President's Message

Investor-state arbitration is the current hot topic in international arbitration. Almost every second arbitration conference addresses the topic and an abundance of articles are being published on the various aspects of the subject. True, investor-state arbitrations add a new dimension to international commercial arbitration. They are not merely arbitrations about a dispute arising from a commercial venture with a state or state entity as a party. Their characteristic is that they involve on the legal side not only issues of 'private' commercial law (contract or corporate law) but also and in addition principles of international public law. Given the high visibility of investor-state arbitration it is no wonder that arbitral institutions are thinking about adapting or amending their rules to fit the special needs of this type of dispute resolution. The same tendency can be observed within the context of the current efforts to modernize the UNCITRAL Arbitration Rules. These Rules are indeed frequently used in investor-state arbitrations. My personal concern is that the current efforts of the UNCITRAL Working Group on Arbitration to modernize the Rules may become too much focused on the specific needs of investor-state arbitral proceedings. It is, in my opinion, of great importance to preserve the UNCITRAL Rules as a set of rules that are suited to and usable in everyday cross-border commercial arbitration. Caution should be exercised not to turn the Rules into a complicated, over-detailed and hard to read rule work orientated towards a special type of arbitration. The specific needs of investor-state arbitration might best be served by an additional and separate set of UNCITRAL Rules prepared for that specific purpose.

Zurich, January 2007 Markus Wirth