

Transnational Business Law

Part E.3 : Multiple Choice Questions *International arbitration*

University of Strasbourg
Faculty of Law – Master 1

Prof. Jochen BAUERREIS
Avocat & Rechtsanwalt
Avocat spécialisé en droit de l'Arbitrage
Avocat spécialisé en droit international et de l'Union Européenne

Part E.3 : INTERNATIONAL ARBITRATION

1. How can arbitration be characterized according to legal doctrine (the definitions by René David and Charles Jarrosson)?

- a) Arbitration is a procedure in which a third party, appointed by the State, resolves disputes between parties
- b) Arbitration is a method where one or more persons, deriving their powers from a private agreement, resolve a dispute between parties without being entrusted by the State
- c) Arbitration is an informal negotiation between parties without any third-party intervention
- d) Arbitration is the institution by which a third party settles the dispute between two or more parties, exercising the jurisdictional mission entrusted to it by both parties

2. How to distinguish between arbitration and mediation?

- a) Both procedures attempt to resolve a legal dispute through an amicable settlement by parties
- b) Mediators are private judges with jurisdictional powers
- c) Mediation usually ends with a decision called award
- d) Arbitration usually ends with a decision called award

3. Which different arbitration agreements do exist ?

- a) The arbitration clause that is inserted in the initial contract
- b) The arbitration clause that is concluded once the dispute has arisen
- c) The compromise that is inserted in the initial contract
- d) The compromise that is concluded once the dispute has arisen

4. What is the scope of application for domestic and or international arbitration?

- a) A domestic matter is arbitrable when the matter concerns disposable rights, which excludes public policy-related and legally protected matters
- b) A domestic dispute can never be submitted to arbitration
- c) In international arbitration, almost all disputes are arbitrable, because the arbitration agreement is generally considered as being valid
- d) In international arbitration, the grounds for inarbitrability are exceptional and limited to international public policy issues

5. How can we distinguish domestic and international arbitration?

- a) Domestic arbitration deals exclusively with national or domestic matters. This means that all the elements of the arbitration must be related to one country
- b) International arbitration solely applies if the procedural parties of the dispute are established in different countries
- c) International arbitration applies not only when the procedural parties are established in different countries, but in every case when international trade interests are at stake
- d) The international arbitration rules are generally more flexible than the domestic arbitration rules

6. Which statement(s) about the differences between institutional arbitration and ad-hoc arbitration is/are correct?

- a) Institutional arbitration only applies when the two parties are public institutions
- b) In the case of institutional arbitration, parties choose an arbitral institution that shall apply its rules in order to administer the arbitration
- c) Arbitral institutions have the jurisdictional powers to make decisions about the merits of the dispute
- d) In the case of an ad-hoc administration, parties can seek assistance from national court if they cannot agree themselves on purely administrative modalities for setting up the procedure

7. Which statement(s) about the advantages of ad-hoc arbitration compared to institutional arbitration is/are correct?

- a) Ad-hoc arbitration is generally less expensive than institutional arbitration
- b) In the case of an ad-hoc arbitration, parties do not need administrative assistance from the national court, since the arbitral tribunals have unlimited powers on this
- c) In the case of a dispute about purely administrative issues, institutional arbitration confers more legal security, since the arbitral institution's administrative decision has a definitively binding character
- d) In the case of a dispute about purely administrative issues, the ad-hoc arbitration confers more legal security, since the decision made by the national court, has a definitively binding character

8. Which statement(s) about the advantages of arbitration compared to litigation before state courts is/are correct?

- a) International arbitration is characterized by its neutrality, predictability and legal efficiency
- b) The New York Convention of 1958 facilitates the enforceability of foreign arbitral awards at a global level
- c) The duration of arbitration procedures are longer compared to classic procedures before state courts
- d) The parties can directly appoint the arbitrator and ensure that he or she is an expert in the legal area regarding the dispute

9. What are the two main disadvantages of arbitration (compared to litigation before state courts)?

- a) Arbitration costs are always higher than the costs for litigation before state courts
- b) Even if there are additional costs for institutional arbitration and the arbitrators, parties may save money since the proceedings are much quicker (in general only one instance) and more flexible (in general no translation costs and modern digital tools such as virtual hearings)
- c) Arbitration offers less procedural efficiency with regard to the involvement of a third party into the arbitration proceedings
- d) Arbitration offers the same procedural efficiency as litigation before a state court because arbitrators can involve any third party into the arbitration proceedings without the latter's consent

10. In which chronological order arbitration proceedings are carried out?

- a) Starting the case → Appointment of arbitrators → Written submissions → The award → Enforcement
- b) Written submissions → Starting the case → The award → Appointment of arbitrators → Enforcement
- c) Appointment of arbitrators → Starting the case → Written submissions → Enforcement → The award
- d) Enforcement → Starting the case → Written submissions → Appointment of arbitrators → The award

11. Which are the principal innovations of the 2011 arbitration reform in France?

- a) Creation of the judge acting in support of the arbitration
- b) Codification of several jurisprudential principles
- c) Introduction of appeal of arbitral awards in international matters
- d) Simplification of the enforcement and review of arbitral awards

12. Who is in general the judge acting in support of the arbitration in international arbitration under French law?

- a) President of the Court of Justice of the EU
- b) President of the Paris Judicial Tribunal
- c) President of the Judicial Tribunal of the Claimant, if the Claimant is established abroad
- d) President of the Judicial Tribunal of the Defendant, if the Defendant is established in France, but not in Paris

13. The supporting judge under French arbitration law, article 1505 CPC, intervenes in the following cases:

- a) France has been chosen by the parties as the place of arbitration
- b) French procedural law has been chosen by the parties
- c) The parties have chosen French supporting judge for administrative matters
- d) The supporting judge has a universal competence if one of the parties is exposed to the risk of a denial of justice

14. According to which principle, the arbitrators are obliged to disclose potential conflicts of interest to the parties (article 1456 CPC)?

