
INTERNATIONAL ARBITRATION

Law and Practice in Brazil

EDITED BY
PETER SESTER



OXFORD

Arbitration In Brazil Law And Practice

Alan Redfern



Arbitration In Brazil Law And Practice:

Arbitration in Brazil João Bosco Lee, Lee, Eduardo Damio Goncalves, Clavio de Mello Valença Filho, 2011-08 This volume contains a systematic study of the Brazilian Arbitration Act and other Brazilian Acts which regulate arbitration in Brazil an analysis of Brazilian national court judgments and the real practice of arbitration in Brazil *International Arbitration: Law and Practice in Brazil* Peter Sester, 2020 This book provides comprehensive coverage on the state of arbitration in Brazil following the enactment of the 1996 Arbitration Act Expert contributors explore the impact of this act on a range of areas all of Brazilian international law including labour law construction and capital market transactions **Arbitration Law of Brazil** Joaquim T. de Paiva Muniz, Ana Tereza Palhares Basílio, 2006-11-01 Arbitration Law of Brazil Practice and Procedure is a timely contribution to the development of commercial arbitration in Brazil as it provides international practitioners and arbitrators with a useful reference tool to understand the Brazilian arbitral framework Without sacrificing scholarly rigor it provides a clear commentary on Brazilian arbitration legislation from a practical perspective addressing the most relevant points in a direct and instructive manner so that even someone unfamiliar with Brazilian law can comprehend all issues This work reflects the experience of the authors who are among the most prominent arbitration practitioners in Brazil Both authors have long been committed to the development of arbitration through teaching classes organizing seminars and writing articles not to mention their work on the Arbitration Committee of the Rio de Janeiro State Chapter of the Brazilian Bar Association the first institution in Brazil to help develop and improve alternative dispute resolution mechanisms Besides the authors work this book also contains in its appendices articles from other leading Brazilian scholars analyzing relevant issues in connection with arbitration in Brazil This provides an enlightening combination of practical background and academic debate Publisher's website [Contract Law in International Commercial Arbitration](#) Peter Sester, 2022-11-22 The vast bulk of claims in international commercial arbitration are contractual in nature Viewed through that lens what comes to occupy centre stage in the arbitration of disputes is the choice of applicable contract law This book breaks new ground by for the first time focusing in depth on the contract law chosen by the parties to be applied to disputes The author uses a comparative inductive methodology to analyse why according to statistics of the International Chamber of Commerce English New York and Swiss contract law outperform transnational and other contract law regimes in the choice of law provision of business contracts He finds that these three bodies of law share a firm commitment to enforcing the contract as written thus prioritizing certainty stability and predictability and clearly recognizing the parties right to determine for themselves and have arbitrators and courts respect central issues such as risk allocation and price Starting from a detailed comparative examination of traditional and contemporary theories of contract the author develops a minimalist approach that is acceptable to lawyers with a civil or common law background and that facilitates dealmaking by providing a clear set of hard edged rules in four areas formation of contracts invalidity and public policy contract interpretation and damages for breach

and showing how each of the three contract regimes that are dominant in practice manifests his approach. With its emphasis on pragmatic adjudication grounded on facts and consequences rather than on conceptualisms and generalities, the book greatly enhances the ability of arbitrators to make decisions based on legal arguments that fit the setting of international commercial arbitration. It is sure to become established as a tool to achieve the defined objective of facilitating cross border commercial transactions as well as providing arbitrators with a set of rules for the interpretation of contractual provisions and the quantification of damages. Peter Sester confronts the reality that disputes in commercial arbitration are overwhelmingly contract based and properly directs our attention away from the contract by which the parties agreed to arbitrate to the contract by reference to which they intended their disputes to be adjudicated. This is a most welcome move and one that cannot help stimulate those whose interests are similarly situated on the frontier between the law of arbitration and the law of international contracts. Prof George A Bermann, Columbia University, New York City. This is a book that is not only useful but also close to market expectations. Summing up, I would like to congratulate Peter Sester for giving us a free market society book. He provides his readers with much food for thought and a remarkable admonition not to replace the parties' work with public policy considerations. Prof Dr Peter Nobel, Emeritus, Universities St Gallen and Zurich, Switzerland.

