

A PRACTICAL GUIDE TO INTERNATIONAL COMMERCIAL ARBITRATION

Richard Garrett

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Practical Guide To International Commercial Arbitration

Donald Charrett



Practical Guide To International Commercial Arbitration:

International Arbitration and Mediation Michael McIlwrath, John Savage, 2010-01-01 This book is intended as an easily accessible desktop resource for lawyers who regularly counsel businesses when negotiating international deals and for those who represent the same clients in achieving a successful resolution when disputes emerge The text is divided into chapters that follow the life cycle of an international commercial dispute as seen through the eyes of the parties from when they agree how to resolve disputes in their contracts to the endgame of enforcement Additionally the appendices include a number of model submissions for further reference Provided by publisher

A Practical Guide to International Commercial Arbitration Steven P. Finizio, Duncan Speller, 2011 A Practical Guide to International Commercial Arbitration Richard Garnett, 2000 This concise in depth guide explores the pros and cons of arbitration the role of national laws key elements of the arbitration agreement and includes a detailed analysis of arbitration procedures Standards of conduct of the arbitrator enforceability challenges modification of awards and awards and remedies are covered The Appendices include BL UNCITRAL Arbitration Rules BL Arbitration Rules of the International Chamber of Commerce BL The UNCITRAL Model Law on International Commercial Arbitration BL Texts of the New York and Panama Conventions BL Model UNCITRAL and ICC arbitration clauses BL Information about the major arbitral centers throughout the world

Schiedsgerichtsbarkeit in Singapur und Indien Franz Kaps, 2025-08-11 Wie gestaltet sich das Zusammenspiel zwischen Schiedsgerichtsbarkeit und staatlicher Gerichtsbarkeit in zwei der dynamischsten Rechtsräume Asiens Das vorliegende Werk vergleicht die Schiedsfreundlichkeit der Rechtsordnungen Singapurs und Indiens zweier Staaten mit gemeinsamen Wurzeln im Common Law deren rechtliche Entwicklung jedoch unterschiedliche Wege genommen hat Während sich Singapur mit moderner Gesetzgebung effizienten Gerichten und Institutionen wie dem Singapore International Arbitration Centre SIAC als eine der führenden Schiedsjurisdiktionen etabliert hat steht Indien trotz der Reformen des Arbitration and Conciliation Acts weiterhin vor strukturellen Herausforderungen etwa gerichtlicher Überregulierung langen Verfahrensdauern sowie institutionellen Defiziten Untersucht wird die Schiedsfreundlichkeit zentraler Aspekte der Schiedsgerichtsbarkeit in Singapur und Indien darunter die Durchsetzung von Schiedsvereinbarungen die Kompetenz-Kompetenz den einstweiligen Rechtsschutz Aufhebungsverfahren sowie die Anerkennung und Vollstreckung ausländischer Schiedssprüche Es zeigt dass Singapur Schiedsverfahren als gleichwertige Methode der Streitbeilegung anerkennt und fördert während Indien trotz gesetzlicher und gerichtlicher Fortschritte noch mit strukturellen Herausforderungen ringt Das Werk bietet nicht nur eine fundierte Analyse sondern auch konkrete Empfehlungen für eine zukunftsfröhliche Streitbeilegungskultur ein Beitrag für Wissenschaft Praxis und Gesetzgebung

FIDIC Contracts in the Americas Donald Charrett, 2023-07-18 FIDIC contracts are the most widely used contracts for international construction around the world and are used in many different jurisdictions both common law and civil law For any construction project the General Conditions of Contract published by FIDIC may need to be supplemented

by Particular Conditions that specify the specific requirements of that project and jurisdiction FIDIC Contracts in the Americas A Practical Guide to Application provides readers with an overview of the legal environment the construction industry and features of contract law applying to construction contracts in a number of jurisdictions in the Americas It provides detailed guidance for the preparation of the Particular Conditions for FIDIC contracts that will comply with the requirements of the applicable laws that apply to the site where the work is carried out and for the governing law of the contract This book also details the impact of COVID 19 on both the execution of construction projects and the operation of construction contracts in each jurisdiction This book is essential reading for construction professionals lawyers and students of construction law

