



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

Sam Luttrell



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 *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 *Understanding Grievance Arbitration in the Public Sector* Arnold Zack, 1974 **Arbitration Strategy for Labor and Management Advocates** Walt Baer, 2015-01-27 Today 95 percent of all labor contracts in the United States provide for arbitration Indispensable to sound contract management arbitration orchestrates the resolution of disputes by a neutral third party Since parties who reach the process of arbitration are no longer interested in compromise or mutual accommodation arbitrators unlike mediators do not have to work out arguments or propose possible solutions They simply hear evidence and make a decision based on the facts as presented without being bound by rules of evidence or precedents For both sides the key to a successful outcome lies in their advocates ability to present and document their case Providing guidance for labor and management advocates this resource guide contains a practical analysis of arbitration from the participant side with a view to avoiding the problems and pitfalls of the process Written for those who do not deal with the intricacies of arbitration on a day to day basis yet have a responsibility to their company should such situations arise it begins with the very basics of the arbitration concept including discipline and discharge procedures It then provides detailed guidelines for presenting an organization s position effectively and it discusses important principles and practices every advocate should know Additional topics include grievance procedure time limits methods for researching and selecting the arbitrator and recommendations regarding witness conduct Practices of the actual arbitration such as objections admissible evidence and credibility of evidence are also discussed Extensive references to pertinent statutes and case law round out this informative guide 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 in 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

Law and Practice of International Commercial Arbitration Alan Redfern, 2004 Highly acclaimed by practitioners all over the world *Law Practice of International Commercial Arbitration* has deservedly become the leading text in its field With its comprehensive review of the legal context within which international commercial arbitration operates Redfern Hunter is the ultimate user friendly explanation of how arbitration and in particular international commercial arbitration works The 4th edition has been expanded to give a wider global scope to the work Readers can also benefit from the expert insight and advice of world renowned international practitioners international practitioner Contains a comprehensive review of the international

commercial arbitration process from start to finish Includes commentary on suitable places of arbitration developments in international trade law and the increasing harmonisation of national laws governing international arbitration Appendices include the major international rules of arbitration and conventions Explains how arbitration should be conducted to be cost effective and profitable Fully updated to take account of the latest developments all over the world including a new chapter on investment arbitrations

Arbitration of International Business Disputes William W. Park, 2012-09-20 Arbitration of International Business Disputes 2nd edition is a fully revised and updated anthology of essays by Rusty Park a leading scholar in international arbitration and a sought after arbitrator for both commercial and investment treaty cases This collection focuses on controversial questions in arbitration of trade financial and investment disputes The essays address some of the most interesting topics in cross border business dispute resolution many of which have endured over several decades and remain subject to radically different views Examples include the proper role of judicial review the allocation of jurisdictional tasks evolution of arbitration s statutory and treaty framework free trade and bilateral investment agreements and the balance between fixed rules and arbitral discretion The book is structured around three themes arbitration s legal framework the conduct of arbitral proceedings and a comparison of arbitration in specific fields such as finance intellectual property and taxation In each of these areas analysis includes the tensions between fairness and efficiency and the accurate application of substantive law as well as the implications of mandatory procedural norms Augmented by more than a dozen new contributions and a revised introduction this 2nd edition retains all of its earlier practical and scholarly relevance and includes a Foreword by V V Johnny Veeder QC

International Commercial Arbitration: Commentary and Materials Gary Born, 2021-11-15 International Commercial Arbitration contains detailed commentary case analyses and practice pointers Full annotations and footnotes provide invaluable research assistance while clearly written analyses identify and discuss critical issues Representative international arbitral awards and national court decisions are excerpted and detailed reference is made to leading institutional rules Detailed appendices an easy to use Table of Contents and an extensive index to aid research and provide ready access to key materials Co publication with Kluwer Law International North American sales rights only Published under the Transnational Publishers imprint For class adoption a student edition is available for 85 00 978 1 5710 5175 2 Please contact the Brill sales department to arrange an order

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International Commercial Arbitration Gary B. Born, 2020-11-23 *International Commercial Arbitration* is an authoritative 4,250 page treatise in three volumes providing the most comprehensive commentary and analysis on all aspects of the international commercial arbitration process that is available. The Third Edition of *International Commercial*