Law and Practice of International Commercial Arbitration Alan Redfern, 2004. Highly acclaimed by practitioners all over the world, *Law Practice of International Commercial Arbitration* has deservedly become the leading text in its field. With its comprehensive review of the legal context within which international commercial arbitration operates, Redfern Hunter is the ultimate user friendly explanation of how arbitration and in particular international commercial arbitration works. The 4th edition has been expanded to give a wider global scope to the work. Readers can also benefit from the expert insight and advice of world renowned international practitioners. Contains a comprehensive review of the international commercial arbitration process from start to finish. Includes commentary on suitable places of arbitration, developments in international trade law and the increasing harmonisation of national laws governing international arbitration. Appendices include the major international rules of arbitration and conventions. Explains how arbitration should be conducted to be cost effective and profitable. Fully updated to take account of the latest developments all over the world including a new chapter on investment arbitrations.

International Commercial Arbitration and the Arbitrator's Contract Emilia Onyema, 2010-04-05. This book examines the formation, nature and effect of the arbitrators' contract, addressing topics such as the appointment, challenge, removal and duties and rights of arbitrators, disputing parties and arbitration institutions. The arguments made in the book are based on a semi-autonomous theory of the juridical nature of international arbitration and a contractual theory of the legal nature of these relationships. From these premises, the book analyses the formation of the arbitrator's contract in both ad hoc and institutional references. It also examines the institution's contract with the disputing parties and its effect on the arbitrator's contract under institutional references. The book draws

from national arbitration laws and institutional rules in various jurisdictions to give a global view of the issues examined in it. The arbitrator's contract is analysed from a global perspective of arbitral law and practice with insights from various jurisdictions in Africa, Asia, Europe, North and South America. The primary focus of the book is an analysis of the formation of the arbitrator's contract and the terms of this contract and the institution's contract. The primary question of the consequences if any of the breaches of the terms of these contracts and its impact on the exclusion or limitation of liability of arbitrators and institutions is also analysed with the conclusion that since these transactions are contractual and the terms can be categorised as in any normal contract, then normal contractual remedies can be applied to the breaches of these terms. International Commercial Arbitration and the Arbitrator's Contract will be of great value to arbitration practitioners and researchers in arbitration. It will also be very useful to students of arbitration on the topics of arbitrators and arbitration institution.

Baker & McKenzie International Arbitration Yearbook 2013-2014 Liz Williams, 2014-03-01. This is the seventh edition of the Baker McKenzie International Arbitration Yearbook, an annual series established by the Firm in 2007. This collection of articles is comprised of reports in key jurisdictions around the globe on arbitration. Leading lawyers of the Firm's International Arbitration Practice Group, a division of the Firm's Global Dispute Resolution Practice Group, report on recent developments in national laws relating to arbitration and address current arbitral trends and tendencies in the jurisdictions in which they practice. This Yearbook highlights the more important recent developments in international arbitration without aspiring to be an exhaustive case reporter or a text book to arbitration in the broad sense. This volume will prove a useful tool for those contemplating and using arbitration to resolve international business disputes.

Baker and McKenzie International Arbitration Yearbook 2014-2015 Baker & McKenzie, 2015-03-01. The Baker and McKenzie International Arbitration Yearbook 2014-2015 covers 45 jurisdictions and is organized by country. As in past years, the first section, Part A, describes important recent developments and trends in national legislation and practice affecting the conduct of international arbitration. The second section, Part B, refers to noteworthy case law in each country, and a third section, Part C, focuses on an important current topic in international arbitration. This year's topic is local arbitration institutions. Each jurisdiction was invited to describe the history and background of its local institutions, the types of disputes handled, and the most recent available statistics for numbers of disputes handled. Each jurisdiction was also asked to set out the key features of arbitration in each institution, such as its position on the confidentiality of arbitration, the availability of expedited procedures, and consolidation of disputes, and any time limits for rendering of the award. Jurisdictions were also invited to describe how costs and fees are typically dealt with by the institution and to mention any special or unusual features of its procedure. The diversity and breadth of global international arbitration practice is clearly displayed in these chapters. The Baker and McKenzie International Arbitration Yearbook 2014-2015 provides critical commentary about world-wide developments that directly affect the risks and challenges of doing business locally and internationally and managing the

