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# ARBITRATION IN THE AMERICA'S CUP

THE XXX AMERICA'S CUP ARBITRATION PANEL  
AND ITS DECISIONS

JOHN FAIRE | MICHAEL FOSTER | DONALD MANASSE  
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# Arbitration In The America S Cup Arbitration In The America S Cup

**Luke Nottage**



## **Arbitration In The America S Cup Arbitration In The America S Cup:**

Arbitration in the America's Cup John Faire, Henry Peter, 2003-01-01 Following experiences made during the previous edition of the America s Cup an Arbitration Panel was set up in order to resolve the disputes arising with respect to the 31<sup>st</sup> 2000 2003 America s Cup It was composed of five arbitrators all high standing lawyers with vast experience in arbitration and sport The Arbitration Panel issued 22 decisions on many subjects ranging from deciding whether or not Societe Nautique de Geneve Alinghi could take part to the America s Cup to whether or not the Seattle Yacht Club One World Challenge had breached rules prohibiting the transfer of technology from a syndicate to another This book contains all the decisions rendered as well as the background and supporting material It begins with an introductory text which enables a better understanding of the reasons why the Arbitration Panel was set up of the way it has worked and of the main issues it has dealt with The work will be of interest to any person involved in arbitration in general and in sport in particular It will also provide an insight into the history of the America s Cup which from the outcome in 1851 has been characterised by controversies and disputes

Arbitration in the America's Cup John Faire, 2003      Arbitration in the 36th America's Cup Henry Peter, 2022-08-09 More than the most prestigious regatta and match race in the sport of sailing the America s Cup is a test of boat design sail design and management skills It is not surprising that its passionate skippers builders and managers often become embroiled in disputes Recognizing this and the need to deal quickly and professionally with any divergency an arbitration panel has become an established part of the Cup s organization This book the fifth of a series that over time constitutes a unique corpus of decisions rendered over more than twenty years compiles all the directions and decisions issued by the 36th America s Cup Arbitration Panel in the context of the nineteen cases submitted to it as well as all supporting documents elucidating the context in which the decisions were issued In addition to all the decisions the following are also included the Protocol of the 36th America s Cup and amendments made thereto the 36th America s Cup Arbitration Panel Rules of Procedure applicable versions of the World Sailing Racing Rules the AC75 Class Rule and the so called Prada Cup Conditions and Match Conditions previously unpublished documents related to proceedings which have led to the amendment and or interpretation of the Deed of Gift by the Supreme Court of the State of New York and previously unpublished court related material pertaining to the key Mercury Bay case 1987 1990 An extensive and valuable introduction provides detailed historical and factual context Expert commentary addresses issues of special interest decided by the 36th America s Cup Arbitration Panel including privileged insight into the previously undocumented dispute resolution during the 35th America s Cup 2013 2017 and the World Intellectual Property Organization s Electronic Case Management Facility ECAF A table containing a summary of the subject matter of each decision and a keyword index help find which argument is dealt with in which decision Because arbitration plays a key role in this context and because what happens in the America s Cup is of general interest to the sport and arbitration communities this book s many insights into the kinds of issues that fuel

disputes in sports events offer a significant extension of the knowledge base available to lawyers arbitrators and scholars in several branches of law and legal practice      **Dispute Resolution in the 34th America's Cup** Henry Peter, 2015-11-24