A Practical Guide to International Arbitration in London Hilary Heilbron, 2013-07-04 With the development of international arbitration globally and London as a leading arbitration centre the need for knowledge of the subject extends to a wider legal audience A Practical Guide to International Arbitration in London takes a pragmatic look at how to run an international arbitration with a London seat It explores on a stage by stage basis the tactical procedural and legal issues that need to be considered in an international arbitration in London from the perspective of the arbitral process including its relationship with the support given by the English courts The book also examines the role of the English courts in assisting foreign arbitrations

Der Emergency Arbitrator zwischen Eilrechtsschutz durch Schiedsgericht und staatlichem Gericht in Abgrenzung zum Schiedsgutachter/Expert und Adjudicator zugleich eine rechtsvergleichende Untersuchung von deutschem und englischem Recht sowie ICC-SchO (2021) und LCIA-SchO (2020) Kenan Aron Kuruoglu, 2025-03-28 Gegenstand der Untersuchung ist der einstweilige Rechtsschutz bei Vorliegen einer Schiedsvereinbarung Im Zentrum der Untersuchung steht der Emergency Arbitrator als ein durch Parteivereinbarung berufener privater Spruchkörper zur Gewährung einstweiligen Rechtsschutzes im Zeitraum vor der Konstituierung des regulären Schiedsgerichts Der Rechtsfigur des Emergency Arbitrators bedienen sich bereits viele namhafte Schiedsordnungen wie die ICC SchO 2021 und die LCIA SchO 2020 sowie einige ausländische Rechtsordnungen mit bedeutender internationaler Schiedspraxis wie Hongkong und Singapur Hintergrund dieser Rechtsentwicklung war und ist dass in bestimmten Praxisbereichen vor allem in technischen Bereichen ein großes Bedürfnis für privat vereinbarten Eilrechtsschutz vor der Konstituierung des Schiedsgerichts besteht Dies gilt insbesondere im Bausektor wo bei den regelmäßig auftretenden Konflikten durch schnelle verbindliche Entscheidungen des Emergency Arbitrators der Baufortgang gesichert werden soll Aufgrund der wirtschaftlichen Bedeutung des Eilrechtsschutzes und der praktischen Tauglichkeit des Emergency Arbitrator Verfahrens wird im englischen Schrifttum nicht ohne Grund von one of international arbitration's biggest success stories gesprochen Wie das englische Schiedsverfahrensrecht EAA 1996 enthält auch deutsche Schiedsverfahrensrecht im 10 Buch der ZPO 1025 ff keine Regelung zu einem schiedsgerichtlichen Eilrechtsschutz vor der Konstituierung des Schiedsgerichts 1041 Abs 1 ZPO enthält lediglich eine Regelung zu vorläufigen oder sichernden Maßnahmen durch das Schiedsgericht selbst

