



I. INTRODUCTION

Arbitration is a dispute-resolution process in which the parties select a neutral third party to resolve their claims. Parties typically agree to arbitrate in order to avoid the time, expense, and complexity of litigation. Arbitration clauses that require parties to submit all disputes to arbitration are widely used in domestic consumer and employment contracts. **International arbitration** is also an important and growing legal field as arbitration provisions within treaties often establish the sole method by which signatories must resolve disputes arising under the treaty.

Arbitration tribunals set their own rules and they are typically not bound by the procedural formalities employed by courts, nor are they always bound to follow the substantive laws that govern traditional court systems. Nonetheless, primary law and decisions handed down by other arbitrators deciding similar issues can be important sources of **persuasive authority** in resolving issues sent to arbitration. This research guide provides an introduction to some of the more important sources of information on handling both domestic and international arbitration cases.

II. SECONDARY SOURCES

Although arbitration tribunals often incorporate procedures similar to a trial court, such as the submission of briefs, the introduction of documents, and hearing witness testimony and counsel arguments, the process is much more informal. The following treatises and handbooks provide a good foundation for understanding how arbitration is conducted nationally and internationally.

I. Treatises and Handbooks

Domestic Arbitration: best place to start:

One of the most comprehensive and well-known treatises on the topic of labor arbitration is Elkouri & Elkouri, *How Arbitration Works*, 7th Ed. (KF3424.E44 & online in Bloomberg Law). This work is the “go to” resource of many practitioners and it is often cited in arbitration opinions. Published by the ABA section of Labor and Employment Law and updated regularly, chapters address common arbitration issues and include citations to applicable statutes and arbitration decisions.

Other Works:

- Carbonneau, *The Law and Practice of Arbitration*, 5th Ed. (KF9085.C37 2014). This is a comprehensive treatise on the origin and practice of arbitration law in the United States. It addresses arbitration of domestic as well as international claims.

- Domke, *Domke on Commercial Arbitration: The Law and practice of commercial arbitration*, 3rd Ed. (KF9085.D62 & online in Westlaw). Described as an easy to read guide that covers all stages of the arbitration process, from drafting the agreement through enforcement of the award. Includes forms, checklists, and practice tips.
- Huber, Weston, *Arbitration: Cases and Materials*, 3rd Ed. (KF9085. H83 2011), LexisNexis. This textbook covers the origins of arbitration and walks through the seminal statutory and case law that shaped current day arbitration. Also included are chapters on enforceability of arbitration provisions, arbitration procedures, powers of and ethical constraints on arbitrators, and judicial review of awards.
- Von Mehren, *American Arbitration, Principles and Practice*, (KF9085.V66 [binder] & online in Bloomberg Law). Published by Practising Law Institute and updated regularly, this volume covers the history of arbitration through enforcing the award. It also includes chapters on arbitrating in particular legal areas, such as labor and construction.

International Arbitration

- Born, *International Commercial Arbitration*, 2nd Ed. (K2400.B673 2014 & online in Kluwer Arbitration). This three-volume set provides a comprehensive commentary on international commercial arbitration, including the legal framework for international arbitration agreements, international arbitral procedures, and the form, content, and consequences of awards.
- Gusy, *A Guide to the ICDR International Arbitration Rules* (KZ6115.G87 2011), Oxford University Press. A comprehensive reference work for practitioners and arbitrators. Includes sections on drafting an arbitral clause and arbitration strategy.
- [Kluwer Arbitration](#), a research database accessible through Goodson Law Library with NetID and password, includes numerous works on international arbitration, including:
 - i. Blackaby, Partasides, et al., *Redfern and Hunter on International Arbitration*, 6th Ed. (2015)
 - ii. McIlwrath, Savage, *International Arbitration and Mediation: A Practical Guide* (2010)
- Moses, *The Principles and Practice of International Commercial Arbitration*, Cambridge University Press (K2400 .M65 2008). Short and readable, but comprehensive in coverage of basic requirements including current arbitration laws, rules and guidelines.

