United Nations A/CN.9/SER.C/ABSTRACTS/50

General Assembly

Distr.: General
26 August 2005

Original: English

United Nations Commission
on International Trade Law

Case Law on UNCITRAL Texts (CLOUT)

Contents

Page

Introduction . . . 2

I. Cases relating to the UNCITRAL Model Arbitration Law (MAL) . . . 3

Case 566: MAL 34; 34 (2) (a) (i); 34 (2) (a) (ii); 34 (2) (a) (iii); 34 (2) (a) (iv); 34 (2) (b) (ii) —*Singapore: High Court; OM No. 600027 of 2001, ABC CO v. XYZ CO LTD (8 May 2003)* . . . 3

Case 567: MAL 16 (3)—*Singapore: High Court; OM No. 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)* . . . 4

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)* . . . 5

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)* . . . 6

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)* . . . 7

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)* . . . 8

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)* . . . 9

II. Cases relating to the UNCITRAL Model Law on Electronic Commerce (MLEC) . . . 10

Case 573: MLEC 11 (1); 13—*Singapore: Court of Appeal; No. CA 30/2004, Chwee Kin Keong & Others v. Digilandmall.com Pte Ltd. (13 January 2005)* . . . 10

Index to this issue . . . 12

V.05-87834 (E) 141005 171005

Introduction

This compilation of abstracts forms part of the system for collecting and disseminating information on Court decisions and arbitral awards relating to Conventions and Model Laws that emanate from the work of the United Nations Commission on International Trade Law (UNCITRAL). Information about the features of that system and about its use is provided in the User Guide (A/CN.9/SER.C/GUIDE/1/REV.1). CLOUT documents are available on the UNCITRAL website (http://www.uncitral.org).

Issues 37 and 38 of CLOUT introduced several new features. First, the table of contents on the first page lists the full citations to each case contained in this set of abstracts, along with the individual articles of each text which are interpreted by the Court or arbitral tribunal. Second, the Internet address (URL) of the full text of the decisions in their original language are included, along with Internet addresses of translations in official United Nations language(s), where available in the heading to each case (please note that references to websites other than official United Nations websites do not constitute an endorsement by the United Nations or by UNCITRAL of that website; furthermore, websites change frequently; all Internet addresses contained in this document are functional as of the date of submission of this document). Third, abstracts on cases interpreting the UNCITRAL Model Arbitration Law now include keyword references which are consistent with those contained in the Thesaurus on the UNCITRAL Model Law on International Commercial Arbitration, prepared by the UNCITRAL Secretariat in consultation with National Correspondents, and in the forthcoming UNCITRAL Digest on the UNCITRAL Model Law on International Commercial Arbitration. Finally, comprehensive indices are included at the end, to facilitate research by CLOUT citation, jurisdiction, article number, and (in the case of the Model Arbitration Law) keyword.

Abstracts have been prepared by National Correspondents designated by their Governments, or by individual contributors. It should be noted that neither the National Correspondents nor anyone else directly or indirectly involved in the operation of the system assumes any responsibility for any error or omission or other deficiency.

I. Cases relating to the UNCITRAL Model Arbitration Law (MAL)

Case 566: MAL 34; 34 (2) (a) (i); 34 (2) (a) (ii); 34 (2) (a) (iii); 34 (2) (a) (iv); 34 (2) (b) (ii)
Singapore: High Court
OM No. 600027 of 2001
ABC CO v. XYZ CO LTD
8 May 2003
Published: [2003] 3 SLR546
Abstract prepared by Lawrence Boo, National Correspondent

[**keywords**: *arbitral tribunal; award; award—setting aside; interim award*]

The applicants and the respondents were the claimants and respondents in an international arbitration conducted in Singapore pursuant to the Rules of Conciliation and Arbitration of the International Chamber of Commerce. On 10 September 2001 the arbitral tribunal issued an interim award ('the Award'), in which the applicants' claims were dismissed and the respondents' counterclaims were granted. The Award dealt with issues of liability, leaving issues of causation and quantum to be decided at later time.

The applicants moved on 10 October 2001, well within the time limit specified by the article 34 MAL, for the award to be set aside on the grounds inter alia that the arbitral tribunal had acted in excess of jurisdiction, by making findings in respect of matters arising after an assignment of rights dated 15 November 1994. The grounds relied on would fall within article 34 (2) (a) (iii) MAL. On 7 November 2002 the applicants applied for leave to amend the originating motion, in order to add 6 new grounds for the setting aside of the Award. The new grounds sought to rely on art 34 (2) (a) (i), (ii) (iv) and (b)(ii) MAL.

