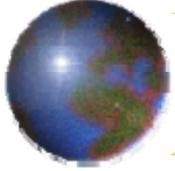


# International Commercial Arbitration II Practical Considerations

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Salpius Rechtsanwalt GmbH



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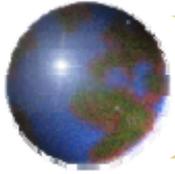
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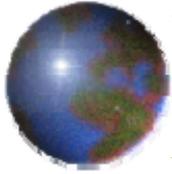
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# I. Problematic Issues of Arbitration

- ✦ International? Commercial? Arbitration? →
- ✦ Arbitration vs. Litigation →
- ✦ Arbitration and Third Parties →
- ✦ Costs and Timing →



# I.1. International? Commercial? Arbitration?

## ✦ International?

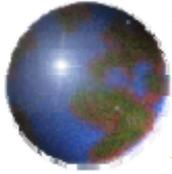
- ✦ objective (UNCITRAL Model Law) vs. economic criterion (France and its former colonies)

## ✦ Commercial?

- ✦ arbitrability vs. state jurisdiction
- ✦ gray zones (labor, tax disputes, consumer protection, etc)
- ✦ *Amalie Jaksch vs. Wiener Hofoper (1881)*; *DMI vs. Czech Republic*; *Generation of Ukraine vs. Ukraine*

## ✦ Arbitration?

- ✦ contractual (will of the parties) and jurisdictional (private justice) nature



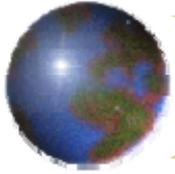
## I.2. Arbitration vs. Litigation (1)

### ✦ Advantages of Arbitration

- ✦ Flexibility
- ✦ Professionalism
- ✦ Confidentiality
- ✦ Speed
- ✦ Costs
- ✦ Non-formality
- ✦ Amicable compositeur, *ex aequo et bono*
- ✦ Finality
- ✦ International enforcement of awards
- ✦ Less destructive to further relationships

### ✦ Disadvantages of Arbitration

- ✦ Need for parties' cooperation – Case OLG Switzerland
- ✦ Limited interim relief
- ✦ No appeals (for complex legal issues)
- ✦ Limited quality checks – inexperienced arbitrators (*Lithuanian and Bavarian Case* (award made before the claim is brought))
- ✦ Costs
- ✦ Limited discovery procedure (from the common law perspective)
- ✦ Amicable compositeur, *ex aequo et bono*

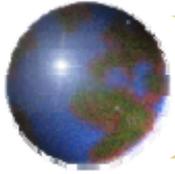


## I.2. Arbitration vs. Litigation (2)

### ✦ **Facts:**

Suppose you are a lawyer and your client is a big construction company, which is about to enter into a contract for the construction of a power plant.

- ✦ Will you suggest including an arbitration clause into the contract or will you suggest litigation?
- ✦ Will it change your recommendation if the other side is a foreign government?



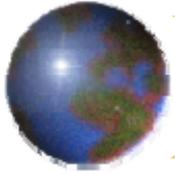
## I.3. Arbitration and Third Parties (1)

### ✦ Consent

- ✦ Incorporation by reference – *Larson & Turbo Case*
- ✦ Assumption of contract
- ✦ Agency relationship

### ✦ Conduct

- ✦ “Alter ego” & “Group of companies” doctrines –  
“piercing the corporate veil” common law concept
- ✦ Equitable estoppel
- ✦ Succession and novation

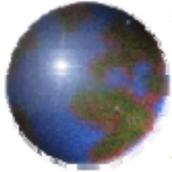


## I.3. Arbitration and the Third Parties (2)

### ✦ Facts:

A and B entered into a contract containing an arbitration clause. In a dispute over non-payment, A sought to hold C, which was a 60% shareholder in B, liable for the alleged default, caused as a result of C's failure to pay for his shares.

