Introduction

A- Collaboration and Contribution of Arbitration to Consumer Law

1- Global Relation between Arbitration and Consumer Law.

2- The problem of access to an effective dispute resolution for consumers in Courts.
   Small claims courts and Class Actions.

3- Arbitration as an answer to the needs of consumers:
   Some examples CAMVAP, ABTA
   Small claims in arbitration (New York)
   ODR: EU Proposal, UNCITRAL Project.

B- Class Arbitration

1- Class action in Arbitration. Development in USA

   AAA Supplementary Rules
   Green Tree v. Bazzle 2003
   Stolt-Nielsen 2010
   Concepcion 2011
   Oxford Health 2013
   Italian Colors 2013

2- Class arbitration in Canada
3- Class arbitration in Europe

4- International class arbitration?
   A case of International Mass Claims: ICSID Abacat.

C- Conflict about pre-dispute agreement

Post and Pre dispute agreement in New York Convention, UNCITRAL Model Law and national legislations.

Opposability of pre-dispute agreement to consumers in a contract of adhesion.

1- The enforceability of consumers’ pre-dispute agreements to arbitrate

a- In favor?

1- USA.
   The Supreme Court case law: Green Tree 2000, Concepcion.

2- Canada
   UNCITRAL Model Law
   The Supreme Court case law: Dell, Seidel

b- Against?

1- Canada
   Provincial Acts (Ontario, Québec)
   Supreme Court case law: Dell, Seidel

2- European Union
   Directive 93/13/EEC on unfair terms in consumer contract
   ECJ Court Case Law: Mostaza Claro; Asturcom.

2- When may the issue arise in an international arbitration?

a- before a judge

1- A judge before the arbitrator:

Dell
Seidel
Judge of the consumer’s domicile (NY Convention, art. II, PIL on jurisdiction EU, Brussels Regulation; USA FAA; Canada, UNCITRAL Model Law)

Another judge
Referral to arbitrator? USA (Green Tree, Stolt Nielsen, Oxford Health), Canada (Dell, Seidel) EU

2- A judge during the arbitration
Judge of the seat of the arbitral tribunal (PIL on jurisdiction EU, USA, Canada)

3- A judge after the arbitration:
Judge of the seat of the arbitral tribunal (NY Convention art. V, EU Mostaza Claro; Asturcom, USA, Canada)
Judge of the consumer’s domicile (idem)
Another judge

b- before the arbitrator

1- An arbitral tribunal before any court: Kompetenz/Kompetenz, (UNCITRAL Model Law)

2- An arbitral tribunal after a court (links with preceding section)

3- Applying law to this issue in an international arbitration

a- PIL of the courts and the arbitration tribunal

1- PIL and the courts in EU, USA, Canada.

2- PIL and the arbitral tribunal in International Law

b- Characterization

1- Procedure or contract: PIL EU, USA, Canada

2- Connecting factors: for and will of the parties; other connecting factors.

c- The will of the parties

1- Choice of the parties in contracts. EU Rome I 7 II Regulation, USA Restatement of conflict of laws (second), Canada, Comparative private international law.

2- Limits to the choice: international public order and international mandatory law Rome. Relation with NY Convention.
3 Characterization of an international mandatory law in PIL?
   a) by a judge
   b) by an arbitrator

Conclusion

Role of the international arbitrator

1- if there is a consumer defaulting party
   whose domicile is in USA, Canada, EU or elsewhere

2- If there is a consumer participating to the proceedings
   whose domicile is in USA, Canada, EU or elsewhere

3- In a international class action