

Preliminary Draft Produced of Restatement of International Commercial Arbitration

Kluwer Arbitration Blog

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Last week the ALI Reporters held an invitation-only meeting in New York with arbitration luminaries to discuss the first draft of the first-ever "Restatement of the U.S. Law of International Commercial Arbitration." The focus of the first draft is on the enforcement of international arbitral awards, which includes New York Convention grounds for challenge, as well as other issues such as jurisdiction, choice of law, venue, non-New York Convention awards, etc.

The current draft on Chapter 5 of the Restatement on "The Recognition and Enforcement of Awards" is over one-hundred pages in length and covers twenty-seven Articles. The broad topics addressed are: (1) Definitions; (2) Obligation to Recognize and Enforce International Awards; (3) Grounds for Denying Recognition and Enforcement; and (4) Actions to Enforce Awards. Among the many bracketed questions include (1) what constitutes a New York Convention Award; (2) obligations with respect to Non-Convention Awards; (3) issues pertaining to applicable law; and (4) agreements to expand grounds for denying recognition.

In the course of the meeting, the participants were asked to consider in particular several alternative provisions set forth in the draft with respect to the treatment of non-Convention awards, the role of the writing requirement applicable to agreements to arbitrate as it affects enforcement of Convention awards, and options raised in part by the Convention's silence on certain governing law questions. The impact of the Supreme Court's decision in *Hall Street* was also discussed.

The Reporters will incorporate the various comments and suggestions in a second draft which is scheduled for completion in May 2009. After May 2009, the Reporters are scheduled to turn their attention to actions to confirm and vacate/set aside awards.

Columbia Law Professor George Bermann is the Reporter for the project and the Associate Reporters are Jack Coe (Pepperdine), Christopher Drahozal (Kansas) and Catherine Rogers (Penn State).

Details about the project are available [here](#). The next public meeting (including live webcasting) on the project is May 17, 2009 in Washington D.C. the details of which are [here](#).