



AI COMMENTARY: USA FEDERAL ARBITRATION ACT 1925

Prepared by Galadari Advocates & Legal Consultants with ChatGPT

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About Galadari

Galadari is a full-service Emirati law firm dedicated to providing legal solutions at every stage of the business cycle.

Since 1983, we have supported the development of the United Arab Emirates (UAE) legal framework, while contributing to the industry and driving great commercial impact across the Emirates and supporting our clients to navigate through their challenges.

For four decades, our goal has been to deliver the highest-quality product to solve complication issues. Our team take pride in our uncompromising approach to quality and recognise everything we do, or produce is a measurement of our commitment to quality. We give 100% the first time and every time.

Our legal team consists of over 60 locally qualified Emirati and international lawyers across 3 offices in the UAE who are fluent in 18 different languages. Our Emirati advocates have full rights of audience across all UAE Courts. Our team aims to provide the highest standard of legal service and maintain the same level of quality at every point of contact.

Aligned with our core values, Galadari is committed to being a responsible business. We are actively progressing towards a diverse and inclusive workforce, using our legal capabilities to do good in the community through pro bono work, supporting communities and charities across the UAE, and reducing our environmental impact.

Galadari's International Arbitration Practice

Galadari “are a local law firm with international standards and lawyers, familiar with local UAE laws, DIFC laws, and international laws” (*The Legal 500 EMEA – UAE 2023*).

With over four decades of experience in the UAE, our team possesses extensive expertise gained from their involvement in high-profile, intricate disputes worth millions of dollars across the region. Clients rely on our broad-ranging knowledge to guide them on the most suitable strategy for their business when faced with a dispute, whether as the claimant or respondent.

We represent clients in proceedings governed by a variety of international arbitration bodies, including ICC, LCIA, SCC, SCIA, DIAC, and GCC CAC. Additionally, we also provide representation in ad-hoc arbitration cases, and arbitration-related proceedings before the courts of Dubai, the DIFC, Abu Dhabi, and the ADGM.

With one of the largest teams of Emirati advocates in the country, we offer a one-stop shop from the initiation to the conclusion of any arbitration, eliminating the need for external counsel.

Clients and legal directories continuously praise our forward-thinking approach. The team was shortlisted for Arbitration Law Firm of the Year by Thomson Reuters Asian Legal Business Middle East Law Awards 2023, and Arbitration Team of the Year in Law.com International's Middle East Legal Awards 2023.

Galadari's International Arbitration Team



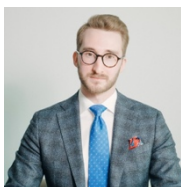
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Editors' Preface

Galadari's Artificial Intelligence (AI) Commentary on arbitration rules, laws, and treaties, was composed by Abdulla Ziad Galadari, Sergejs Dilevka, and Dimitriy Mednikov.

The term 'artificial intelligence' (AI) was first suggested by John McCarthy in 1955, defining it as a challenge "*of making a machine behave in ways that would be called intelligent if a human were so behaving*".

Almost seventy years later, further to multiple waves advancing AI technologies and notwithstanding several so-called 'AI winters' (prolonged periods of time when interest and investment in AI was significantly decreasing), AI has finally arrived as an essential technology for our future development and is here to stay. Today, leading AI platforms are able to maintain logical conversations their users, thus, satisfying Mr McCarthy's problem by making a machine behave intelligently.

The benefits of AI for both individuals and businesses have transitioned from being purely theoretical to practicable and, to a great extent, quantifiable. For legal practitioners, presently, such quantifiable benefits would likely be based on the billable time saved, for example, on document review and textual analysis or production of documents based on standard templates. Further, there is a huge potential to use AI to write simple code automating mundane tasks, such as generation of exhibit lists, (re)numbering of exhibits, bulk-conversion of documents from one file format into another, updating cross-references or footnotes in a document — one can think of plenty of use cases and what is needed is a bit of knowledge on how to make basic changes to that code and run it. However, as of the date of this publication, it seems that the general consensus among legal practitioners is that AI systems cannot be reliably used for legal research and all of the results of such research would still have to be reviewed with great care by human lawyers.

Galadari's AI Commentary on arbitration rules, laws, and treaties, is an experiment focussed on using AI to ascertain the current quality of AI analysis, and to determine whether AI is able to digest large quantities of complex information and produce an accurate and logical analysis of the relevant text in respect of various arbitration rules.

In the development of this AI Commentary, we used ChatGPT (GPT-3.5), an AI-powered language model developed by OpenAI. This AI model is capable of generating human-like text based on context and past conversations. The method used, for consistency, and not due to lack of imagination, implemented the use of the following prompt template to generate commentary on each provision of the relevant text: 'analyse article/section X of arbitration law/rules/treaty'.

Overall, the general outcome of our experiment indicates that, in the majority of situations, ChatGPT was able to successfully dissect provisions, spot important nuances, and generate meaningful commentary on the relevant provisions. Specifically, once ChatGPT was presented with a provision for analysis, it would typically attempt to break down the text into separate aspects into a list or bullet point format, tackling each and summarising the provision at the end of its analysis. This approach is consistently observed by ChatGPT across all the AI Commentary publications. We found this method to be suitable and informative, allowing readers to process the analysis in a systematic manner and benefit from ChatGPT's separation of the provision into smaller bits that the reader may be specifically interested in. It was noted that ChatGPT does not overlook or miss certain aspects of a provision, which is a potential human risk factor. ChatGPT addressed every aspect of provisions without fail, for example:

Article 21.3 of the UAE Federal Law No. 6 of 2018 on Arbitration (“UAE Arbitration Law”): *“The Arbitral Tribunal may, at the request of any party or on its own motion, amend, suspend, or cancel an interim measure it has ordered, in exceptional circumstances, by prior notice to be given to the Parties.”*

ChatGPT: *“Article 21.3 of the UAE Arbitration Law grants the Arbitral Tribunal the authority to modify, suspend, or revoke interim measures it has previously ordered during the arbitration process. These changes can be made under specific conditions referred to as “exceptional circumstances”. Let us analyse this article:*

1. *Modification: The Tribunal can amend or alter the scope or conditions of an interim measure based on the evolving circumstances of the case.*
2. *Suspension: The Tribunal can suspend the enforcement of an interim measure temporarily if the circumstances warrant it.*
3. *Cancellation: The Tribunal can completely cancel or revoke an interim measure previously ordered if it deems it no longer necessary or appropriate.*
4. *Exceptional Circumstances: The Tribunal’s power to amend, suspend, or cancel interim measures is limited to exceptional circumstances, implying that such measures are not subject to routine or arbitrary alterations.*
5. *Prior Notice: The article requires the Tribunal to provide advance notice to the parties before making any changes to the interim measures. This ensures transparency and allows parties to present their positions on the proposed amendments.”*

The commentary produced using ChatGPT did display some shortcomings. For example, there were instances when ChatGPT would ‘hallucinate’, making something up, which is a well-known limitation not only for OpenAI and ChatGPT users but also for other AI systems, for example:

Extract from ChatGPT’s commentary on Article 2.4 of DIAC Arbitration Rules 2022 containing a reference to Article 32: *“This exception indicates that certain specific provisions, such as Article 32, may have limited application to agreements to arbitrate made before the effective date of the Rules. It provides flexibility for parties to agree on different rules or procedures regarding the settlement or termination of proceedings, even if the general principle of the Rules taking precedence over the parties’ agreement still applies.”*

Human lawyer: *Article 32 of DIAC Arbitration Rules 2022 does not concern ‘settlement or termination of proceedings’ but sets out provisions pertaining to expedited proceedings.*

Occasionally, ChatGPT would not appreciate the important distinction between ‘may’ or ‘should’ and the commanding ‘shall’, which can be crucial, for example:

Article 4.1(c) of DIAC Arbitration Rules 2022: *“Any party wishing to commence an arbitration under the Rules shall submit to the Centre a Request which shall include: [...] (c) a copy of any relevant agreement between the parties, which contains the agreement to arbitrate, in respect of which the claim arises; [...].”*

ChatGPT: *“Article 4.1 of the DIAC Arbitration Rules outlines the requirements for submitting a Request to commence an arbitration under the Rules. Let us analyse each component of this article: [...] Copy of relevant agreement: The Request ~~should~~ include a copy of any relevant*

agreement between the parties that contains the agreement to arbitrate, which is the basis for the claim being made.”