- ✦ Does the arbitral tribunal have jurisdiction over C under the Austrian law?
- ✦ Does it make any difference if B is an unlimited partnership under the English law?



## I.4. Costs and Timing (1)

- ✦ ***Pilkington vs. PPG***

- 7.5 years of arbitration

- USD 24 million - arbitration fees

- USD 37.5 million - attorneys' fees

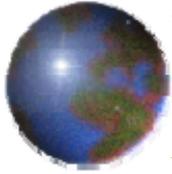
- USD 7.5 million - award on the merits.

- ✦ ***Intel vs. AMD***

- 4.5 years of arbitration instead of 6-8 weeks of initially agreed.

- ✦ The costs of arbitration are disincentive for the parties to delay

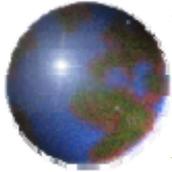
- ✦ *Exceptio pecunian non habendi*



## I.4. Costs and Timing (2)

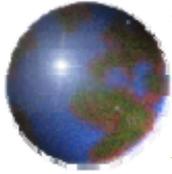
### **Time and Costs Factors:**

- ✦ Amount in dispute
- ✦ Complexity of the case
- ✦ Willingness of the parties to cooperate
- ✦ Number of arbitrators
- ✦ Number of parties
- ✦ Applicable procedural law
- ✦ Type of arbitration
- ✦ Administering institution etc.



## II. Types of Arbitration

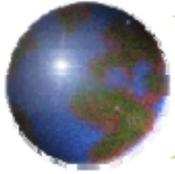
- ✦ Domestic vs. International Arbitration →
- ✦ *Ad hoc* vs. Institutional Arbitration →
- ✦ Common Law vs. Civil Law Approaches →
- ✦ Arbitration with States and State Entities →



## II.1. Domestic vs. International Arbitration (1)

### ✿ What may be different?

- ✿ Legal base (1996 English Arbitration Act)
- ✿ Institutions (Vienna Centre)
- ✿ Arbitrability of disputes
- ✿ Courts' interference
- ✿ Requirements to arbitrators
- ✿ Enforcement of awards
- ✿ Appealing the awards (Russia's approach)
- ✿ Costs



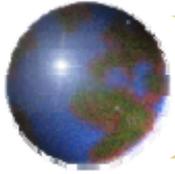
## II.1. Domestic vs. International Arbitration (2)

### ✦ **Facts:**

A and B entered into a contract containing an arbitration clause. Both are registered in a country, which has adopted the Model Law as its arbitration law. A is a company financed by foreign investments.

✦ Is the dispute international or domestic by nature?

✦ Which factors may determine the answer?



## II.2. *Ad hoc* vs. Institutional Arbitration (1)

### ✦ + Ad Hoc

- ✦ Flexible
- ✦ Cheap
- ✦ Quick

### ✦ BUT

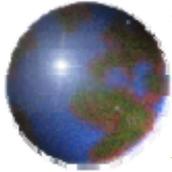
- ✦ Need for parties cooperation (*Landrover vs. Landrover*)
- ✦ Procedural gaps (missing appointing authority)

### ✦ + Institutions

- ✦ Trained staff
- ✦ Experience
- ✦ Final decisions

### ✦ BUT

- ✦ Expensive
- ✦ Time-confusing
- ✦ Fixed rules of procedure
- ✦ Revision of awards



## II.2. *Ad hoc* vs. Institutional Arbitration (2)

### ✦ **Facts:**

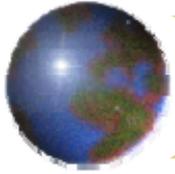
A and B entered into a contract by exchange of faxes. A's fax contained the following arbitration clause:

“Arbitration of disputes by one arbitrator using the Arbitration Rules of the German Central Chamber of Commerce”.