das sich also bereits konstituiert haben muss. Einer der zentralen Fragen der Arbeit ist deshalb ob auch der Emergency Arbitrator als Schiedsrichter im Sinne des 10. Buches der ZPO und des englischen Schiedsverfahrensrechts und der untersuchten institutionellen Schiedsordnungen ist. Die dogmatische Einordnung der Rechtsnatur des Emergency Arbitrators ist von grundlegender Bedeutung wie insbesondere für das deutsche Recht gezeigt wird. Wenn der Emergency Arbitrator als Schiedsgericht einzuordnen ist, dann können Vorschriften des 10. Buchs der ZPO anwendbar sein, insbesondere 1041 Abs. 2 ZPO über eine gerichtliche Vollziehungsanordnung von Maßnahmen des Emergency Arbitrators. Wenn der Emergency Arbitrator hingegen als Schiedsgutachter zu qualifizieren ist, dann kommen die materiellrechtlichen Vorschriften der §§ 317, 319 BGB zur Anwendung. Die Folge ist insbesondere, dass das Schiedsgutachten als Entscheidung des Schiedsgutachters nach diesen Vorschriften einer gerichtlichen Inhaltskontrolle unterliegt. Um hierzu einen vollstreckbaren Titel zu erlangen, bleibt es notwendig bei der gewöhnlichen schiedsgerichtlichen oder gerichtlichen Durchsetzung des materiellen Anspruchs. Die Arbeit analysiert das Emergency Arbitrator Verfahren umfassend, bestimmt die Rechtsnatur des Emergency Arbitrators in Abgrenzung zu anderen Rechtsinstituten wie dem auch in der Hauptsache zuständigen regulären Schiedsgericht und dem deutschen Schiedsgutachten und klärt mit dem Rechtsinstitut verbundene offene Rechtsfragen. Neben der rechtshistorischen Entwicklung werden auch die praktischen, statistisch belegten Erfahrungen mit dem Emergency Arbitrator Verfahren analysiert. Einigkeit besteht in den untersuchten Rechts- und institutionellen Schiedsordnungen darüber, dass es bei der rechtlichen Qualifikation des Emergency Arbitrators im Ausgangspunkt um die Auslegung der Parteivereinbarung geht. Denn den Parteien steht es frei, ob sie einen Eilschiedsrichter oder einen Schiedsgutachter bestellen wollen. Wenn der Emergency Arbitrator kraft Auslegung der Parteivereinbarung als Schiedsrichter einzuordnen ist, ergeben sich Folgefragen, die in der Arbeit ebenfalls untersucht werden. Dazu gehört beispielsweise die Frage der Zulässigkeit einer ex parte Eilrechtsschutzentscheidung durch den Emergency Arbitrator. Hierbei geht es um den Erlass einer Eilrechtsschutzmaßnahme ohne vorherige Anhörung der gegnerischen Partei, um den häufig notwendigen Überraschungseffekt der Eilrechtsschutzmaßnahmen durch den Emergency Arbitrator zu gewährleisten. Insoweit zeigen die untersuchten institutionellen Schiedsordnungen deutliche Unterschiede. Für das deutsche Recht ist die Zulässigkeit vor allem mit Blick auf den Gehrsgrundsatz zu klären, der als zwingender Verfahrensgrundsatz der ZPO gem. 1042 Abs. 1 ZPO auch im nationalen Schiedsverfahrensrecht gilt. Zu den Folgefragen gehört auch die wichtige Frage der Vollziehbarkeit der Entscheidung eines Emergency Arbitrators durch Vollzugsanordnung eines staatlichen Gerichts. Analysiert wird, ob die Eilrechtsschutzentscheidung eines Emergency Arbitrators trotz ihrer Vorläufigkeit unter das New Yorker Übereinkommen von 1958 über die Anerkennung und Vollstreckung ausländischer Schiedssprüche fällt, das in Deutschland unmittelbar geltendes Recht ist, wie sich auch in 1061 Abs. 1 ZPO widerspiegelt. Die Frage der Vollziehbarkeit stellt sich aber auch im Rahmen der ZPO, wenn es um Entscheidungen eines ausländischen Emergency Arbitrators geht. Denn der derzeit geltende 1025 Abs. 2 und

3 ZPO erklärt zwar bestimmte Vorschriften auch dann für anwendbar wenn der Ort des schiedsrichterlichen Verfahrens nicht in Deutschland liegt oder noch nicht bestimmt ist Zu diesen Vorschriften geht aber nicht 1041 Abs 2 ZPO wonach das Gericht auf Antrag einer Partei Eilmassnahmen des Schiedsgerichts für vollziehbar erklären kann Dies bedeutet dass Massnahmen eines ausländischen Emergency Arbitrators bislang in Deutschland nicht vollstreckbar sind Die Arbeit erörtert dahingehenden Reformbedarf unter Einbeziehung aktueller Gesetzesentwürfe zur Modernisierung des deutschen Schiedsverfahrensrechts Einen weiteren Schwerpunkt setzt die Arbeit in der umfassenden Analyse welcher Eilrechtsschutz bei Massgeblichkeit des deutschen und englischen Schiedsverfahrensrechts zur Verfügung steht wobei auch die Abhängigkeit vom vereinbarten Schiedsort adressiert wird Die Ausgestaltung der nationalen Schiedsverfahrensrechte bezogen auf die Verfügbarkeit staatlichen Eilrechtsschutzes bei Vorliegen einer Schiedsvereinbarung wird eingehend analysiert Insoweit wird nach unterschiedlichen Zeitphasen differenziert vor Einleitung des Schiedsgerichtsverfahrens nach Beginn des Schiedsgerichtsverfahrens bis vor und nach Konstituierung des regulären Schiedsgerichts sowie nach Erlass des regulären Schiedsspruchs Die dargestellten Möglichkeiten reichen vom Ausschluss staatlichen Eilrechtsschutzes im Schiedsgerichts- und Emergency Arbitrator Verfahren über einen subsidiär verfügbaren staatlichen Eilrechtsschutz Subsidiaritätsgrundsatz bis hin zur Zulässigkeit eines parallel verfügbaren staatlichen Eilrechtsschutzes Parallelitätsgrundsatz Abgerundet wird die Arbeit durch einen praxisorientierten und dem Gesamtbild dienenden Überblick über weitere Streitbeilegungsverfahren in dringlichen Situationen wie der englischen Expert Determination und der englischen Adjudication Die Arbeit endet mit Gesetzesvorschlägen de lege ferenda sowohl für das 10. Buch der ZPO als auch für den EAA 1996