Parenthetically, ChatGPT sometimes would simply paraphrase a provision several times within a single answer or alter the format of the responses with a series of prompts within the same commentary. To be fair, most of these provisions were quite nominal and did not contain much substance for analysis, for example:

Definition of ‘Parties’ Article 1.1 of UAE Arbitration Law: *“Parties: The Claimant and the Respondent, whatever their number.”*

ChatGPT: *“Parties: Refers to the Claimant and the Respondent involved in the arbitration. The parties could be individuals, companies, or any legal entities engaged in a dispute.”*

It was expected that there would be such limitations, but it was pleasantly surprising that their frequency was much lower than anticipated.

Being cognisant of all the existing issues and scepticism within the legal community, we consider that this experimental AI Commentary could be of assistance to practitioners in at least two ways. First, it allows the reader an opportunity to perform a sense check on their understanding of a provision or its aspect against ChatGPT’s analysis. Second, the time required to produce 24 publications comprising the AI Commentary was significantly less than the typical duration needed to produce a single comprehensive commentary text on any of the relevant arbitration laws, rules, or treaties. Thus, should it become necessary, a similar AI commentary could be produced on any arbitration law/rules/treaty at a fraction of time and cost typically associated with such a task.

The purpose of publishing the AI Commentary is to provide arbitration practitioners and academics with a general sense of what is presently possible to achieve in the field of arbitration with the assistance of generative AI software, and encourage the arbitration community to push the boundaries of arbitration as a flexible, efficient, and effective dispute resolution method.

Notably, all commentary was generated with ChatGPT and was supported by a selective review by the Editors. Accordingly, the commentary may contain inaccurate and/or incomplete information. Readers are strongly advised to exercise caution reading the commentary with some scepticism and to keep a pencil in hand to note any inaccuracies. Needless to say, nothing in this text should be considered and/or relied upon as legal advice. For detailed information, please refer to OpenAI’s Terms & Policies.

This project would not be complete without front page illustrations, which were also generated by AI. DALL E, another OpenAI system capable of creating images based on prompts, was used for this purpose. The chosen concept is based on a watercolour painting style, primarily portraying athletic rivalries in locations that correspond to the relevant arbitration law, rules, or treaty. The hope is that the readers will find the illustrations aesthetically appealing.

Should you have any questions, comments, or observations, including any noticed errors, please do not hesitate to contact us directly via email at s.dilevka@galadarilaw.com.

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Table of Contents

CHAPTER 1—GENERAL PROVISIONS	9
§1. “Maritime transactions” and “commerce” defined; exceptions to operation of title	9
§2. Validity, irrevocability, and enforcement of agreements to arbitrate.....	10
§3. Stay of proceedings where issue therein referable to arbitration.....	11
§4. Failure to arbitrate under agreement; petition to United States court having jurisdiction for order to compel arbitration; notice and service thereof; hearing and determination	13
§5. Appointment of arbitrators or umpire	14
§6. Application heard as motion	16
§7. Witnesses before arbitrators; fees; compelling attendance.....	17
§8. Proceedings begun by libel in admiralty and seizure of vessel or property	18
§9. Award of arbitrators; confirmation; jurisdiction; procedure	19
§10. Same; vacation; grounds; rehearing.....	21
§11. Same; modification or correction; grounds; order	22
§12. Notice of motions to vacate or modify; service; stay of proceedings	23
§13. Papers filed with order on motions; judgment; docketing; force and effect; enforcement	25
§14. Contracts not affected	26
§15. Inapplicability of the Act of State doctrine.....	27
§16. Appeals.....	28
CHAPTER 2—CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS	30
§201. Enforcement of Convention	30
§202. Agreement or award falling under the Convention.....	30
§203. Jurisdiction; amount in controversy	32
§204. Venue	33
§205. Removal of cases from State courts	34
§206. Order to compel arbitration; appointment of arbitrators	35
§207. Award of arbitrators; confirmation; jurisdiction; proceeding.....	36
§208. Application	37
CHAPTER 3—INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION ..	39
§301. Enforcement of Convention	39
§302. Incorporation by reference.....	40

§303. Order to compel arbitration; appointment of arbitrators; locale.....41

§304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity.....42

§305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958.....43

§306. Applicable rules of Inter-American Commercial Arbitration Commission.....44

§307. Application45

CHAPTER 4—ARBITRATION OF DISPUTES INVOLVING SEXUAL ASSAULT AND SEXUAL HARASSMENT
.....47

§401. Definitions47

§402. No validity or enforceability48

USA FEDERAL ARBITRATION ACT 1925¹

TITLE 9—ARBITRATION

CHAPTER 1—GENERAL PROVISIONS

§1. “Maritime transactions” and “commerce” defined; exceptions to operation of title

“Maritime transactions”, as herein defined, means charter parties, bills of lading of water carriers, agreements relating to wharfage, supplies furnished vessels or repairs to vessels, collisions, or any other matters in foreign commerce which, if the subject of controversy, would be embraced within admiralty jurisdiction; “commerce”, as herein defined, means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation, but nothing herein contained shall apply to contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce.

Section 1 of the Federal Arbitration Act (FAA) defines key terms that are crucial for understanding the scope and applicability of the Act. Let us break down the definitions provided in this section:

1. Maritime Transactions: This term encompasses various types of agreements and disputes related to maritime activities. Specifically, it includes:
 2. Charter parties: Agreements that outline the terms and conditions of chartering a vessel for a specific purpose or time period.
 3. Bills of lading of water carriers: Documents issued by carriers to acknowledge the receipt of goods and the terms of their transportation.
 4. Agreements relating to wharfage: Contracts pertaining to the use of wharf facilities for loading, unloading, or storing cargo.
 5. Supplies furnished vessels or repairs to vessels: Contracts involving the provision of goods or services to ships, such as repairs or supplies.
 6. Collisions: Legal matters related to ship collisions.
 7. Other matters in foreign commerce: Any disputes or agreements connected to foreign trade that would fall under admiralty jurisdiction.
 8. Commerce: This definition outlines the scope of commercial activities covered by the Act. It includes:
 - a. Commerce among the several States or with foreign nations: Interstate and international trade.

¹ Source: <https://www.govinfo.gov/content/pkg/USCODE-2019-title9/html/USCODE-2019-title9.htm>.

- b. Commerce in any Territory of the United States or in the District of Columbia: Trade within U.S. territories and the capital.
 - c. Commerce between any such Territory and another, or between any such Territory and any State or foreign nation: Trade involving U.S. territories, states, and foreign nations.
 - d. Commerce between the District of Columbia and any State or Territory or foreign nation: Trade involving the District of Columbia, states, territories, and foreign nations.
9. Exclusions: The section also provides exceptions where the FAA will not apply. It states that the Act does not cover contracts of employment for certain categories of workers engaged in foreign or interstate commerce. This exclusion encompasses contracts for:
- a. Seamen: Employees working on ships.
 - b. Railroad employees: Workers in the railroad industry.
 - c. Any other class of workers engaged in foreign or interstate commerce: Employees in other industries involved in cross-border or interstate trade.