II. Practitioner Materials

- Bloomberg BNA, *Labor & Employment Resource Center, Labor Arbitration & Collective Bargaining* tab <http://laborandemploymentlaw.bna.com/lerc/#/labarb>, Includes latest news, practice tools, key laws, regulations, and documents, and recent labor arbitration decisions.
- Practical Law, *International Arbitration* (through Westlaw), Includes sample agreements, practice and procedure guidance, and general information on both domestic and international arbitration.
- *Transnational Dispute Management: TDM* (online access), Includes peer-reviewed journal articles, legal and regulatory documents, news and events, and excerpts of arbitration case decisions.
- *Kluwer Arbitration*. Research portal that includes arbitration news, journals, and practice tools, in addition to books and arbitration opinions.
- *Yearbook, Commercial Arbitration* (through Kluwer Arbitration and in print at K2400 .A53 Y4). Provides an annual update on key developments in arbitration awards and court decisions, updates on arbitration practice, and a bibliography of latest texts.
- Mistelis et. al., eds., *The World Arbitration Reporter: International Encyclopedia of Arbitration Law and Practice*, Juris (K2400 .W672). Includes commentary on the arbitration law of selected countries, national and international arbitral institutions, and treaties as well as bilateral and regional agreements.

III. ARBITRATION ORGANIZATIONS: RULES AND FORMS

There are numerous arbitration tribunals, both nationally and internationally, that conduct alternative dispute resolution proceedings. The organizations listed below are some of the most well-known arbitration and mediation services, and the resources linked below give the rules and procedures for each organization. For a more comprehensive list of organizations with links to information about each, see Georgetown Law Library, International Commercial Arbitration Research Guide, Arbitral Institutions and Procedural Rules <http://guides.ll.georgetown.edu/c.php?g=363504&p=2455947>, and Columbia University Law School, International Commercial Arbitration, Major International Arbitration Institutions http://library.law.columbia.edu/guides/International_Commercial_Arbitration#Major_International_Arbitration_Institutions.

A. AAA (American Arbitration Association)

The American Arbitration Association is a nonprofit organization that arranges domestic alternative dispute resolution services.

- *AAA Website* (Rules & Forms tab) <https://www.adr.org>
- *AAA Arbitration Step-By-Step Guides*, (online access through Practical Law, International Arbitration, Procedure & Evidence link)

- *American Arbitration Association, Commercial Rules, Consumer Procedure, Commercial Arbitration Rules and Mediation Procedures*, (online access through Bloomberg Law).
- *Commercial Arbitration Rules & Mediation Procedures (AAA)*, (online access through Lexis Advance).

B. **CPR (International Institute for Conflict Prevention & Resolution)** CPR is a membership-based nonprofit organization that helps resolve business-related disputes.

- *CPR Rules for Arbitration, Mediation, and International/Other* <http://www.cpradr.org/RulesCaseServices/CPRRules.aspx>
- *CPR Domestic Arbitration Flowchart, Thomson Reuters Practical Law* (online through Westlaw).
- Smit, Thomas, et al, *Comparison of International Arbitration Rules*, Juris legal, (K2400 .C67 2013) (Includes CPR rules along with rules followed by ICC, UNCITRAL, ICSID, and other international arbitration groups)

C. **FINRA (Financial Industry Regulatory Authority arbitration, subject to SEC oversight)** FINRA operates the largest securities dispute resolution forum in the United States. Eligibility is limited to disputes involving entities registered with FINRA.

- *FINRA Code of Arbitration Procedure* <https://www.finra.org/arbitration-and-mediation/code-arbitration-procedure>
- *FINRA Industry Arbitration: A Step-by-Step Guide*, Thomson Reuters Practical Law (online through Westlaw).
- Doss, *The Practitioner's Guide to Securities Arbitration*, ABA (KF 1070.5.D67 2013).

D. **ICC (International Court of Arbitration)**. The ICC is part of the International Chamber of Commerce, and its purpose is to help resolve international commercial disputes. There are no restrictions on who can use ICC Arbitration or who can act as arbitrators. The only requirement is that the parties to a contract, treaty, or separate arbitration agreement have agreed on ICC Arbitration.

