

Introduction to International Arbitration

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Introduction to International Arbitration

1. Introduction & Expectations
2. What is NOT Arbitration?
3. What is Arbitration?
4. What is International Arbitration?
5. Legal Framework
6. Relevant Procedural Laws
7. Relevant Procedural Rules
8. Conducting and Participating in Arbitration
9. Award Writing
10. Awards v. Procedural Orders
11. Requirements of an Enforceable Award
12. Enforcement & Setting Aside
13. Emerging Issues

Introduction & Expectations

- Who are you?
- Deliverables

What is NOT Arbitration?

1. What is ADR?
2. ADR Contours
3. Negotiation
4. Mediation
5. Conciliation
6. Expert Determination
7. Arbitration V. ADR

What is Arbitration?

1. Arbitration
2. History
3. AdHoc & Institutional Arbitration
4. Arbitration Agreement
5. Parties
6. Process
7. Outcome

What is International Arbitration?

1. Different Places of Business
2. Seat of Arbitration outside places of business
3. Performance outside places of business
4. Agreement of Parties

Legal Framework for a Final Award

- Lex Arbitri/Procedural Law/Curial Law (guides arbitral proceeding)
- Procedural Rule (guides arbitral proceedings)
- Lex Loci Arbitri/Applicable Law/Governing Law/Proper Law/Substantive Law (applies to substantive matters in issue, often national laws, international trade law, modern law merchant [lex mercatoria] and a blend of national and public international law.
- Ex aequo et bono (fair and equitable principle applies to substantive matters, where parties agree)

Relevant Laws

- The Arbitration and Mediation Act 2023 and its Rules (Municipal)
- The various States Arbitration Laws and their Rules (Municipal)
- Various national laws on arbitration by countries of the world and their rules (International)
- The International Trade Law, and Modern Law Merchant [Lex Mercatoria]
- The Geneva Protocol 1923
- The Geneva Convention 1927
- The New York Convention 1958 (International)
- The International Center for Settlement of Investment Treaties (ICSID Convention) 1965
- UNCITRAL Model Law
- UNCITRAL Arbitration Rules and other Institutional Rules
- Adhoc Rules

Relevant Rules (1/2)

- The Arbitration and Mediation Act (AM Act) Arbitration Rules 2023
- UNCITRAL Arbitration Rules
- The Regional Center for International Commercial Arbitration Lagos (RCICAL) Arbitration Rules 2019
- The Lagos Arbitration Court (LCA) Arbitration Rules 2018
- The CIArb Arbitration Rules 2015
- The ICC Arbitration Rules 2021
- The SIAC Arbitration Rules 2016

Relevant Rules (2/2)

- The LCIA Arbitration Rules 2014
- The AAA-ICDR Arbitration Rules 2021
- The HKIAC Administered Arbitration Rules
- The Construction Industry Model Arbitration Rules 2011
- The NAI Arbitration Rules 2015
- The SCC Arbitration Rules

Conducting/Participating in Arbitration

- Appointments & Constitution of Panel
- Preliminary Meeting (Agreement, Law, Rules, Seat, Venue, Timetable)
- Procedural Orders
- Interim Awards & Bifurcation
- Points of Claim, Points of Defence and Counterclaim & Replies
- Pre-Hearing Review
- Evidential Hearing
- Post-Hearing Submissions
- Final Award
- Enforcement and Setting Aside

Award Writing

- The Agreement to Arbitrate (Art. 5 New York Convention, Art. 35 Model Law)
- The Need for a Dispute
- The Commencement of Arbitration
- The Arbitral Proceedings
- The Decision of the Tribunal
- The Enforcement of Award

Awards v Procedural Orders

- Mere decisions on procedures
- Not subject to annulment
- Not subject to recognition and enforcement

Requirements of An Enforceable Award

- Content
- Conditions for Setting Aside
- Conditions for challenging Recognition and Enforcement

