

Revised 2020 IBA Rules on the Taking of Evidence in International Arbitration

A 3D puzzle with one red piece labeled 'EVIDENCE' and several white pieces. The red piece is in the foreground, and the white pieces are in the background. The word 'EVIDENCE' is written in white capital letters on the red piece.

EVIDENCE

Evidence In Arbitration

**Nayla Comair Obeid, Stavros
Brekoulakis**



Evidence In Arbitration:

Evidence in Arbitration Marvin Hill, Anthony V. Sinicropi, 1987 This treatise discusses how when and why to accept reject and credit evidence in an arbitration hearing Burdens of proof due process and the use of medical evidence are analyzed in terms of statutory and case law in the book *Handbook of Evidence in International Commercial Arbitration* Franco Ferrari, Friedrich Rosenfeld, 2022-04-07 In arbitration evidence provides the basis for almost every decision be it procedural jurisdictional or substantive However users from different legal traditions may not share the same understanding as to how an arbitral tribunal ought to proceed in this regard Therefore it is important for lawyers to know how to collect develop and present evidence in arbitration proceedings not only from a legal perspective but also from a cultural point of view It is against this backdrop that the editors have invited a diverse group of distinguished arbitration practitioners and academics to contribute to this matchless Handbook of Evidence in International Commercial Arbitration Key concepts and issues related to evidence in arbitration covered include the following the normative framework on evidence in arbitration proceedings the burden and standard of proof means of evidence including documents experts and witnesses questions of admissibility including issues of privilege and confidentiality the assessment of evidence and its probative value court assistance and sanctions With its systematic analysis of the key concepts of evidence holistic discussion of the applicable normative framework cross cultural perspectives on the taking of evidence in arbitration and reference to case law from major arbitration hubs this book will become an undisputed point of reference for academics and practitioners alike Critical acclaim This handbook elegantly captures the range of issues that arises regarding evidence in international arbitration Bringing together the foremost experts in the field each contribution offers a thoughtful analysis on these issues and the compilation deserves a prominent spot in every practitioner s arbitral library Chiann Bao Independent Arbitrator Arbitration Chambers and Vice President of the ICC Court of Arbitration This publication well deserves recognition as a landmark handbook on evidence in international commercial arbitration It comprehensively discusses the whole evidentiary process from its foundations taking a comparative and harmonizing perspective as well as the burden and standards of proof to the various evidentiary means up to the assessment of evidence Written by leading academics and practitioners from all over the world it will be a safe haven for anyone facing discrete evidentiary issues and looking for answers to fundamental or actual questions including as to privileges confidentiality virtual hearings or data protection Professor Filip De Ly Chair of the ILA International Commercial Arbitration Committee **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

Rules of Evidence in International Arbitration Nathan O'Malley, 2019-01-16 Now in a fully updated second edition Rules of Evidence in International Arbitration An Annotated Guide remains an invaluable reference for lawyers arbitrators and in house counsel involved in cross border dispute resolution Drawing on current case law this book looks at the common issues brought up by the evidentiary procedure in international arbitration Features of this book include An international scope which will inform readers from around the world A focus on evidentiary procedure with extensive case based commentary and examples Extensive annotations which allow the reader to locate key precedents for use in practice This book gives essential insight into best practice for practitioners of international arbitration Readers of this publication will gain a fuller understanding of accepted solutions to difficult procedural issues as well as the fundamental due process considerations of the use of evidence in international arbitration

Procedure and Evidence in International Arbitration Jeffrey Waincymer, 2012-05-23 Central to the book's purpose is the procedural challenge facing arbitrators at each and every stage of the arbitral process when fairness arguments conflict with efficiency concerns and trade offs must be determined Some key themes include how can a tribunal be fair and in particular be neutral if parties are so diverse How can arbitration be made efficient and cost effective without undue inroads into fairness and accuracy How does a tribunal do what is best if the parties are choosing a suboptimal process When can or must an arbitrator ignore procedural choices made by the parties The author thoroughly evaluates competing arguments and adds his own practical tips expertly synthesizing and engaging with the conference literature and differing authors views He identifies criteria that offer a harmonized approach to each stage of the arbitral process with particular attention to such aspects of international arbitration as appropriate trade offs between flexibility and certainty the rights duties and powers of arbitrators appointment and challenge of arbitrators responses to guerilla tactics drafting of arbitration agreements including specialty clauses drafting of required commencement notices and response documents set off fast track arbitration and other efficiency options strategic use of preliminary conferences and timetabling online arbitration multi party multi contract class arbitration amicus and third party funders pre arbitral referees and interim relief witness evidence both factual and expert documentary evidence production obligations and challenges to production identifying applicable law and remedies and costs