- Schafer, *ICC Arbitration in Practice*, Kluwer Law International, (K2400 S.3213 2016, & online in Kluwer Arbitration).
- Fry, *The Secretariat's Guide to ICC Arbitration: a practical commentary on the 2012 ICC Rules of Arbitration from the Secretariat of the ICC International Court of Arbitration*, ICC (K2400 .F79 2005).
- *ICC Arbitration (2012 Rules), A Step-by-Step Guide*, Thomson Reuters Practical Law (online through Westlaw) (see also *ICC Arbitration Toolkit* and *Commencing ICC Arbitration* guides).

E. **ICDR (International Center for Dispute Resolution, the International Arm of the AAA)** ICDR was formed in 1996 as the global component of AAA, and it handles matters involving cross-border transactions.

- **ICDR website** <http://info.adr.org/icdrrules/>; rules can be downloaded as HTML or in pdf
- Gusy, *A Guide to the ICDR International Arbitration Rules*, Oxford University Press, (KZ6115 .G87 2011)
- Smit, Thomas, et al, *Comparison of International Arbitration Rules*, Juris legal, (K2400 .C67 2013) (Includes ICDR rules along with rules followed by ICC, UNCITRAL, ICSID, and other international arbitration groups)
- **ICDR International Dispute Resolution Procedures (Including Mediation and Arbitration Rules) 2014** (online through Kluwer Arbitration)
- **ICDR Arbitration: A Step-by-Step Guide**, Thomson Reuters Practical Law (online through Westlaw).

F. **ICSID (International Centre for Settlement of Investment Disputes)** The ICSID is an international organization that offers institutional and procedural support for alternative dispute resolution between international investors. It is funded by the World Bank, and participation is through state membership.

- **ICSID Arbitration: a step-by-step guide**, Thomson Reuters Practical Law, (online through Westlaw, *see also* **ICSID arbitration flowchart** and **ICSID arbitration toolkit**).
- **ICSID Convention**, including rules, process, and costs <https://icsid.worldbank.org/ICSID/StaticFiles/basicdoc/partA.htm>
- Reed, *Guide to ICSID Arbitration*, Aspen Publishers, (K3834 .R44 2011 & online in Kluwer Arbitration.)
- Schreuer, *The ICSID convention: a commentary: a commentary on the Convention on the settlement of investment disputes between states and nationals of other states*, Cambridge University Press (K3834.A41965 S37 2009).

G. **JAMS (formerly Judicial Arbitration and Mediation Service)** JAMS bills itself as the largest private alternative dispute resolution (ADR) provider in the world, and it specializes in multi-party business and commercial cases. JAMS International handles cross-border disputes.

- **JAMS Arbitration: A Step-by-Step Guide**, Thomson Reuters Practical Law (available through Westlaw).
- **JAMS Comprehensive Arbitration Rules and Procedures** <http://www.jamsadr.com/rules-comprehensive-arbitration/>

H. **TAS/CAS (Tribunal Arbitral du Sport- Court of Arbitration for Sport)** The CAS only has jurisdiction to rule on disputes connected with sport. A dispute may be submitted to the CAS if there is an arbitration agreement between the parties which specifies recourse to the CAS. The CAS hears both commercial and disciplinary disputes related to sport.

- Blackshaw, *Sport, Mediation and Arbitration*, T.M.C. Asser Press, (K3702 .B5345 2009).
- Blackshaw, Siekmann, et al., *The Court of Arbitration for Sport, 1984-2004*, T.M.C. Asser Press (K3702 .C682 2006).
- *Code of Sports-Related Arbitration* http://www.tas-cas.org/fileadmin/user_upload/Code_2016_final_en.pdf
- *CAS Rules: Provisions Common to Ordinary and Appeals Arbitration Procedures: Arbitration at the Court of Arbitration for Sport* (online in Practical Law, Westlaw).
- David, *A Guide to the World Anti-doping Code: The Fight for the Spirit of Sport*, Cambridge University Press, (K3702 .D38 2013).