- a) The competence-competence principle
- b) The principle of procedural estoppel
- c) The principle of celerity
- d) The principle of independence and impartiality

15. According to which principle, the arbitral tribunal rule on its own jurisdiction (article 1465 CPC)?

- a) The principle of procedural estoppel
- b) The competence-competence principle
- c) The principle of independence and impartiality
- d) The principle of celerity

16. According to which principle, a party who has not objected in due time a procedural irregularity during the arbitration proceedings is no more entitled to invoke this irregularity before a state court (article 1466 CPC)?

- a) The principle of procedural estoppel
- b) The principle of celerity
- c) The principle of independence and impartiality
- d) The competence-competence principle

17. According to which principle shall the arbitral tribunal, as well as the parties and legal advisors, act efficiently and without delay (article 1464 paragraph 3 CPC)?

- a) The principle of procedural estoppel
- b) The principle of independence and impartiality
- c) The principle of celerity
- d) The competence-competence principle

18. Under French arbitration law, can an arbitral award be appealed by the parties?

- a) Arbitral awards always can be appealed by the parties
- b) Arbitral awards never can be appealed by the parties
- c) In domestic arbitration, arbitral award can be appealed if the parties have agreed upon it
- d) In international arbitration, the parties can only set aside (action for annulment), but not appeal an arbitral award

19. What is the procedural effect of an action for annulment of an arbitral award?

- a) In domestic arbitration, the action for annulment of the arbitral award has a suspensive effect
- b) In international arbitration, the action for annulment of an arbitral award does not have a suspensive effect
- c) In both domestic and international arbitration, the action for annulment has a suspensive effect on
- d) In both domestic and international arbitration, the action for annulment of an arbitral award does not have a suspensive effect

20. For which specific reasons (legal grounds) can an arbitral award be set aside through an action for annulment?

- a) The arbitral tribunal ruled without complying with the mandate conferred upon it
- b) The arbitral tribunal was not probably constituted
- c) Only with regard to international arbitration : the award is not reasoned or does not indicate the date on which it was rendered or the name of the arbitrator or arbitrators who rendered it or does not bear the required signature or signatures or was not rendered by a majority vote
- d) The arbitral tribunal did not apply the appropriate rules of law

21. What is the autonomy status of the arbitration agreement in domestic and international arbitration according to French case law?

- a) In both domestic and international arbitration there is no form of autonomy
- b) In both domestic and international arbitration there is autonomy with regard to the main contract
- c) Only with regard to domestic arbitration there is also autonomy from state regulations (applicable law) and according to a general/universal principle of validity
- d) Only with regard to international arbitration there is also autonomy from state regulations (applicable law) and according to a general/universal principle of validity

22. How a panel of three arbitrators is appointed according to article 1452/1506 CPC?

- a) The whole panel of three arbitrators is appointed by the arbitral institution
- b) Each party shall choose one arbitrator of the panel and the two arbitrators so chosen shall appoint the third arbitrator
- c) The claimant can choose the whole panel of three arbitrators
- d) The defendant can choose the whole panel of three arbitrators

23. Which jurisdictional body is competent for asking to obtain evidence held by an arbitral party or a third party?

- a) Regardless of whether the evidence is held by an arbitral party or a third party, the arbitral tribunal is always competent
- b) Regardless of whether the evidence is held by an arbitral party or a third party, solely the president of the judicial tribunal is competent
- c) The president of the judicial tribunal is competent when the evidence is held by a third party
- d) The arbitral tribunal is competent when the evidence is held by an arbitral party

24. Which rules of law shall be applied by arbitrators in international arbitration according to article 1511 CPC?

- a) Arbitrators shall apply the rules of law chosen by the parties
- b) If the parties have not chosen the rules of law, the arbitrators shall apply the rules of law which they consider appropriate
- c) Arbitrators shall only apply hard law and not soft law
- d) Arbitrators shall take trade practices / international commercial usages into account

25. Can the arbitral award be recognized and enforced abroad?

- a) Recognition and enforcement are strictly limited to the State where the award was rendered
- b) The New York Convention (1958) generally facilitates the recognition and enforcement of foreign arbitral awards in Contracting States, subject to its limited grounds for refusal
- c) The New York Convention (1958) automatically requires recognition and enforcement of arbitral awards
- d) The award will be recognized and enforced all over the world without any conditions being fulfilled

Merci pour votre attention!



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ABC International Selarl
9 rue du Parc
F-67205 Oberhausbergen
Tel.: +33 3 68 00 14 10
info@abci-avocats.com