

# Recommended Readings – Special Course – Olivier Caprasse

## Arbitration & ADR: The Possible Interactions

### Readings

- Berger, K. P. & J. Jensen, « The Arbitrator's Mandate to Facilitate Settlement », *International Commercial Arbitration Review*, 2017, Issue 1, pp. 58-77.
- Kaufmann-Kohler, G. & Kun, F., « Integrating Mediation into Arbitration: Why It Works in China », *Journal of International Arbitration*, 2008, Volume 25, Issue 4, pp. 479-492.
- CEDR Rules for the Facilitation of Settlement in International Arbitration
- Nappert, S. & Flader, D., A Psychological Perspective on the Facilitation of Settlement in International Arbitration – Examining the CEDR Rules, *Journal of International Dispute Settlement*, 2011, Volume 2, Issue 2, pp. 459-470.
- ICC Commission report, *Techniques for Controlling Time and Costs in Arbitration*, 2<sup>nd</sup> ed., 2012, p. 11.

### For those who wish to go further

- Boog, C. & Raneda, J., « The 2016 SIAC Rules: A State-of-the-Art Rules Revision Ensuring an even more Efficient Process », *ASA Bulletin*, 2016, Volume 34, Issue 3, pp. 584-605.
- Kröll S. M., « Chapter 22: Promoting Settlements in Arbitration: The Role of the Arbitrator », in Patricia Shaughnessy and Sherlin Tung (eds), *The Powers and Duties of an Arbitrator: Liber Amicorum Pierre A. Karrer*, Kluwer Law International, 2017, pp. 209-224.
- Lack, J., « Chapter 17: Appropriate Dispute Resolution (ADR): The Spectrum of Hybrid Techniques Available to the Parties », in Arnold Ingen-Housz (ed), *ADR in Business: Practice and Issues across Countries and Cultures II*, Kluwer Law International, 2010, pp. 339-379.
- Liatowitsch, M. & Menz, J. , « Chapter 13: Alternative Dispute Resolution », in Elliott Geisinger and Nathalie Voser (eds), *International Arbitration in Switzerland: A Handbook for Practitioners*, 2<sup>nd</sup> ed., Kluwer Law International, 2013, pp. 311- 330.
- Morris-Sharma, N., « Chapter III: The Courts, The Changing Landscape Of Arbitration: UNCITRAL's Work On The Enforcement Of Conciliated Settlement Agreements », in Christian Klausegger, Peter Klein, et al. (eds), *Austrian Yearbook on International Arbitration 2018*, Austrian Yearbook on International Arbitration, Volume 2018, pp. 123-138.
- Nigmatullina, D., « The Combined Use of Mediation and Arbitration in Commercial Dispute Resolution: Results from an International Study », *Journal of International Arbitration*, Kluwer Law International, 2016, Volume 33, Issue 1, pp. 37-82.
- Reeg, A., « Chapter 27: Should an International Arbitral Tribunal Engage in Settlement Facilitation? », in Patricia Shaughnessy and Sherlin Tung (eds), *The Powers and Duties of an Arbitrator: Liber Amicorum Pierre A. Karrer*, Kluwer Law International, 2017, pp. 339-348.

- Schneider M. E., « Chapter 15: The Art of Blending Arbitration and Other ADR Methods: Some Examples from International Practice », in Arnold Ingen-Housz (ed), *ADR in Business: Practice and Issues across Countries and Cultures II*, Kluwer Law International, 2010, pp. 313-325.