disputes that follow **International Business Transactions with Brazil** Beatriz Franco, 2008-06-01 This collection of essays is a project of the Brazilian Institute of Business Law IBRADEMP whose purpose is to expand and discuss technical subjects related to Brazilian corporate law its evolution in Brazil and the repercussions abroad International Business Transactions with Brazil written by highly experienced experts from both Brazil and the United States covers most of the topics that a business lawyer in the United States Europe or Asia might expect to possibly encounter in his or her representation of international companies seeking to do business in Brazil This volume is designed for business lawyers business executives investment bankers and international investors seeking technical knowledge of the current state of the art in many aspects of Brazilian law and finance This volume is required reading for anyone seeking to assist their clients in Brazilian business transactions **Arbitration of International Business Disputes** William W. Park, 2012-09-20 Arbitration of International Business Disputes 2nd edition is a fully revised and updated anthology of essays by Rusty Park a leading scholar in international arbitration and a sought after arbitrator for both commercial and investment treaty cases This collection focuses on controversial questions in arbitration of trade financial and investment disputes The essays address some of the most interesting topics in cross border business dispute resolution many of which have endured over several decades and remain subject to radically different views Examples include the proper role of judicial review the allocation of jurisdictional tasks evolution of arbitration s statutory and treaty framework free trade and bilateral investment agreements and the balance between fixed rules and arbitral discretion The book is structured around three themes arbitration s legal framework the conduct of arbitral proceedings and a comparison of arbitration in specific fields such as finance intellectual property and taxation In each of these areas analysis includes the tensions between fairness and efficiency and the accurate application of substantive law as well as the implications of mandatory procedural norms Augmented by more than a dozen new contributions and a revised introduction this 2nd edition retains all of its earlier practical and scholarly relevance and includes a Foreword by V V Johnny Veeder QC Interpretation of Law in the Global World: From Particularism to a Universal Approach Joanna Jemielniak, Przemyslaw Miklaszewicz, 2010-04-08 Capturing the Change Universalising Tendencies in Legal Interpretation Joanna Jemielniak and Przemyslaw Miklaszewicz International and supranational integration on the European continent as well as the harmonisation of the rules of international trade and the accompanying development and global popularity of the resolution of commercial disputes through arbitration constantly exerts a considerable influence on modern legal systems The sources of each of these phenomena are different and their action is dissimilar Each can be described as reaching either from the top to the bottom through the direct involvement of interested States and consequently affecting their internal legal systems international and supranational integration harmonisation of trade regulations through public international law instruments or bottom up as a result of activity by private parties leading to the achievement of uniform practices and standards arbitration lex mercatoria Nonetheless they both enrich national legal

cultures and contribute to transgressing the limits of national local particularisms in creating interpreting and applying the law The aim of this book is to demonstrate how these processes have influenced the interpretation of law how they have shaped the methods and techniques of the interpretation and with what consequences for the outcomes of the interpretative procedures In assessing the extent of this influence due regard must be paid to the fact that the interpretation of law is not in principle directly determined by the provisions of law itself