By denying the application to add new grounds (save for that one which essentially repeated the ground under article 34 (2) (a) (iii) MAL), the Court concluded that a party seeking to set aside an award under article 34 MAL must, within the time frame laid down by the article file a complete application, i.e. an application which states the ground or grounds the party intends to rely on. The Court stated that it did not have the power to extend that time, since it derives its jurisdiction to hear such an application from MAL alone and the latter does not provide for any extension of the time period established in article 34 (3).

The Court also noted that an application under article 34 MAL is not a process designed for purposes of seeking review of a pre-existing judicial decision by way of appeal. To succeed in this kind of application, the applicant must establish new facts, which were not considered by the arbitral tribunal in coming to its decision . A setting aside application is not a process whereby facts which have already been established in the arbitration are being reassessed.

Case 567: MAL 16 (3)
Singapore: High Court
OM No 9 of 2003
PT Tugu Pratama Indonesia v. Magma Nusantara Ltd.
10 September 2003
Unpublished [2003] SGHC 204
Abstract prepared by Lawrence Boo, National Correspondent

[**keywords**: *arbitral tribunal; arbitration clause; arbitration agreement; arbitration – submission to; interim award; jurisdiction*]

Tugu was the insurance company that issued the policy to cover one of Magma's geothermal projects in Indonesia. Following a well blow-out, Magma claimed losses for US$12.5 mil from Tugu under the policy. Tugu argued that the policy limit was US$2.5 mil., whereas Magma maintained that it should be US$10 mil. Magma accepted payment of US$2 mil in its letter dates 6 October 1999, but it also claimed payment of the balance. Furthermore, it gave notice of its intention to rely on the arbitration clause contained in the policy , which referred to 'appraisers', but proposed to have the arbitration held in Singapore under the Singapore International Arbitration Centre Rules. Tugu responded on 14 October 1999, agreeing with the proposal and added that a formal submission be entered into. The submission was signed by Tugu but not by Magma. On 11 March 2002, Tugu purported to revoke their letter of 14 October 1999. By that time, an issue of time limitation under the contract arose.

On 12 March 2002, Magma served its request for arbitration on the SIAC. The parties appointed the tribunal with Tugu reserving the right to challenge jurisdiction. The tribunal heard the parties and made an award upholding jurisdiction in March 2003. Tugu applied to the High Court under article 16 (3) MAL to declare the decision invalid, arguing that there was no agreement to refer the dispute to an arbitral tribunal in Singapore as the clause relied on did represent an arbitration agreement. Furthermore, no agreement had been reached in the correspondence exchanged in 1999 to amend the above mentioned clause and refer the dispute to arbitration in Singapore. Tugu's letter, in fact, was a counterproposal, not an acceptance of Magma's offer.

The Court held that notwithstanding the use of the term 'appraisers' and the evaluation functions included in the 'Arbitration' clause, it was clearly within the parties' understanding that the clause would require the appraisers to act as arbitrators before appraising the matter in monetary terms. The use of the words 'any matter arising under this Policy' was in the widest possible terms and was wide enough to cover both a valuation and an arbitral function.

The additional proposals made by Magma in their notice of arbitration of 6 October 1999 did not constitute a proposal for a new arbitration agreement. It was only a proposal to change the seat of the arbitration from Jakarta to Singapore under the SIAC Rules. This proposal was accepted by Tugu on 14 October 1999. The failure by Magma to sign the Submission to Arbitration could not affect the agreement. Accordingly, the Court agreed with the tribunal that the arbitration was commenced under the Arbitration clause with the 3 'add-on' proposals agreed by the parties (i.e. an arbitration to be held in Singapore, with SIAC Rules and in English).

The Court also added that an application under article 16 (3) MAL is not an appeal against the decision of the tribunal. When considering such an application, the Court may make an independent determination and is not constrained in any way by the findings or reasoning of the tribunal. Parties are not limited to rehearsing before the Court the contentions made before the tribunal, but they are entitled to put forward new arguments.