Internationales Kauf-, Liefer- und Vertriebsrecht Martin Rothermel, 2021-04-29 Das Handbuch ist ein nützlicher Begleiter für Juristen und interessierte Kaufleute die mit internationalen Kauf Liefer und Vertriebsverträgen befasst sind Es geht von den relevanten praktischen Fragestellungen aus und gibt pragmatische Antworten die sehr kompakt mit zahlreichen weiterführenden Hinweisen hinterlegt sind Die aktualisierte und stark erweiterte Neuauflage gibt einen praktischen Überblick über alle massgeblichen internationalen Rechtsquellen und Regelungen zu Recht Gericht und Vollstreckung Sie enthält nun auch eine tabellarische in Vertragsstruktur und textliche Gegenüberstellung der Gemeinsamkeiten und Unterschiede sowie Vor und Nachteile von deutschem Recht UN Kaufrecht Schweizer Recht und Common Law Das Werk erläutert zudem internationales Vertriebsrecht in über 65 Ländern und Regionen sowie Vertriebskartellrecht in der EU und 15 weiteren Ländern Fragen zu international wichtigen Schiedsverfahren werden ebenfalls beantwortet und 12 gängige Schiedsordnungen in einer Tabelle systematisch miteinander verglichen Es finden sich dann die landesspezifischen Grundsätze zu Eigentumsvorbehalt und Sicherungsbereignung im internationalen Geschäftsverkehr Ergänzt wird dies durch aktuelle Hinweise zum BREXIT und zu den neuen INCOTERMS 2020 sowie zum internationalen gewerblichen Rechtsschutz

Legal Research and Law Library Management Julius J. Marke, Richard Sloane, Linda M. Ryan, 2006 This revised edition of Legal Research and Law Library Management

retains the best elements of the previous edition while covering the latest in law library management **International Arbitration** Stuart Dutson, Andy Moody, Neil Newing, 2012 The global increase in cross border transactions has led to a rising trend in international disputes International arbitration has become the preferred dispute resolution method as companies and individuals increasingly favour a neutral international tribunal over foreign domestic courts This new book provides a practical guide to international arbitration Written by leading experts Stuart Dutson Andy Moody and Neil Newing from Eversheds this title explains the stages of the arbitration process in a straight forward manner and from a practitioner s perspective The authors provide guidance on drafting the arbitration agreement commencing arbitration selecting the arbitral tribunal drafting pleadings and witness evidence liaising with the tribunal throughout the arbitral process and enforcing the final award Numerous tips examples and precedents are included to help the new practitioner or interested student understand each stage of the arbitration proceedings *Subject Guide to Books in Print*, 2001 Das