B's version of the arbitration clause read:

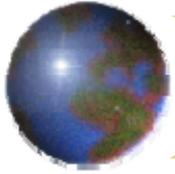
“Arbitration by the German Institution of Arbitration in accordance with its rules”

- ✦ How are these clauses different?
- ✦ What are the consequences of different wording of arbitration clause?



## II.2. Arbitration Institutions

- ✦ ICC
- ✦ LCIA
- ✦ AAA
- ✦ CIETAC
- ✦ Vienna
- ✦ SCC (Stockholm)
- ✦ ICSID
- ✦ ICAC (Moscow)
- ✦ Dubai Center
- ✦ HKIAC (Hong Kong)
- ✦ CIETAC (China)



## II.3. Civil Law vs. Common Law System (1)

- ✦ Common Law

- ▣ Adversarial – Instructive – Case Law

- ✦ Civil Law

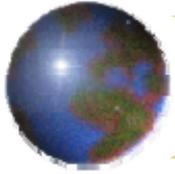
- ▣ Inquisitorial – Deductive – Statutory Law

- ✦ Different Roles of

- ▣ Judges

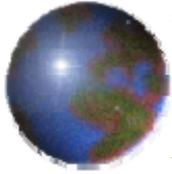
- ▣ Advocates

- ▣ *Brabec Case*



## II.3. Civil Law vs. Common Law Arbitration (2)

- ✦ Beginning the case
  - ✦ Mere outline without documentary exhibits vs. Full statement of claim and exhibits
- ✦ Gathering evidence
  - ✦ Liberal discovery of documents vs. Relevant and material to the outcome of the case
- ✦ Proving the case
  - ✦ Documentary evidence
  - ✦ Witness testimony
  - ✦ Expert statements
- ✦ Legal Arguments
- ✦ Awards, Costs
  - ✦ No costs recovery vs. “Winner takes all” approach



## II.4. Arbitration with State Parties (1)

### ✦ ISCID (International Center for the Settlement of International Disputes)

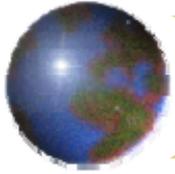
- ✦ Washington Convention 1966 (137 State parties)
- ✦ ICSID Arbitration Rules
- ✦ ICSID Additional Facility Arbitration Rules

### ✦ Conditions:

- ✦ Arbitration agreement to submit to ICSID
- ✦ Legal dispute
- ✦ Dispute arising directly out of an investment
- ✦ A dispute between contracting state and a national of another contracting state

### ✦ Features:

- ✦ Delocalized
- ✦ Denationalized
- ✦ Applicable law
- ✦ No courts' interference or help
- ✦ Annulment of awards by the *ad hoc* committee

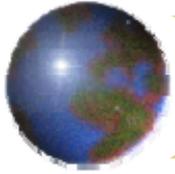


## II.4. Arbitration with State Parties (2)

- ✦ Convention for the Pacific Settlement of International Disputes 1899, revised in 1907  
- more than 100 State parties.

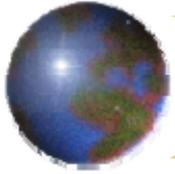
### Permanent Court of Arbitration (Hague)

- ✦ Inter-states disputes
- ✦ State – private party disputes



## III. Arbitration Clause

- ✦ Independence/separability of arbitration clause →
- ✦ Important Elements →
- ✦ Types of arbitration clauses →
- ✦ Pathological Clauses →

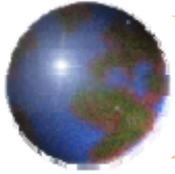


## III.1. Separability of Arbitration Clause

### ✦ Facts:

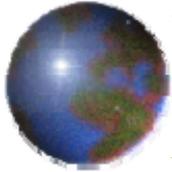
A and B entered into a contract containing an arbitration clause. B initiated an arbitration seeking to void the contract and assigned its claim to C, who proceeded with the arbitration. A objected to the arbitrators' jurisdiction.