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)
Germany: Oberlandesgericht Frankfurt
3 Sch 2/2000
6 September 2001
Published in German: [2001] Reports of the OLG Frankfurt (OLGR) 302
DIS—Online Database on Arbitration Law—http://www.dis-arb.de
Abstract prepared by Dr. Stefan Kröll

[**keywords**: *arbitral awards; arbitral tribunal; arbitration agreement; arbitration agreement—validity; arbitration clause; award; award—setting aside; competence; jurisdiction; kompetenz-kompetenz*]

According to the statutes of an association, all disputes between the association and one of its members had to be referred to an "honorary board" which was considered to be an arbitral tribunal for purposes of §§ 1034 et seq. of the German Code of Civil Procedure (hereinafter ZPO), based on articles 10 et seq. MAL. Furthermore, the statutes provided that objections to decisions of the honorary board were allowed and were to be decided by a majority vote in the meeting of the members. After an adverse decision of the honorary board, the claimant (the association) applied to the Higher Regional Court of Frankfurt to have the board's interim decision on jurisdiction as well as its final decision on the merits set aside according to §§ 1040 and 1059 ZPO, based on articles 16 and 34 MAL. It contended that the "honorary board" was not an arbitral tribunal and that there was no valid arbitration agreement pursuant to § 1029 ZPO, based on article MAL 7, as a basis for its decision.

The Court granted both applications, holding that for both decisions there was no valid arbitration agreement upon which the board could base its jurisdiction. It held that the classification of the "honorary board" as an arbitral tribunal or a mere disciplinary board of the association was not to be inferred from the wording of its statutes, but rather from the fact that the board's decisions could have binding effect on the parties concerned. The Court denied such binding effect since the board's decisions were subject to a majority vote in the meeting of the members. The decision of the meeting of the members could not be deemed thus as a second instance decision either, as it was the outcome of non-judicial proceedings. The statutes of the "honorary board" did not constitute a valid arbitration agreement. Furthermore, the Court deemed that the original filing of the applications with the Higher Regional Court in Cologne was sufficient to prevent the one-month time limit under § 1040 (3) ZPO, based on article 16 (3) MAL, from expiring. Though the Cologne Court lacked jurisdiction, the filings were sufficient to fulfil the requirement of § 1040 (3) ZPO, i.e. to create certainty as to whether or not a party accepted the interim decision on the competence of an arbitral tribunal.

In addition, the fact that the claimant did not challenge the board's jurisdiction, during the hearing did not preclude the claimant from invoking the same defence in the setting aside proceedings. It was sufficient that the defence of lack of jurisdiction was raised in the written statements.

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)
Germany: Hanseatisches Oberlandesgericht (Hamburg)
11 Sch 1/01
8 June 2001
Published in German
DIS—Online Database on Arbitration Law—http://www.dis-arb.de
Abstract prepared by Dr. Stefan Kröll and Marc-Oliver Heidkamp

[**keywords**: *applicable law; arbitral awards; award; choice of law; enforcement; ordre public; procedure; public policy; reasoned awards*]

The dispute arose out of a charter-party entered into by the claimant and the respondent, providing for arbitration under the rules of the German Maritime Arbitration Association (GMAA) in Hamburg. When the claimant applied to have the award rendered in its favour declared enforceable according to § 1060 of the German Code of Civil Procedure (hereinafter ZPO), based on articles 35-36 MAL, the respondent raised several defences, all of which were rejected.

The Court held that the arbitral tribunal did not ignore the law chosen by the parties, and that the award could thus not be challenged pursuant to § 1059 (2) Nr. 1 lit. d ZPO, based on article 34 (2) (a) (iv) MAL. The mere reference to the English concept of "damages for detention" in an award clearly based on German law—which was expressly chosen by the parties to govern the merits of the dispute—did not constitute the application of a different law. The reliance on foreign legal concepts in the interpretation of German law was not only permissible, but also common practice in arbitration. Moreover, the charter-party itself contained the phrase "damages for detention." Furthermore, state courts must refrain from a *revision au fond*, i.e. from an examination of the substantial correctness of the application of the law chosen by the parties, their power being limited to verifying whether the said law was applied at all. For the same reasons the Court denied that the award could be challenged on the basis of an alleged infringement of the *ordre public* in the sense of § 1059 (2) Nr. 2 lit. b ZPO, based on article 34 (2) (b) (ii) MAL.

