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Content:

1. Railway contract between Turkey and the "Compagnie générale pour l'exploitation des chemins de fer de la Turquie Europe" (1872)

Disputes shall be settled according to "les principes appliqués dans les circonstances analogues dans les autre grands Etats de L'Europe, tel que L'Autriche, l'Italie, la France et l'Allemagne."

(cited by Fischer, GYIL 19 [1976] 143, 154)

2. Concession Agreement between Government of Iran and National Iranian Oil Company (1957)

"In view of the divers nationalities of the parties to this Agreement it shall be governed by ....the principles of law common to Iran and the several nations in which the other parties to this Agreement are incorporated and, in the absence of such common principles, by...the principles of law recognized by civilized nations in general, including such of those principles as may have been applied by international tribunals."

(reported by Wetter, Bus.Lawy. 1962, at 967, 977)

3. LIAMCO Concession Agreement (1955)

"This Concession shall be governed by and interpreted in accordance with the principles of law of Libya common to the principles of international law, and in the absence of such common principles then by and in accordance with the general principles of law as may have been applied by international tribunals."

(ILM XX [1981] 1, 33)

4. TOPCO Concession Agreement (1963)

"This concession shall be governed by and interpreted in accordance with the law of Libya and such rules and principles of international law as may be relevant but only to the extent that such rules and principles are not inconsistent with and do not conflict with the laws of Libya."

(ILM XVII [1978] 1, 15)
5. AMINOIL Concession Agreement (1979)

"The law governing the substantive issues between the Parties shall be determined by the Tribunal, having regard to the quality of the Parties, the transnational character of their relations and the principles of law and practice prevailing in the modern world."

(ILM XXI [1982] 976, 1000)


"...the construction, validity and performance of the contract shall in all respects be governed by and interpreted in accordance with the principles common to both English and French law, and in the absence of such common principles by such general principles of international trade law as have been applied by national and international tribunals. Subject in all cases, with respect to the works to be respectively performed in the French and in the English part of site, to the respective French or English public policy (ordre public) provisions."


7. ICC Award No. 7375 (1995)

"...apart from having due regard to the contractual terms and taking into account relevant trade usages, the contract... shall be governed by, and interpreted according to, general principles of law applicable to international contractual obligations having earned a wide international consensus, including notions said to form part of the lex mercatoria as well as the UNIDROIT Principles, as far as they can be considered to reflect generally accepted notions and principles."

(cited by Bonell, An International Restatement of Contract Law, 2nd. ed. 1997, at 249)

8. Unknown contract of 1961

"The arbitral tribunal shall be bound to apply provisions and legal principles of international law."


"The application of international principles of law offers many advantages. They apply in a unique manner and they are independent of the particularities of any domestic legal system. They take into account the particular needs of international relations and allow a fruitful exchange between the systems which are often linked to conceptual distinctions in an exaggerated manner on one side and those who seek just and pragmatic solutions of individual cases on the other. It is thus an ideal opportunity to apply [in this arbitration] what is more and more called lex mercatoria."

(ICC Award No. 8385, Clunet 1995, at 1061, 1066 [translation from French])

10. ICC Award No. 9875 (1999)

"...A contract concluded between Japanese and French companies concerning a licence to manufacture products and to sell them in various parts of the world is not appropriately governed by the national law of one of the parties, failing agreement [by the parties] on such a choice. The most appropriate 'rules of law' to be applied to the merits of this case are those of the lex mercatoria, that is the rules of law and usages of international trade which have been gradually elaborated by the different sources such as the operators of international trade themselves, their associations, the decisions of international arbitral tribunals and some institutions like Unidroit and its recently published Principles of International Commercial Contracts."

(ICC International Court of Arbitration Bulletin 2001, No. 2, at 96 et seq.)

11. ICC Arbitral Award No. 12111 (2003)
Article 14 of the Contract states: "the present Contract is governed by international law". It is clear that Y, by executing the Contract, agreed that English law was not applicable. The issue is therefore the interpretation of the terms "international law".

[...]

Accordingly, the Sole Arbitrator considers that the terms "international law" used by the parties refer to lex mercatoria and general principles of law applicable to international contractual obligations such as the ones arising out of the Contract. Such general principles are reflected in the Unidroit Principles of International Commercial Contracts which will be applied for the determination of the parties' respective claims in this arbitration.