

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Dispute Settlement

International Commercial Arbitration

5.4 The Arbitral Proceedings



NOTE

The Course on Dispute Settlement in International Trade, Investment and Intellectual Property consists of some forty modules.

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WHAT YOU WILL LEARN

An arbitration may be conducted in a variety of different ways. This Module provides an overview of the procedural aspects of arbitral proceedings. It begins by discussing in Sections 1 and 2 the matters that affect the arbitral process, including the freedom of the parties to dictate the procedure to be followed in an arbitration, the need to comply with certain mandatory rules and public policy requirements of the law of the place of the arbitration and, the provisions of international conventions on arbitration that aim to ensure that arbitral proceedings are conducted fairly.

Section 3 discusses the significance of the place or “seat” of the arbitration and the effect that the national laws of the country in which the arbitration has its seat may have on the arbitration, including the national court’s ability to supervise the arbitration.

The remaining sections examine in detail the various procedural steps in an international arbitration from commencing the arbitration to conducting the hearing, and up to the conclusion of the proceedings by the making of an award.

OBJECTIVES

After studying this Module, the reader should have an understanding and appreciation of:

- the concept of *party autonomy*;
- the relevance of the place of the arbitration;
- the impact of the *lex arbitri*;
- the effect of international conventions, such as the New York Convention, on certain procedural issues;
- ‘*ad hoc*’ arbitrations vs. institutional arbitrations;
- how an arbitration is commenced;
- how an arbitrator may be appointed;
- the jurisdiction and powers of the arbitrator and challenges to his jurisdiction;
- the arbitrator’s role in deciding procedural matters;
- the preliminary steps involved in taking the proceedings to a hearing;
- the presentation and consideration of evidence;
- the manner in which hearings may held;
- how the proceedings are concluded by the making of an award and post-hearing issues.

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