Schiedsgutachten im Common Law Martin Borowsky, 2001 **Western and Chinese Arbitration** Arthur J. Gemmell, 2008 Seasoned businesspeople especially those engaged in international business are keenly aware of the fact that no matter how pleasant their pre arrangement business courtship has been post arrangement disputes may occur While some disputes may be settled amicably other resolutions leave the parties unsatisfied due to prolonged and costly litigation Dr Arthur J Gemmell asserts that an understanding of the international arbitral system will enrich and sustain business while serving as a viable avenue for commercial dispute resolution To explore the arbitral system Dr Gemmell uses the Chinese and Western arbitral systems past and present in order to understand what can be accomplished from their examples and errors The term arbitral chain refers to the linkage of one arbitral era to another It is as essential term in the understanding of how successive eras built or modified the standards of arbitration on what had worked in the past **Drafting and Negotiating**, 2013

Arbitration in China Kun Fan, 2013-02-11 In the context of harmonisation of arbitration law and practice worldwide to what extent do local legal traditions still influence local arbitration practices especially at a time when non Western countries are playing an increasingly important role in international commercial and financial markets How are the new economic powers reacting to the trend towards harmonisation China provides a good case study with its historic tradition of non confrontational means of dispute resolution now confronting current trends in transnational arbitration Is China showing signs of adapting to the current trend of transnational arbitration On the other hand will Chinese legal culture influence the practice of arbitration in the rest of the world To address these challenging questions it is necessary to examine the development of arbitration in the context of China s changing cultural and legal structures Written for international business people lawyers academics and students this book gives the reader a unique insight into arbitration practice in China based on a combination of theoretical analysis and practical insights It explains contemporary arbitration in China from an interdisciplinary perspective and with a comparative approach setting Chinese arbitration in its wider social context to aid

understanding of its history contemporary practice the legal obstacles to modern arbitration and possible future trends In 2011 the thesis on which this book was based was named Best Thesis in International Studies by the Swiss Network for International Studies What distinguishes this work from other books on international arbitration is its interdisciplinary perspective and comparative approach this book makes a remarkable contribution to the understanding of arbitration in China and transnational arbitration in general Academics scholars and students of international arbitration comparative studies and globalisation may all find this book stimulating It also provides useful guidance for practitioners involved or interested in arbitration in China From the Foreword by Gabrielle Kaufmann Kohler This title is included in Bloomsbury Professional's International Arbitration online service [A Collection of the Scholarly Writings of Henry P. De Vries](#) Henry P. De Vries,1988 [International Arbitration in Sweden](#) Annette Magnusson,Ulf Franke,2013-07-01 Sweden is one of a handful of countries where the international arbitral process has reached a stage where the jurisprudence is replete with instances involving no local parties at all Due in all likelihood to this context of especially credible neutrality the Stockholm Chamber of Commerce SCC has emerged as a leading global arbitral institution Whether the matter at issue is a business transaction dispute or a politicized conflict involving obdurate parties the richness of its body of decided cases manifests the SCC's authority and reliability throughout the converging world of international arbitration The present book written by thirteen eminent practitioners provides a practical guide to international arbitration in Sweden whether ad hoc or institutional Among the many elements of practice and procedure detailed are the following appointment challenge removal and compensation of arbitrators use of international legal sources such as IBA guidelines choice of law by parties SCC rules and procedures multiparty arbitrations joinder intervention consolidation confidentiality documentary evidence witnesses and experts grounds for setting aside party succession Swedish court review of the arbitrator's jurisdiction and appeal of arbitrators compensation In addition readers will be exposed to a trove of pertinent references to important dispositions that have in recent decades been generated by the stream of major international arbitrations conducted in Sweden Disputing parties wishing to know what will happen when their case is brought to Sweden for arbitration will find no clearer or more thorough guide This book is an incomparable source for anyone called upon to act as arbitrator or counsel or in any other capacity in an international arbitration in Sweden **The New Zealand Law Journal** ,1992 [Multi-Party and Multi-Contract Arbitration in the Construction Industry](#) Dimitar Kondev,2017-01-23 Multi Party and Multi Contract Arbitration in the Construction Industry provides the first detailed review of multi party arbitration in the international construction sector Highly practical in approach the detailed interpretation and assessment of the arbitration of multi party disputes will facilitate understanding and decision making by arbitrators clients and construction contractors *Doing Business Abroad* Vaclav Mostecky,Harvard Law School. Library,1962

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