Arbitration has been comprehensively revised expanded and updated To 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 impartiality and applicable law The revised 4 250 page text contains references to more than 20 000 cases awards and other 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 the world including the highest courts of the United States United Kingdom Singapore India Hong Kong New Zealand Australia the Netherlands and Canada and international arbitral tribunals including ICC SIAC LCIA AAA ICSID SCC and PCA e g U S Supreme Court GE Energy Power Conversion France SAS Corp v Outokumpu Stainless USA LLC 590 U S U S S Ct 2020 BG Group plc v Republic of Argentina 572 U S 25 U S S Ct 2014 Canadian Supreme Court Uber v Heller 2020 SCC 16 Canadian S Ct Yugraneft Corp v Rexx Mgt Corp 2010 1 R C S 649 661 Canadian S Ct U K Supreme Court Jivraj v Hashwani 2011 UKSC 40 78 U K S Ct Dallah Real Estate Swiss Federal Tribunal Judgment of 25 September 2014 DFT 5A_165 2014 Swiss Fed Trib Indian Supreme Court Bharat Aluminium v Kaiser Aluminium C A No 7019 2005 138 39 142 148 49 Indian S Ct 2012 Singapore Court of Appeal Rakna Arakshaka Lanka Ltd v Avant Garde Maritime Servs Ltd 2019 2 SLR 131 Singapore Ct App PT Perusahaan Gas Negara Persero TBK v CRW Joint Operation 2015 SGCA 30 Singapore Ct App Larsen Oil Australian Federal Court Hancock Prospecting Pty Ltd v Rinehart 2017 FCAFC 170 Australian Fed Ct Hague Court of Appeal Judgment of 18 February 2020 Case No 200 197 079 01 Hague Gerechtshof Arbitral Tribunals Lao Holdings NV v Lao People s Democratic Republic I Award in ICSID Case No ARB AF 12 6 6 August 2019 Gold Reserve Inc v Bolivarian Republic of Venezuela Decision regarding the Claimant s and the Respondent s Requests for Corrections ICSID Case No ARB AF 09 1 15 December 2014 Total SA v The Argentine Republic Decision on Stay of Enforcement of the Award ICSID Case No ARB 04 01 4 December 2014 Millicom Int l Operations B V v Republic of Senegal Decision on Jurisdiction of the Arbitral Tribunal ICSID Case No ARB 08 20 16 July 2010 Lemire v Ukraine Dissenting Opinion of J rgen Voss ICSID Case No ARB 06 18 1 March 2011

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 Arbitration emphasizes 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

The Powers and Duties of an Arbitrator Patricia Shaughnessy, Sherlin Tung, 2017-04-15 The scope of the arbitrator's powers in arbitration proceedings has been widely discussed in recent years but remains understudied Among prominent international arbitrators none have focused on this issue more than Dr Pierre A Karrer Dr Karrer is celebrated here on the occasion of his seventy fifth birthday by more than thirty leading arbitration practitioners and academics worldwide who have been part of and have been influenced by his extensive professional career Following Dr Karrer's primary interests notably his advocacy of a strong arbitrator role in proceedings as evidenced in his lectures presentations and publications as well as in his own arbitrations the contributions in this book consider such questions as the following What are the sources of an arbitrator's power What are the limits of an arbitrator's power Should arbitrators have a role in encouraging settlement May arbitrators regulate and impose sanctions against counsel How managerial should arbitrators be What are the duties and liabilities of arbitrators What is the nature of the arbitrator's relationship to arbitral institutions Are emergency arbitrators actually arbitrators Should arbitrators raise issues of arbitrability and public policy ex officio To what extent may arbitrators delegate tasks and use tribunal secretaries With its in depth perspectives on the arbitrator's role powers and duties in an arbitration proceeding and its extensive analysis of some of the most timely and controversial issues in arbitration today this book offers an abundance of thought provoking yet also practical commentary and guidance for practitioners and academics in the field of international arbitration and international commercial law

Procedure and Evidence in International Arbitration Jeffrey Waincymer, 2012-05-23

Central to the book's purpose is the procedural challenge facing arbitrators at each and every stage of the arbitral process when fairness arguments conflict with efficiency concerns and trade offs must be determined Some key themes include how can a tribunal be fair and in particular be neutral if parties are so diverse How can arbitration be made efficient and cost effective without undue inroads into fairness and accuracy How does a tribunal do what is best if the parties are choosing a suboptimal process When can or must an arbitrator ignore procedural choices made by the parties The author thoroughly evaluates competing arguments and adds his own practical tips expertly synthesizing and engaging with the conference literature and differing authors views He identifies criteria that offer a harmonized approach to each stage of the arbitral process with particular attention to such aspects of international arbitration as appropriate trade offs between flexibility and certainty the rights duties and powers of arbitrators appointment and challenge of arbitrators responses to guerilla tactics drafting of arbitration agreements including specialty clauses drafting of required commencement notices and response documents set off fast track arbitration and other efficiency options strategic use of preliminary conferences and timetabling online arbitration multi party multi contract class arbitration amicus and third party funders pre arbitral