In summary, Section 1 of the Federal Arbitration Act sets the stage for the Act’s application by defining key terms such as “maritime transactions” and “commerce”. It establishes the types of agreements and disputes that fall under the Act’s jurisdiction, mainly related to maritime activities and various forms of commerce. Additionally, it excludes certain employment contracts from the Act’s coverage. This section’s purpose is to clarify the scope of the FAA and provide a foundation for the subsequent sections of the Act.

§2. Validity, irrevocability, and enforcement of agreements to arbitrate

A written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, transaction, or refusal, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract or as otherwise provided in chapter 4.

Section 2 of the FAA establishes the enforceability and validity of written arbitration agreements within the context of maritime transactions and contracts involving commerce. Let us break down the key components and implications of this section:

1. Scope of Application:
 - a. The section covers both maritime transactions and contracts involving commerce. These terms were defined in Section 1 of the FAA, as you mentioned in your previous question.

- b. “Maritime transactions” refer to a range of agreements and disputes related to maritime activities, while “contracts involving commerce” encompass commercial agreements involving interstate, international, and territorial trade.
2. Enforceability of Arbitration Agreements: The section emphasises the enforceability of arbitration agreements that are in writing. This means that if parties to a maritime transaction or a contract involving commerce have agreed in writing to resolve any future disputes through arbitration, such agreements will be considered valid and enforceable.
3. Types of Controversies Covered: The section outlines the types of controversies that can be subject to arbitration under the Act:
 - a. Controversies arising out of the contract or transaction.
 - b. Controversies arising from the refusal to perform the entire contract or any part thereof.
 - c. Existing controversies related to the contract, transaction, or refusal to perform, provided that there is a written agreement to submit to arbitration.
4. Binding Nature: Once parties have agreed in writing to settle disputes through arbitration, the section establishes that such agreements are “valid, irrevocable, and enforceable”. This means that parties cannot easily back out of the arbitration process once they have committed to it in writing.
5. Limitations on Revocation:
 - a. The section acknowledges that while arbitration agreements are generally binding and enforceable, there are limited grounds for revocation. These grounds are the same as those that exist under general contract law or equity for the revocation of any contract.
 - b. Additionally, the section references “chapter 4”, likely referring to another section or part of the FAA that may provide further guidance on specific circumstances for revocation.

In summary, Section 2 of the Federal Arbitration Act establishes the legal framework for the validity, enforceability, and irrevocability of written arbitration agreements within the context of maritime transactions and contracts involving commerce. This section encourages the use of arbitration as a means of resolving disputes and reinforces the principle that once parties have agreed to arbitration in writing, such agreements should be honoured and upheld by the courts, except in cases where valid legal or equitable grounds for revocation exist.

§3. Stay of proceedings where issue therein referable to arbitration

If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, shall on application of one of the parties stay the trial of the

action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration.

Section 3 of the FAA addresses the procedure that courts in the United States should follow when a lawsuit or legal proceeding is initiated in a court, and the issues involved are covered by an arbitration agreement. Let us break down the key elements and implications of this section:

1. Context and Scope:
 - a. This section pertains to situations where a legal dispute arises that falls within the scope of an arbitration agreement that the parties have entered into in writing.
 - b. The arbitration agreement could be part of a maritime transaction or a contract involving commerce, as defined in previous sections of the FAA.
2. Stay of Court Proceedings:
 - a. If a lawsuit or legal proceeding is brought before a U.S. court, and the issues in the case are subject to arbitration under a valid written agreement, this section outlines the court's response.
 - b. The court, upon being satisfied that the matters at hand are subject to arbitration based on the written agreement, is required to take specific action.
3. Stay of Trial:
 - a. The court, in which the lawsuit or proceeding is pending, is instructed to stay the trial or further proceedings related to the case.
 - b. This means that the court will temporarily halt the proceedings until arbitration has been conducted in accordance with the terms of the written arbitration agreement.
4. Application of Stay:
 - a. A party involved in the lawsuit or proceeding can apply for this stay of the court proceedings. The party seeking the stay must demonstrate that the issues under dispute fall within the scope of the written arbitration agreement.
 - b. The party seeking the stay should not be in default regarding the arbitration process. In other words, the party should be actively participating in the arbitration proceedings as agreed upon in the arbitration agreement.

In summary, Section 3 of the Federal Arbitration Act provides a mechanism for handling legal disputes that are covered by a written arbitration agreement. If a lawsuit or proceeding is brought before a U.S. court, and the issues in the case are within the scope of a valid arbitration agreement, the court must stay the trial or further proceedings upon application from one of the parties involved. This section underscores the principle of enforcing arbitration agreements and provides a framework for how courts should respond when confronted with disputes that are subject to arbitration.

§4. Failure to arbitrate under agreement; petition to United States court having jurisdiction for order to compel arbitration; notice and service thereof; hearing and determination

A party aggrieved by the alleged failure, neglect, or refusal of another to arbitrate under a written agreement for arbitration may petition any United States district court which, save for such agreement, would have jurisdiction under title 28, in a civil action or in admiralty of the subject matter of a suit arising out of the controversy between the parties, for an order directing that such arbitration proceed in the manner provided for in such agreement. Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner provided by the Federal Rules of Civil Procedure. The court shall hear the parties, and upon being satisfied that the making of the agreement for arbitration or the failure to comply therewith is not in issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the agreement. The hearing and proceedings, under such agreement, shall be within the district in which the petition for an order directing such arbitration is filed. If the making of the arbitration agreement or the failure, neglect, or refusal to perform the same be in issue, the court shall proceed summarily to the trial thereof. If no jury trial be demanded by the party alleged to be in default, or if the matter in dispute is within admiralty jurisdiction, the court shall hear and determine such issue. Where such an issue is raised, the party alleged to be in default may, except in cases of admiralty, on or before the return day of the notice of application, demand a jury trial of such issue, and upon such demand the court shall make an order referring the issue or issues to a jury in the manner provided by the Federal Rules of Civil Procedure, or may specially call a jury for that purpose. If the jury find that no agreement in writing for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury find that an agreement for arbitration was made in writing and that there is a default in proceeding thereunder, the court shall make an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof.

Section 4 of the FAA outlines the process by which a party aggrieved by the failure, neglect, or refusal of another party to arbitrate under a written arbitration agreement can seek an order from a United States district court to compel arbitration. Let us break down the key elements and implications of this section:

1. Petition for Compelling Arbitration:
 - a. If one party believes that another party is not complying with a written arbitration agreement and is failing to participate in arbitration proceedings, the aggrieved party can petition a U.S. district court.
 - b. The court that has jurisdiction over the subject matter of the dispute, as it would have under Title 28 of the United States Code, can be petitioned for an order directing that the arbitration proceed in accordance with the terms of the agreement.
2. Notice and Service:
 - a. The aggrieved party must serve the party in default with a written notice of the application for an arbitration order at least five days before making the application.
 - b. Service should follow the procedures outlined in the Federal Rules of Civil Procedure.

3. Court's Response:
 - a. The court will hold a hearing and allow both parties to present their arguments.
 - b. If the court is satisfied that the arbitration agreement was properly made and the issue of compliance is not in dispute, the court will issue an order directing the parties to proceed with arbitration based on the terms of the agreement.
4. Location of Hearing and Proceedings: The hearing and arbitration proceedings, as required by the agreement, will take place within the same district in which the application for an arbitration order was filed.
5. Issues in Dispute:
 - a. If the making of the arbitration agreement or the failure to comply with it is in dispute, the court will proceed to address these issues.
 - b. If no jury trial is requested by the party alleged to be in default, or if the matter falls within admiralty jurisdiction, the court will hear and determine the issue.
6. Jury Trial Demand:
 - a. The party alleged to be in default can demand a jury trial on the issue of whether an arbitration agreement was made or if there is a default in proceeding under it. This demand must be made before the return day of the notice of application.
 - b. If a jury trial is demanded, the court will either refer the issue to a jury following the Federal Rules of Civil Procedure or specially call a jury for the purpose.
7. Court's Decisions: Depending on the outcome of the jury trial, the court will take appropriate action:
 - a. If the jury finds no arbitration agreement or no default, the proceeding will be dismissed.
 - b. If the jury finds that an arbitration agreement exists and there is a default, the court will issue an order summarily directing the parties to proceed with arbitration as per the agreement.

