language only, or in both. The case number will be followed by the page, or pages if published in both languages.

To take an example, where the reader looks for a question of "applicable law", he looks up in the English analytical index where he will find page reference. He can then go to the English key-word index for the corresponding word in French, "droit applicable", and then look under this reference in the French "*table analytique*". If the reader prefers, he can obviously go directly to the French "*table analytique*" if he knows the French term. In this way the reader will be sure not to have missed a question relating to applicable law which may have been treated in an award in either of the two languages.

Paris, July 1989

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Law Offices of S.G. Archibald

Yves DERAINS  
Derains, Gélinas & Ass.

# Introduction

La Cour d'Arbitrage de la Chambre de Commerce Internationale (CCI) – depuis juin 1989, la Cour Internationale d'Arbitrage – tient une place importante en matière de règlement des litiges commerciaux internationaux.

Fondée en 1923, la Cour Internationale d'Arbitrage a connu une expérience unique en traitant quelque 6500 affaires relatives à des contrats commerciaux entre des parties du monde entier et dans pratiquement tout secteur de l'activité commerciale et financière internationale.

Ce livre est une sélection des affaires jugées par les Arbitres de la CCI entre 1974 et 1985. Nous espérons qu'il sera utile à quiconque voudrait connaître la procédure d'arbitrage CCI et les sentences faisant application des lois d'une grande variété de pays. Nous espérons également que ce livre intéressera le praticien dans la rédaction, la négociation, et le contentieux des contrats commerciaux internationaux comme la doctrine recherchant des éléments à l'appui des tendances actuelles du droit du commerce international et du droit international privé.

Cet ouvrage rassemble des extraits de sentences dans leur langue originale, ainsi que des observations en français et en anglais sur ces affaires. Toutes ces observations ont déjà été publiées respectivement au *"Yearbook Commercial Arbitration"* (KLUWER) et au *"Journal du Droit International"* (CLUNET).

Les sentences françaises sont commentées par les auteurs, respectivement ancien Secrétaire Général (Yves DERAIS) et Conseiller Général (Sigvard JARVIN) de la Cour d'Arbitrage de la CCI.

Grâce aux trois index spécialement conçus pour cette édition, toutes les questions traitées dans les sentences publiées peuvent être facilement retrouvées. L'index analytique – en français et en anglais – est basé sur la terminologie utilisée dans les observations sous les sentences, et comprend toutes les références des affaires traitant d'un même problème.

L'index "mots clés" contient les mots apparaissant dans l'index analytique, traduits en anglais et en français pour un report rapide.

L'index chronologique répertorie les sentences arbitrales dans un ordre chronologique et mentionne si l'affaire a été commentée par la doctrine en donnant la référence de ces commentaires parus dans des livres, revues juridiques, ou ailleurs.

C'est la première fois que des extraits de sentences CCI sont publiés en français et en anglais dans un volume unique et répertoriés sur la base d'une analyse complète de leur contenu.

Cette première édition couvrant 12 années, sera suivie d'autres éditions dans les années à venir.

## *Comment utiliser ce livre?*

La "Table analytique" est comparable à celle du CLUNET et du YEARBOOK mais elle est plus détaillée. Elle comprend deux index, l'un en anglais, analysant les extraits de sentences dont la version originale anglaise est reprise dans ce livre (page 1 à 176) l'autre, en français se référant aux sentences publiées en français dans leur forme originale (pages 179 à 564).

Un lecteur qui cherche un point particulier se référera aux index pour ne pas oublier une sentence. S'il ignore la terminologie exacte dans l'autre langue, il s'aidera des deux index "mots clés" qui lui donneront les traductions des mots clés dans l'autre langue pour trouver la question recherchée dans l'autre index analytique.

L'index chronologique répertorie toutes les affaires dans leur ordre chronologique. Il n'y a évidemment qu'un seul index chronologique. Après le numéro de l'affaire le lecteur trouvera un "F" ou un "E" selon que l'extrait de sentence est publié en français ou en anglais seulement ou dans les deux langues.

Le numéro de l'affaire est suivi de la page ou des pages où la sentence est publiée si elle est publiée dans les deux langues.

Pour prendre un exemple: si le lecteur recherche un problème de droit applicable, il consultera l'index analytique dans lequel il trouvera la page de référence. Il peut alors consulter l'index français des mots clés pour rechercher le terme correspondant en anglais, "Applicable law", et regarder ensuite dans la table analytique anglaise sous cette référence.

Si le lecteur préfère il peut évidemment consulter directement la table analytique anglaise s'il connaît la terminologie anglaise. Ainsi, le lecteur sera sûr de ne pas avoir oublié une question de droit applicable qui aurait été traitée dans un extrait de sentence publié dans l'une des deux langues.

Paris, juillet 1989

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# Abbreviations / Abréviations

|                |                                                                                                                       |
|----------------|-----------------------------------------------------------------------------------------------------------------------|
| 60ème Anniv.   | 60 ans après ; regard sur l'avenir, ICC Publishing S.A., 1984, Paris.                                                 |
| Arb. Int.      | Arbitration International (London).                                                                                   |
| CPP            | Craig-Park-Paulsson: International Chamber of Commerce Arbitration (Oceana/ICC) 1983.                                 |
| DIS            | Schriftenreihe des Deutschen Instituts für Schiedsgerichtswesen, Band 6, Carl Heymanns Verlag KG, 1986.               |
| El-Ahdab       | Abdul Hamid El-Ahdab: L'arbitrage dans les pays arabes, Economica, Paris, 1988.                                       |
| Fouchard       | Philippe Fouchard: L'arbitrage commercial international, Librairie Dalloz, Paris, 1965.                               |
| ICLR           | The International Construction Law Review (London).                                                                   |
| JIA            | Journal of International Arbitration (Geneva).                                                                        |
| Jahrbuch       | Jahrbuch für die Praxis der Schiedsgerichtsbarkeit, Band 1, 1987, Verlag Recht und Wirtschaft, Heidelberg..           |
| JDI            | Journal du Droit International (Clunet).                                                                              |
| Lew            | Julian D.M. Lew: Contemporary Problems in International Arbitration, Queen Mary College, London, 1986.                |
| Redfern-Hunter | Alan Redfern, Martin Hunter: Law and Practice of International Commercial Arbitration, London, Sweet & Maxwell, 1986. |
| Rev. Arb       | Revue de l'Arbitrage.                                                                                                 |
| Wetter         | J. Gillis Wetter: The International Arbitral Process, Dobbs Ferry, 1979.                                              |
| YB             | Yearbook Commercial Arbitration, Kluwer Law and Taxation Publishers, Deventer.                                        |

# Analytical Table

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