The America's Cup continues to evolve as the preeminent sporting contest in the world of sailing and is one of the greatest contests in the world of sport. In its long and colorful history, disputes around the match have not only added major extra publicity to the event's great popular appeal but also spawned a wealth of judicial and arbitral decisions that have become influential on the sport of sailing. This book, continuing the tradition of Kluwer Law International's earlier publications on the 31st, 32nd and 33rd America's Cup, offers richly detailed expert commentary along with the decision texts themselves on the judgments of various courts and other dispute resolution bodies delivered during the tumultuous 34th America's Cup. Since there is no official record of many of these documents, this book is the only source that presents them together in a single volume with the added benefit of commentary. Among the aspects covered are the following: all decisions issued by the 34th America's Cup International Jury as well as related decisions or awards rendered by other bodies: ISAF Disciplinary Commission, ISAF Review Board and the Court of Arbitration for Sport; judgments of the New York Supreme Court and its Appellate Division regarding the rejection of the African Diaspora Maritime Corporation application to compete to be a defender; the pivotal Jury decision affirming that the AC72 yacht could be made to foil on its centreboards and rudders, dramatically increasing its speed the first time ever; Youth America's Cup and the extensive mediation concerning safety recommendations following the death of a sailor. A general introduction surveys the most important and peculiar issues pertaining to the event. Written not only as a comprehensive legal record of the 34th America's Cup but also with a view to favor future matches and to limit the possibilities of new controversies, the book takes a significant step toward ensuring that disputes are dealt with by arbitration and not by lengthy, costly and uncertain state court proceedings. In this way, the book provides invaluable guidance for trustees, competitors and event officials not only for the America's Cup but by extension to other major international sporting events.      *Dispute Resolution in the 34th America's Cup* Henry Peter, 2016

Written not only as a comprehensive legal record of the 34th America's Cup but also with a view to favor future matches and to limit the possibilities of new controversies, the book takes a significant step toward ensuring that disputes are dealt with by arbitration and not by lengthy, costly and uncertain state court proceedings. In this way, the book provides invaluable guidance for trustees, competitors and event officials not only for the America's Cup but by extension to other major international sporting events. Publisher's website      [Research Handbook on Major Sporting Events](#) Harry A. Solberg, Rasmus K. Storm, Kamilla Swart, 2024-01-18. Presenting a comprehensive and pragmatic view on challenges around sporting events, this timely Research Handbook examines the hosting of major sporting events and the impacts they can have on stakeholders. Looking beyond the host destination, it provides a wealth of conceptual analysis on the organisation and administration of such events, including the bidding process, planning, management, sponsorship issues and marketing.      *The 32nd America's Cup Jury and*

*Its Decisions* Henry Peter, 2009-01-01 anti doping and anti gambling rules A valuable introduction written by the Jury members offers a first hand perspective in addition to historical and legal background Finally of interest for practitioners in general is the symbiosis established between the America's Cup organisation and the World Intellectual Property Organization WIPO At the request of the Jury WIPO developed a customised web based electronic case facility ECAF for the rapid and secure administration of disputes a facility now available in the context of other sporting events and for intellectual property disputes in general With detailed information on this system along with the book's many insights into the kinds of issues that fuel disputes in sports events and their resolutions The 32nd America's Cup Jury and its Decisions offers a significant extension of the knowledge base available to lawyers and scholars in several branches of law and legal practice

**Book Jacket Sports Arbitration: A Coach for Other Players - ASA Special Series No. 41** Elliott Geisinger, Elena Tralbaldo - de Mestral, 2015-02-01 Sports Arbitration A Coach for Other Players is not about sports arbitration The reader may thus ask Well what is it about Arbitration can take inspiration from other human activities for instance sports Does it follow that arbitration in general can take inspiration from sports arbitration Can sports arbitration serve as an example be it for better or worse And if so what are the limits of this These questions are highly topical in today's world of arbitration Faced with the increased duration and costs of arbitral proceedings and with the perception that litigators instead of business people have taken over the process more and more users are calling for a return to fast inexpensive forms of dispute resolution that are conducted by persons of the trade This has resulted in a series of initiatives to introduce trade specific forms of dispute resolution based on fast track arbitration proceedings in a wide range of business sectors

**The 33rd America's Cup Judicial and Arbitral Decisions** Henry Peter, Hamish Ross (LLB.), Graham McKenzie, 2012 Introduction CNEV's Challenge GGYC's Challenge Deed Match Settlement Management and Future of the America's Cup

**Information Technology and Arbitration** Thomas Schultz, 2006-01-01 This is not another book about online dispute resolution ODR Rather it is about how various information technology IT solutions may be put to good use in traditional arbitral proceedings For arbitration professionals be they arbitrators or counsel this book brings the landscape of this changed practice into clear focus dispersing mists of confusion and clarifying the choices they will inevitably be called upon to make

