



the Question OF Arbitrability

Challenges to the
Arbitrator's Jurisdiction
and Authority



Mark M. Grossman

Question Of Arbitrability Challenges To The Arbitrators Jurisdiction And Authority

Neil Kaplan, Michael Moser



Question Of Arbitrability Challenges To The Arbitrators Jurisdiction And Authority:

The Question of Arbitrability Mark M. Grossman, 1984 This guide intended for unions management arbitrators lawyers individuals affected by the grievance process analyzes the key elements of arbitrability The author comments on more than 200 case law decisions

Jurisdiction, Admissibility and Choice of Law in International Arbitration: Liber Amicorum Michael Pryles Neil Kaplan, Michael Moser, 2016-04-24 The distinguished international lawyer Michael Pryles who launched a meteoric career as an arbitrator after many years of teaching and writing on conflicts of law and other topics has made a mark on arbitral law and practice that is recognized worldwide In this book over forty prominent arbitrators and arbitration scholars offer insightful essays on the thorny matters of jurisdiction admissibility and choice of law in arbitration topics which have long interested Professor Pryles and are of wide interest Among the specific issues and topics examined are the following res judicata investment arbitration free trade agreements party autonomy application of provisional measures issue estoppel evidentiary inferences interim measures emergency and default proceedings the intersection of financing and jurisdiction consolidation of cases and non contractual claims Remarkable for its roster of highly distinguished contributors this book is the only in depth treatment of its subject By turns thought provoking and practical it is bound to appeal to and be put to use by arbitrators and other lawyers who handle international cases It will also prove of great value to global law firms and companies doing transnational business

Bias Challenges in International Commercial Arbitration Sam Luttrell, 2009-01-01 Shows how dirty challenge tactics are made viable primarily by the prevalence of a judicially derived test for bias which focuses on appearances rather than facts and He argues that the most commonly used test of bias the reasonable apprehension test makes it easy to allege a lack of impartiality and independence

Contemporary Problems in International Arbitration Julian Lew, 2013-06-29 The establishment of a School of International Arbitration was a sufficiently important occurrence to have brought to London for its inaugural conference most of the world s leading experts on international arbitration The three day Symposium on March 25 27 1985 sought to identify and consider the It was not the aim contemporary problems affecting international arbitration of the Symposium to develop propose or agree solutions to these problems but rather to discuss the issues and alternative solutions The success of the School will be measured in the future by its contribution through research and teaching to the development of solutions to the difficulties and uncertainties which reduce the effectiveness of international arbitration agreements and awards and the conduct of international arbitral proceedings This book reproduces the papers presented at the Symposium amended and varied by several contributors It is not considered appropriate here to comment on or analyse paper by paper the ideas presented or discussions which ensued However it would be appropriate to make reference to specific developments in the short period since the Symposium directly relevant to the papers reproduced and the discussions which ensued The pertinence of the subject matter selected becomes clear from these subsequent developments

The Guide to

Challenging and Enforcing Arbitration Awards John William Rowley, Emmanuel Gaillard, Gordon E. Kaiser, Benjamin Siino, 2021 Enforcement of Arbitration Agreements and International Arbitral Awards Emmanuel Gaillard, Domenico Di Pietro, Nanou Leleu-Knobil, 2008

Enforcement of Arbitration Agreements and International Arbitral Awards provides the most exhaustive commentary on the fundamental aspects of the New York Convention. The significant legal developments and associated practice over the last 50 years have been put under the microscope by distinguished academics and practitioners in the area. Each of the 31 chapters provides focused analysis of individual issues with the emphasis on the relevant case law from various Contracting States without ever straying from a global outlook.