In summary, Section 4 of the Federal Arbitration Act provides a mechanism for a party to compel arbitration when the other party is not abiding by a valid written arbitration agreement. The section outlines the process for seeking a court order to enforce the arbitration agreement, including notice, hearings, potential jury trials, and the court's authority to issue orders directing parties to proceed with arbitration.

§5. Appointment of arbitrators or umpire

If in the agreement provision be made for a method of naming or appointing an arbitrator or arbitrators or an umpire, such method shall be followed; but if no method be provided therein, or if

a method be provided and any party thereto shall fail to avail himself of such method, or if for any other reason there shall be a lapse in the naming of an arbitrator or arbitrators or umpire, or in filling a vacancy, then upon the application of either party to the controversy the court shall designate and appoint an arbitrator or arbitrators or umpire, as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein; and unless otherwise provided in the agreement the arbitration shall be by a single arbitrator.

Section 5 of the FAA addresses the appointment of arbitrators or umpires when the arbitration agreement does not specify a method for their selection. It outlines the procedure courts should follow to ensure that arbitration can proceed even if there is a failure in naming or appointing arbitrators or umpires. Let us break down the key elements and implications of this section:

1. Appointment of Arbitrators or Umpires:
 - a. If the arbitration agreement includes a method for naming or appointing arbitrators or an umpire, that method should be followed.
 - b. However, if the agreement does not provide a method, or if a method exists but a party fails to utilise it, or if there is any other reason causing a delay in the naming or appointment process, this section becomes relevant.
2. Court's Role in Appointment:
 - a. When there is a lapse or failure in the naming or appointment of an arbitrator, arbitrators, or umpire, any party involved in the dispute can apply to a court for assistance in designating and appointing the necessary individuals.
 - b. The court is empowered to fill the gap left by the agreement's failure to specify a method or by any other reason for the lapse.
3. Designation and Appointment by the Court:
 - a. The court's role is to designate and appoint an arbitrator, arbitrators, or umpire as required by the situation.
 - b. The appointed individual or individuals will then assume their roles under the arbitration agreement as if they had been explicitly named in the original agreement.
4. Force and Effect of Court-Appointed Arbitrators/Umpires:
 - a. The arbitrator, arbitrators, or umpire appointed by the court will have the same authority and power as if they had been directly named in the arbitration agreement.
 - b. This ensures that the arbitration process can proceed effectively even in cases where there is a deficiency in the agreement's provisions.
5. Default Rule for Number of Arbitrators:

- a. Unless the agreement specifies otherwise, the default rule is that the arbitration will be conducted by a single arbitrator.
- b. In situations where the agreement does not dictate the number of arbitrators, this default provision ensures a streamlined process.

In summary, Section 5 of the Federal Arbitration Act provides a framework for addressing situations in which the arbitration agreement does not specify a method for appointing arbitrators or umpires or where such a process has failed for any reason. The section allows parties to apply to a court to designate and appoint arbitrators or umpires necessary to proceed with arbitration. This ensures that the arbitration process can continue effectively even when there is a gap or failure in the original

§6. Application heard as motion

Any application to the court hereunder shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise herein expressly provided.

Section 6 of the FAA outlines the procedure for making applications to a court under the Act. Specifically, it refers to the process of seeking court intervention in matters related to arbitration. Let us break down the key elements and implications of this section:

1. Application to the Court: Section 6 pertains to situations where a party wishes to apply to a court for matters related to arbitration. This might include seeking court orders to enforce arbitration agreements, appoint arbitrators, or resolve disputes arising from arbitration proceedings.
2. Procedure for Making Applications:
 - a. The section states that any application made to the court under the FAA should follow the procedural rules provided by law for the making and hearing of motions.
 - b. In other words, the process for requesting court intervention in arbitration matters should generally follow the established legal procedures for motions within the court system.
3. Exceptions and Modifications:
 - a. The section adds a qualifier that the general rule (of following the procedural rules for motions) might have exceptions or modifications as provided in the FAA itself.
 - b. This indicates that while the default approach is to use the usual motion procedures, there could be specific provisions within the FAA that modify or specify the process for certain arbitration-related applications.

In summary, Section 6 of the Federal Arbitration Act addresses the procedure for making applications to a court under the Act for matters related to arbitration. It emphasises that the standard practice for making and hearing motions should be followed unless the FAA itself expressly provides otherwise or includes specific modifications. This section ensures that parties seeking court intervention in

arbitration matters understand the general procedural framework they should follow when making applications to the court.

§7. Witnesses before arbitrators; fees; compelling attendance

The arbitrators selected either as prescribed in this title or otherwise, or a majority of them, may summon in writing any person to attend before them or any of them as a witness and in a proper case to bring with him or them any book, record, document, or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before masters of the United States courts. Said summons shall issue in the name of the arbitrator or arbitrators, or a majority of them, and shall be signed by the arbitrators, or a majority of them, and shall be directed to the said person and shall be served in the same manner as subpoenas to appear and testify before the court; if any person or persons so summoned to testify shall refuse or neglect to obey said summons, upon petition the United States district court for the district in which such arbitrators, or a majority of them, are sitting may compel the attendance of such person or persons before said arbitrator or arbitrators, or punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the United States.

Section 7 of the FAA outlines the authority and procedure by which arbitrators can summon witnesses and request the production of documents during arbitration proceedings. It also addresses the consequences for witnesses who fail to comply with such summonses. Let us break down the key elements and implications of this section:

1. **Summoning Witnesses and Requesting Documents:**
 - a. This section grants arbitrators the power to summon individuals to appear before them as witnesses during arbitration proceedings. These witnesses can be asked to testify and, when appropriate, produce relevant books, records, documents, or papers that are deemed material evidence for the case.
 - b. The purpose of this provision is to ensure that arbitrators have access to necessary information to make informed decisions during the arbitration process.
2. **Fees for Witnesses:** The fees for witnesses attending arbitration proceedings are to be the same as the fees paid to witnesses who appear before masters of the United States courts. This helps standardise the compensation for witnesses participating in arbitration.
3. **Summoning Procedure:**
 - a. The summons to appear before the arbitrators is issued in writing and in the name of the arbitrator or arbitrators, or a majority of them.
 - b. The summons is signed by the arbitrators or a majority of them.
 - c. The summons is directed to the person being summoned and is served in the same manner as subpoenas used to summon witnesses to appear and testify in court proceedings.

4. Compelling Witness Attendance or Punishing for Contempt: If a person who is summoned to testify before the arbitrators refuses or neglects to obey the summons, the aggrieved party can petition the United States district court for the district where the arbitration is taking place.
5. The court has the authority to take action:
 - a. Compelling the attendance of the summoned person before the arbitrators.
 - b. Punishing the person for contempt, following the same legal procedures used in securing witness attendance or punishing refusal to attend in U.S. courts.

In summary, Section 7 of the Federal Arbitration Act empowers arbitrators to summon witnesses and request the production of relevant documents during arbitration proceedings. It ensures that arbitrators have access to necessary evidence to make informed decisions. The section also establishes the procedure for issuing summonses, the fees for witnesses, and the consequences for those who fail to comply with the summonses. This provision aims to maintain fairness and integrity in the arbitration process by enabling arbitrators to gather relevant information and ensuring that summoned witnesses cooperate.

