Ladies and Gentlemen:

Here is the schedule of classes, including references to pertinent readings and the tentative assignments.

The following course materials are available from the Office of Faculty Support and Campus Services, McDonough Hall, Room 475, and can be downloaded at:
HYPERLINK "http://www.law.georgetown.edu/CourseMaterials"
www.law.georgetown.edu/CourseMaterials:

Book I -- Syllabus, Readings, and Assignments
Book II – Statutes, Treaties, and Rules

The following books have been placed on reserve for this course:

-- Redfern & Hunter, Law and Practice of International Commercial Arbitration (an English point of view, with emphasis on the UNCITRAL Model Law)
-- Born, International Commercial Arbitration (focus on U.S. law; comprehensive collection of citations) (3rd ed.)
-- Fouchard, Gaillard & Goldman, International Commercial Arbitration (French point of view)

Tentative Schedule of Classes


   Readings: Ball, "International Arbitration: The Fundamentals" (in readings collection)

   In addition, skim the basic documents relating to international arbitration in the Statutes, Treaties and Rules volume available at Support Services, especially the New York Convention.
2. Class 2: January 28. Overview of International Arbitration Under U.S. Law: interplay of international, federal and state law, the dual system of courts, separability, non-arbitrability.

Readings: The Federal Arbitration Act, 9 U.S.C. ("FAA") (in Statutes, etc...collection)
Joelson, "The Interplay of International, Federal and State Law in U.S. Arbitration" (in readings collection)
Buckeye Check Cashing, Inc. v. Cardegna, 546 U.S. 440 (2006); (severability, who decides "arbitrability") (in readings collection)
Summary of Recent U.S. Supreme Court Cases on Arbitration (in readings collection)
Polebaum, Gogadze. “Looking to Enforce a Foreign Arbitral Award in the United States? Do Not Forget About Personal Jurisdiction” (in readings collection)

[Divide class into teams for next class assignment]

3. Class 3: February 4. Negotiation and Drafting of an Arbitration Clause

Readings: IBA Guidelines for Drafting International Arbitration Clauses, Table of Contents (in readings collection)
Ball, “Drafting an Arbitration Clause” (in readings collection)
Boo, "The Writing Requirement in Contemporary Practice: Is There Really a Need for Change? " (in readings collection)
The New York Convention, Article II (1) and (2) (in Statutes, etc... collection)
UNCITRAL Model Law on International Commercial Arbitration, as amended in 2006, Article 7, Options 1 and 2 (in Statutes, etc... collection)

[Arbitration clauses to be submitted by February 2nd]
4. Class 4: February 11. Drafting a Statement of Claim; Non-Signatories

Readings: Elements of a Statement of Claim (in readings collection)
The Request for Arbitration (ICC Commission Draft) (in readings collection)
Non-Signatories: Sentner, "Who Is Bound by Arbitration Agreements? Enforcement by and Against Non-Signatories" (in readings collection)

[Claims due by February 9]

5. Class 5: February 25. Drafting an Answer and Counterclaim; Selection of Arbitrators

Readings: The Answer and Counterclaims (ICC Commission Draft) (in readings collection)
Ball, "Choosing a Neutral Arbitrator in an International Arbitration" (in readings collection)
Chartered Institute of Arbitrators: The Interviewing of Prospective Arbitrators (in readings collection)
International Bar Association Guidelines on Party Representation in International Arbitration (2013) (in Statutes etc...collection)

[Answers and Counterclaims due by February 23]

6. Class 6: March 3. Challenges to Arbitrators

American Arbitration Association, "Disclosure and Challenge of an Arbitrator in International Cases" (in readings collection)
American Bar Association/American Arbitration Association Code of Ethics for Arbitrators in Commercial Disputes (in Statutes, etc...collection)
International Bar Association Rules of Ethics for International Arbitrators (2008) See IBA Website
International Bar Association Guidelines on Conflicts of Interest in Arbitration (2014) See IBA Website

[Challenges due by February 28, responses due by March 2]
7. Class 7: March 17. The Pre-Hearing Conference; Choice of Law; Discovery Strategy

Readings: "UNCITRAL Notes on Organizing Arbitral Proceedings" (in readings collection)
Holtzmann, "Balancing the Need for Certainty and Flexibility in International Arbitration Procedures" (in readings collection)

[Pre-hearing conference memoranda due March 15]


Readings: International Bar Association Rules on the Taking of Evidence in International Arbitration (2010) See IBA Website
ICDR Guidelines for Arbitrators Concerning Exchanges of Information; ICDR Art. 21 (in readings collection)
Dynegy Midstream Services L.P. v. Trammochem, 2nd Cir. 2006 (in readings collection)
Sexton v. Lecavalier, S.D.N.Y. 2014 (in readings collection)
Hague Evidence Convention (in Statutes etc… collection)

[Requests for production of documents and attendance of witnesses due by March 21; responses to requests due by March 23]

9. Class 9: March 31. Summary of Legal Argument (Writing a Prehearing Brief)

Readings: Writing a Brief (in readings collection)

Each student will prepare a summary of legal argument in whichever of the two scenarios (NYC or Kenya) he/she selects. On the issue of alter ego, you should refer to the law of the U.S. state in which the stockholding corporation is incorporated. The summary, up to five pages double spaced, will be due by noon on March 29th. This paper should state briefly each legal argument on behalf of your client's position on both jurisdictional and merits issues. Also, explain why you have
chosen the particular applicable law on each point and cite authorities with correct citations. Please send copies electronically only to the two professors. The summaries will be discussed in class on March 26th.

10. Class 10: April 7. Arbitration Hearing (one half of class)

    Readings: Order of Hearing (in readings collection)
              Finizio and Speller, “A Practical Guide to International Commercial Arbitration”, portion on preparing and conducting the oral hearings (in readings collection); “Is Cross-Examination in International Arbitration Worthwhile?”, Fellas, “Cross-Examination in International Arbitration” (in readings collection)


    Readings: Same as for Class 10.


    There will be a short answer pop quiz on common issues encountered in international commercial arbitration (open book). No prior preparation by the students will be required and the answers will be discussed in class after the quiz.

13. Class 13: April 28. Drafting an Arbitral Award

    Readings:
    Kenya Arbitration Statute, Section 4 (in readings collection)
    See, “The Danubia Files: Award Writing Lessons…”

    Awards—up to 20 pages due April 27, but submitted to the two professors only, electronically and in hard copy. Each student, working independently, will draft an award on whichever of the two scenarios he/she selects. We suggest that you start your work on this project as soon as possible (after the legal and factual issues have been developed). In class, the students will explain their reasoning in the decisions that they made in their awards.

    The final grade will be based primarily on the quality of the student’s Arbitral Award. Consideration will also be given to his/her class participation and his/her performance of the above assigned exercises. Class attendance is critical, excused only by illness or for a substantial reason accepted in advance by the professors.

Professors Joelson and Bowker