- ✦ Does the arbitrator have jurisdiction to consider the dispute?
- ✦ Suppose you are a counsel to A, would you suggest that A withdraws from the arbitration?
- ✦ Would your answer change if the contract contained a provision prohibiting the assignment?



## III.2. Types of Arbitration Clauses (1)

- ✦ *Ad hoc* vs. Institutional Clauses
- ✦ Party-Drafted vs. Model Clauses
- ✦ Predispute vs. Submission Clauses
- ✦ Contained in Contract vs. Made by Reference
- ✦ Full vs. Restricted Clauses
  - ▣ “Arising of” or “in connection with or relating to”
  - ▣ all disputes or only certain ones
- ✦ Single vs. Multistep Dispute Resolution Process
  - ▣ Med-arb, co-med-arb



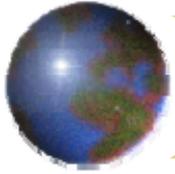
## III.2. Types of Arbitration Clauses (2)

### ✦ **Facts:**

The arbitration clause contains the following wording:

“The Parties thereto will endeavor to resolve all disputes in good fellowship. If and insofar as they are unable to achieve a good result, then the problem will be determined by a panel of three, one appointed by each party, and the third, the chairman, to be chosen by the two appointees. So far as necessary the UNCITRAL Model Rules of Conciliation and Arbitration will apply. Otherwise the panel will have the full authority to determine the procedure. No court shall have any jurisdiction to in respect of any disputes save in the case of gross negligence of duty on the part of a party or gross impropriety on the part of the panel of a member thereof. In so far as any institutional activity is necessary, the relevant institute will be ICC Arbitration Court. At any time prior to the commencement of the arbitration, either party may refer to the mediation of a single person.”

- ✦ You are a counsel to one of the parties which has a claim. Would you advise your client to resolve the dispute by arbitration or should they initiate court proceedings? If you decide for arbitration did the party agree to institutional or *ad hoc* arbitration?
- ✦ Which rules govern the proceedings if your client initiates arbitration? Is the arbitration clause full or restricted?
- ✦ Will you advise your client to refer his case to mediation prior to the commencement of arbitral proceedings, because this a prerequisite of the arbitration clause?
- ✦ You are the arbitrator, which has received the statement of claim and the other side's response. In the middle of the first hearing one party refers the case to mediation in accordance with the arbitration clause. Your decision?



## III.3. Elements of Arbitration Clause (1)

### ✿ Essential

- ✿ Final and binding arbitration
- ✿ Type of arbitrable disputes
- ✿ Institutional or ad hoc arbitration
- ✿ Procedural law

### ✿ Recommended

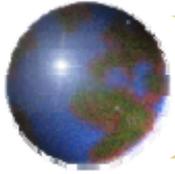
- ✿ Number of arbitrators and appointment procedure
- ✿ Possibility of resorting to amiable composition
- ✿ Seat of arbitration
- ✿ Language

### ✿ Optional

- ✿ Prior reference to other ADR
- ✿ Professional qualification of arbitrators
- ✿ Rules of evidence
- ✿ Confidentiality

### ✿ Unusual

- ✿ Time limits
- ✿ Places of hearings and meetings
- ✿ Types of communications between the parties and the tribunal

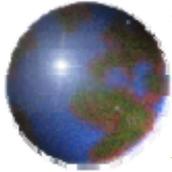


## III.3. Elements of Arbitration Clause (2)

### ✦ **Facts:**

Suppose you are the lawyer of Computer Lab Co. in L.A. Your client is clinching a deal for supplying software to Best Ideas, Inc. in Shanghai, China. Both companies are old rivals, to such an extent that you are surprised that a contract negotiations has started. You are have doubts whether Best Ideas, Inc. will fulfill the contract and you are certain that it will resort to any available defense when the time comes. Your client asks you for an arbitration clause to be included into the contract.

- ✦ Draft the arbitration clause for a contract between your firm and Best Ideas Inc.