**Reference Guide to Sustaining Sport and its Development through Intellectual Property Rights.** World Intellectual Property Organization, 2023-09-20 The goal of this publication is to serve as a reference tool that shall help to guide the development of national strategies in order to sustain sport and its development through IP rights

**Rules of Evidence in International Arbitration** Nathan D. O'Malley, 2013-06-19 Rules of Evidence in International Arbitration An Annotated Guide is a valuable reference for practitioners arbitrators and in house counsel involved in cross border dispute resolution Filled with examples drawn from arbitration case precedent the book considers common issues and questions relating to evidentiary procedure Features Benefits Focuses on evidentiary procedure with extensive case based commentary

and examples addressing common issues in international arbitration related to evidence Extensive annotations which allow the reader to locate key precedents for use in practice Practitioner focused meaning common misconceptions and questions arising from the international arbitration procedure are addressed Organised in an easy to use style for quick reference This book will be an essential reference guide on evidence for practitioners of international arbitration Filled with examples drawn from arbitration case precedent the book considers common issues and questions relating to evidentiary procedure Arbitrators and counsel will gain from this publication a better view of the best practices accepted solutions to difficult procedural issues and fundamental due process considerations which arise in connection with the use of evidence in international arbitration

**International Commercial and Investor-State Arbitration** Luke Nottage, 2021-02-26 This thought provoking book combines analysis of international commercial and investment treaty arbitration in order to examine how they have been framed by the twin tensions of in formalisation and glocalisation Taking a comparative approach the book focuses on Australia and Japan in their attempts to become regional hubs for international arbitration and dispute resolution services in the increasingly influential Asia Pacific context as well as a global context Yachting ,1982-04

*Czech (& Central European) Yearbook of Arbitration - Borders of Procedural and Substantive Law in Arbitral Proceedings - 2013* Alexander J. Bělohlávek, Filip Cerný, Naděžda Rozehnalova, 2013-03-01 The Czech Yearbooks Project for the moment made up of the Czech Yearbook of International Law and the Czech Central European Yearbook of Arbitration began with the idea to create an open platform for presenting the development of both legal theory and legal practice in Central and Eastern Europe and the approximation thereof to readers worldwide This platform should serve as an open forum for interested scholars writers and prospective students as well as practitioners for the exchange of different approaches to problems being analyzed by authors from different jurisdictions and therefore providing interesting insight into issues being dealt with differently in many different countries The Czech Central European Yearbook of Arbitration the younger twin project within the Czech Yearbooks primarily focuses on the problematic of arbitration from both the national and international perspective The use of arbitration as a method of dispute resolution continues to increase in importance Throughout Central and Eastern Europe arbitration is viewed as being progressive due to its practical aspects and to its meeting the needs of specialists in certain practice areas Central and Eastern Europe the primary but not exclusive focus of this project is steeped in the Roman tradition of continental Europe in which arbitration is based on the autonomy of the parties and on informal procedures This classical approach is somewhat different from the principles on which the system of arbitration in common law countries is based Despite similarities among countries in the region arbitration in Central and Eastern Europe represents a highly particularized and fragmented system One shortcoming in the use of arbitration in Central and Eastern Europe is the absence of comparative standards or a baseline that would facilitate the identification of commonalities and differences in individual countries and help resolve problems that are common throughout the region The CYArb project aims to address

this issue and provide a forum for comparisons of arbitration practice and doctrine in countries within the region and in relation to practices internationally. It sheds light on both practical and academic aspects within these countries and compares those approaches to broader European and international practices. This project will also foster a broad exchange of legal research and other information on the subject. The third volume of the CYArb focuses on the blurry area which borders the procedural and substantive law. Editors being motivated with an endeavour to provide the readers with complex insight into the problematic, invited authors of Civil same as Common law jurisdictions to provide their insight and analysis on the problems of i.e. mandatory provisions of procedural same as substantive law issues of application of law in arbitration adjudication according to the ex aequo et bono principles issues of the burden and standard of proof and others. The issues are presented on a highly comparative basis provided mostly by practitioners who are simultaneously involved in academic activities. The book is divided into four sections. The backbone sections encompass the doctrinal articles of the authors same as case law analysis of the domestic courts from the region relating to the topic covering the case law of Constitutional General same as Arbitral courts of the countries from the Central European Region. The rest of the book covers the news in the arbitration area same as interesting arbitration events or published articles and books of the authors from the region. The new volume of the The Czech Central European Yearbook of Arbitration Borders of Procedural and Substantive Law in Arbitral Proceedings Civil versus Common Law Perspectives brings useful resource for everyone who is dealing with arbitration in all of its aspects be it an academic practitioner law or international relations student who seeks global compendium on the issue including an overlap to economic and politic aspects of the problematic.