Evidence in International Arbitration Proceedings Peter

Eijsvoogel,1994-06-27 This is the second volume to appear in the new and already successful AIJA Law Library series This volume has been prepared by members of the AIJA Standing Commission on International Arbitration under the editorship of Peter Eijsvoogel It is intended to be a reference work for practitioners in the field of international arbitration both counsellors and arbitrators Twenty national reports from major jurisdictions outline the general character of the legal system in respect of ADR procedures sources of procedural rules for arbitration law and practice on documentary evidence and submissions testimonial evidence and the involvement of experts In addition the book contains a detailed analysis of the legal rules pertaining to the taking of evidence in both civil and common law systems and highly practical contributions relating to deposition skills *The IBA Rules on the Taking of Evidence in International Arbitration* Peter Ashford,2013-01-17 Peter Ashford provides a practical guide to the most common feature of international arbitration around the world **Written Evidence and Discovery in International Arbitration** Teresa Giovannini,Alexis Mourre,2009 Documentary evidence is at the heart of the arbitral process Arbitrators are increasingly confronted with new challenges such as requests for E Discovery as well as ever more frequent objections to confidentiality and privilege Document production may also confront arbitrators with difficult issues of fraud and forgery Further Arbitral tribunals may have to decide which rules apply to issues such as the evidentiary value of documents or their admissibility The practice of documentary evidence is changing as international arbitrators look for transnational solutions capable of striking a proper balance between efficiency and fairness Transnational instruments such as the IBA Rules on the Taking of Evidence in International Commercial Arbitration may need to evolve to accommodate new approaches and solutions *The IBA Rules on the Taking of Evidence in International Arbitration* Peter Ashford,2013-01-17 The IBA Rules are the most common feature of international arbitration around the world yet so far little work has been done exploring the Rules themselves In this practical guide Peter Ashford combines a detailed discussion of the Rules and the commentary from the Drafting Committee with a tabular view of the interaction between the Rules and those of the main arbitration institutions Written by a respected and experienced arbitration practitioner the guide conveniently brings into one place materials that will assist in the practical application of the IBA Rules This contribution to an under covered area of international arbitration provides an invaluable handbook for arbitration practitioners in law firms chambers and general or in house counsel in large corporations Evidence and Proof in Arbitration Martin F. Scheinman,1977 Manual on the conduct of arbitration hearings in the USA includes references **The Guide to Evidence in International Arbitration** Amy C. Kläsener,Martin Magál,Joseph E. Neuhaus,2021 Court Assistance in the Taking of Evidence in International Arbitration Lorenz Raess,2020-10-19 Although international arbitration is widely hailed as an efficient confidential and flexible way of settling commercial disputes it has its limits The arbitral tribunal s lack of coercive power is thrown into particularly stark relief when it comes to the taking of evidence from third parties outside the arbitral proceedings If they do not comply voluntarily with the request of the arbitral tribunal to testify as

a witness or disclose documents assistance must be sought from state courts As the success of a case hinges on the evidence that a party can obtain it is crucial to understand how to obtain evidence through state courts At the heart of this work is the question of the conditions under which state courts may offer assistance in international arbitral proceedings With a special focus on Switzerland and comparative aspects this book provides helpful tactical insights for arbitral practitioners around the world *Court Assistance in the Taking of Evidence in International Arbitration* Lorenz Raess,2020 Although international arbitration is widely hailed as an efficient confidential and flexible way of settling commercial disputes it has its limits The arbitral tribunal s lack of coercive power is thrown into particularly stark relief when it comes to the taking of evidence from third parties outside the arbitral proceedings If they do not comply voluntarily with the request of the arbitral tribunal to testify as a witness or disclose documents assistance must be sought from state courts As the success of a case hinges on the evidence that a party can obtain it is crucial to understand how to obtain evidence through state courts At the heart of this work is the question of the conditions under which state courts may offer assistance in international arbitral proceedings With a special focus on Switzerland and comparative aspects this book provides helpful tactical insights for arbitral practitioners around the world **The Plurality and Synergies of Legal Traditions in International Arbitration** Nayla Comair Obeid,Stavros Brekoulakis,2024-02-20 The cultural diversity characterizing international arbitration today is as much a source of enrichment as it is sometimes a source of practical difficulties affecting both the arbitration procedure and the application of substantive law Consequently it is becoming clearer that the critical project for international arbitration in the immediate future will be how to best answer the fundamental question of cultural pluralism This book presents an informative and well argued discussion on many aspects of international arbitration clarifying the main procedural and substantive similarities and differences between different legal systems around the world focusing not only on common and civil law traditions but also the role played by regional legal traditions including Islamic law and African perspectives With contributions from fifty arbitrators counsel and academics representing every region of the world where international arbitration has secured a foothold the volume consolidates and synthesizes a series of discussions sponsored by the Chartered Institute of Arbitrators that took place in Dubai Johannesburg and Paris in 2017 The essays identify and address the cultural distinctions that affect the key ever present factors which have forged the character of modern international arbitration such as the following the seat of the arbitration and the legal regime to which the arbitration is attached due process which has different and specific meanings in different national legal systems international standards such as international public policy illegality arbitrability and sanctions the immunity of international arbitrators form of presentation of evidence production of documents oral and written submissions and expert evidence the specific context of international investment arbitration disputes in specific industries or legal areas telecommunications construction mining intellectual property the role of national judges and the legal traditions they embrace throughout and after arbitration proceedings how

to incorporate more conciliatory cultural traditions which are notably shared in many African and Asian countries and training and opportunities for the next generation in international arbitration The book is replete with tools and recommendations to ensure synergy and harmony between the different legal traditions that coexist in today's arbitral proceedings All users of arbitration whether the arbitrators themselves lawyers involved as counsel for parties or judges applying arbitration law will greatly appreciate this matchless elucidation of the different systems and alternative ways of presenting the divergent procedures and ways of conducting international arbitrations The book's immeasurable value to arbitration academics goes without saying