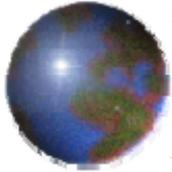
## III.3. Elements of Arbitration Clause (3)

### ✦ **Facts:**

You work at the Legal Department of the Venezuelan subsidiary of a Canadian company that is negotiating an important international contract with a company from Singapore. During the drafting process, the lawyer for the opposing party proposes the inclusion of the following clause:

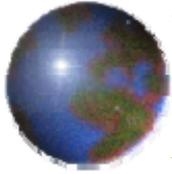
*“In case of necessity, the parties may agree on submitting to arbitration claims arisen from the present contract related to its interpretation. In such case, except otherwise agreed, Arbitration Rules of the Chamber of Commerce should apply”.*

- ✦ Would you advise your client to agree to it?
- ✦ What corrections or modification would you make to it, if any?
- ✦ Write a new version of the clause to propose to the lawyer for the other party.



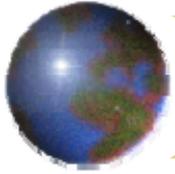
## III.4. Pathological Clauses (1)

- ❖ Equivocation as to whether binding arbitration is intended
  - ❖ "In case of a dispute the parties undertake to submit to arbitration but in case of litigation the Tribunal de la Seine shall have exclusive jurisdiction.,,
- ❖ Naming specific person as arbitrator who is now deceased or who refuses to act (old Egypt practice)
- ❖ Misidentifying the arbitral institution by name or by country (issue of interpretation)
  - ❖ "The parties shall proceed to litigate before the Arbitration Court of the International Chamber of Commerce in Paris with the seat in Zurich.,,



## III.4. Pathological Clauses (2)

- ❖ Providing unreasonably short deadlines for action by the arbitrators
- ❖ Providing too much specificity with respect to the arbitrators' qualifications
  - ❖ „The arbitrator be an English-speaking Italian, with a French law degree and a familiarity with Mid-East construction contracts.,,
- ❖ Providing for conflicting or unclear procedures
  - ❖ "Disputes hereunder shall be referred to arbitration, to be carried out by arbitrators named by the International Chamber of Commerce in Geneva in accordance with the arbitration procedure set forth in the Civil Code of Venezuela and in the Civil Code of France, with due regard for the law of the place of arbitration."



## III.4. Pathological Clauses (3)

- ✦ **Clause 1:**

„Disputes arising out of or in connection with the present contract that the Parties are unable to resolve amicably may be referred to arbitration by the Claimant.“

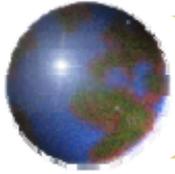
- ✦ **Clause 2:**

"Any dispute arising hereunder shall be finally determined by arbitration administered by the International Center for Dispute Resolution in accordance with its International Arbitration Rules.,,

- ✦ **Clause 3:**

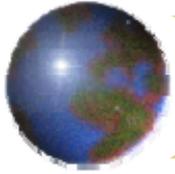
"All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules."

- ✦ What are the pathologies of the given arbitration clauses?



## IV. Arbitral Tribunal

- ⊕ Number of arbitrators →
- ⊕ Independence and impartiality →
- ⊕ Qualifications →
- ⊕ Appointment procedure
- ⊕ Challenge of arbitrators



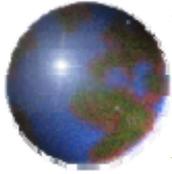
## IV.1. Number of Arbitrators

### + Panel of Arbitrators

- Each party nominates “its own” arbitrator
- Mixture of legal systems and experiences
- More professional

### + Single Arbitrator

- Cheaper
- Quicker
- Less complicated

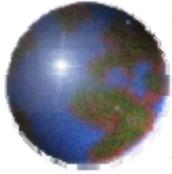


## IV.2. Independence and Impartiality (1)

“Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

European Convention on Human Rights, Article 6(1)

- ✦ Independence is generally a matter of fact or law, which is capable of objective verification.
- ✦ Impartiality is a mental state, which is, necessarily subjective. It is a state of mind and is difficult to prove, although often suspected.