Arbitration and Corruption Andrea Meier, Christian Oetiker, 2021-07-12

Corruption is one of the main obstacles to sustainable development and has a significant negative impact on a country's productivity. In this book, which reproduces the transcribed presentations and lively discussions at the 2019 Annual Conference of the Swiss Arbitration Association (ASA), four panels including internationally known arbitration practitioners, criminal lawyers, and accountants exchange views on the causes, costs, and impacts of corruption, not only on society but also on the arbitral process and the arbitral profession. Among the many facets of corruption, the contributors address the following legal framework of corruption and applicable law: cost of corruption from an economic perspective; jurisdiction and the arbitrability of issues of corruption; aspects of corruption that are specific to arbitration in specific business sectors; cases involving corrupt arbitrators; experts and witnesses establishing correctness or incorrectness of suspicion of corruption; bringing issues of corruption before the parties and judicial scrutiny of corruption-tainted arbitral awards at the setting aside and enforcement stage. The authors, all of them prominent in representing the full range of business sectors active in international arbitration, provide matchless practical guidance in dealing with challenges associated with corruption in arbitration. Among much else, they deal with red flags likely to indicate suspicious relationships, effective strategies to employ when confronted with a corruption-tainted contract, and reporting suspicion of corruption and the related risk of personal liability. All of this invaluable material will be greatly appreciated by practising arbitrators, corporate counsel, arbitration institutions, and concerned academics.

Arbitrability Loukas A. Mistelis, 2009-01-01

It often seems today that no dispute is barred from resolution by arbitration. Even the fundamental question of whether a dispute falls under the exclusive jurisdiction of a judicial body may itself be arbitrable. Arbitrability is thus an elusive concept, yet a systematic study of it, as this book shows, yields innumerable guidelines and insights that are of substantial value to arbitral practice. Although the book takes the form of a collection of essays, it is designed as a comprehensive commentary on practical issues that emerge from the idea of arbitrability. Fifteen leading academics and practitioners from Europe and the United States each explore different facets of arbitrability, always with a perspective open to international developments and comparative evaluation of standards. The presentation falls into two parts: in the first, the focus is on the general features of arbitrability, its rationale, and the laws applicable to it. In the second, arbitrability is specifically examined in the context of

administrative criminal corporate IP financial commercial and criminal law This book has its origins in an International Conference on Arbitrability held at Athens in September 2005 Seven papers presented there are here reviewed and updated and nine others are added The subject of the book and arbitrability and is one that is much talked about but seldom if ever given the in depth treatment presented here Arbitrators and other practitioners in the field will welcome the way the analysis moves logically from theory to practice regarding every issue and academics will recognize a definitive treatment of arbitrability as understood and applied in the settlement of disputes today

International Arbitration Review James H Carter, 2017-09-19 The International Arbitration Review edited by James H Carter of Wilmer Cutler Pickering Hale and Dorr provides an analytical review of what has occurred in each of the important arbitration jurisdictions during the past year capturing recent developments and putting them in the context of the jurisdiction s legal arbitration structure and selecting the most important matters for comment In this book leading practitioners seek to provide current information on both general international commercial arbitration and international investment arbitration treating important investor state dispute developments in each jurisdiction as a separate but closely related topic There are in depth examinations of arbitration in 41 jurisdictions as well as editorial chapters on The Impact of Corporate Taxation on Economic Losses and overviews on ASEAN and Africa Contributors include Bart Legum Michelle Bradfield and Jean Christophe Honlet Dentons James Nicholson FTI Consulting This new and timely publication promises to tackle pressing and present day global concerns and to make valuable contributions to the ongoing dialogue on international arbitration Peter Tomka President International Court of Justice The Hague Comprehensive and topical an excellent reference Professor Christine Mallin University of Birmingham Business School The most discursive and engaging survey of the world of arbitration today Jamie Maples Weil Gotshal Manges LLP

International Chamber of Commerce Arbitration William Laurence Craig, William W. Park, Jan Paulsson, 2000 International Chamber of Commerce Arbitration is a hands on guide providing a critical evaluation of the advantages and disadvantages at every step in the arbitral process including practical facts figures pragmatic suggestions and warnings The book is essential to anyone who is involved in ICC arbitration or who may have to consider the use of an ICC arbitration clause Published in cooperation with the International Chamber of Commerce this text covers every aspect of ICC arbitration The authors seasoned experts provide a detailed description of the arbitral process from the formation of the agreement to arbitrate to the appeal of the enforcement covering in detail the important rulings of the ICC and their potential impact on future awards Appendices include a table of cases table of arbitral awards table of authorities table of articles on the 1998 ICC Arbitration Rules and a comprehensive index

