

# **INTERNATIONAL COMMERCIAL ARBITRATION**

## **UNIT – I: HISTORICAL BACKGROUND OF ARBITRATION**

- 1.1 Pre-independence (Panchayat systems to C.P.C)
- 1.2 Arbitration Act, 1940
- 1.3 UNCITRAL MODEL LAW on International Commercial Arbitration

## **UNIT – II: COMPARATIVE STUDY OF ARBITRATION LEGISLATION IN VARIOUS COUNTRIES**

- 2.1 Asia and Pacific
  - 2.1.1 SAARC Countries excluding India
  - 2.1.2 China including Hong kong SAR
  - 2.1.3 Singapore
  - 2.1.4 United Arab Emirates (U.A.E)
  - 2.1.5 Saudi Arabia
  - 2.1.6 Australia
- 2.2 African
  - 2.2.1 Egypt
  - 2.2.2 South Africa
  - 2.2.3 Mauritius
  - 2.2.4 Sudan
- 2.3 European
  - 2.3.1 United Kindom
  - 2.3.2 France
  - 2.3.3 Switzerland
  - 2.3.4 Russian Federation
  - 2.3.5 Hungary
- 2.4 American
  - 2.4.1 U.S.A
  - 2.4.2 Canada
  - 2.4.3 Argentina
  - 2.4.4 Brazil

## **UNIT – III: INTERNATIONAL CONTRACT & ARBITRATION CLAUSE/ AGREEMENT**

- 3.1 Mercantile Contracts – Contracts for sale of goods – agency & intermediary contracts – contracts of employment – insurance contracts – intellectual property contracts – joint venture contracts.
- 3.2 International commercial arbitration agreements – Government contracts –foreign arbitration agreements – domestic arbitration agreements
- 3.3 Meaning of Arbitration – Arbitration clause in a contract – arbitration clause in correspondences between entities.
- 3.4 Whether subject matter capable of being settled by arbitration – when arbitration agreements is inoperative or incapable of being performed – exemption & adaptation clauses.
- 3.5 Arbitration clause in a contract – contents of an arbitration clause-clauses to be avoided.

## **UNIT – IV: ARBITRATION Vs. LITIGATION**

- 4.1 Common Law system
- 4.2 Civil Law system
- 4.3 Statutory legislation and Conventions
  - 4.3.1 Arbitration and Conciliation Act, 1996 including convention (3 schedules)
  - 4.3.2 UNICITRAL Arbitration Rules, 1976
  - 4.3.3 Ad-hoc and institutional Arbitration
    - 4.3.3.1 Various Arbitration forums and its Rules
    - 4.3.3.2 Forum Selection – Model Institutional arbitration clauses

## **UNIT – V: ARBITRATION PROCEDURE & PRACTICE**

- 5.1 Arbitration Tribunal
  - 5.1.1 Constitution of the Arbitral Tribunal – Jurisdiction of the Arbitral Tribunal – Kompetenz – Kopetenz – powers and functions of the tribunal.
- 5.2 Proceedings before the arbitral Tribunal
  - Lex Arbitri & Lex Mercotoria – Statutory provisions applicable in resolving disputes – UNIDROIT principles of International Contracts, 1994, production of documents at the time of application – conduct of proceedings – decision making process – Conciliation and Mediation.
- 5.3 UNICITRAL Arbitral proceedings
- 5.4 Types of Awards and applicability of Conventions
  - Interim Award – Final award – Award by consent
  - Foreign Arbitral Awards – New York Convention Awards
  - Geneva Convention Awards – Non-Conventional Awards - Whether conventions apply to domestic awards.
- 5.5 Enforcement and Annulment of Arbitral Awards

Pre-enforcement conditions imposed by claimant-recognition and enforcement of arbitral award deemed to be decree – Rules of procedure for enforcement of a foreign award – enforcement of awards to which the Conventions do not apply – Costs & advances on costs of arbitration – challenge of arbitral awards – Appellable orders – Revision.

### **BOOKS PRESCRIBED:**

1. G.K. Kwarta: Arbitration and alternate dispute resolution. Indian Council of Arbitration
2. A.K. Bansal: Law of International Commercial Arbitration
3. Avatar Singh: Law of Arbitration and Conciliation
4. Dr. S.C. Tripathi: Arbitration Conciliation and Alternate Dispute Resolution
5. M.A. Sujana: Law relating to Arbitration and Conciliation
6. Paul Friedland: Arbitration clauses in International Contracts
7. Berrstein: Handbook of Arbitration Practice (Green Book)
8. L.Gill and Mathew Gravy (Eds.): Russel on Arbitration
9. Allan Redfern & Martin Hunter: Law of International Commercial Arbitration

### **BOOKS FOR REFERENCE:**

1. N.D. Basu: Law relating to Arbitration & Conciliation
2. Justice R.S. Bachawat: Law of Arbitration and Conciliation
3. Justice P.S. Narayana: The Arbitration and Conciliation Act, 1996
4. Harold Crowter: Introduction to Arbitration