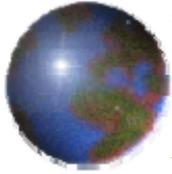


## IV.2. Independence and Impartiality (2)

- ✦ **Facts:**

A dispute arose between A and B out of the fact that A failed to notify B about possible delays in a way prescribed in a contract. However A informed B in an informal way. Parties referred to arbitration. B appointed Dr. Arbitrator as its arbitrator who is known to stick rigidly to contractual terms and recently published a huge monograph on necessity of observance of contractual notices.

- ✦ Is Dr. Arbitrator independent? Is he impartial?
- ✦ May his appointment be challenged by A?
- ✦ How and to whom do you address a challenge?



## IV.3. Qualifications

### ✦ Requirements are contained in

- ✦ National law at the place of arbitration (*lex fori arbitri*)

Saudi Arabia Implementation Rules:

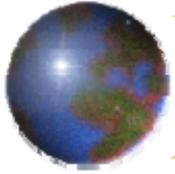
“Arbitrator must be a Saudi national or Muslim foreigner, chosen amongst the members of the liberal professions, or other persons. Should there be several arbitrators, then the Chairman must know the rules of the Shari’a, commercial law and customs in force in the Kingdom”

- ✦ Another national law chosen by parties as *lex arbitri* (if different from *lex fori arbitri*)
- ✦ Institutional arbitration rules

Arbitrators’ Pools

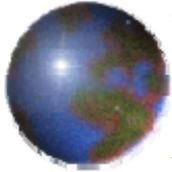
- ✦ Arbitration clause

Extensive requirements – pathological clause



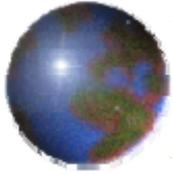
## V. Arbitration Proceedings

- ✦ Initiating Proceedings →
- ✦ Pre-hearing Activities →
- ✦ The Hearing
- ✦ Post Hearing Submissions
- ✦ Judicial Interference →
- ✦ The Award →



## V.1. Initiating Proceedings

- ✦ Request for arbitration/statement of claim
- ✦ Appointment of arbitrators
- ✦ Service to Respondent
- ✦ Representation/powers of attorney
- ✦ Advance on costs
- ✦ Determination of the seat of arbitration and applicable procedural law →
- ✦ What can go wrong?

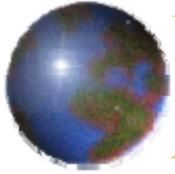


## V.1. Seat of Arbitration

### ✦ Facts:

Suppose you are an American lawyer in a dispute between Russian Oil Management, a state agency, and ConCor Ltd., a Swiss investor arisen out of the violation of the stabilization clause in the oil investment contract. The arbitration procedure is governed by the LCIA Arbitration Rules. Russian Oil Management (Respondent) concedes that Moscow should be the seat of arbitration, as a large part of the documentation being in Russia, Moscow night life being an attraction and there is special offer by Aeroflot. Its lawyers also realize the risk in the event of losing of having to pay the costs of their stay in London and additional costs if they have to engage London Lawyers. Claimant, ConCor Ltd. insists on Geneva being the place of arbitration.

- ✦ Does the *lex arbitri* play a role in your advise to the parties on choosing the place to arbitrate?
- ✦ Which other factors shall you take into account?

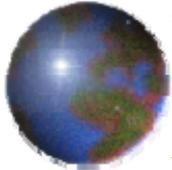


## V.1. Advance on Costs

### ✦ **Facts:**

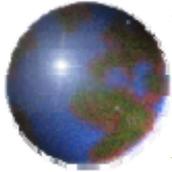
Arbitral Tribunal wrote to the parties saying that it intended to take no action in the matter until the parties had each deposited USD 20.000 with the Tribunal. The Claimant paid, but the Respondent refused. The Claimant also refused to pay Respondent's share stating that if it did so, any award might be open to challenge.