The Taking of Documentary Evidence in International Arbitration under the IBA Rules Amr Saied, 2024-01-25 Master's Thesis from the year 2023 in the subject Politics International Politics and Country Analyses grade 1-7 language English abstract This thesis explores the success and enduring relevance of the International Bar Association IBA Rules on the Taking of Evidence in International Arbitration Interestingly enough while the IBA Rules suggested a very well developed regime for the taking of documentary evidence most of the focus of arbitration scholars was mainly about its notable mechanic that grant parties the possibility of obtaining documents from the adverse party While it is understood why such sophisticated mechanic would attract the attention of scholars it is still crucial to acknowledge that such mechanic is just one facet of a comprehensive and multifaceted system Accordingly the thesis attempted to englobe the whole regime of the taking of documentary evidence under the IBA Rule while following at the same time a structural approach that respect the natural progression the arbitration procedure and adheres to the methodological reasoning suggested by the IBA Rules With that being said the dissertation starts by emphasizing the particular problem that international arbitration poses in regards to the production of documentary evidence as it involves parties counsels and arbitrators coming from different legal systems In this sense the IBA Rules attempted to provide mechanics that combines the best of both worlds and potentially may satisfy all the participants whatever is their origins Such unique approach can be seen through 2 main levels The ethical practices that should be adhered to by the different participants and the investigation practices within the arbitration proceedings Even though the mechanics of presenting and collecting evidence is arguably the most important task that parties are expected to perform Without the right approach to the appraisal of documentary evidence such contribution would inevitably be redundant In this context it seems that the IBA Rules followed a cautious approach by conferring significant discretion to the arbitral tribunal when it comes to the appraisal of documentary evidence The term appraisal in this context was intended to encompass both the admissibility and assessment of evidence as addressed in the IBA Rules However it is important to note that these two phases possess distinct characteristics despite often being conducted simultaneously by arbitrators in practice Nevertheless for the sake of clarity and methodological analysis the thesis attempted to dig in depth in each phase independently

The Law of Nisi Prius, Evidence in Civil Actions, and Arbitrations and Awards: with an Appendix, Etc Archibald John STEPHENS (Q.C.), 1842 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 international practitioner 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

Evidence, Proof, and Fact-Finding in WTO Dispute Settlement Michelle T. Grando, 2009-12-24 This book examines how a World Trade Organization WTO dispute settlement panel formulates its conclusions with respect to the facts of a dispute brought before it It does so by discussing the legal concepts which shape the process of fact finding analysing the approach taken by panels thus far and offering suggestions for improvement **IBA**

Rules of Taking Evidence Tobias Zuberbühler, 2022 A Counsel's Guide to Examining and Preparing Witnesses in International Arbitration Ragnar Harbst, 2015-10-20 Mastering the art of witness examination is essential in order to prevail in international arbitration Lawyers acting as counsel in arbitration know that witness evidence stands out from the plethora of documentary evidence in terms of uniqueness and authenticity A vivid first hand live account of the events in issue exerts a strong influence on the arbitrators and a handful of memorable testimonies can outweigh an avalanche of documents This book shows how such mastery in the art of witness examination is accomplished In the majority of today's international arbitrations witness examination is modeled around the common law practice of lawyer led questioning Arbitration practitioners are therefore more and more expected to take charge of the examination process Drawing on the principles of the art of advocacy in the common law tradition this persuasive and highly engaging book sets out in great detail the practical techniques applicable to the use of witnesses in arbitration The author describes such elements of witness evidence as the following differences between common law and civil law systems in regard to taking witness evidence techniques for interviewing witnesses and preparing witness statements question techniques for direct examination and cross examination methods for developing forceful cross examinations the boundaries of witness preparation preparing the witness for direct examination and cross examination psychological risks of witness preparation guidelines for witnesses during direct examination and cross examination All topics are illustrated by way of practical examples which also serve as a pool of useful model phrases and expressions Practical appendices include ready to adapt sample documents such as a procedural

questionnaire procedural rules and a witness statement The book will be particularly useful for arbitration practitioners who have had little exposure to the adversarial approach to evidence and who wish to learn the ropes of lawyer led witness examination and preparation However any practitioner stands to gain from applying the book s practical guidance and the author s wise counsel

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