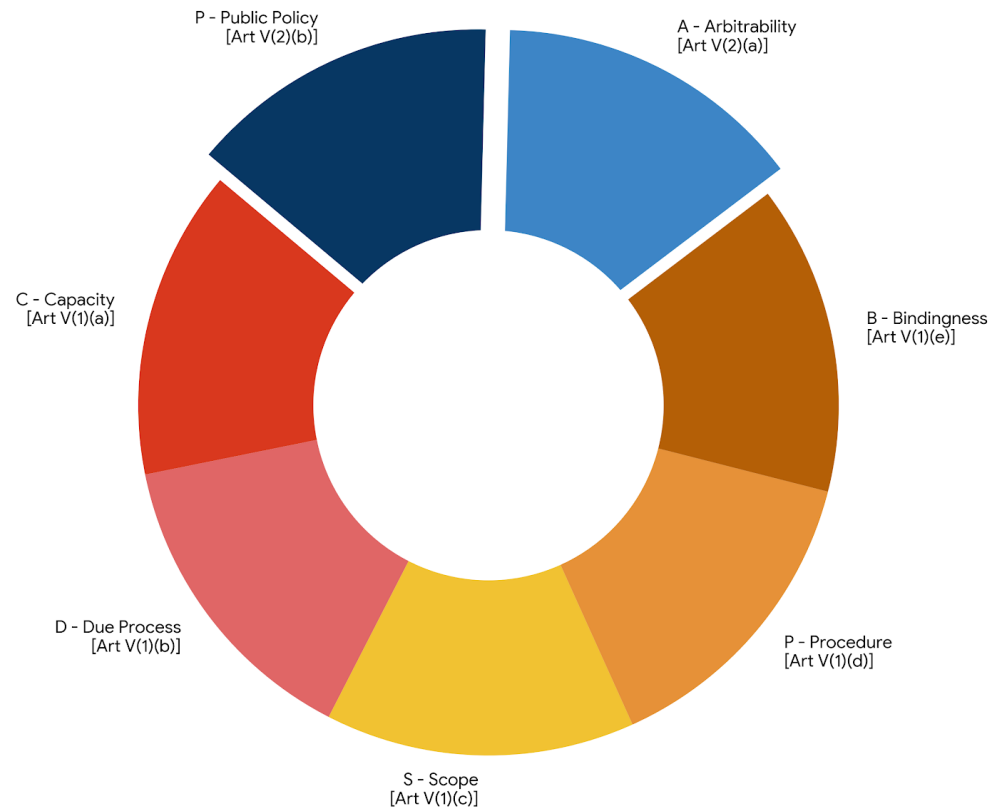
Enforcement & Setting Aside of Award (1/2)

- SabiLaw's Mnemoic for Grounds for Enforcement & Setting Aside

CDSPBAP (**C**ounsel **D**emanded **S**ome **P**ayment **B**efore **A**ward **P**ublication)

- Parties Provable Conditions
- Court-Initiable Conditions

CDSPBAP Mnemonic Framework
Grounds for Refusal of Enforcement (Art V New York Convention)



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Enforcement & Setting Aside of Award (2/2)

SabiLaw's CDSPBAP (Counsel Demanded Some Payment Before Award Publication)

- **C** – **C**apacity [*Art V(1)(a) / Sec 58(2)(a)(i)*]
- **D** – **D**ue Process [*Art V(1)(b) / Sec 58(2)(a)(ii)*]
- **S** – **S**cope [*Art V(1)(c) / Sec 58(2)(a)(iii)*]
- **P** – **P**rocedure [*Art V(1)(d) / Sec 58(2)(a)(v)*]
- **B** – **B**indingness [*Art V(1)(e) / Sec 58(2)(a)(vi)*]
- **A** – **A**rbitrability [*Art V(2)(a) / Sec 58(2)(b)(i)*]
- **P** – **P**ublic Policy [*Art V(2)(b) / Sec 58(2)(b)(ii)*]

Emerging Issues

- Third-Party Funding
- Blockchain Arbitration
- Artificial Intelligence (AI) Arbitration
- Online Arbitration

THANK YOU!

- Questions
- Answers

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