§8. Proceedings begun by libel in admiralty and seizure of vessel or property

If the basis of jurisdiction be a cause of action otherwise justiciable in admiralty, then, notwithstanding anything herein to the contrary, the party claiming to be aggrieved may begin his proceeding hereunder by libel and seizure of the vessel or other property of the other party according to the usual course of admiralty proceedings, and the court shall then have jurisdiction to direct the parties to proceed with the arbitration and shall retain jurisdiction to enter its decree upon the award.

Section 8 of the FAA deals with situations where the basis of jurisdiction is a cause of action that would typically fall within the admiralty jurisdiction. It outlines a unique process for initiating arbitration proceedings in such cases and specifies the role of the court in enforcing arbitration. Let us break down the key elements and implications of this section:

1. Admiralty Jurisdiction: This section applies when the underlying cause of action is one that falls under admiralty jurisdiction. Admiralty jurisdiction refers to cases involving maritime or navigation-related matters that traditionally fall under the authority of admiralty courts.
2. Initiating Arbitration through Admiralty Proceedings: Instead of commencing arbitration proceedings through the usual methods, this section allows the aggrieved party to start the process by filing a libel (a legal claim) and seizing the vessel or other property of the other party. This method mirrors the typical course of action in admiralty proceedings.
3. Court's Role:
 - a. Once the aggrieved party initiates proceedings through libel and seizure, the court is granted jurisdiction to intervene in the process.

- b. The court's primary role in this context is to direct the parties to proceed with the arbitration as agreed upon in their arbitration agreement.
4. Retention of Jurisdiction:
- a. Even though the arbitration process is initiated through admiralty proceedings, the court retains jurisdiction over the case.
 - b. The court remains involved throughout the arbitration process and has the authority to enter a final decree based on the eventual arbitration award.

In summary, Section 8 of the Federal Arbitration Act provides a unique procedure for initiating arbitration proceedings when the underlying cause of action falls within admiralty jurisdiction. It allows the aggrieved party to begin the process through libel and seizure of property, following the customary approach of admiralty proceedings. The court's role is to ensure that the arbitration takes place and to retain jurisdiction to enforce the eventual arbitration award. This section acknowledges the specific nature of admiralty cases and adapts the arbitration initiation process accordingly while ensuring the court's oversight of the arbitration process.

§9. Award of arbitrators; confirmation; jurisdiction; procedure

If the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title. If no court is specified in the agreement of the parties, then such application may be made to the United States court in and for the district within which such award was made. Notice of the application shall be served upon the adverse party, and thereupon the court shall have jurisdiction of such party as though he had appeared generally in the proceeding. If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident, then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court.

Section 9 of the FAA addresses the process of confirming an arbitration award and entering it as a judgment of the court. It outlines the steps that parties need to follow to obtain a court order confirming the award and the jurisdiction of the court over the parties involved. Let us break down the key elements and implications of this section:

1. Agreement for Court Judgment:
 - a. This section applies when the parties' arbitration agreement explicitly states that a judgment of the court shall be entered based on the arbitration award.
 - b. The agreement must also specify the particular court that will have jurisdiction to confirm the award and enter it as a judgment.
2. Procedure to Confirm the Award:

- a. Within one year after the arbitration award is made, any party to the arbitration can apply to the court specified in the agreement for an order confirming the award.
 - b. The court must grant this order unless the award is vacated, modified, or corrected as per the provisions outlined in Sections 10 and 11 of the FAA.
3. Default Jurisdiction:
- a. If the arbitration agreement does not specify a particular court, the application to confirm the award can be made to the United States court in the district where the award was made.
 - b. This default jurisdiction ensures that there is a clear path to confirm the award even when the agreement does not specify a court.
4. Notice of Application:
- a. The party seeking to confirm the award must serve notice of the application on the adverse party.
 - b. This notice informs the opposing party of the intention to obtain a court order confirming the award.
5. Jurisdiction over Adverse Party:
- a. Once the notice of the application is served, the court gains jurisdiction over the adverse party.
 - b. The court's jurisdiction is established as though the adverse party had appeared generally in the proceeding.
6. Service of Notice:
- a. The manner of serving the notice depends on whether the adverse party is a resident of the district where the award was made or a non-resident.
 - b. If the adverse party is a resident, the service follows the legal process for serving notice of motion in a local court.
 - c. If the adverse party is a non-resident, the notice is served by the marshal of any district where the adverse party can be found.

In summary, Section 9 of the Federal Arbitration Act outlines the process for confirming an arbitration award and entering it as a court judgment when the arbitration agreement explicitly provides for such a judgment. The section explains the steps for applying to the specified court to confirm the award and the jurisdiction that the court gains over the parties involved once the application is served. This section ensures a clear procedure for converting an arbitration award into a formal court judgment when the parties have agreed to do so.

§10. Same; vacation; grounds; rehearing

- (a) In any of the following cases the United States court in and for the district wherein the award was made may make an order vacating the award upon the application of any party to the arbitration—
- (1) where the award was procured by corruption, fraud, or undue means;
 - (2) where there was evident partiality or corruption in the arbitrators, or either of them;
 - (3) where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or
 - (4) where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.
- (b) If an award is vacated and the time within which the agreement required the award to be made has not expired, the court may, in its discretion, direct a rehearing by the arbitrators.
- (c) The United States district court for the district wherein an award was made that was issued pursuant to section 580 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 572 of title 5.

Section 10 of the FAA outlines the circumstances under which a United States court may vacate an arbitration award upon the application of a party to the arbitration. This section sets out specific grounds upon which a court can invalidate an award, emphasising fairness and the integrity of the arbitration process. Let us break down the key elements and implications of this section:

1. Grounds for Vacating an Award:
 - a. Corruption, Fraud, or Undue Means (1): The court may vacate an arbitration award if it was obtained through corruption, fraud, or undue means. This ensures that awards are based on honest and lawful practices.
 - b. Evident Partiality or Corruption (2): If there is evidence of evident partiality or corruption on the part of one or both arbitrators, the court has the authority to vacate the award. This safeguards the fairness of the arbitration process.
 - c. Arbitrator Misconduct (3): The court can vacate an award if arbitrators engage in misconduct, such as refusing to postpone a hearing with sufficient cause or not considering pertinent and material evidence, or if they exhibit other misbehaviour that prejudices the rights of any party.
 - d. Exceeding Powers or Inadequate Execution (4): If arbitrators exceed their assigned powers or execute them in such an inadequate manner that a final and definite award is not reached on the submitted subject matter, the court can vacate the award.

2. Rehearing by Arbitrators: If an award is vacated and the time frame specified in the arbitration agreement for making the award has not elapsed, the court can exercise its discretion to direct a rehearing by the arbitrators.
3. Vacating Awards Issued Pursuant to Section 580 of Title 5: For awards issued under specific provisions of Title 5, the court in the district where the award was made may vacate the award upon the application of a person adversely affected by the award. This provision ensures that even non-parties to the arbitration process have recourse when the use of arbitration or the award is inconsistent with specific factors outlined in Title 5.

In summary, Section 10 of the Federal Arbitration Act enumerates the grounds on which a United States court may vacate an arbitration award upon the application of a party to the arbitration. The section emphasises fair conduct during arbitration proceedings, ensuring that awards are not obtained through corruption, fraud, or undue means. It also guards against evident partiality or corruption among arbitrators, misconduct, and inadequate execution of arbitrators' powers. The section also addresses situations involving awards issued pursuant to specific provisions, enabling the court to act when the arbitration process or award conflicts with defined factors.

§11. Same; modification or correction; grounds; order

In either of the following cases the United States court in and for the district wherein the award was made may make an order modifying or correcting the award upon the application of any party to the arbitration—

- (a) **Where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award.**
- (b) **Where the arbitrators have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted.**
- (c) **Where the award is imperfect in matter of form not affecting the merits of the controversy.**

The order may modify and correct the award, so as to effect the intent thereof and promote justice between the parties.

