

World Arbitration & Mediation Report



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Covering Dispute Resolution in the United States and Around the World

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HIGHLIGHTS

ICSID has recently registered four **requests for annulment** of arbitral awards that were rendered under the **Washington Convention of 1965**. Under the Convention, awards cannot be reviewed by domestic courts, but, in limited circumstances, can be reviewed by *ad hoc* committees appointed by ICSID. These annulment proceedings should allow the effectiveness of the ICSID procedure to be gauged. (Story on page 287.)

Emmanuel Giallard, a distinguished arbitration scholar and commentator, has recently published the first volume in the *Series on International Commercial Arbitration* entitled **Annulment of ICSID Awards**. The volume contains contributions from experts on all aspects of the annulment process under Article 53 of the Washington Convention. (Story on page 288.)

The **Texas state Supreme Court** has rendered an important decision regarding **class arbitration**. In *In re Wood*, the court held that the arbitrator, not the court, should rule on **class certification** issues when the arbitration agreement says that all disputes arising under the contract are to go to arbitration. The *Bazze* decision figures prominently in the court's reasoning. (Case summary on page 291.)

In the *Commentary* section, **Professor Frédéric Bachand**, WAMR's new Investment Arbitration Editor, discusses several ICSID arbitration cases which raise the question of whether a forum-selection clause contained in

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an investment contract can affect the jurisdiction of an arbitral tribunal constituted under a BIT between the host State and foreign investor's State. He analyzes in particular the now-famous cases of *SGS Société Générale & Vivendi* (The *Commentary* section begins on page 292.)

In another *Commentary*, **Ian Hanger** and **John Cooper**

advocate for a hybrid mediation/mini-trial process for mediating large disputes called "Senior Executive Appraisal Mediation." Their experience demonstrates that this flexible, dispute-specific design has had success and is easy to implement. (The *Commentary* begins on page 294.)

In a *Perspectives* piece, **Lawrence W. Newman** and **David Zaslowsky** of the New York Office of **Baker & McKenzie** discuss the vital importance **culture and tradition** plays in international commercial arbitrations—from procedure of the arbitration hearings to the application of arbitration clauses. They indicate that complex arbitration clauses generally do not resolve these issues. As a result, they provide suggestions on how to reduce the **unpredictability** of arbitration procedure in the transborder contexts. (The *Perspectives* section begins on 298.)

Finally, **Timothy S. Cole**, Director of the NAF's Internet Dispute Solutions, provides summaries of and the opinions in recent **domain name awards**. (The *Documentary Resources* section begins on page 300.)

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