

Duke University School of Law – Spring 2008
International Arbitration
Monday, 6:00 – 9:30 pm

TEXTBOOK AND MATERIALS

Born, *International Commercial Arbitration: Commentary and Materials*, 2d ed. (2001).

Supplemental materials will be posted in advance.

EXAM

There will be an essay exam.

CONTACT INFORMATION

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I am available by phone for questions. I am also available in person on Monday afternoons before class (by appointment, please). I would prefer not to address substantive questions by e-mail, but please feel free to e-mail me to set up a time to discuss questions by phone or in person.

CLASS SCHEDULE AND READING ASSIGNMENTS

Date	Topic	Issues to be Covered	Reading Assignment
January 14	Introduction Legal Framework for International Arbitration	<ul style="list-style-type: none"> - What is international arbitration? - What types of disputes are settled by international arbitration? - Steps in a typical international arbitration - New York Convention - Role of national laws and national courts 	<ul style="list-style-type: none"> 1) <i>Born</i>, Chapter 1 2) New York Convention (<i>Born</i>, Appendix B) 3) UNCITRAL Model Law (<i>Born</i>, Appendix F) 4) Federal Arbitration Act (<i>Born</i>, Appendix D) 5) <i>Born</i>, pp. 117-153
January 28	Arbitration Agreements	<ul style="list-style-type: none"> - Enforceability of arbitration agreements - Separability doctrine - Allocation of power between courts and tribunals to decide issues related to arbitration agreements - Law governing arbitration agreements 	<ul style="list-style-type: none"> 1) New York Convention, Article II 2) <i>Born</i>, pp. 53-117 3) Supplemental Materials: <i>Fili Shipping Co Ltd et al. v. Premium Nafta Products Ltd et al.</i> [2007] UKHL 40 (House of Lords); <i>Howsam v. Dean Witter Reynolds, Inc.</i>, 537 U.S. 79 (U.S. S.Ct. 2002); <i>Green Tree Fin. Corp. v. Bazzle</i>, 539 U.S. 444 (U.S. S.Ct. 2003); <i>Pacificare Health Systems, Inc. v. Book</i>, 538 U.S. 401, 407 (U.S. S.Ct. 2003); <i>Buckeye Check Cashing v. Cardegna</i>, 546 U.S. 440 (U.S. S.Ct. 2006)
February 11	Arbitration Agreements	<ul style="list-style-type: none"> - Formation of arbitration agreements - Validity of arbitration agreements - Arbitrability - Interpretation of arbitration agreements 	<ul style="list-style-type: none"> 1) <i>Born</i>, pp. 155-175, 195-290 2) <i>Born</i>, pp. 297-311
February 25	Arbitration Procedures	<ul style="list-style-type: none"> - Extension of arbitration agreements to non-signatories - Procedural law governing arbitration - Importance of situs - Leading arbitration institutions - Choosing situs 	<ul style="list-style-type: none"> 1) <i>Born</i>, pp. 653-664 2) <i>Born</i>, pp. 409-460 3) <i>Born</i>, pp. 573-609

Date	Topic	Issues to be Covered	Reading Assignment
March 17	Arbitration Procedures	<ul style="list-style-type: none"> - Choosing arbitrators - Law governing merits of dispute - Presentation of evidence 	<ul style="list-style-type: none"> 1) <i>Born</i>, pp. 615-651 2) <i>Born</i>, pp. 523-551 3) <i>Born</i>, pp. 469-508 4) IBA Rules on the Taking of Evidence in International Arbitration (<i>Born</i>, Appendix N) 5) Supplemental Materials: IBA Guidelines on Conflicts of Interest in International Arbitration
March 31	Arbitration Awards	<ul style="list-style-type: none"> - Requirements for valid award - Presumption of enforceability - Vacating and confirming arbitral awards - Grounds for refusing to enforce arbitral awards 	<ul style="list-style-type: none"> 1) New York Convention, Article V 2) <i>Born</i>, Chapters 11 and 12
April 14	Investor-State Arbitration		Handout