In the Court's view, the respondent's right to be heard was not infringed through the allegedly incomplete discussion of the respondent's essential arguments in the reasoning of the award. According to § 1059 (2) Nr. 1 lit. d and Nr. 2 lit. b ZPO, such a defence is only available where the reasoning as required under § 1054 (2) ZPO, based on article 31 (2) MAL, is totally lacking content, senseless or contrary to the decision, amounting, in other words, to a complete lack of reasoning. That was not the case in the present dispute. The tribunal was not required, in addition, to discuss all issues raised by the parties. The alleged surprise findings of the tribunal did not constitute a violation of the right to be heard in the sense of § 1059 (2) Nr. 2 lit. b ZPO. The duty to inform the parties provided for by §§ 139 and 278 (3) ZPO had to be observed also in the arbitral proceedings, but only upon agreement by the parties or if the parties were otherwise surprised by the tribunals

findings, to the extent that the arguments dealt with by the tribunal were relevant for the outcome of the proceedings. That was not the case in the dispute at hand. The arbitral tribunal had only interpreted individual agreements entered into by the parties and it was not required to give prior notice concerning its reasoning.

Case 570: MAL 16 (1); 34 (2) (a) (i)
Germany: Hanseatisches Oberlandesgericht (Hamburg)
11 Sch 2/00
30 August 2002
Published in German
DIS—Online Database on Arbitration Law—http://www.dis-arb.de
Abstract prepared by Dr. Stefan Kröll and Marc-Oliver Heidkamp

[**keywords**: *arbitral awards; arbitration agreement; arbitration agreement—validity; arbitration clause; award—setting aside; competence; jurisdiction; kompetenz-kompetenz; remission—of award*]

In the present case the Court declared admissible, but unfounded on the merits, a setting aside proceedings initiated against an award with which the arbitral tribunal had denied its jurisdiction.

In the Court's view, the setting aside proceedings under § 1059 of the German Code of Civil Procedure (hereinafter ZPO), based on article 34 MAL, were in principle admissible, because no substantial distinction can be drawn between an award on jurisdiction and an award on the merits. Both may essentially suffer from the same type of irregularities and thus affect the parties' rights in the same way. The necessity to pursue its own rights before state courts as opposed to arbitration proceedings - as a consequence of an arbitral tribunal's denial of jurisdiction - might in fact result for the party, who initiated the arbitration proceedings, in higher legal costs and a waste of time.

The Court made clear, however, that the possibility of seeking to set aside an award which denied the arbitral tribunal's jurisdiction did not necessarily imply the applicability of one of the grounds contained in § 1059 ZPO. The Court rejected the claimant's view that § 1059 (2) Nr. 1 lit. a ZPO, based on article 34 (2) (a) (i) MAL, was to be applied by analogy to the case in which the arbitral tribunal declared the arbitration agreement invalid. The enumeration of grounds for setting aside an award contained in § 1059 (2) ZPO was to be considered exhaustive . The Court further denied that the ordre public was infringed by the fact that, in a related action between the same parties, the Regional Court had refused jurisdiction, assuming the validity of the arbitration agreement entered into by the parties. The Higher Regional Court found that the claimant was granted sufficient legal protection, because, irrespective of these opposing decisions, he was still able to pursue its rights before state Courts.

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)
Germany: Hanseatisches Oberlandesgericht (Hamburg)
11 Sch 6/01
24 January 2003
Published in German
DIS—Online Database on Arbitration Law—http://www.dis-arb.de
Abstract prepared by Dr. Stefan Kröll

[**keywords**: *arbitral awards; arbitration agreement; arbitration agreement – validity; arbitration clause; award; enforcement; form of arbitration agreement; formal requirements*]

The dispute arose out of an agreement for the sale of coffee concluded over the phone between two Polish companies active in international coffee trading. The buyer (claimant), confirmed the sale concluded over the phone by registered mail. The written contract documents contained the clauses "terms as per: The European Contract for Spot Coffee" (hereinafter ECC) and "Arbitration: Hamburg". The ECC provided that any dispute should be settled by arbitration at the place to be named by the parties under the rules and practices of the local coffee trading association. When a dispute arose, the claimant initiated arbitration proceedings in Hamburg, according to the rules of the German Coffee Association. In 1998 the claimant applied to have an award rendered in its favour declared enforceable in Poland. The Polish Courts, however, refused enforcement, pointing out the lack of a valid arbitration agreement fulfilling the form requirements of article II of the New York Convention. In 2001, after the award had finally been formally served on the respondent and had been registered with the German Courts, the claimant applied to have it declared enforceable in Germany. The respondent objected, invoking the Polish judgment and the lack of a valid arbitration agreement.