## Urgency & Arbitration

### Legislation

- UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006: Chapter IV A. Interim Measures and Preliminary Orders

### Rules

- Rules of Arbitration of the International Chamber of Commerce (ICC Rules):
  - Article 28: Conservatory and Interim Measures
  - Article 29: Emergency Arbitrator
  - Article 30: Expedited Procedure
  - Appendix V: Emergency Arbitrator Rules
  - Appendix VI: Expedited Procedure Rules
- AFA Rules
  - Article 13: Urgent Proceedings
- SRIA Rules (Swiss Rules of International Arbitration)
  - Article 26: Interim Measures of Protection
  - Article 42: Expedited Procedure
  - Article 43: Emergency Relief

### Doctrine

- Bühler, M. & Heitzmann, P., « The 2017 ICC Expedited Rules: From Softball to Hardball? », *Journal of International Arbitration*, 2017, Volume 34, Issue 2, pp. 121-148.
- Carlevaris, A. & Feris, J., « Running in the ICC Emergency Arbitration Rules », *ICC Bulletin*, 2014, Volume 25, Issue 1, pp. 25-38.
- Fry, J., Greenberg, S. & Mazza, F., *The Secretariat's Guide to ICC Arbitration*, Paris, International Chamber of Commerce, 2012, pp.288-311.
- ICC, *Note to Parties and Arbitral Tribunals on the Conduct of Arbitration*.
- ICC Commission report, *Techniques for Controlling Time and Costs in Arbitration*, 2<sup>nd</sup> ed., 2012.

### For those who wish to go further

- Born, G., « Chapter 17: Provisional Relief in International Arbitration », in *International Commercial Arbitration*, 2<sup>nd</sup> ed., Alphen aan den Rijn, Kluwer Law International, 2014, pp. 2424-2563.
- Castineira, E., « The Emergency Arbitrator in the 2012 ICC Rules of Arbitration », *The Paris Journal of International Arbitration*, 2012, Volume 1, pp. 65-98.
- De Bock, B., « The Emergency Arbitrator in the 2013 Arbitration Rules », *b-Arbitra*, 2015, Issue 1, pp. 67-87.

- Giaretta, B., « The practice of emergency arbitration », *b-Arbitra*, 2017, Issue 1, pp. 83-105.
- Job, A. & Ziadé, R., « Les mesures d'urgence dans l'arbitrage AFA », *Droit & Expertise*, 7 mai 2013, p. 6.
- Shaughnessy, P., « Chapter 32: The Emergency Arbitrator », in Patricia Shaughnessy and Sherlin Tung (eds), *The Powers and Duties of an Arbitrator: Liber Amicorum Pierre A. Karrer*, Kluwer Law International, 2017, pp. 339-348.

## Recommended readings – Special Course - Giuditta Cordero-Moss

### Readings

- Giuditta Cordero-Moss, "EU overriding mandatory provisions and the law applicable to the merits", in Franco Ferrari (ed.), *The impact of EU law on international commercial arbitration*, Juris 2017, pp. 317-349, available at: <https://folk.uio.no/giudittm/10-Chapter%2010-Cordero.pdf>
- Giuditta Cordero-Moss, "Interpretation of contracts in international commercial arbitration: diversity on more than one level", *European Review of Private Law*, 1- 2014, pp. 13-36, available at: [https://folk.uio.no/giudittm/ERPL\\_22-1\\_Giuditta%20Cordero-Moss.pdf](https://folk.uio.no/giudittm/ERPL_22-1_Giuditta%20Cordero-Moss.pdf).

### For those who wish to go further

- Franco Ferrari, Stefan Kröll (eds.), *Conflict of laws in international arbitration* Sellier 2011.

## Recommended reading - Workshop HKIAC - Sarah Grimmer

- A Guide to HKIAC Arbitration Rules by Dr. Michael Moser and Ms. Chiann Bao, 2017 Edition / Chapter 1 (pp 1-9); Chapter 2 (pp 11-22); Chapter 3 (pp 23-43)
- Arbitration Law in Hong Kong: Past and Present by Mr. John Choong and Mr. Romesh Weeramantry, Chapter 1 (pp 1-10); Chapter 2 (pp 11-21)
- Introduction to the Hong Kong Basic Law by Mr. Danny Gittings, Chapter 1 (Introduction) (pp 1-8)
- The Arbitration Ordinance by Mr. Romesh Weeramantry, Chapter 1 (pp 3-16)
- State Immunity: Life After Congo by Ms. Kathryn Sanger, Chapter 2 (pp 17-32)