- ✦ What issues does this situation raise? Should the Arbitral Tribunal proceed with the arbitration?
- ✦ What actions will the Tribunal take if there is both a claim and a counter-claim?



## V.2. Pre-hearing Activities

- ✦ Procedural Orders
- ✦ Submissions →
- ✦ Terms of reference
- ✦ What is a bundle?
- ✦ Preparatory hearing
- ✦ Contests to jurisdiction - “*Kompetenz-Kompetenz*“  
Doctrine →
- ✦ Interim measures →
- ✦ Settlement
- ✦ Partial award
- ✦ Documents only arbitration

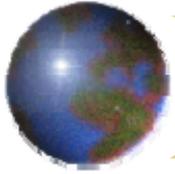


## V.2. Submissions

### ✦ **Facts:**

Suppose you are an Arbitrator. You made a procedural order that the Statement of Claim shall be delivered within 28 days, but in fact it was served only after 38 days and contained a new claim, which was not mentioned in the Notice of Arbitration. The Respondent makes an immediate application to dismiss the claim.

✦ Decide on the Respondent's application.



## V.2. “Kompetenz-Kompetenz“ Doctrine

- ✦ **Facts:**

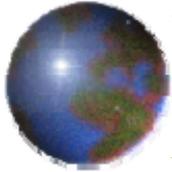
Suppose you are an arbitrator. The place of arbitration is in a country which has adopted the Model Law as its arbitration law. The Respondent contends that the arbitration clause from which your jurisdiction arises is contained in a contract that is null and void. On the basis of this argument, the Respondent claims that you do not have jurisdiction and asks you to step down.

- ✦ Can you rule on your jurisdiction?

- ✦ If the answer is ‘Yes’, would your decision be subject to judicial review?

- ✦ In case it is, may you continue the arbitral proceedings?

- ✦ May you render an award?



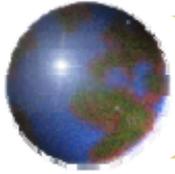
## V.2. Interim Measures

### ✦ **Facts:**

Suppose you are an arbitrator in a dispute between DMC, the metal mill administrator, and the Metal Machines Co., the producer and supplier of the machines. The dispute arose due to the non delivery of the machines in accordance with the contract. During the arbitral proceedings Respondent removed the machines from its plant. Claimant does not know where the machines are or what condition they are in. In connection with these facts Claimant submits the following application, to which Respondent objects:

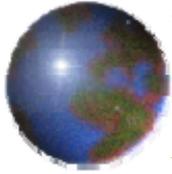
- ✦ That the machines be moved to the storage of a third party;
- ✦ That thereafter the access to them to be controlled only by you
- ✦ That the costs of storage be borne by the Respondent.

### ✦ Argue and decide the application



## V.3. The Hearing (1)

- ✦ Opening statements: yes or no
- ✦ Evidence
  - ✦ Documents
  - ✦ Witnesses
  - ✦ Experts
- ✦ Closing statements

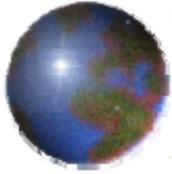


## V.3. The Hearing (2)

### ✦ **Facts:**

Suppose that you are an arbitrator in the *ad hoc* arbitration under the UNCITRAL Arbitration Rules. It is the first day of the Hearing. At 10:00 a.m. (when you are to start) neither the Claimant nor his representative are there. The Claimant did not attend all day and you cannot get in touch with him. Respondent invites you to dismiss the claim.

- ✦ Decide the issue
- ✦ Reverse the situation so that it is the Respondent who does not attend.
- ✦ Change the situation again so that it is the vital witness who does not attend
- ✦ The parties agreed to have the proceedings recorded *verbatim*, but the court reporter does not appear.