*Key Duties of International Investment Arbitrators* Katia Fach Gómez, 2018-10-31. This book critically analyses how arbitration cases institutional rules and emerging codes of conduct in the international arbitration sector have dealt with a series of key arbitrator duties to date. In addition it offers a range of feasible and well grounded proposals regarding investment arbitrators duties in the future. The following aspects are examined in depth: the duty of disclosure, the duty to investigate, the duty of diligence and integrity which in turn may be divided into temporal availability, a non delegation of responsibilities and adhering to appropriate behaviour, the duty of confidentiality and other duties such as monitoring arbitration costs or continuous training. Investment arbitration is currently undergoing sweeping changes. The EU proposal to create a Multilateral Investment Court incorporates a number of ground breaking developments with regard to arbitrators. Whether this new model of permanent members of the court will ever become a reality or whether the classical ex parte arbitrator system will manage to retain its dominance in the investment arbitration milieu, this book is based on the assumption that there is a current need to re-examine and rethink the main duties of investment arbitrators. Apart from being the first monograph to analyse these duties in detail, the book will spark a crucial debate among international scholars and practitioners. It is essential to identify arbitrators duties and find consensus on how they should be reshaped in the near

future so that these central figures in investment arbitration can reinforce the legitimacy of a system that is currently in crisis

**Place Event Marketing in the Asia Pacific Region** Waldemar Cudny, 2021-08-19 This book explores the fascinating phenomenon of place event marketing in the Asia Pacific region It examines procedures in the promotion and branding of places that use events to shape their identities It considers how events are used in forming a branded image of a place and disseminate information about it This innovative book offers theoretical insights of the opportunities and challenges related to place event marketing With contributions from leading thinkers in the field chapters also draw on empirical examples to showcase a variety of events across the Asia Pacific such as MICE sporting events festivals and religious and cultural celebrations The book explores the importance of such events for the socio economic development of urban regions Today the Asia Pacific is one of the world s fastest developing regions and its rising economic power is accompanied by the growing importance of the tourism and event sector The book is a unique study relating to a very exceptional region of the world The role of events in tourism development and the rise of the region s soft power is presented through carefully selected examples of cities from different countries The book concludes with commentary on the future directions for research in this area Written in an accessible style this book will be of great interest to students scholars and practitioners working in events studies urban studies tourism place branding and promotion business and management studies geography sociology and sport and leisure studies

*Sport et propriété intellectuelle / Sport and intellectual property* Marianne Chappuis, François Gindrat, Ivan Cherpillod, Heijo Ruijsenaars, Pranvera Këllezi, Nick White, Henry Peter, Jacques de Werra, 2009-01-01 Actes de la Journée de droit de la propriété intellectuelle organisée Genève le 2 février 2009 regroupant des contributions de Marianne Chappuis François Gindrat Ivan Cherpillod Heijo Ruijsenaars Pranvera Këllezi Nick White et Henry Peter Jacques de Werra

*Post Award Issues: ASA Special Series No. 38* Pierre Tercier, 2012-01-01 The arbitral tribunal s responsibilities and tasks often do not end when it has rendered its award Tribunals may be called to interpret their awards or correct clerical errors the award may be sent back to them for amendments arbitrators may have to comment on their awards or may be called as witnesses they may be invited to continue even though all pending disputes have been decided their fees may be challenged or they may have to claim tax reimbursements These and other issues that arbitrators parties and institutions have to face once the award has been rendered are examined by leading authorities

**Yachting** ,1995-08



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