

## MISSION STATEMENT

The Stockholm International Arbitration Review reflects 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. By contributing to the scholarly debate on international arbitration, the Stockholm International Arbitration Review seeks to promote an exchange of ideas that will improve the knowledge and functioning of the international arbitral process.

Emphasis is placed on the publication of extracts of arbitral awards and court decisions with substantive commentary by scholars and practitioners. A comparative approach shall be employed and articles and commentary shall be supported by reason and explanation, accessible also to non-specialists.

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

## Цели сборника

Сборник Stockholm International Arbitration Review содержит материалы о развитии международного арбитражного процесса, исполнении арбитражных решений и использовании правовых норм в урегулировании, в первую очередь, международных коммерческих споров. Сборник Stockholm International Arbitration Review, способствуя развитию научной дискуссии о международном арбитраже, направлен на распространение идей, повышающих уровень знаний и совершенствующих функционирование международного арбитражного процесса.

Акцент делается на публикации отрывков арбитражных и судебных решений в сопровождении подробных комментариев ученых и практикующих юристов. Материалы сборника предполагают использование сравнительного метода, статьи и комментарии должны быть аргументированными, содержать развернутые пояснения, доступные для понимания неспециалистов.

Материалы сборника Stockholm International Arbitration Review должны быть составлены на языках, используемых в настоящее время в международных арбитражных разбирательствах.

## 前言

斯德哥尔摩仲裁报告致力于研究国际仲裁程序的发展,仲裁裁决的强制执行以及如何利用法律规范来解决纠纷,尤其是国际商事纠纷.本报告通过促进对国际仲裁的学术性论争,来努力寻求先进理念,推动国际仲裁理论和实务的发展.

本报告着重摘录了部分仲裁裁决以及法院判决,并附有学者以及法律工作者的专业评论.报告中的文章和评论均采用比较的方法来阐述理由,非专业人士也能清楚明白.

本报告的稿件以国际仲裁通用的语言出版.

Stockholm International Arbitration Review is published by Juris Publishing Inc., in association with the Arbitration Institute of the Stockholm Chamber of Commerce, P.O. Box 16050, SE-103 21 Stockholm.

Mode of citation: Stockholm Int Arb Rev 2008:3

ISSN Number 1558-271X

All rights reserved. No part of this publication may be reproduced, stored in retrieval system, transmitted in any form or by any means, electronic, mechanical, photocopy, recording or otherwise without the written permission of the publisher.

# STOCKHOLM INTERNATIONAL ARBITRATION REVIEW

---

Volume 2008:3  
TABLE OF CONTENTS

## EDITORIAL

Stephen R. Bond, General Editor vii

---

## ARTICLES

Chinese Investment Treaties and the Dispute Resolution Opportunities Offered by Most-Favoured Nation Provisions <i>John Savage &amp; Elodie Dulac</i>	1
Bilateral Investment Treaties and EU Law <i>Thomas Eilmansberger</i>	41
Recent Swiss Developments on Exclusion Agreements <i>Laurent Lévy &amp; Tetiana Bersheda</i>	67
Recent Developments concerning Dispute Resolution of Shareholder Agreements in Ukraine: For Better or for Worse? <i>Timur Bondaryev &amp; Markian Malsky</i>	83

---

## INVESTMENT DISPUTES

Decision of the Swedish Supreme Court, judgment rendered 28 March 2008 in Case No. T 2113-06, “The Petrobart Case”  <i>Subject Matters:</i>  Challenge of an arbitral award terminating the arbitration for lack of jurisdiction. The scope of application of the so-called “doctrine of assertion” in arbitration.	97
The Petrobart Saga <i>Erik Karlsson</i>	99

Comments on the Swedish Supreme Court’s Recent Judgment on the So-called “Doctrine of Assertion” and the Arbitrators’ Jurisdiction in Investment Disputes <i>Paulo Foblin</i>	109
Comments on the “Petrobart v. Kyrgyz Republic” Case	139
Decision of the Svea Court of Appeal, judgment rendered 13 April 2006 in Case No. T 3739-03, “Petrobart Limited v. Kyrgyz Republic”	155
Decision of the Svea Court of Appeal, judgment rendered 19 January 2007 in Case No. T 5208-05, “Kyrgyz Republic v. Petrobart Limited”	165

---

## COURT DECISIONS ON ARBITRATION

### *United Kingdom*

Decision of the England and Wales Court of Appeal, judgment rendered 12 March 2008 in Case No: 2007 FOLIO 1521, “Emmott v. Michael Wilson & Partners Limited”	175
---	-----

#### *Subject Matters:*

Confidentiality of documents produced for the purposes of an arbitration in London—Distinction between privacy and confidentiality—Limits to duty of confidentiality.

<i>Observations by Stewart Boyd</i>	215
-------------------------------------	-----

---

### *Sweden*

Decision of the Svea Court of Appeal, judgment rendered 25 September 2006 in Case No. Ö 1952-05, “The Soyak Case”	225
---	-----

#### *Subject Matter:*

Can a decision on fees to the arbitrators made by an arbitral institution be appealed?

Arbitrator Fees in Institutional Arbitration Subject to Substantive Review in Court <i>Observations by Patrik Schöldström</i>	243
--	-----

TABLE OF CONTENTS

iii

The “Soyak” Case – Judicial Terrorism or Justified Cost Control? <i>Observations by Marie Öhrström</i>	251
---	-----

---

***Finland***

Decision of the Supreme Court of Finland, judgment rendered 2 July 2008 in Case No.: S2006/716, “Werfen Austria GmbH v. Polar Electro Europe B.V., Zug Branch”	259
--	-----

*Subject Matters:*

Whether—by awarding damages on the basis of a legal doctrine  
that neither party invoked nor had an opportunity to comment  
on—the arbitral tribunal exceeded its authority or failed to  
provide the parties a sufficient opportunity to present their cases.

Finality of Arbitral Awards – Common Grounds? <i>Observations by Petra Kiurunen</i>	273
--	-----

<i>Observations by Sophie Nappert</i>	283
---------------------------------------	-----

---

**NOTES & INFORMATION**

IN MEMORIAM: Mohamed Aboul-Enein <i>Ulf Franke</i>	289
---	-----

IN MEMORIAM: Gunnar Lagergren <i>Kaj Hobér</i>	291
---	-----

BOOK REVIEW: <i>The Principles and Practice of International Commercial Arbitration</i> , Professor Margaret L. Moses <i>Christopher R. Seppälä</i>	293
---	-----

LIST OF BOOKS RECEIVED <i>Olga Mouraviova</i>	295
--	-----