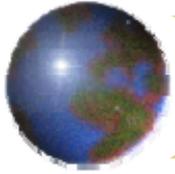


## V.4. Judicial Interference

### ✦ Facts:

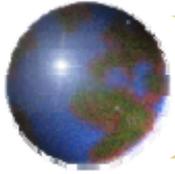
You are a member of an arbitral tribunal that has to decide an arbitral complaint for breach of contract filed by Connecting Airlines Co. against Catering, B.V. The procedural law applicable to the arbitration is the text of the Model Law. On answering the arbitral complaint, Catering B.V. raises the invalidity of the main contract as a defense and, on the basis of this, the invalidity of the clause contained in the contract. It informs and proves that, before commencing the arbitration proceedings, Catering B.V. filed a complaint against Connecting Airlines Co. before a court of law requesting a finding of invalidity of the contract. The judge has not solved the question yet. You believe *prima facie* that the contract is valid and that the grounds for invalidity contended are not reasonable.

- ✦ Do you continue the arbitration proceedings or do you suspend them?
- ✦ Can the court oblige you to suspend the arbitration proceedings?



## V.5. The Award

- ✦ Drafting the award
- ✦ Time limits
- ✦ Awards by consent
- ✦ Decision on costs
- ✦ Dissenting opinions
- ✦ Scrutiny of award
- ✦ Publication of award/confidentiality

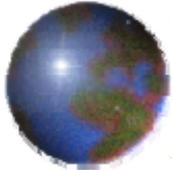


## VI. Recognition and Enforcement of Awards

✚ Setting aside →



✚ Grounds for challenge

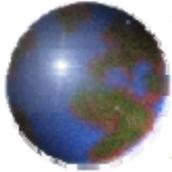


## VI. Setting Aside

### ✿ **Facts:**

You are a member of the court of Feudalia, a country that has adopted the Model Law. A company called Pasta Asciutta SpA files before your court a request for setting aside an arbitral award that compelled the company to pay the opposing party, Il Mulino SpA, for damages derived from the breach of an agreement for the sale of flour. Pasta Asciutta SpA contends, as a ground for the invalidity of the award, that there was no written agreement as required by the law. In effect, the contract does not contain any arbitration clause. You analyze the arbitral proceedings and realize that on requesting arbitration, Il Mulino SpA said that there had been an oral agreement between the parties to submit to arbitration all the question relating to that contract. On answering the request for arbitration, Pasta Asciutta SpA just defended itself and denied having failed to fulfill its obligations.

- ✿ Would you set aside the award?
- ✿ How do you account for your decision?

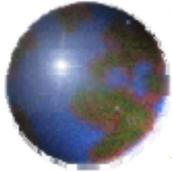


## VI. Grounds for Challenge

### ✦ **Facts:**

You are a member of the Supreme Court of Justice of Feudalia, a country that has ratified the New York Convention. Pending resolution before your court is a request for recognition and enforcement of an arbitral award made in a State that has also ratified the New York Convention. The defendant resists recognition of the award arguing that the laws of Feudalia require that the arbitration agreement be signed before a notary public.

- ✦ Can you refuse enforcement of the award on that ground?
- ✦ What laws must you apply to determine the validity of the arbitration agreement?



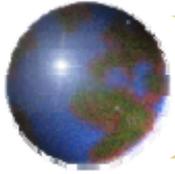
## VI. Practical Considerations

### ✿ Problems of Modern Arbitration

- ✿ Costs of Arbitration
- ✿ Choosing the Best Forum
- ✿ Interaction with State Courts
- ✿ Speed of Proceedings

### ✿ I want to become an Arbitrator

- ✿ Who is active in the field of arbitration
- ✿ How to start
- ✿ National and International Arbitration



## VII. Competitions

- ✦ Willem C. Vis International Moot Competition (Vienna, Austria)
- ✦ Foreign Direct Investments International Moot Competition (Boston, the USA)