The Higher Regional Court declared the award enforceable. As the place of arbitration was in Germany, the refusal by the Polish Courts to enforce the award had no effect on the proceedings for the declaration of enforceability in Germany. The Polish decision neither led to the defence of the annulment of the award in the country of origin nor did it bind the German Courts in any other way.

The Court acknowledged that the respondent was not time-barred to raise defences against enforcement, since the three-month period only started to run when the award was formally served on the respondent and registered with the German Courts, as required under the old law. Though the respondent did not initiate any annulment proceedings, the three-month period did not expire as the claimant commenced the enforcement proceedings. . The Court, however, rejected all the respondent's defences, since it deemed a valid arbitration agreement to exist.

Under the applicable German law the arbitration agreement validly became part of the contract when the respondent did not object to its inclusion in the confirmation letter and started performance of the contract. Despite its minimal content ("Arbitration: Hamburg"), the clause was valid because when read in conjunction with the EEC it referred to the rules of German Coffee Association, the local coffee trading association. The wording of the arbitration clause according to which "any dispute … shall be determined by arbitration", was also sufficiently wide to cover the dispute at hand. It allowed for quality arbitration as well as

arbitral proceedings in the general sense. It would not be in line with the parties' interests to restrict the scope of the arbitration clause only to disputes concerning the quality of goods.

Case 572: MAL 7; 34 (2) (b) (i)
Germany: Hanseatisches Oberlandesgericht (Hamburg)
11 Sch 5/00
29 September 2000
Published in German: [2001] Reports of the OLG Hamburg (OLGR) 196
DIS—Online Database on Arbitration Law—http://www.dis-arb.de
Abstract prepared by Dr. Stefan Kröll and Marc-Oliver Heidkamp

[**keywords**: *arbitrability ; arbitral tribunal; arbitration agreement; arbitration clause; award—setting aside; form of arbitration agreement; formal requirements; writing*]

The dispute arose out of a reorganization of the German Hockey League by the respondent, the German Hockey Association ('the Association'), as a result of which the claimant, a hockey club, was downgraded to the second league. The arbitral tribunal provided for in the statutes of association rejected the claimant's application to have the reorganisation overturned. The claimant then applied to the Higher Regional Court of Hamburg seeking to set aside the award according to § 1059 ZPO, based on article 34 MAL.

The Court considered the application to be admissible but groundless. Contrary to the assertions of both parties, the Association's tribunal was an arbitral tribunal in the sense of §§ 1025 et seq. of the German Code of Civil Procedure (hereinafter ZPO) and not a mere organ of the respondent. According to the Association's Arbitration Rules, the tribunal had to decide disputes instead of state courts and its independence was warranted.

The Court, however, deemed that none of the grounds for setting aside awards laid down in § 1059 (2) ZPO, based on article 34 (2) MAL, could be applied to the dispute. The inclusion of arbitration agreements in the statutes of associations was governed by § 1066 ZPO, so that no consent in the written form of § 1031 ZPO, based on article 7 MAL, was required. Furthermore, despite the effects the award had on other members of the Association, the dispute was arbitrable (§ 1059 (2) Nr. 2 lit. a ZPO, based on article 34 (2) (b) (i) MAL). Since the tribunal was composed of permanent members, the actual parties of the dispute had no stronger influence on its composition than other members that did not participate, but they were nevertheless affected. Second, third parties possibly affected by the decision were allowed to participate in the proceedings, so that their rights were given sufficient protection.

II. Cases relating to the UNCITRAL Model Law On Electronic Commerce (MLEC)

Case 573: MLEC Art. 11 (1); 13
Singapore: Singapore Court of Appeal
No. CA 30/2004
Chwee Kin Keong & Others v. Digilandmall.com Pte Ltd.
13 January 2005
Published in English: [2005] SGCA 2

Abstract prepared by Charles Lim, National Correspondent, with the assistance of Kessler Soh and Andrew Abraham

On 8 January 2003, a website operated in Singapore by Digiland, a Singapore company (the respondent), advertised on sale a laser printer worth Singapore dollars (S$) 3,854 for only S$ 66. This pricing error was due to the uploading on the website of a set of figures prepared for a training template. By the time the mistake was discovered, on 14 January 2003, 784 individuals (six of whom were the appellants for this case) had already placed 1008 purchase orders via the Internet for 4086 laser printers. In total, they ordered 1,606 printers for a total price of S$ 105,996 against a market value of S$ 6,189,524.

