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Confidentiality In International Commercial Arbitration

Confidentiality is usually mentioned among the advantages of international commercial arbitration (ICA). The thought that confidentiality is an innate attribute, seems to be an attractiveness considered to choose ICA to settle disputes. For a long time, it did not seem to be questioned that the private nature of the arbitration process also forced the parties to maintain confidentiality.

Confidentiality in International Commercial Arbitration

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As per Section 42A of Arbitration and Conciliation Act, the arbitrator, arbitration institution and parties shall maintain confidentiality of all arbitration agreement except award, where its disclosure becomes imperative for the purpose of its enforcement. Also, the law enumerates an exception that the information may be disclosed for the purpose of enforcing or setting aside the proceedings.

Confidentiality in international commercial arbitrations ...

After neutrality and international enforcement, the next most valued feature of international commercial arbitration is confidentiality. For reasons easy to

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imagine, businessmen do not want their trade secrets, business plans, strategies, contracts, financial results or any other types of business information to be publicly accessible, as would commonly happen in court proceedings.

Confidentiality in International Commercial Arbitration

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The duty of confidentiality is the extension of the concept of privacy which forms a fundamental cornerstone of arbitration. Taking into account the jurisprudential differences across jurisdictions, it is necessary to balance the commercial interest of the parties with the principle of equity and justice.

Concerns of Confidentiality in International Commercial ...

The issue of confidentiality is key to the successful practice of international commercial arbitration. The confidentiality of arbitration proceedings is a reason for resorting to arbitration, as distinct from litigation. 1 It is a collateral expectation of parties to an arbitration that their business and personal confidences will be kept. Despite its central importance, confidentiality cannot be assumed in all jurisdictions.

Confidentiality in International Commercial Arbitration

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Arbitration is an essential component in business. In an age when transparency is a maxim, important issues which the laws governing arbitration currently fail to address are the extent to which disclosure of information can be constrained by private agreement

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along with the extent to which the duty to preserve confidentiality can be stretched.

Confidentiality in International Commercial Arbitration: A ...

Arbitration has gradually emerged as the preferred mode for resolution of large commercial and corporate disputes in several jurisdictions. The principle of confidentiality is one of the advantages¹, if not the main one, for the increased popularity of international commercial arbitration. However, a trend favoring transparency² is catching up.

Transparency and Confidentiality in International ...

Confidentiality of arbitration is assumed in Russia. It is assumed by the parties, their counsel, the tribunal and the arbitral institution. Additionally, it is provided for in the arbitration rules of the leading Russian arbitral institutions (both international and domestic).

Presumption of confidentiality in international commercial ...

Confidentiality of arbitral proceedings is often attributed as the driving force behind the growth of international arbitration in the last sixty years. But, as Redfern and Hunter mentions, though confidentiality still remains a key attraction of arbitration "...the once general confidentiality of arbitral proceedings has been eroded in recent years..."

Changing Landscape Of Confidentiality In International ...

Confidentiality is still widely seen as significant advantage of international commercial arbitration

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(ICA) over cross-border litigation, especially perhaps in Asia. This can be seen in rules of most arbitral institutions.

Confidentiality versus Transparency in International ...

The scope of confidentiality is reviewed in the practice of arbitral tribunals and domestic courts, and from the perspective of international arbitration institutions, with detailed attention to various arbitration rules and numerous significant cases.

Confidentiality in International Commercial Arbitration

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Confidentiality In Arbitration: An Unsolved Arena Introduction. It has been a standard practise now to include the term 'confidentiality' in the benefits of international... Importance of Confidentiality in Arbitration. Confidentiality has in recent times been given great impetus while solving... ..

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(a) Findings Confidentiality is an important feature of international commercial arbitration. Many users of international commercial arbitration assume when choosing arbitration that arbitration is inherently... A general provision of confidentiality in a contract does not necessarily extend to the ...

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Confidentiality in International Commercial Arbitration: A ...

Confidentiality is considered one of the main advantages of international commercial arbitration. However, what does the term 'confidentiality' mean in practice? The answer is sometimes unclear, even to accustomed international arbitration users.

Problems Of Confidentiality In International Commercial ...

In international commercial arbitration, the parties' duty to maintain the confidentiality of the proceedings may arise from three sources. First, the parties can expressly agree to keep the proceedings confidential, either in their arbitration agreement or at the outset of or during the proceedings.

CONFIDENTIALITY VS TRANSPARENCY IN INTERNATIONAL ...

Maintaining the confidentiality of arbitral proceedings and associated documents is often important to parties engaging in arbitration as means of dispute resolution. In the absence of express agreement, confidentiality in arbitration is determined by a matrix of national legislation, court decisions and applicable rules.

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The Supreme Court ruled that “a party in arbitration proceedings cannot be deemed to be bound by a duty of confidentiality, unless the parties have concluded an agreement concerning this”. The Supreme Court asked itself whether there was any international consensus regarding confidentiality and concluded that there was none.

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