The Comparative Constitutional Foundations of Private-Public Arbitration, 2025-04-24 This book engages with the concerns the rising phenomenon of arbitrations between private and public actors raises for principles of constitutional law including democracy the rule of law and the protection of fundamental rights It analyses how party appointed one off arbitral tribunals determine the delineation of private rights and public interests within a transnational legal environment and provides a framework that aligns this activity with constitutional values Featuring 20 chapters dealing with almost 40 jurisdictions from different corners of the world the book examines how domestic legal systems and legal practice approach the involvement of public entities as parties to arbitration agreements and arbitration proceedings to what extent the constitutional legal frameworks involved problematize private public arbitration as a constitutional concern and how different domestic legal systems ensure that private public arbitration conforms to and avoids undermining the public interest The chapters analyse inter alia whether the governing domestic law treats private public arbitration differently from commercial arbitration between private parties to what extent domestic law permits such arbitrations what regulatory frameworks domestic law sets up and what control mechanisms domestic law establishes in order to ensure that the public interest is safeguarded when public entities agree to have disputes resolved through arbitration rather than in domestic courts

Governing Law and Dispute Resolution in the Oil and Gas Industry Pereira, Eduardo G., Timonen, Tuuli, Aleynikova, Elina, 2022-08-23 The oil and gas industry's wide international exposure and constantly changing landscape leave it particularly vulnerable to disputes As this practical book demonstrates the risks associated with disputes can be mitigated by parties utilising governing law and dispute resolution clauses in contractual agreements within the sector Examining a global range of jurisdictions the book offers clear guidance on the most appropriate choice of law and choice of dispute resolution forum for oil and gas contracts analysing the key issues and defining the legal contours involved

Contemporary Issues in International Arbitration and Mediation Arthur W. Rovine, 2012-07-25 These are the 2011 Fordham papers the fifth annual volume of papers on international arbitration and mediation taken from the conference held at the Fordham Law School in New York City The papers focus on both practical considerations and scholarly analyses

International Arbitration in Latin America Gloria M. Alvarez, Mélanie Riofrio Piché, Felipe V. Sperandio, 2021-04-08 Energy projects in Latin America are a major contributor to economic growth worldwide This book is the first to offer a comprehensive in depth analysis of specific issues arising from energy and natural resources contracts and disputes in the region covering a wide range of procedural substantive and socio legal issues The

book also includes how states have shifted from passive business partners to more active controlling players The book contains an extensive treatment and examination of the particularities of arbitration practice in Latin America including arbitrability public order enforcement and the complex public private nature of energy transactions Specialists experienced in resolving international energy and natural disputes throughout the region provide detailed analysis of such issues and topics including state owned entities as co investors or contracting parties role of environmental law indigenous rights and public participation issues related to political changes corruption and quantification of damages climate change renewable energy and the energy transition force majeure hardship and price reopeners arbitration in the electricity sector take or pay contracts recognition and enforcement of awards tension between stabilization clauses and human rights mediation as a method for dispute settlement in the energy and natural resources sector and different comparative approaches taken by national courts in key Latin American jurisdictions The book also delivers a clear explanation on the impact made to the arbitration process by Covid 19 emerging laws changes of political circumstances the economic global trends in the oil gas market the energy transition and the rise of new technologies This invaluable book will be welcomed by in house lawyers government officials as well as academics and rest of the arbitration community involved in international arbitration with particular interest in the energy and natural resources sector

SPECIALIZED ARBITRATION: EMERGING

INTERNATIONAL TRENDS AND PRACTICES Chirag Balyan,Yashraj Samant,2022-01-01

International Commercial Arbitration in Hong Kong Stephen D. Mau,2019-10-21 International Commercial Arbitration in Hong Kong A Guide provides an essential introduction to commercial arbitration law and practices focusing on Hong Kong as an example of a model law jurisdiction with a pro arbitration stance With the evolution and increasing popularity of dispute resolution in the international arena one is no longer able to rely purely on knowledge of the local law and practices This timely book is written in simple English and clearly arranged in a step by step format Newcomers to this legal field will find the principles covered in the book easy to understand It begins with an overview of the various Alternative Dispute Resolution choices available in Hong Kong The remainder of the book covers all the aspects that one needs to know about commercial arbitration including the advantages and disadvantages of arbitration in general the laws and rules the appointment of a sole arbitrator or a tribunal the arbitrator s jurisdiction duties and authorities and how they are defined within the Arbitration Ordinance Cap 609 the arbitration process the contents of an arbitral award and the recognition and enforcement of the award and cost saving techniques in arbitration Experienced arbitrators and senior legal practitioners will also find International Commercial Arbitration in Hong Kong A Guide to be a valuable reference on the various concepts and latest case precedents Dr Stephen Mau s reference book provides invaluable expert guidance on international commercial arbitration and other ADR mechanisms in Hong Kong The book offers in depth practical as well as theoretical analysis of the main features associated with Hong Kong s international commercial arbitration market It should be of great use not only to