I. **UNCITRAL (United Nations Commission on International Trade Law)**. UNCITRAL does not conduct arbitrations, but it has published a set of recommended rules and procedures for alternative dispute resolution of international commercial disputes. These rules are widely used and cover all aspects of the arbitral process.

- *Arbitrating under the UNCITRAL Rules 2010 and 2013: A Step-By-Step Guide*, (online in Practical Law, Westlaw) (see also, *UNCITRAL: standard recommended arbitration clauses*, and *UNCITRAL arbitration (2010 Rules) flowchart*.)
- Caron, *The UNCITRAL arbitration rules: a commentary; (with an integrated and comparative discussion of the 2010 and 1976 UNCITRAL arbitration rules)*, Oxford University Press, (K2400 .C39 2013)
- Croft, *A Guide to the UNCITRAL Arbitration Rules*, Cambridge University Press, (K2400 .C76 2013).
- *UNCITRAL Arbitration Rules*, http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/2010Arbitration_rules.html
- Webster, *Handbook of UNCITRAL Arbitration: Commentary, Precedents, and Materials for UNCITRAL Based Arbitration Rules*, Thomson Reuters, (K2400.W43 2010).

IV. Arbitrator Profiles

The importance of an earlier arbitration decision as persuasive authority is influenced both by the similarity of the facts and issues and by the experience of the arbitrator. In fact, the arbitrator's name is included in the citation in briefs filed for some forums. The following resources can help you find and evaluate individual arbitrators' expertise.

- A. **AAA's list of arbitrators** is treated as proprietary. Once parties have signed up for dispute resolution, AAA will send a list of ten arbitrators with specialization in the subject area of the dispute from whom the parties can choose. Qualification criteria can be found on the AAA website (Arbitrators & Mediators tab).
- B. **Bloomberg BNA, Labor & Employment Law Resource Center**, Directory of Arbitrators
http://laborandemploymentlaw.bna.com/lerc/display/split_display.adp?vname=ledirarb; Alphabetical listing by last name of arbitrators, including education, experience, professional affiliations, and arbitration rosters on which they appear.
- C. **Energy Arbitrators List**: Database of arbitrators accessed through ICDR website; filter by country and specialty. Information given on education, qualifications, arbitration experience, and affiliations of each arbitrator
http://www.energyarbitratorslist.com/ealsearch/faces/eal?_adf.ctrl-state=nqkfis222_4
- D. **ICSID** database of panel members, searchable by name, type of panel, or country.
<https://icsid.worldbank.org/apps/ICSIDWEB/about/Pages/Database-of-Panel-Members.bak.aspx>
- E. **JAMS** searchable database of "neutrals" <http://www.jamsadr.com/neutrals-search/> (search by name, resolution center, area of expertise, language, or keyword). Information includes contact number, education and background, work experience, past matters arbitrated, and professional affiliations.
- F. **Kluwer Arbitration**, Practice Tools tab > IAI Arbitrator Tool: search for profiles of arbitration specialists by country, language, and arbitration experience. Tool requires user to select two arbitrators, and the resulting chart shows comparative qualifications.
- G. **TAS/CAS** arbitrator list, searchable by name, spoken language, and nationality. Site gives general information on educational background and professional affiliation, with some attached resumes. <http://www.tas-cas.org/en/arbitration/list-of-arbitrators-general-list.html>
- H. **Westlaw Profiler- Profiles of Arbitrators** (online through Westlaw, Arbitration Materials link): enter name of arbitrator into search form. Information can be sparse, and academic accounts do not have full access to Westlaw arbitrator information databases.

V. Arbitration Decisions

Citation to arbitration decisions arising from unrelated disputes as persuasive authority is becoming increasingly common. This practice is not without controversy. It has been noted that citing to other arbitration decisions defeats one of the advantages of arbitration, which is its informality and strict adherence by the arbitrator to the terms of the underlying agreement. Nonetheless, parties often do cite to and discuss prior arbitration awards that address similar disputes, and arbitrators seek to learn from others' experience. Since arbitration decisions are often private, most (an estimated 90%) are not available. The following resources contain arbitration opinions from a variety of sources.