- Article on HKAC arbitration and dispute resolution under the Belt and Road Initiative - <https://globalarbitrationreview.com/benchmarking/the-asia-pacific-arbitration-review-2018/1141929/dispute-resolution-along-the-belt-and-road>
- HKIAC Administered Arbitration Rules - 2013
- Rules as Appointing Authority - [Arbitration \(Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators\) Rules 2013](#)
- WhyHKIAC? <http://www.hkiac.org/arbitration/why-choose-hkiac>
- Why Hong Kong? <http://www.hkiac.org/arbitration/why-hong-kong>
- [Practice Note on the Challenge of an Arbitrator](#) (effective 31 October 2014)
- [Practice Note on Consolidation of Arbitration](#) (effective 1 January 2016)
- [Practice Note on Costs of Arbitration - Schedule 2](#) (effective 1 June 2016)
- [Practice Note on Costs of Arbitration - Schedule 3](#) (effective 1 June 2016)
- [Practice Note on Tribunal Fees, Expenses, Terms & Conditions – Schedule 2](#) (effective 1 November 2013)
- [Practice Note on Tribunal Fees, Expenses, Terms & Conditions – Schedule 3](#) (effective 1 November 2013)

## Recommended readings – Special Seminar on Quantum - James Nicholson and Juliette Fortin

### Readings

- Lost Profit and Capital Investment By Michael Pryles:  
[http://www.arbitration-icca.org/media/4/43096502954185/media012223892171920damages\\_in\\_the\\_international\\_arbitration\\_paper.pdf](http://www.arbitration-icca.org/media/4/43096502954185/media012223892171920damages_in_the_international_arbitration_paper.pdf)
- Valuation in International Arbitration by Andrew Wynn and Noel Matthews (FTI Consulting):  
<http://www.fticonsulting.com/~media/Files/emea--files/insights/white-papers/valuation-in-international-arbitration.pdf>
- Podcast – the arbitration station - the quantum boy:  
<https://www.thearbitrationstation.com/blog/2018/4/9/season-2-episode-8-the-quantum-boy>

### For those who wish to go further

- McGregor on Damages Hardcover – 13 Dec 2017, by James Edelman (Editor), Jason Varuhas (Contributor), Simon Colton (Contributor)
- ISE Principles of Corporate Finance Paperback – 20 May 2016, by Richard Brealey (Author), Stewart Myers (Author), Franklin Allen (Author)
- Valuation: Measuring and Managing the Value of Companies, University Edition (Wiley Finance) Paperback – 14 Aug 2015, by McKinsey & Company Inc. (Author), Tim Koller (Author), Marc Goedhart (Author), David Wessels (Author)