Section 11 of the FAA addresses the authority of a United States court to modify or correct an arbitration award in certain specified circumstances. This section enables parties to seek adjustments to an award to address material errors, omissions, or matters of form. Let us break down the key elements and implications of this section:

1. Evident Material Miscalculation or Mistake:
 - a. Miscalculation of Figures: The court may modify or correct an award if there is an evident material miscalculation of figures, such as errors in mathematical calculations affecting the award's accuracy.

- b. Mistake in Description: Similarly, if there is an evident material mistake in the description of any person, thing, or property mentioned in the award, the court can intervene to correct this mistake.
2. Award on Matters Not Submitted: The court can modify or correct an award if the arbitrators have made an award on a matter that was not properly submitted to them. However, this modification is only allowed if the matter not submitted does not impact the overall decision on the matters that were submitted.
3. Imperfections in Form:
 - a. The court can also modify or correct an award if the award has imperfections in matters of form that do not affect the merits of the underlying controversy. These could be typographical, clerical, or procedural errors that do not alter the substance of the award.
 - b. Modification or Correction Order: The order issued by the court under this section can modify or correct the award, as necessary, to fulfil the intent of the award and promote justice between the parties.

In summary, Section 11 of the Federal Arbitration Act allows parties to apply to a United States court to modify or correct an arbitration award in specific situations where there are evident material miscalculations, mistakes in description, matters not submitted but not affecting the merits, or imperfections in the form of the award. The intention is to address errors or omissions in the award that do not align with the parties' true intent or create unfair outcomes. This section ensures that the arbitration process remains just and accurate, allowing courts to intervene when certain types of errors or mistakes are identified in the award.

§12. Notice of motions to vacate or modify; service; stay of proceedings

Notice of a motion to vacate, modify, or correct an award must be served upon the adverse party or his attorney within three months after the award is filed or delivered. If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court. For the purposes of the motion any judge who might make an order to stay the proceedings in an action brought in the same court may make an order, to be served with the notice of motion, staying the proceedings of the adverse party to enforce the award.

Section 12 of the FAA outlines the procedures and timeframes for serving notice of a motion to vacate, modify, or correct an arbitration award. It also addresses the authority to stay enforcement proceedings related to the award during the motion process. This section ensures that parties are informed and provided with the opportunity to respond when a motion regarding an arbitration award is filed. Let us break down the key elements and implications of this section:

1. Notice of Motion:

- a. When a party intends to file a motion to vacate, modify, or correct an arbitration award, notice of the motion must be served upon the adverse party or their attorney.
- b. This notice must be served within three months after the award is filed or delivered.
2. Service on Resident Adverse Party: If the adverse party is a resident of the district where the award was made, the notice should be served in the same manner as prescribed by law for serving notice of a motion in an action brought in the same court.
3. Service on Non-resident Adverse Party: If the adverse party is a non-resident of the district, the notice of the application must be served by the marshal of any district within which the adverse party can be found. This service is conducted in the same manner as other court processes.
4. Staying Enforcement Proceedings:
 - a. For the purposes of the motion, any judge who has the authority to issue an order to stay proceedings in an action brought in the same court can also issue an order to stay the proceedings of the adverse party who seeks to enforce the arbitration award.
 - b. This stay prevents the enforcement of the award while the motion is being considered.

In summary, Section 12 of the Federal Arbitration Act establishes the procedures for serving notice of a motion to vacate, modify, or correct an arbitration award. It specifies timeframes for service and outlines the methods for serving notice on both resident and non-resident adverse parties. The section also empowers judges to issue orders to stay proceedings related to the enforcement of the award while the motion is pending. This section ensures that parties are informed of the motion and have the opportunity to respond, maintaining fairness and transparency in the arbitration process.

§13. Papers filed with order on motions; judgment; docketing; force and effect; enforcement

The party moving for an order confirming, modifying, or correcting an award shall, at the time such order is filed with the clerk for the entry of judgment thereon, also file the following papers with the clerk:

- (a) The agreement; the selection or appointment, if any, of an additional arbitrator or umpire; and each written extension of the time, if any, within which to make the award.
- (b) The award.
- (c) Each notice, affidavit, or other paper used upon an application to confirm, modify, or correct the award, and a copy of each order of the court upon such an application.

The judgment shall be docketed as if it was rendered in an action.

The judgment so entered shall have the same force and effect, in all respects, as, and be subject to all the provisions of law relating to, a judgment in an action; and it may be enforced as if it had been rendered in an action in the court in which it is entered.

Section 13 of the FAA outlines the procedural requirements for filing documents and entering a judgment in connection with a motion to confirm, modify, or correct an arbitration award. It details the necessary documents to be filed and the manner in which the judgment is entered. Let us break down the key elements and implications of this section:

1. Required Documents:
 - a. Agreement and Additional Selection/Appointment (a): The party moving for an order to confirm, modify, or correct an award must file the original arbitration agreement along with any documents indicating the selection or appointment of additional arbitrators or an umpire.
 - b. Written Extensions (a): Any written extensions of the time within which to make the award must also be filed.
2. The Award (b): The actual arbitration award that is the subject of the motion needs to be filed with the clerk.
3. Supporting Documents (c):
 - a. Each document used in the application to confirm, modify, or correct the award, such as notices, affidavits, or other relevant papers, should be filed.
 - b. A copy of each court order related to the application must also be included.
4. Docketing and Force of Judgment:
 - a. The judgment confirming, modifying, or correcting the award is to be docketed as if it were rendered in a regular legal action.

- b. Once entered, the judgment carries the same legal force and effect as a judgment in a legal action. It is subject to all relevant provisions of the law that apply to regular judgments.
5. Enforcement of the Judgment: The judgment entered pursuant to this section can be enforced as if it were a judgment resulting from a legal action in the same court.

In summary, Section 13 of the Federal Arbitration Act lays out the procedural requirements for filing documents and entering a judgment related to motions to confirm, modify, or correct arbitration awards. The section emphasises the necessity of submitting pertinent documents, including the original arbitration agreement, any selection or appointment documents, extensions of time, the actual award, and relevant supporting materials. The judgment resulting from these procedures is treated as a regular legal judgment, subject to the same legal provisions and enforceable as if it arose from a legal action. This section ensures that the process of confirming, modifying, or correcting an arbitration award follows established legal procedures, enhancing transparency and enforceability.

§14. Contracts not affected

This title shall not apply to contracts made prior to January 1, 1926.

Section 14 of the FAA specifies a limitation on the application of the Act. It states that the provisions of the FAA shall not apply to contracts made prior to January 1, 1926. Let us break down the key elements and implications of this section:

1. Applicability Limitation: Section 14 explicitly states that the FAA does not apply to contracts that were entered into before January 1, 1926.
2. Cut-off Date: The cut-off date of January 1, 1926, is significant because it establishes a point in time before which the FAA's provisions do not have jurisdiction over contracts.
3. Implications:
 - a. This provision indicates that the Federal Arbitration Act is not retroactive and does not govern contracts that were formed prior to the specified cutoff date.
 - b. For contracts made before January 1, 1926, parties would be subject to the arbitration laws and rules that were in place at the time the contracts were executed, which might have been different from those established by the FAA.

In summary, Section 14 of the Federal Arbitration Act sets a boundary for the Act's applicability by excluding contracts that were entered into before January 1, 1926. This means that the FAA's provisions do not apply to arbitration agreements contained within contracts made prior to that date. Instead, these earlier contracts would be subject to the arbitration laws that were in effect at the time of their creation. This section acknowledges that the FAA's reach is limited by the timeline of contract formation.

§15. Inapplicability of the Act of State doctrine

Enforcement of arbitral agreements, confirmation of arbitral awards, and execution upon judgments based on orders confirming such awards shall not be refused on the basis of the Act of State doctrine.