A. International Business Arbitration Decisions

Print materials

- *Collection of CEPANI Arbitral Awards*, 1985-1995 (Recueil de sentences arbitrales du CEPANI 1985-1995), Bruylant, (K2400 .A54 2005) (Decisions from the Belgian Center for Mediation, text in French, Dutch, English, and other languages).
- Happ, Rubens, *Digest of ICSID Awards and Decisions*, 1974-2002, Oxford University Press (K3829.5 H37 2013)
- *ICC Dispute Resolution Bulletin* (2015-) (Earlier years, called the ICC International Court of Arbitration Bulletin. Contains extracts from awards by ICC arbitral tribunals, comment and statistical analysis on law and practice, reports of the ICC Commission on Arbitration, guidelines on procedural and substantive issues, and news of interest to ICC users.) (K2400.A13 I57).
- *International Arbitration Court Decisions*, Juris, (K2400 .A54 2011) (decisions and commentaries from the Stockholm International Arbitration Report; see additional volumes under this call number for earlier years)
- *Permanent Court of Arbitration: Summaries of Awards* 1999-2009, The Hague, TMC Asser Press 2010, (KZ6183 .P47 2010).
- Weiler, *International investment law and arbitration: leading cases from the ICSID, NAFTA, bilateral treaties and customary international law*, Cameron May, (K3830 .I595 2005).

Electronic Resources

- *Kluwer Arbitration* (online access through Goodson Law Library), Use the advanced search function to fill out search template, select "organization"

from drop down box and “awards” filter. Search by keyword, title, date, party, or topic.

- ***Pace University CISG*** (Convention on Contracts for the International Sale of Goods) Database of CISG opinions includes over 3100 case presentations regarding cross-border sale of goods transactions, indexed by country. Links also to case yearbooks, and translations.
<http://www.cisg.law.pace.edu/cisg/text/casecit.html>
- ***Transnational dispute Management: TDM*** (online access through Goodson Law Library), Includes case abstracts of arbitral awards.
- ***United Nations Commission on International Trade Law (UNCITRAL)***, http://www.uncitral.org/uncitral/en/case_law.html , Case Law on UNCITRAL Texts (CLOUT), Includes searchable database of court decisions and arbitration awards relating to the Conventions and Model Laws of the Commission.
- ***United Nations, Reports of International Arbitral Awards***, <http://legal.un.org/riaa/> , searchable database of international decisions rendered between states (generally not private individuals or organizations)
- ***Westlaw> Arbitration Materials> Arbitration Awards: International> All International Arbitration Awards*** (searches CPR, ICSD, ICC, WIPO, NAFTA, and other tribunals): Search by keyword, available filters vary depending on results.
- ***WorldTradeLaw.Net, WTP Appellate Body Reports***, <http://www.worldtradelaw.net/databases/abreports.php> (Free collection of WTO Appellate Body Reports and Commentary maintained by private individuals, organized by title, party and date).

B. Labor and Employment Decisions

- ***BNA Labor Arbitration Decisions*** (1945-current), (online through Bloomberg Law (Search & Browse, All Legal Content, U.S. Courts, Alternative Dispute Resolution, National Arbitration Forum)
- ***Bloomberg BNA: Labor & Employment Law Resource Center>*** Arbitration Award Navigator; Filter by topic, industry, arbitrator, and other parameters.
- ***Westlaw> Arbitration Materials> Labor & Employment Arbitration Awards***: Search by keyword. Filter by case type, jurisdiction and award range. ***Note that academic accounts have limited access to some arbitration awards.
- ***Lexis Advance> Browse> Sources> AAA Labor Arbitration Awards, AAA Employment Arbitration Awards>*** Get documents

