The American Review of International Arbitration is devoted to the study of laws relating to international arbitration and litigation throughout the world. To that end, it promotes and sponsors the publication of books, commentaries, articles, periodicals and conferences on these subjects.

The Editors-in-Chief of the Review can be reached at:

George A. Bermann, Jean Monnet Professor of EU Law

E-mail: gbermann@law.columbia.edu Robert H. Smit, Adjunct Professor of Law

E-mail: rsmit@stblaw.com

Columbia Law School 435 West 116th Street New York, New York 10027 USA Tel: (212) 854-2693; Fax (212) 854-7946

MANUSCRIPTS

The American Review of International Arbitration invites the submission of unsolicited manuscripts. They should be double-spaced with footnotes that conform to the latest edition of A Uniform System of Citation. Manuscripts may be submitted as an e-mail attachment in Microsoft Word, or on CD. The Review regrets that manuscripts cannot be returned unless they are accompanied by a self-addressed, stamped envelope. Send all correspondence to:

Elizabeth H. Cooper, Managing Editor The American Review of International Arbitration Columbia Law School 435 West 116th Street New York, New York 10027 USA Tel: (212) 854-3971; Fax (212) 854-7946

E-mail: ecooper@law.columbia.edu

SUBSCRIPTION

The *Review* is published quarterly.

The subscription rate is U.S. \$350. All other foreign subscriptions \$395 and are renewed automatically unless notice of termination is given.

Address changes should be sent at least 45 days before the date of the issue with which they are to take effect. Subscription queries and address changes should be directed to:

JurisNet, LLC 71 New Street Huntington, NY 11743 USA Tel (631) 350-2100; Fax (631) 673-9117

ISSN 1050-4109

Copyright © 2012 by George A. Bermann, Robert H. Smit and JurisNet, LLC

THE AMERICAN REVIEW OF INTERNATIONAL ARBITRATION

Vol. 23 2012		No	Nos. 3-4			
Introduction		Elizabeth H. Cooper	vii			
ARBITRATION FUNDAMENTALS						
Arbitrability Trouble		George A. Bermann	367			
THE ISSUE OF NON-SIGNATORY STATES		Bernard Hanotiau	379			
THE ARBITRAL SEAT: IMPORTANT FEATURES AND THE RELEVANCE OF LAW		Loukas Mistelis	407			
THE ASSAULT ON JUDICIAL DEFERENCE		Thomas E. Carbonneau	417			
TOPICS IN TRANSNATIONAL LITIGATION						
CIVIL PROCEDURE MEETS INTERNATIONAL ARBITRATION: A TRIBUTE TO HANS SMIT		: Linda J. Silberman	439			
A WALK IN THE PARK WITH HANS SMIT		Andreas F. Lowenfeld	451			
SECTION 1782 AND INTERNATIONAL ARBITRAL TRIBUNALS: SOME KEY CONSIDERATIONS IN KEY CASES		Arthur W. Rovine	461			
EMERGING ISSUES IN INTERNATIONAL ARBITRATION						
A KISS For Arbitration Costs Ai	LOCATION	James H. Carter	475			
ARBITRATING TRADE DISPUTES (WHO'S THE BOSS?)		Petros C. Mavroidis	481			
RUSSIAN SHAREHOLDERS' AGREEMENTS AND INTERNATIONAL ARBITRATION		Kaj Hobér	493			

THE CASE FOR MORE ARBITRATION WHEN SOVEREIGN DEBT IS TO BE RESTRUCTURED: GREECE AS AN EXAMPLE	Otto Sandrock	507	
THE APPLICATION OF SOFT LAW, HALAKHA AND SHARIA BY INTERNATIONAL ARBITRAL TRIBUNALS	François Dessemontet	545	
REMEMBRANCES & REMIN	NISCENCES		
MEMORIES OF HANS SMIT THE ARBITRATOR	Lawrence W. Newman	567	
HANS SMIT – UN GRAND HOMME	Anne Marie Whitesell	571	
THOUGHTS ON ARBITRATOR SELECTION: WHY MY FATHER WAS (USUALLY) A GOOD CHOICE	Robert H. Smit	575	
SELECTED BIBLIOGRAPHY OF WORKS BY HANS SI	МІТ	585	
CUMULATIVE TABLE OF CONTENTS FOR VOLUME XX	Ш	595	

THE AMERICAN REVIEW OF INTERNATIONAL ARBITRATION

EDITORS-IN-CHIEF

GEORGE A. BERMANN ROBERT H. SMIT

MANAGING EDITOR

ELIZABETH H. COOPER

SENIOR STUDENT EDITORS

Lelise Gobena, Chrissie Helburn, Michael Hofer, Senami Houndete, Chao Huang, Kyndra Jamison, Philip Lee, Meera Sitaram, Giovanni Smedley, Fennie Wang

STUDENT EDITORS

DENIS ALMAKAEV, BRIAN CAMPBELL, DAVIDE CAVAZZANA,
YICHU CHEN, KHURRAM DARA, DAVID GALLO, MAX GOLDMAN,
PETER HONG, DIEGO LAFUENTE ACOSTA, MELODY MCGOWIN,
DIANA NIELSEN, TOLU OBAMUROH, JARED RUOCCO,
MARIA CAECILIA SCHWEINBERGER, DAVID SMALL,
MALGORZATA SOLTYS, MARTIN WONG, JEANNE-PALOMA ZELMATI

BOARD OF ADVISORS

GIORGIO BERNINI Honorary President, International Council for Commercial Arbitration HORACIO A. GRIGERA NAÓN International Arbitrator and Legal Consultant BERNARD HANOTIAU Partner, Hanotiau & van den Berg, Brussels J. MARTIN H. HUNTER Barrister, London and Professor, Nottingham Law School Past Chair, Hong Kong International Arbitration Centre NEIL KAPLAN SERGEI N. LEBEDEV President, Maritime Arbitration Commission, Moscow Professor, Université de Paris I Sorbonne, Paris PIERRE MAYER Chair, Arbitral Centre of the Federal Economic Chamber, Vienna WERNER MELIS Chairman, Singapore International Arbitration Centre MICHAEL C. PRYLES Professor, University of Muenster OTTO SANDROCK TOSHIO SAWADA Permanent Advisor, Japan Association of Arbitrators Professor, University of Florence VINCENZO VIGORITI