Section 15 of the FAA addresses the application of the Act of State doctrine in the context of enforcing arbitral agreements, confirming arbitral awards, and executing judgments based on orders confirming such awards. The Act of State doctrine is a legal principle that holds that courts of one country will not question the validity of official acts of another sovereign state within its own territory. Let us break down the key elements and implications of this section:

1. Act of State Doctrine:
 - a. The Act of State doctrine is a legal principle that states that one nation's courts should not pass judgment on the validity of another nation's official actions within its own territory.
 - b. This doctrine is grounded in principles of international comity and the respect for the sovereignty of other states.
2. Enforcement and Confirmation of Arbitral Agreements and Awards:
 - a. Section 15 states that the Act of State doctrine cannot be used as a basis to refuse the enforcement of arbitral agreements or to prevent the confirmation of arbitral awards.
 - b. This means that parties cannot rely on the Act of State doctrine as a defence to avoid their obligations under an arbitral agreement or to challenge the validity of an arbitral award.
3. Execution of Judgments:
 - a. The Act of State doctrine also cannot be invoked to prevent the execution of judgments that are based on orders confirming arbitral awards.
 - b. In other words, a party cannot use the Act of State doctrine to argue that the execution of such judgments should be refused.
4. Implications:
 - a. This section reflects the importance of honouring arbitration agreements and awards, even in cases where the Act of State doctrine might otherwise apply.
 - b. By explicitly stating that the Act of State doctrine cannot be used as a defence against enforcing arbitral agreements, confirming awards, or executing judgments based on such awards, this section reinforces the principle of upholding international arbitration agreements and the finality of arbitration awards.

In summary, Section 15 of the Federal Arbitration Act clarifies that the Act of State doctrine cannot be invoked to prevent the enforcement of arbitral agreements, confirmation of arbitral awards, or execution of judgments based on orders confirming such awards. This reinforces the principle that

arbitration agreements and awards should be upheld, even in cases involving sovereign states and their official acts.

§16. Appeals

- (a) An appeal may be taken from—**
- (1) an order—**
 - (A) refusing a stay of any action under section 3 of this title,**
 - (B) denying a petition under section 4 of this title to order arbitration to proceed,**
 - (C) denying an application under section 206 of this title to compel arbitration,**
 - (D) confirming or denying confirmation of an award or partial award, or**
 - (E) modifying, correcting, or vacating an award;**
 - (2) an interlocutory order granting, continuing, or modifying an injunction against an arbitration that is subject to this title; or**
 - (3) a final decision with respect to an arbitration that is subject to this title.**
- (b) Except as otherwise provided in section 1292(b) of title 28, an appeal may not be taken from an interlocutory order—**
- (1) granting a stay of any action under section 3 of this title;**
 - (2) directing arbitration to proceed under section 4 of this title;**
 - (3) compelling arbitration under section 206 of this title; or**
 - (4) refusing to enjoin an arbitration that is subject to this title.**

Section 16 of the FAA outlines the rules related to appeals from orders and decisions made under the Act. This section delineates when an appeal may be taken and when it is prohibited, particularly in relation to orders and decisions related to arbitration proceedings. Let us break down the key elements and implications of this section:

1. **Appealable Orders and Decisions:**
 - a. **Refusing a Stay (1A):** An appeal can be taken from an order that refuses a stay of any action under Section 3 of the FAA. Section 3 deals with actions that are brought into court despite the existence of an arbitration agreement.
 - b. **Denying Arbitration Order (1B, 1C):** Appeals are allowed from orders that deny a petition under Section 4 of the FAA to order arbitration to proceed, and from orders that deny an application under Section 206 of the FAA to compel arbitration.

2. Confirming, Denying, Modifying, or Correcting an Award (1D, 1E): Appeals are permitted from orders confirming or denying confirmation of an arbitration award or partial award, as well as from orders modifying, correcting, or vacating an award.
3. Interlocutory Orders on Injunctions (2): An appeal is permissible from an interlocutory order that grants, continues, or modifies an injunction against an arbitration subject to the FAA.
4. Final Decision on Arbitration (3): Appeals are allowed from a final decision related to an arbitration that is subject to the FAA.
5. Prohibition on Appeal of Interlocutory Orders: Except as specified in Section 1292(b) of Title 28 (which is part of the U.S. Code governing appellate jurisdiction), appeals cannot be taken from interlocutory orders related to certain matters:
 - a. Granting a stay of any action under Section 3 of the FAA.
 - b. Directing arbitration to proceed under Section 4 of the FAA.
 - c. Compelling arbitration under Section 206 of the FAA.
 - d. Refusing to enjoin an arbitration subject to the FAA.
6. Implications:
 - a. Section 16 of the FAA outlines the scenarios in which appeals can be taken from orders and decisions related to arbitration proceedings under the Act.
 - b. It establishes a framework for determining the appealability of orders related to arbitration, distinguishing between appealable orders and decisions and those that cannot be appealed, except under certain circumstances defined by Title 28.

In summary, Section 16 of the Federal Arbitration Act defines the circumstances under which appeals can be taken from orders and decisions related to arbitration proceedings under the Act. It also specifies the types of orders for which appeals are prohibited, except as provided by Title 28 of the U.S. Code. This section helps clarify the appellate process for matters involving arbitration and ensures a consistent framework for handling appeals in arbitration cases.

CHAPTER 2—CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

§201. Enforcement of Convention

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, shall be enforced in United States courts in accordance with this chapter.

Section 201 of the FAA establishes the enforceability of the “Convention on the Recognition and Enforcement of Foreign Arbitral Awards”, commonly known as the New York Convention. This section outlines the framework for recognising and enforcing foreign arbitral awards in U.S. courts under the provisions of the FAA. Let us break down the key elements and implications of this section:

1. Reference to the New York Convention: Section 201 states that the New York Convention, which was adopted on June 10, 1958, shall be enforced in U.S. courts through the procedures outlined in the FAA.
2. Enforcement of Foreign Arbitral Awards:
 - a. The New York Convention is an international treaty that aims to facilitate the recognition and enforcement of foreign arbitral awards across different countries.
 - b. Section 201 confirms the commitment of the United States to abide by the principles of the New York Convention in its domestic legal framework.
 - c. Application of the FAA: By incorporating the New York Convention into the FAA, Section 201 ensures that the procedures and provisions of the FAA apply to the recognition and enforcement of foreign arbitral awards as governed by the New York Convention.
3. Implications:
 - a. Section 201 reflects the United States’ international commitment to honouring foreign arbitral awards as outlined in the New York Convention.
 - b. This section harmonises the international framework provided by the New York Convention with the domestic procedures and mechanisms established by the FAA for enforcing arbitral awards.

In summary, Section 201 of the Federal Arbitration Act confirms the enforcement of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in United States courts. This integration underscores the importance of recognising and enforcing foreign arbitral awards in accordance with established international norms while aligning with the FAA’s provisions and procedures.

§202. Agreement or award falling under the Convention

An arbitration agreement or arbitral award arising out of a legal relationship, whether contractual or not, which is considered as commercial, including a transaction, contract, or agreement described

in section 2 of this title, falls under the Convention. An agreement or award arising out of such a relationship which is entirely between citizens of the United States shall be deemed not to fall under the Convention unless that relationship involves property located abroad, envisages performance or enforcement abroad, or has some other reasonable relation with one or more foreign states. For the purpose of this section a corporation is a citizen of the United States if it is incorporated or has its principal place of business in the United States.

