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Volume 33 (2016) Issue 1 contains:

Gloria Maria Alvarez, Blazej Blasikiewicz, Tabe van Hoolwerff, Kleopatra Koutouzi, Nikos Lavranos, Mary Mitsi, Emma Spiteri-Gonzi, Adrian Verdegay Mena, Piotr Willinski, 'A Response to the Criticism against ISDS by EFILA' (2016) 33 Journal of International Arbitration, Issue 1, pp. 1–36

Abstract
This article analyzes the validity of some of the most often-heard criticism against investor-state dispute settlement ('ISDS'). It concludes that most of that criticism is neither supported by statistical evidence nor by the practice of international arbitration. Consequently, this article cautions against the current hyper-activism to reform or even to dismantle some of the salient features of ISDS, and instead, calls for a rational and balanced debate based on facts with a view to improving the ISDS system where necessary in an orderly fashion.

Dilyara Nigmatullina, 'The Combined Use of Mediation and Arbitration in Commercial Dispute Resolution: Results from an International Study' (2016) 33 Journal of International Arbitration, Issue 1, pp. 37–82

Abstract
In a changing international commercial dispute resolution landscape, the combined use of mediation and arbitration has emerged as a dispute resolution approach offering parties a number of benefits. These include resolving parties' disputes cost-effectively and quickly and obtaining a binding and internationally enforceable decision. This article analyzes the results of a recent empirical study of the current use of mediation in combination with arbitration in international commercial dispute resolution. The results reveal that the combined approach is used to a relatively low extent, which contrasts with widespread recognition of the benefits that it seems to offer. In the vast majority of cases, the mediation and arbitration stages are conducted by different neutrals, while the mediation stage usually involves the use of caucuses. Surprisingly, the absence of a unified enforcement mechanism for international mediated settlement agreements does not present any obstacle to recording the outcome of the combined use of processes in a mediated settlement agreement rather than in an arbitral award.

Mark Padley, Claire Clutterham, 'Common Pitfalls of Arbitration in the United Arab Emirates: Interference and Enforcement' (2016) 33 Journal of International Arbitration, Issue 1, pp. 83–98

Abstract
Since the United Arab Emirates ('UAE') ratified the New York Convention in July 2006, the popularity of arbitration has soared in the UAE. The local UAE courts have enforced a number of arbitral awards under the Convention and the Dubai International Financial Centre (DIFC) Court now offers an alternative seat and route for the recognition and enforcement of arbitral awards pursuant to an UNCITRAL Model Law-based arbitration law. Yet, there remain a number of recurrent pitfalls commonly encountered by parties attempting to enforce arbitration agreements, conduct effective arbitrations and enforce foreign and domestic arbitral awards in the UAE. Parties may be caught out by issues such as capacity, the breadth of disputes considered non-arbitrable by the local courts, and alleged deficiencies in the conduct of the arbitration and the award itself. These pitfalls result from quirks of UAE law and the fact that there is still no dedicated arbitration law applicable to all of the UAE.

Aaron Dolgoff, Tiago Duarte-Silva, 'Prejudgment Interest: An Economic Review of Alternative Approaches' (2016) 33 Journal of International Arbitration, Issue 1, pp. 99–114

Abstract
There is no consensus in the economic literature as to the appropriate measure of prejudgment interest to apply to damages. This article reviews various proposed alternative methods for determining prejudgment interest rates: the claimant's ex post or hindsight cost of capital; the claimant's ex ante or opportunity cost of capital; the respondent's borrowing rate; and the risk-free interest rate. The article concludes that where the objective is full compensation to the claimant, the risk-free interest rate is the appropriate measure of prejudgment interest. An examination of awards in international arbitration shows a prevalence of rates that are not associated with the claimant or the respondent, but rather are consistent with a risk-free rate approach or estimates of what arbitrators deem to be reasonable commercial rates.

Derric Yeoh, 'Third Party Funding in International Arbitration: A Slippery Slope or Levelling the Playing Field?' (2016) 33 Journal of International Arbitration, Issue 1, pp. 115–122Abstract

Abstract
Common law jurisdictions have traditionally been averse to the notion of third party funding ('TPF') due to the ancient doctrines of champerty and maintenance. Founded on considerations of public policy, the laws of champerty and maintenance were targeted at frivolous and vexatious claims 'fomented and sustained by unscrupulous men of power'. While common law jurisdictions such as the United Kingdom and Australia have removed prohibitions on TPF in arbitration, other common law jurisdictions are less eager to follow suit. In this article, the author argues that TPF in international arbitration should not be prohibited, but regulated, as it levels the playing field for claimants who are either impecunious or unable to bear the associated financial risks due to their limited financial resources. It examines the various arguments presented against TPF, such as the encouragement of frivolous claims, the control of the claim and conflict of interests, while also proposing various measures to curtail the risks of a slippery slope from TPF.

Book Review

Ernesto J. Féliz De Jesús, 'Book Review' – Julien Fouret (ed.), Enforcement of Investment Treaty Arbitration Awards: A Global Guide (2016) 33 Journal of International Arbitration, Issue 1, pp. 123–124