

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 publisher of the *Review* also publishes the eight volume *Smit Guides to International Arbitration* and Smit & Pechota, *World Arbitration Reporter*.

The Editor-in-Chief of the *Review* is Hans Smit, Stanley H. Fuld Professor of Law, Columbia University. He can be reached at:

Hans Smit
Stanley H. Fuld Professor of Law
Columbia Law School
435 West 116th Street
New York, New York 10027
Tel: (212) 854-2693; Fax (212) 222-4256
E-mail: hsmit@law.columbia.edu

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 IBM-compatible Word, or on diskette. 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
Tel: (212) 854-3971; Fax (212) 222-4256
E-mail: ecooperr@law.columbia.edu

SUBSCRIPTION

The Review is published quarterly.

The subscription rate is U.S. and Canada \$302. All other foreign Subscriptions \$370 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:

Juris Publishing, Inc.
71 New Street
Huntington, NY 11743
Tel (631) 673-3330; (631) 350-2100; Fax (631) 673-9117
For calls outside the U.S. and Canada: (631) 673-3330

ISSN 1050-4109

Copyright © 2007 by Hans Smit and Juris Publishing, Inc.

**THE AMERICAN REVIEW
OF
INTERNATIONAL ARBITRATION**

EDITOR-IN-CHIEF

HANS SMIT

MANAGING EDITOR

ELIZABETH H. COOPER

SENIOR STUDENT EDITORS

BRIAN GATTA, TAEHUN KIM, BENJAMIN MCANANEY, EVAN NEWMAN,
MICHAEL PINEIRO, ERIC REQUENEZ, QIANWEI ZHOU

STUDENT EDITORS

EDUARDO BÉRÈTERBIDE, JULIE BUSCH, ZAHRA EGAL, RUVEN ELLBERGER,
MARIE R. ANNABELLE GARDERE, BENJAMIN GAREL, MATTHEW GUNN,
ELIZABETH MATTERN, MARY ROSS, ERIC SIEVERTSEN, KIMBERLY STRAWBRIDGE,
MAGDALENA TEKELY

BOARD OF ADVISORS

GIORGIO BERNINI	<i>President, International Council for Commercial Arbitration</i>
HORACIO A. GRIGERA NAÓN	<i>International Arbitrator and Legal Consultant</i>
BERNARD HANOTIAU	<i>Partner, Hanotiau & van den Berg, Brussels</i>
J. MARTIN H. HUNTER	<i>Barrister, London and Professor, Nottingham Law School</i>
NEIL KAPLAN	<i>Chair, Hong Kong Int'l Arbitration Centre</i>
SERGEI N. LEBEDEV	<i>President, Maritime Arbitration Commission, Moscow</i>
PIERRE MAYER	<i>Professor, Université de Paris I — Sorbonne, Paris</i>
WERNER MELIS	<i>Chairman, Arbitral Centre of the Federal Economic Chamber, Vienna</i>
MICHAEL CHARLES PRYLES	<i>President, Australian Centre for Int'l Commercial Arbitration</i>
CLAUDE REYMOND	<i>Professor, University of Geneva</i>
OTTO SANDROCK	<i>Professor, University of Muenster</i>
TOSHIO SAWADA	<i>Vice-Chair, ICC Int'l Court of Arbitration</i>
VINCENZO VIGORITI	<i>Professor, University of Florence</i>

THE AMERICAN REVIEW OF INTERNATIONAL ARBITRATION

VOL. 16

2005

Nos. 3-4

ARTICLES

EX POST GENERAL REGULATION AND INVESTMENT PROTECTION IN RECENT INTERNATIONAL ARBITRATION	<i>Alberto Alvarez-Jiménez</i>	343
OPTIONS FOR DISPUTE RESOLUTION UNDER THE INVESTMENT CHAPTERS OF NAFTA AND CAFTA	<i>Matthias Lehmann</i>	387
REVIEWING TRENDS AND PROPOSALS TO RECOGNIZE ORAL AGREEMENTS TO ARBITRATE IN INTERNATIONAL ARBITRATION LAW	<i>Peter Kucherepa</i>	409
THE “PRIVY TO ARBITRATION” DOCTRINE: THE WITHERING OF THE COMMON-LAW PRIVITY OF CONTRACT DOCTRINE IN ARBITRATION LAW	<i>Olagoke O. Olatawura</i>	429
CONFIDENTIALITY IN A FORUM OF LAST RESORT: IS THE USE OF CONFIDENTIAL ARBITRATION A GOOD IDEA FOR BUSINESS AND SOCIETY?	<i>Anjanette H. Raymond</i>	479
DIFFERENT MEDIATION TRADITIONS: A COMPARISON BETWEEN CHINA AND THE U.S.	<i>Xiaobing Xu</i>	515

NOTES & COMMENTS

DISPUTE RESOLUTION IN PATENT POOLING ARRANGEMENTS: THE ARBITRATION SOLUTION	<i>Hans Smit</i>	547
---	------------------	-----

ARBITRAL & JUDICIAL DECISIONS

FROM HOSTILITY TO HARMONY: BUCKEYE MARKS A MILESTONE IN THE ACCEPTANCE OF ARBITRATION IN AMERICAN JURISPRUDENCE	<i>Kirsten Weisenberger</i>	551
RECENT DEVELOPMENTS IN ENFORCEMENT OF ARBITRAL AWARDS AGAINST AN INSTRUMENTALITY OF A FOREIGN STATE: <i>TMR ENERGY V. STATE PROPERTY FUND OF UKRAINE</i>	<i>Rostyslav I. Shiller</i>	581
CUMULATIVE TABLE OF CONTENTS FOR VOLUME XVI		615