International Arbitration and International Commercial Law Stefan Kröll, 2011-04-26 Over the last half century as UNCITRAL official professor arbitrator and father of the Willem C Vis Arbitration Moot Eric Bergsten has been at the forefront of progress in international commercial arbitration Now on the occasion of his eightieth birthday the international arbitration and sales law community has gathered to honour

him with this substantial collection of new essays on the many facets of the field to which he continues to bring his intellect integrity inquisitive nature eye for detail precision and commitment to public service Celebrating the long standing and sustained contribution Eric Bergsten has made in international commercial law international arbitration and legal education more than fifty colleagues among them quite a few of the best known arbitrators and arbitration academics in the world present 45 pieces that individually both engaging and incisive collectively present a thorough and far reaching account of the state of the field today with contributions covering international sales law commercial law commercial arbitration and investment arbitration In addition nine essays on issues in legal education mirror the great importance of the renowned Willem C Vis International Commercial Arbitration Moot Eric s Vienna project which has offered a life changing experience for so many young lawyers from all over the world Understanding Grievance Arbitration in the Public Sector Arnold Zack,1974 **Arbitration and International Trade in the Arab Countries** Nathalie Najjar,2017-10-23 Arbitration and International Trade in the Arab Countries by Nathalie Najjar is masterful compendium of arbitration law in the Arab countries A true study of comparative law in the purest sense of the term the work puts into perspective the solutions retained in the various laws concerned and highlights both their convergences and divergences Focusing on the laws of sixteen States the author examines international trade arbitration in the MENA region and assesses the value of these solutions in a way that seeks to guide a practice which remains extraordinarily heterogeneous The book provides an analysis of a large number of legal sources court decisions as well as a presentation of the attitude of the courts towards arbitration in the States studied Traditional and modern sources of international arbitration are examined through the prism of the two requirements of international trade freedom and safety the same prism through which the whole law of arbitration is studied The book thus constitutes an indispensable guide to any arbitration specialist called to work with the Arab countries both as a practitioner and as a theoretician **The Idea of Arbitration** Jan Paulsson,2013-11-21 What is arbitration This volume provides a novel theoretical examination of the concept of arbitration attempting to answer fundamental questions which have rarely been addressed systematically in English It explores the place of arbitration in the legal process offering a challenging yet accessible overview of the field and its theoretical underpinnings and contending that arbitration is important enough to be understood in its own terms as a sui generis feature of social life Why do individuals companies and States choose to go to arbitration rather than through litigation Arbitration can offer increased flexibility and confidentiality and provides the parties with the opportunity to select the arbitrators But what makes them want to confide in an arbitrator rather than use the more traditional legal mechanisms for settling disputes This volume explores what the parties can expect of an arbitrator and whether and how the conduct of an arbitrator might be questioned and under what authority It examines the ethical challenges to arbitral authority and its moral hazards evaluating the promises and dangers of self contained systems of decision making and compliance *The Function of Equity in International Law* Catharine Titi,2021-06-11 This

book provides a systematic and comprehensive study of the legal concept of equity as it operates in contemporary international law. A principle with a long pedigree, equity has been present in legal thought and in municipal legal systems since antiquity. Introduced in international legal decisions through claims commissions and arbitral tribunals, equity became progressively part and parcel of the international law mainstream. From international cultural heritage law to the law on climate change, from maritime boundary delimitations to decisions on security for costs in investment arbitration, the relevance of equity is more far reaching than has previously been acknowledged. In contrast with earlier studies on the topic, this book is informed by a body of judicial and arbitral case law that has never been so substantial and varied. It also draws extensively on the prolific case law of investment tribunals, gaining insights from a valuable source that is typically overlooked in public international law scholarship. As the importance of international law increases, covering continuously new domains, the value of equity increases with it. It is this new equity in the international law of the 21st century that this book explores.