C. Sports Arbitration Decisions

- **TAS/CAS Tribunal Arbitral du Sport, Database of CAS awards** since 1986: filter by sport, year, or use advanced search for keyword searching <http://jurisprudence.tas-cas.org/Help/Home.aspx>
- **TEAM USA: Arbitration and Hearing Panel Cases:** Indexed by year and USOC Bylaw Section claim is filed pursuant to (§ 9, 10, or 11). Olympics administrative matters <http://www.teamusa.org/Footer/Legal/Arbitration-and-Hearing-Panel-Cases/Section-9>
- **USADA Arbitration Decisions:** decisions of both AAA and CAS, listed alphabetically by year. Very limited collection, no keyword searching other than ctrl-F title search. <http://www.usada.org/testing/results/arbitration-decisions/>

D. Financial Industry Arbitration Decisions

- **FINRA Arbitration Awards.** Includes FINRA and historical NASD awards. Searchable by keyword, date of award, forum, and panel composition: <https://www.finra.org/arbitration-and-mediation/arbitration-awards>
- **Lexis Advance> Browse Sources> FINRA/NASD Arbitration Awards,** AAA Employment Arbitration Awards> Get documents
- **Lexis Advance> Browse Sources> NYSE>** Get documents
- **Westlaw> Arbitration Materials> Arbitration Awards:** United States, Securities link. Provides keyword searchable database of FINRA arbitration awards since 1981.

VI. U.S. Arbitration Enforcement Statutes

In 1925, Congress passed the Federal Arbitration Act (FAA), Pub. L. No. 68-401, 43 Stat. 883(1925), which is now codified in Title 9 of the U.S. Code. The FAA established the enforceability of valid arbitration provisions in commercial contracts. A Uniform Arbitration Act (UAA) was created by the National Conference of Commissioners on Uniform State Laws in 1955, and the UAA has been adopted by 35 states, with all of the remaining states adopting similar legislation. These laws address the applicability and administration of arbitration provisions within contracts, including selection of arbitrators, conduct of the proceedings, confirmation of awards and the ability to appeal awards.

A. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention)

The New York Convention is a multi-state agreement that requires courts of contracting states to enforce private arbitration agreements and to recognize arbitration awards made in other contracting states. There are currently more than 150 member states. It is considered to be one of the foundational agreements for international arbitration.

- **New York Arbitration Convention website**
<http://www.newyorkconvention.org/>
Provides Convention texts, list of member states, court decisions organized by topic and country, other related documents, and related news.
- Paulson, *The 1958 New York Convention in Action*, Kluwer Arbitration B.V. (available electronically and at K2400 .A4 1958 P38 2016).
- Wolff, ed., *New York Convention: convention on the recognition and enforcement of foreign arbitral awards of 10 June 1958: commentary*, C.H. Beck; Oxford, United Kingdom: Hart; Baden-Baden, Germany (K2400 .A41958 N49 2012).

B. Uniform Arbitration Act

- **Bloomberg Law, Legislative & Regulatory, Uniform Arbitration Act** (2000 revision)
- **Lexis Advance, Uniform Law Commission Model Acts**
- **Uniform Law Commission, Arbitration Act** (2000)
<http://www.uniformlaws.org/Act.aspx?title=Arbitration%20Act%20%282000%29> (shows map of states in which the Uniform Arbitration Act has been adopted)
- **Westlaw, Statutes and Court Rules, Uniform Laws Annotated, Business & Financial** (UAA versions are listed in this section)

C. State Arbitration Acts: Fifty State Surveys

- Bradley P. Nelson and Jeffrey R. Teeters, *Business Torts: A Practical Guide to Litigation*, ABA Section of Litigation, Business Torts and Unfair Competition (2014), pages 35-36, Appendix, State Arbitration Statutes (includes only citations)
- **Lexis Advance, Civil Procedure – Pretrial Matters: Alternative Dispute Resolution in Civil Actions** (provides a summary of and links to arbitration statutes in all 50 states)
- Tyler, Richard J, *Discovery in Arbitration, The Construction Lawyer* 35.1 (Winter 2015): 5-6,11-21,45-49, Compendium of State Arbitration Laws, Table 1, pages 7-10 (Chart includes every state, statute citation, and comment)
- **Westlaw, Statutes and Court Rules, Uniform Laws Annotated** (table of jurisdictions in which the UAA has been enacted is linked to UAA (1956)).