After the discovery of the pricing error on the website, Digiland refused to honour the contracts on the basis that there was a mistake in the posted price. The appellants then commenced action in the Singapore High Court. The High Court applied in its judgment the Singapore Electronic Transactions Act (ETA), which adopts the UNCITRAL Model Law on Electronic Commerce (MLEC). The High Court found that the purchase contracts were void under common law due to unilateral mistake and dismissed the claims accordingly.

The Court of Appeal upheld the findings of the High Court that each of the six appellants had actual knowledge that there was a mistake in the pricing on the websites, and that the contracts were void on the ground of unilateral mistake. The Court of Appeal added that even if there were no actual knowledge but only constructive knowledge, equity ought to intervene to set aside the purchases, as they clearly constituted “sharp practice” or “unconscionable conduct”.

The Court of Appeal considered the evidence in respect of each appellant. As to the 2nd appellant, even though no evidence pointed to his direct actual knowledge, the Court confirmed the first judge’s findings that he was clearly shutting his eyes to the truth and snapping up a bargain when he entertained doubts as to its correctness. As to the 3rd and 6th appellants, the Court of Appeal upheld the High Court findings that they had actual knowledge, to the extent they clearly suspected a mistake, and cannot seriously have harboured doubts or concerns about whether the printers were outdated models (as they claimed). They pounced on the opportunity to make profits and arbitrage on the difference by ordering 760 and 330 printers respectively. As to the 5th appellant, the Court of Appeal found that he could not have expected to obtain a good ‘arbitrage position’ (as the appellant had so claimed) if the model was an outdated one.

As to the 4th appellant, his act of late checking if the transactions were in order, confirmed that he had doubts about the correctness of the price. Even if that

did not amount to actual knowledge, equity ought to intervene to set aside the purchases as what transpired constituted "sharp practices". The Court of Appeal held nevertheless that constructive knowledge alone should not suffice to invoke equity. Whether constructive notice should lead the court to intervene, it must necessarily depend on the presence of other factors, such as 'sharp practice' or 'unconscionable conduct', or some other element of unfairness. The conduct of deliberately not bringing the suspicion of a possible mistake to the attention of the mistaken party could constitute such unfairness.

Index to this issue

I. Cases by jurisdiction

Germany

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

Singapore

Case 566: MAL 34; 34 (2) (a) (i); 34 (2) (a) (ii); 34 (2) (a) (iii); 34 (2) (a) (iv); 34 (2) (b) (ii)—*Singapore: High Court, ABC CO v. XYZ CO LTD (8 May 2003)*

Case 567: MAL 16 (3)—*Singapore: High Court; OM No 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

Case 573: MLEC Art. 11 (1); 13—*Singapore: Singapore Court of Appeal; No CA 30/ 2004, Chwee Kin Keong & Others v. Digilandmall.com Pte Ltd. (13 January 2005)*

II. Cases by text and article

UNCITRAL Model Arbitration Law (MAL)

MAL 7

Case 571: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

Case 572: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

MAL 7 (1)

Case 568: Germany*: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

MAL 10

Case 568: *Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

MAL 16 (1)

Case 570: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

MAL 16 (3)

Case 567: *Singapore: High Court; OM No 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

Case 568: *Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

MAL 28 (1)

Case 569: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

MAL 31 (2)

Case 569: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

MAL 34

Case 566: *Singapore: High Court, ABC CO v. XYZ CO LTD (8 May 2003)*

MAL 34 (1)

Case 568: *Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

MAL 34 (2) (a) (i)

Case 566: *Singapore: High Court, ABC CO v. XYZ CO LTD (8 May 2003)*

Case 568: *Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

MAL 34 (2) (a) (ii)

Case 566: *Singapore: High Court, ABC CO v. XYZ CO LTD (8 May 2003)*

MAL 34 (2) (a) (iii)

Case 566: *Singapore: High Court, ABC CO v. XYZ CO LTD (8 May 2003)*

MAL 34 (2) (a) (iv)

