

Stockholm Arbitration Report

2002:1



ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

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By Sigvard Jarvin, General Editor

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Stockholm Arbitration Report

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EDITORIAL

Dear Reader,

At a meeting of the editorial board of Stockholm Arbitration Report during the ICCA congress this year, the board decided to enlarge the mission of the Report; it should cover international arbitration in general, albeit with an emphasis on East-West disputes. It was thought that the East-West concept no longer is as relevant in economical-political terms as earlier and that the Report's horizon and material should reflect this fact.

This is the journal's mission:

By contributing to the scholarly debate on international arbitration, the Stockholm Arbitration Report seeks to advance ideas which will improve the knowledge and the functioning of the international arbitral process.

Emphasis is placed on the publication of extracts of arbitral awards and court decisions with in-depth comments by scholars and practitioners.

Stockholm Arbitration Report illustrates the development of the international arbitral process, the enforcement of arbitral awards and the use of legal norms in the settlement of, primarily, commercial transnational disputes.

Its approach shall be comparative, its articles and comments be reasoned and explanatory, and accessible to non-specialists.

Contributions in Stockholm Arbitration Report shall be published in the languages currently used in international arbitration.

This issue starts with three articles. Mary Woollett and Monique Sasson (London) describe the problems one may encounter and solutions available in multi-party arbitration. William Park (Boston) takes us to a different domain, arbitration and the fisc, and discusses NAFTA's tax veto. Marie Öhrström (of the Stockholm Arbitration Institute) describes the practice of the Institute with respect to the challenge of arbitrators. The reader is reminded that an article on the same subject was published in the 1999:2 issue covering an earlier period.

The first of the four arbitral awards of the present issue deals with the situation where no law had been chosen by the parties and the arbitrators decide to apply the UNIDROIT Principles on International Commercial Contracts as *lex causae*. The comments are written by two scholars, Herbert Kronke (UNIDROIT, Rome) and Juan Fernández-Armesto (Madrid). We have three commentators to the second award regarding the law on transport, Patrik Lindfors and Mika Savola (Helsinki) and Jakob Heidbrink (Stockholm). *Litis pendens* was the issue in the third award and we enjoy the comment by

Bruno Leurent (Paris) on this case. The fourth award relates to multiparty and multicontract arbitration; it is commented by Bernard Hanotiau (Brussels).

The four court decisions reported in this issue come from four jurisdictions. Arbitrator's misconduct in Australia is the problem in the first, comment by Frank Bannon and Mathew Stulic (Sydney). David St. John Sutton (London and Paris) comments on an English Court of Appeal decision in which a multi-purpose agent created an arbitration agreement. Is an arbitrator's decision to dismiss an application for interim payment an award or a procedural decision? This is discussed by Charles Kaplan and Gilles Cuniberti (Paris) from the point of view of French law. Finally, Georgios Petrochilos (Paris) comments on a court decision rendered in Sweden relating to party plurality and appointment of arbitrators.

V. V. Veeder (London) wrote the obituary for Sir Michael Kerr. Matti Kurkela (Helsinki) and Andrew de Lotbinière McDougall (Paris) reviewed recently published arbitration books and websites.

I wish you a pleasant reading!

Sigvard Jarvin