College of Commercial Arbitrators Guide to Best Practices in Commercial Arbitration - Third Edition James M. Gaitis, Carl F. Ingwolson, Jr., Vivien B. Shelanski, 2014-01-01. This third edition of The College of Commercial Arbitrators Guide to Best Practices in Commercial Arbitration has been substantially expanded not only to ensure that it is up to date but also to incorporate several new chapters on diverse subjects including intratribunal relations, arbitrators' fees, eDiscovery, and hybrid arbitration processes. Summary of New Material: Twice as long as the second edition. Substantial revision and expansion of existing chapters. Four new chapters: Arbitrators' Fees, Expenses, eDiscovery, Intratribunal Relations, Hybrid Arbitration Proceedings. Updated to take into account evolving case law and to address newly emerging issues relating to the management of commercial arbitrations. Comparative tables regarding certain aspects of major international rules and international arbitration institution policies. Revised to take into account: The new 2013 CPR Administered Arbitration Rules; The 2013 revisions to the AAA Commercial Rules; Various protocols and guidelines relating to domestic commercial arbitration; The 2011 revisions to the JAMS International Rules; The 2012 revisions to the ICDR Articles; The 2010 revisions to the UNCITRAL Rules; The 2013 IBA Guidelines on Party Representation in International Arbitration; The 2010 revisions to the IBA Rules on the Taking of Evidence in International Arbitration. Various protocols and guidelines relating to domestic commercial arbitration. The aim of the Guide is to identify best practices that arbitrators can employ to provide users of arbitration with the highest possible standards of economy and fairness in the disposition of business disputes. This third edition of the Guide refines the guidance contained in the first and second editions to take into account developing case law, revised institutional rules, advancements in arbitration techniques and thinking, and also addresses newly evolving issues such as electronic discovery. There are significant differences in the ways in which arbitrations are conducted in different substantive fields of commerce and among different arbitrators in the same field. Techniques that are appropriate and useful in one case may be quite unsuited to another. For this reason, it is not possible to prescribe a single set of best

practices that commercial arbitrators should invariably follow in every case Rather this Guide attempts to identify the principal issues that typically arise in each successive stage of an arbitration and to explain the pros and cons of various preferred ways of handling each issue From this perspective the best practice for an arbitrator is to carefully consider the merits of alternative techniques available for dealing with a particular issue and to then select the technique best suited to the situation In addition the Guide attempts to identify the full array of practices available for use in complex arbitrations which can be adapted and streamlined for simpler cases Formed in 2001 the College of Commercial Arbitrators is a non profit organization composed of prominent experienced commercial arbitrators who believe that a national association of commercial arbitrators can provide a meaningful contribution to the profession to the public and to the businesses and lawyers who depend on arbitration as a primary means of dispute resolution Its mission includes promoting professionalism and high ethical practice in commercial arbitration adopting and maintaining standards of conduct providing peer training and professional development and developing and publishing best practices materials This work is the College s principal vehicle for fulfilling several aspects of its mission Many seasoned and knowledgeable practitioners generously contributed their time and insights to the creation of this Guide

Employment Arbitration - 2nd Edition Thomas E.

Carbonneau,2006-06-01 Employment Arbitration provides practical commentary and analysis in the area of employment arbitration for both the novice and the seasoned practitioner It contains a comprehensive overview of the major developments in this emerging field and it supplies the reader with analysis perspective and commentary The cases selected for presentation and analysis are the most significant decided to date The case summaries are comprehensive cogent and objectively rendered In addition they contain critical evaluations which can be of use in developing litigation strategy or advising clients on business practices The volume also describes and assesses political developments proposed legislation and lobbying efforts that address or which could affect this new use of arbitration Employment Arbitrationemphasizes a number of issues that are particularly controversial in the area the enforceability of employer imposed arbitration agreements the award of attorney s fees and punitive damages and the review of arbitral determinations on civil rights claims Finally the volume provides the reader with model employment arbitration agreements that are accompanied by extensive commentary and explanations

International Commercial Arbitration Gary Born,2009 International

Commercial Arbitration Third Edition is an authoritative treatise providing the most complete available commentary and analysis on all aspects of the international commercial arbitration process This completely revised and expanded edition of Gary Born s authoritative work is divided into three main parts dealing with the International Arbitration Agreement International Arbitral Procedures and International Arbitral Awards The Third Edition provides a systematic framework for both current analysis and future developments as well as exhaustive citations from all leading legal systems

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 comprehensive commentary and analysis on all aspects of the international commercial arbitration process that is available
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 include all legislative judicial and arbitral authorities and other materials in the field of international arbitration prior to June
 2020 It also includes expanded treatment of annulment recognition of awards counsel ethics arbitrator independence and
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 authorities and will enhance the treatise s position as the world s leading work on international arbitration The first and
 second editions of International Commercial Arbitration have been routinely relied on by courts and arbitral tribunals around
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