referees and interim relief witness evidence both factual and expert documentary evidence production obligations and challenges to production identifying applicable law and remedies and costs *Elgar Concise Encyclopedia of International Commercial Arbitration* Franco Ferrari, Friedrich Rosenfeld, 2025-06-09 This Encyclopedia provides a concise overview of key topics in the field of international arbitration It covers the New York Convention the UNCITRAL Model Law on International Commercial Arbitration and the IBA Guidelines on conflicts of interest party representation and the taking of evidence among many other fundamental matters *The Oxford Handbook of International Arbitration* Thomas Schultz, Federico Ortino, 2020-09-11 This Handbook brings together many of the key scholars and leading practitioners in international arbitration to present and examine cutting edge knowledge in the field Innovative in its breadth of coverage chapter topics range from the practicalities of how arbitration works to big picture discussions of the actors involved and the values that underpin it The book includes critical analysis of some of international arbitrations most controversial aspects whilst providing a nuanced account overall that allows readers to draw their own informed conclusions The book is divided into six parts after an introduction discussing the formation of knowledge in the field Part I provides an overview of the key legal notions needed to understand how international arbitration technically works such as the relation between arbitration and law the power of arbitral tribunals to make decisions the appointment of arbitrators and the role of public policy Part II focuses on key actors in international arbitration such as arbitrators parties choosing arbitrators and civil society Part III examines the central values at stake in the field including efficiency legal certainty and constitutional ideals Part IV discusses intellectual paradigms structuring the thinking in and about international arbitration such as the idea of autonomous transnational legal orders and conflicts of law Part V presents the empirical evidence we currently have about the operations and effects of both commercial and investment arbitration Finally Part VI provides different disciplinary perspectives on international arbitration including historical sociological literary economic and psychological accounts *U.S. Supreme Court Precedents on Arbitration* Kabir Duggal, Yasmine Lahlou, Carlos Alberto Carmona, Gustavo Favero Vaughn, 2025-03-20 For every lawyer practicing or aspiring to practice law in the US and every student striving to become a well rounded litigator familiarity with relevant case law is indispensable This axiom holds particularly true in the realm of arbitration As the ultimate arbiter on arbitration matters in the US the decisions of the US Supreme Court carry paramount significance This book serves as a vital resource offering detailed analysis of nearly 40 cases by arbitration experts well versed in the intricacies of the US legal system Through meticulous commentary and critique it vividly illustrates how SCOTUS has profoundly influenced the landscape of arbitration law and practice over the years **International Arbitration Checklists - Second Edition** Grant Hanessian, Lawrence W. Newman, 2009-04-01 Baker McKenzie has one of the world's largest and most successful international arbitration practices This book written by members of the International Dispute Resolution Practice Group of Baker McKenzie and others provides a practical experience based guide to international

arbitration Each chapter begins with a checklist of issues to be considered at each stage of arbitration Topics include drafting arbitration clauses commencement of the case staying court proceedings compelling arbitration selection of the tribunal provisional relief conduct of hearings and enforcement of awards among many others Law and practice in each of the world s major arbitration centers is discussed Appendices provide ready access to arbitration treaties statutes and rules This book will be a standard reference for in house counsel and outside practitioners *Carbonneau on Arbitration* Thomas E. Carbonneau, 2010-05-01 A companion to Carbonneau on International Arbitration Collected Essays the essays in this volume represent the majority of the author s scholarly writings on the topic of U S arbitration law They reflect his three decades of experience as a law professor and as the Editor in Chief of the World Arbitration Mediation Report renamed Review and the Journal of American Arbitration Each one tackles an aspect of the debate about the role of arbitral adjudication in contemporary American society and provides an assessment of the evolution and content of the U S law of arbitration In particular Carbonneau on Arbitration Collected Essays examines the work of the U S Supreme Court in arbitration and provides a critical but balanced assessment of that decisional law The chapters of this volume represent the majority of the author s scholarly writings on international commercial arbitration over thirty years The chapters address various major issues and themes of transborder arbitration law including 1 the importance of courts in developing and maintaining a legal culture that is hospitable to arbitration 2 arbitration as a complete legal system 3 the increasing use of arbitration to resolve political or mixed political and commercial disputes and 4 the judicialization of arbitration Some of the chapters are of a recent vintage while others were written a decade or two ago Whatever their date of production these essays are of continuing interest to practitioners in and scholars of the field **NIJ Reports** ,1983

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