professionals and academics in the field of international arbitration but also to anyone interested in learning about out of court dispute resolution in Hong Kong Professor Dr Nayla Comair Obeid former president Chartered Institute of Arbitrators This book provides a simple yet comprehensive framework of conducting an arbitration with the essential elements that are crucial in managing a dispute within the jurisdictional context of Hong Kong The book is written in a way all readers such as students lawyers arbitration practitioners and academics will find the contents to be current precise easy to follow and above all a pleasure to read Dr Christopher To barrister at law Gilt Chambers

Legal Discourse across Cultures and Systems Vijay K. Bhatia, Christopher N. Candlin, Jan Engberg, 2008-01-01 What exactly is legal about legal language What happens to legal language when it is used across linguistic national socio political cultural and legal systems In what way is generic integrity of legal documents maintained in multilingual and multicultural legal contexts What happens when the same rule of law is applied across legal systems By bringing together scholars and practitioners from more than ten countries representing various jurisdictions languages and socio political backgrounds this book addresses these key issues arising from the differences in legal or sociocultural systems The discussions are based not only on the analysis of the legal texts alone but also on the factors shaping such constructions and interpretations Given the increasing international need for accurate and authoritative translation and use of legal documents this important volume has considerable contemporary relevance in a globalized economy It will appeal to discourse analysts commercial consultants legal trainers translators and applied researchers in professional communication especially in the field of legal writing and languages for specific purposes

International Arbitration in Times of Economic Nationalism Bjorn Arp, Rodrigo Polanco, 2022-07-06 Numerous developments across the world in recent years bear witness to States increasing skepticism about the benefits of international cooperation and the efficiency of international economic law understood as a multilateral set of rules equally binding on all States This timely book reviews situations where this new economic nationalism may impact the way arbitration in both commercial and investment disputes is practiced Distinguished international arbitrators and academic experts analyze a wide array of topics covering a broad spectrum of juristic traditions geographic areas foreign investment protection laws and dispute resolution mechanisms and issues Topics covered include the following evolution of the definitions of arbitrable standards amendments to procedural rules States policy choices as reflected in recent investment treaties procedural trends to restrict access to investment arbitration the effects of the Achmea decision in the European Union growing use of the public policy exception dispute settlement of public private partnership agreements and diversification of dispute resolution methods e g business courts An important feature of the book is the ability it offers to compare various contemporary transformations of dispute settlement mechanisms with attention to developments in a number of jurisdictions including the United States the European Union China Canada Switzerland Turkey and the Latin American countries With its comprehensive analysis of how economic nationalism may lead to limiting the jurisdictional

procedural and substantive scope of arbitration the authors underscore the crucial importance of a robust system of international arbitration of economic disputes to ensure a stable and secure world order The global coverage of the contributions and the insightful views offered in them speak eloquently about their usefulness and outreach for arbitration practitioners and scholars as well as for professionals involved in drafting policies for economic development or in the negotiation of investment agreements

Energy Law and Regulation in Brazil José Augusto Fontoura Costa, Marilda Rosado de Sá Ribeiro, Ely Caetano Xavier Junior, Vivian Daniele Rocha Gabriel, 2018-03-22 The book presents contributions from Brazilian experts on the regulation of different energy sources Focusing on describing and discussing the fundamental issues related to the legal regulation of each of the sources that compose Brazil's energy matrix it also analyzes economic and strategic aspects and identifies the main current problems related to the exploration for and production of each energy source The book offers a clear and detailed overview of energy law and regulation for policymakers foreign investors and legal professionals dealing with energy projects in Brazil

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