## Recommended readings – General Course – Andrea Giardina

- Ahtouk-Spivak L., Procédure multiples et abus de droit (Abuse of process) in *Les Cahiers de l'Arbitrage/Paris Journal of International Arbitration* Vol. 4, 2017 p. 628- 634
- Azzali S., Neutrality in International Arbitration: Too Many Shades of Grey? in Carlevaris, Andrea - Lévy, Laurent - Mourre, Alexis - Schwartz, Eric A. (editors) “International Arbitration Under Review: Essays in Honour of John Beechey”, ICC, Paris, 2015,45-58
- Bernardini P. The European Union’s Investment Court System –A Critical Analysis in *ASA Bulletin* Vol. 35 No.4, 2017 p. 812-836
- Born G., *International Commercial Arbitration*, Kluwer Law International (Chapters 11 and 12)
- Dallah Case (Paris Court of Appeal Case No. 09/28533; Supreme Court of England [2010] UKSC 46)
- Dow Chemical Case Interim Award of September 23 1982 in No. 4131 (English version)
- ECJ Case C-126/97, *Eco Swiss China Time Ltd v. Benetton International NV* (1999).
- ECJ Case C-284/16, REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany), made by decision of 3 March 2016, received at the Court on 23 May 2016, in the proceedings *Slowakische Republik (Slovak Republic) v. Achmea BV*
- Ferrario P., The Group of Companies Doctrine in International Commercial Arbitration: Is There Any Reason For This Doctrine to Exist? *J. Int. Arb.* 2009
- Gaillard E., Abuse of Process in International Arbitration in *ICSID Review*, Vol. 32 No.1, 2017, 17-37
- Giardina A., L'arbitrato internazionale in materia di investimenti impetuosi sviluppi e qualche problema in *I rapporti Economici Internazionali e l’evoluzione del loro regime giuridico* a cura di N. Boschiero e R. Luzzatto, Editoriale Scientifica, 2007 pag. 319 ss.
- Giardina A., Legal Aspects of recourse to arbitration by an investor against the authorities of the Host State under inter-State Treaties, *Rapport*, Institute de Droit International Session de Tokyo Vol. 75, 2013, Resolution adopted (*ICSID Review - Foreign Investment Law Journal*, Volume 29, Issue 3, 1 October 2014, Pages 701–716)
- Giardina A., The International Recognition and Enforcement of Arbitral Awards Nullified in the Country of Origin, in *Liber Amicorum Karl-Heinz Böckstiegel*, Köln: Heymanns, 2001 pag. 205 ss.
- Hanotiau B., *Complex Arbitration* (Kluwer, 2005)
- Hosking J., Non-Signatories and International Arbitration in the United States: The Quest for Consent, 20(3) *Arbitration International*, 2004
- Hosking J., The Third Party Non-Signatory’s Ability to Compel International Commercial Arbitration: Doing Justice Without Destroying Consent, 4(3) *PDRLJ*, 2004
- ICSID Case No. ARB/17/34, Decision on the proposal to disqualify S. A.
- Landbrecht J., Wehowsky A., Determining the Law Applicable to the Personal Scope of Arbitration Agreements and its “Extension” in *ASA Bulletin* Vol. 35 No.4, 2017 p. 837-859
- Mayer P., *Extension of the Arbitration Clause to Non-Signatories Under French Law in Multiple Party Actions in International Arbitration*, Oxford, 2009

- Park W., *Non signatories and International Contracts: An Arbitrator's Dilemma in Multiple Parties in International Arbitration*, Oxford 2009
- Veeder V.V., *The Importance of a Party Treating as Independent Its Independent Arbitrator* in Moser, Micheal J. (editor) "Investor-State Arbitration: Lessons for Asia", JurisNet, Huntington, 2008, 67-75

## **Recommended Readings – Special Course – ICC Alexander G. Fessas & Ana Serra e Moura**

- José Ricardo Feris, "New policies and practices at ICC: towards greater efficiency and transparency in international arbitration", *ICC Dispute Resolution Bulletin* (2016.2) 9
- Jason Fry, Simon Greenberg & Francesca Mazza, "Article 33: scrutiny of the award by the Court", *The Secretariat's guide to ICC arbitration* (2012) 327
- Simon Greenberg, "Arbitral award scrutiny under scrutiny: an assessment", *Arbitral Institutions Under Scrutiny: ASA special series no. 40* (2013) 89
- Jennifer Kirby, "What is an award, anyway?", *Journal of International Arbitration* (2014) 475
- Pierre Lalive, "On the reasoning of international arbitral awards", *Journal of International Dispute Settlement* (2010) 55
- Maria Hauser-Morel, "Duty to provide reasoning under the ICC Rules – recent experience", *The challenges and the future of commercial and investment arbitration, Liber Amicorum Professor Jerzy Rajski* (2015) 355
- Horacio A. Grigera Naón, "The powers of the ICC International Court of Arbitration vis-à-vis parties and arbitrators", *ICC Court Bulletin, Special Supplement 1999: Arbitration in the Next Decade: Proceedings of the International Court of Arbitration's 75th Anniversary Conference*, 55
- *ICC award checklist* (2017)
- *Final report on dissenting and separate opinions*, *ICC International Court of Arbitration Bulletin* (1991. 1) 32.
- *IBA Arb 40 Subcommittee, Toolkit for Award Writing* (2016)