Case 566: *Singapore: High Court, ABC CO v. XYZ CO LTD (8 May 2003)*

MAL 34 (2) (b) (i)

Case 572: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

MAL 34 (2) (b) (ii)

Case 566: *Singapore: High Court, ABC CO v. XYZ CO LTD (8 May 2003)*

MAL 34 (3)

Case 571: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

MAL 35 (1)

Case 569: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

Case 571: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

MAL 36 (1) (a) (i)

Case 571: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

MAL 36 (1) (a) (iv)

Case 569: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

MAL 36 (1) (b) (ii)

Case 569: *Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

UNCITRAL Model Law on Electronic Commerce (MLEC)

MLEC 11 (1)

Case 573:—*Singapore: Singapore Court of Appeal; No CA 30/ 2004, Chwee Kin Keong & Others v. Digilandmall.com Pte Ltd. (13 January 2005)*

MLEC 13

Case 573:—*Singapore: Singapore Court of Appeal; No CA 30/ 2004, Chwee Kin Keong & Others v. Digilandmall.com Pte Ltd. (13 January 2005)*

III. Cases by keyword

UNCITRAL Model Arbitration Law (MAL)

applicable law

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

arbitrability

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

arbitral awards

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

arbitral tribunal

Case 566: MAL 34; 34 (2) (a) (i); 34 (2) (a) (ii); 34 (2) (a) (iii); 34 (2) (a) (iv); 34 (2) (b) (ii)—*Singapore: High Court; OM No. 600027 of 2001, ABC CO v. XYZ CO LTD (8 May 2003)*

Case 567: MAL 16 (3)—*Singapore: High Court; OM No. 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

arbitration agreement

Case 567: MAL 16 (3)—*Singapore: High Court; OM No. 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

arbitration—submission to

Case 567: MAL 16 (3)—*Singapore: High Court; OM No. 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

arbitration agreement—validity

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

arbitration clause

Case 567: MAL 16 (3)—*Singapore: High Court; OM No. 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

award

Case 566: MAL 34; 34 (2) (a) (i); 34 (2) (a) (ii); 34 (2) (a) (iii); 34 (2) (a) (iv); 34 (2) (b) (ii)—*Singapore: High Court; OM No. 600027 of 2001, ABC CO v. XYZ CO LTD (8 May 2003)*

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

award—setting aside

Case 566: MAL 34; 34 (2) (a) (i); 34 (2) (a) (ii); 34 (2) (a) (iii); 34 (2) (a) (iv); 34 (2) (b) (ii)—*Singapore: High Court; OM No. 600027 of 2001, ABC CO v. XYZ CO LTD (8 May 2003)*

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

choice of law

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

competence

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

enforcement

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

form of arbitration agreement

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

formal requirements

Case 571: MAL 7; 34 (3); 35 (1); 36 (1) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 6/01 (24 January 2003)*

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*

interim award

Case 566: MAL 34; 34 (2) (a) (i); 34 (2) (a) (ii); 34 (2) (a) (iii); 34 (2) (a) (iv); 34 (2) (b) (ii)—*Singapore: High Court; OM No. 600027 of 2001, ABC CO v. XYZ CO LTD (8 May 2003)*

Case 567: MAL 16 (3)—*Singapore: High Court; OM No. 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

jurisdiction

Case 567: MAL 16 (3)—*Singapore: High Court; OM No. 9 of 2003, PT Tugu Pratama Indonesia v. Magma Nusantara Ltd. (10 September 2003)*

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

kompetenz-kompetenz

Case 568: MAL 7 (1); 10; 16 (3); 34 (1); 34 (2) (a) (i)—*Germany: Oberlandesgericht Frankfurt; 3 Sch 2/2000 (6 September 2001)*

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

ordre public

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

procedure

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

public policy

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

reasoned awards

Case 569: MAL 28 (1); 31 (2); 35 (1); 36 (1) (a) (iv); 36 (1) (b) (ii)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 1/01 (8 June 2001)*

remission—of award

Case 570: MAL 16 (1); 34 (2) (a) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 2/00 (30 August 2002)*

writing

Case 572: MAL 7; 34 (2) (b) (i)—*Germany: Hanseatisches Oberlandesgericht (Hamburg); 11 Sch 5/00 (29 September 2000)*