

Week wise distribution of syllabus and readings

INTERNATIONAL COMMERCIAL ARBITRATION¹

Week 1- Introduction to Int'l Commercial Arbitration

- Dispute resolution in international trade
- Concept and nature of arbitration
- Important terms used in international commercial arbitration
- The hybrid nature of arbitral process
- Types of arbitration

Readings

Cases-

- *TDM Infrastructure Pvt. Ltd vs. UE Development Pvt. Ltd. [2008 (2) ARBLR439 (SC)]*
- *R.M. Investment Trading V. Boeing Co AIR 1994 SC11*

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 1, pp.1-10

Week-2-Arbitrability

- Arbitrability
- Comparative study of judicial decisions on arbitrability

Readings

Cases-

- *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614 (1985)*
- *Eco Swiss China Time Ltd. v. Benetton Int N.V. (1999) 2 All ER 44(Comm.), (1999) Year Book of Comm. Arb. XXIII 180*

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 7, pp. 97-101

Week-3-Arbitration Agreement

- Significance of agreement in arbitration
- Forms of arbitration agreement
- Functions of an arbitration agreement
- Definition and Requirements of a valid arbitrations agreement
- Foreign Arbitration Agreement

Readings

¹ Course Teacher: Anirban Chakraborty, Assistant Professor

Cases-

- *Wellington Associates v. Kirit Mehetha* [(2004) 4 SCC 272]
- *Smita Construction v. Euro Alloys Ltd.* (2001)7 SCC 728]
- *M.V. Baltic v. State Trading Corp.* (2001) 7 SCC 474
- *Gas Authority of India Ltd. vs. Spie Capag, S.A. and others*, AIR1994Delhi75

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 2, pp14-26

Week-4-Arbitration Agreement Contd.

- Autonomy of an arbitration agreement
- Indian position on autonomy of arbitration agreement

Readings

Cases-

- *Prima Paint Corp. v. Flood and Conklin Mfg. Co.* 388 U.S. 395 (1967)
- *National Agricultural Coop. Marketing Federation Ltd. v. Gains trading Ltd.* (2007) 5 SCC 692
- *State of Orissa v. Klockner and Co.* 1996 (1) Arb. LR 591

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 3, pp 34-39

(*) Deadline for submission of a short outline of the research paper for LL.M students**

Week-5- Complex web of laws and rules governing Int'l. Commercial Arbitration

- Types of laws applicable in international commercial arbitration
- Governing law of arbitration
- Law applicable to the substantive issues
- Law governing arbitration agreement
- Law of enforcement and recognition of foreign arbitral award
- Arbitration Rules
- A comparison between institutional versus ad-hoc rules of arbitration

Readings

Cases-

- *Star Shipping vs. China National Foreign Trade* (1993) 2 Lloyd's Rep 445
- *N T P C v. The Singer Company*, AIR 1993 SC 998
- *Union of India vs. McDonnell Douglas Corp.* (1993) 2 Llyod's Rep 48
- *CvD* [2007]EWHC1541(Comm)
- *Citation Infowares Ltd. vs. Equinox Corp.*(2009) 7 SCC 220

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 12, pp173-177

Week-6- Enforcing the choice of law clause

- Choice of law (Seat Theory)

- Party autonomy
- Choice of national law.
- Choice of national principles
- Conflict Rules

Readings

Cases-

- *Tradex Internacional S.A. v. Cerrahogullari T.A.S.*, (1981) 3 All ER 344
- *Naviera Amazonica Peruana Sa v. Compania Internacional De Seguros Del Peru*, [1988] 1 Lloyd's Rep 116
- *Bhatia International V. Bulk Trading S.A.*(2002) 4 SCC 105
- *N T P C v. The Singer Company*, AIR 1993 SC 998

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 12, pp 173-177

Week-7- Regulating Int'l Commercial Arbitration

- An introduction to UNCITRAL Model law on International Commercial Arbitration
- Judicial intervention to arbitration under UML
 - a. Reference to arbitration
 - b. Interim measures

Readings

Cases-

- *Dalmia Dairy Industries Ltd. v. National Bank of Pakistan*, [1978] 2 Lloyd's Rep. 223
- *Shin-Etsu Chemical Co. Ltd. v. Aksh Optifibre Ltd.*, (2005) 7 SCC 234
- *Channel Tunnel Group Ltd. vs. Balfour Beatty Construction Ltd.*(1993) AC 334

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter-11, pp 152

Week -8- Regulation contd.

- Jurisdiction of arbitral tribunal
- Theory of competence-competence

Readings

Cases-

- *Renu Sagar Power Co v General Electric Co.* [1984 (4) SCC 679]
- *Harbour vs. Kansa* (1993) 3 All ER 897
- *SBP & Co v. Patel Engineering Ltd.* (2005) 8 SCC 618

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 11, pp151-152

Week-9- Regulation contd.

- Appointment of arbitrators
- Independence and impartiality of the tribunal

- Powers and duties of international arbitrators
- Removal of arbitrators

Readings

Cases-

- *SBP & Co v. Patel Engineering Ltd.* (2005) 8 SCC 618
- *Citation Infowares Ltd. vs. Equinox Corp.*(2009) 7 SCC 220
- *MARC Rich & Co vs. Societa Italiana Impainti Pa (The “Atlantic Emperor)* (1992)1 Llyod’s Rep. 342

Statutory text

IBA Guidelines on Conflict of Interest in International Arbitration, Approved by IBA Council on May 27 2004

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 11, pp148-151

Week-10- Regulation contd.

- Arbitral Process
- Arbitral Awards

Readings

Cases-

- *Channel Tunnel Group vs. Balfour Beatty Ltd.* (1993) AC 334
- *Dalmia Dairy Industries Ltd. v. National Bank of Pakistan*, (1978) 2 Lloyd’s Rep. 223

Statutory text

IBA Rules on the taking of evidence in International Commercial Arbitration, Approved by IBA Council on 1 June 1999.

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 11, pp 152-163 & pp 169-172

Week-11- Challenge of arbitral awards

- Method of Challenge
- Grounds of Challenge

Readings

Cases-

- *ONGC Ltd. v. Saw Pipes Ltd.* (2003) 5 SCC 705
- *OAo Northern Shipping Co v. Remolcadores De Marin SL ‘Remar’* (2007) EWHC 1821
- *Thyssen Canada Ltd. v. Mariana Maritime SA and another* (2005) EWHC 219

(*) Deadline for submission of the final draft of the research paper for LL.M students**

Week-12- Recognition or enforcement of foreign arbitral awards

- The International Conventions for recognition and enforcement of arbitral awards
- Reciprocity and commercial reservation
- Indian law- scope and applicability
- Foreign award- meaning
- General policy for review foreign award in India
- Grounds for refusal of recognition and enforcement of a foreign award
- Recognition and enforcement of annulled awards

Readings

Cases-

- *Indian Organic Chemical Ltd. v. Subsidiary 1(US) Subsidiary 2 (US) and Chemtex Fibres Inc. (1979) IVYB Commr. Arb. 271.*
- *Centrotrade Minerals and Metal Inc. vs. Hindustan Copper Ltd. (2006) 11 SCC 245*
- *Venture Global Engineering v. Satyam Computer Services Ltd. (2008) 4 SCC 190*

T.B Ref.: A.K Bansal, **Law of International Commercial Arbitration**, (Universal Law Publishing, 2003), Chapter- 4, 5, 6, 8 & 9.