Section 202 of the FAA provides criteria for determining whether an arbitration agreement or arbitral award falls under the purview of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). This section outlines conditions under which a legal relationship is considered “commercial” and specifies situations in which an agreement or award involving only U.S. citizens would be deemed to fall under the Convention. Let us break down the key elements and implications of this section:

1. Commercial Relationship Under the Convention:
 - a. This section specifies that an arbitration agreement or arbitral award arising from a legal relationship, whether contractual or not, is considered “commercial” and therefore subject to the New York Convention’s enforcement if it involves a commercial context.
 - b. This includes transactions, contracts, or agreements described in Section 2 of the FAA, which covers maritime transactions and interstate or international commerce.
2. U.S. Citizens and Foreign Connection: In the case of an agreement or award arising out of a legal relationship solely between U.S. citizens, it will not automatically fall under the Convention, unless certain conditions are met:
 - a. The relationship involves property located abroad.
 - b. The relationship envisages performance or enforcement abroad.
 - c. The relationship has some other reasonable connection with one or more foreign states.
3. Citizenship of Corporations: The section clarifies that for the purpose of this provision, a corporation is considered a citizen of the United States if it is either incorporated in the U.S. or has its principal place of business in the U.S.
4. Implications:
 - a. Section 202 serves to define the scope of applicability of the New York Convention within the United States, clarifying the criteria for determining when an arbitration agreement or award is considered “commercial” and thus subject to the Convention’s provisions.
 - b. The section also introduces a threshold for agreements or awards involving only U.S. citizens to fall under the Convention, requiring a foreign connection, such as property abroad or performance/enforcement abroad, to trigger Convention enforcement.

In summary, Section 202 of the Federal Arbitration Act delineates the conditions under which an arbitration agreement or arbitral award falls within the scope of the New York Convention. It emphasises the commercial nature of the relationship and provides specific scenarios in which an agreement or award involving only U.S. citizens would be subject to the Convention’s enforcement provisions. This section aims to maintain alignment between the FAA and international arbitration standards while offering clarity on the jurisdiction of the Convention within the United States.

§203. Jurisdiction; amount in controversy

An action or proceeding falling under the Convention shall be deemed to arise under the laws and treaties of the United States. The district courts of the United States (including the courts enumerated in section 460 of title 28) shall have original jurisdiction over such an action or proceeding, regardless of the amount in controversy.

Section 203 of the FAA establishes the jurisdiction and legal character of actions or proceedings falling under the purview of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). This section defines the nature of these actions, the legal framework under which they are considered, and the jurisdiction of the district courts of the United States to handle them. Let us break down the key elements and implications of this section:

1. **Legal Character and Jurisdiction:** Section 203 establishes that an action or proceeding falling within the scope of the New York Convention shall be deemed to “arise under the laws and treaties of the United States”. This means that such actions are considered part of the legal framework and obligations of the United States as governed by the Convention.
2. **Original Jurisdiction of District Courts:**
 - a. The section specifies that the district courts of the United States, including those enumerated in Section 460 of Title 28 (the United States Code), possess original jurisdiction over actions or proceedings covered by the New York Convention.
 - b. This grants U.S. federal district courts the authority to handle these cases and ensures consistency in the application of the Convention’s principles across different districts.
3. **No Amount in Controversy Requirement:** Section 203 emphasises that original jurisdiction is granted to the district courts regardless of the amount in controversy. In other words, the size of the dispute does not affect the court’s jurisdiction over actions related to the New York Convention.
4. **Implications:**
 - a. Section 203 underscores the significance of actions or proceedings under the New York Convention as arising under the laws and treaties of the United States. It confirms that the Convention is an integral part of the legal landscape of the United States.

- b. The section reinforces the commitment of the United States to fulfil its international obligations under the New York Convention by ensuring that federal district courts have the original jurisdiction to hear cases arising from it.
- c. The absence of an amount in controversy requirement reflects the importance of uniformly applying the New York Convention principles without being affected by the size of the dispute.

In summary, Section 203 of the Federal Arbitration Act establishes the legal character of actions or proceedings falling under the New York Convention as arising under U.S. laws and treaties. It grants original jurisdiction to the district courts of the United States over such actions, regardless of the amount in controversy. This section demonstrates the alignment of U.S. legal system with international arbitration standards and the commitment to upholding the principles of the New York Convention.

§204. Venue

An action or proceeding over which the district courts have jurisdiction pursuant to section 203 of this title may be brought in any such court in which save for the arbitration agreement an action or proceeding with respect to the controversy between the parties could be brought, or in such court for the district and division which embraces the place designated in the agreement as the place of arbitration if such place is within the United States.

Section 204 of the FAA pertains to the choice of venue for bringing an action or proceeding related to arbitration agreements falling under the purview of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). This section outlines the options for selecting the appropriate court where such actions or proceedings can be initiated. Let us break down the key elements and implications of this section:

1. Choice of Court for Jurisdiction Pursuant to Section 203: Section 203 grants original jurisdiction to the district courts of the United States (as enumerated in Section 460 of Title 28) over actions or proceedings related to the New York Convention.
2. Options for Venue: Section 204 provides two main options for selecting the appropriate court where an action or proceeding can be brought:
 - a. a. Court of General Jurisdiction: An action or proceeding may be brought in any district court that would have jurisdiction over the controversy between the parties if it were not for the presence of the arbitration agreement. In other words, the venue choice would be the court where an action related to the subject matter of the dispute could have been filed if arbitration were not required.
 - b. b. Place of Arbitration: Alternatively, the action or proceeding can be brought in the district and division that encompasses the location designated in the arbitration agreement as the place of arbitration, provided that this designated place is within the United States.
3. Implications:

- a. Section 204 provides flexibility in terms of selecting the appropriate venue for bringing actions or proceedings related to arbitration agreements falling under the New York Convention.
- b. The options provided ensure that parties can initiate legal proceedings in a court that has jurisdiction over the subject matter of the dispute or in a court that is geographically aligned with the arbitration agreement's designated place of arbitration.

In summary, Section 204 of the Federal Arbitration Act outlines the options for choosing the venue for actions or proceedings related to arbitration agreements governed by the New York Convention. Parties can select a court with general jurisdiction over the controversy or a court in the district and division where the arbitration's designated place is located if it is within the United States. This section facilitates the process of initiating legal proceedings while considering both jurisdictional factors and the geographic location of the arbitration.

§205. Removal of cases from State courts

Where the subject matter of an action or proceeding pending in a State court relates to an arbitration agreement or award falling under the Convention, the defendant or the defendants may, at any time before the trial thereof, remove such action or proceeding to the district court of the United States for the district and division embracing the place where the action or proceeding is pending. The procedure for removal of causes otherwise provided by law shall apply, except that the ground for removal provided in this section need not appear on the face of the complaint but may be shown in the petition for removal. For the purposes of Chapter 1 of this title any action or proceeding removed under this section shall be deemed to have been brought in the district court to which it is removed.

Section 205 of the FAA addresses the process of removing an action or proceeding related to arbitration agreements or awards falling under the purview of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) from a State court to a district court of the United States. This section outlines the conditions and procedure for such removal. Let us break down the key elements and implications of this section:

1. **Subject Matter Relating to Arbitration Agreement or Award:** Section 205 pertains to cases pending in State courts where the subject matter of the action or proceeding relates to an arbitration agreement or award falling within the scope of the New York Convention.
2. **Right to Removal by Defendant(s):** The defendant(s) in the State court action or proceeding have the right to remove the case to the district court of the United States for the district and division that encompasses the location where the State court action or proceeding is pending.
3. **Timing of Removal:** The removal can be initiated at any time before the trial of the State court action or proceeding.
4. **Procedure for Removal:** The general procedure for removing causes as provided by law applies to this removal process, with one exception: the grounds for removal based on

this section need not be evident on the face of the complaint in the State court. Instead, these grounds can be shown in the petition for removal.

5. Jurisdiction and Treatment in District Court:
 - a. Once removed, the action or proceeding is treated as if it had been originally brought in the district court to which it is removed.
 - b. For the purposes of Chapter 1 of the FAA, the action or proceeding removed under this section is deemed to have been brought in the district court to which it is removed.

6. Implications:
 - a. Section 205 provides a mechanism for transferring State court actions or proceedings related to arbitration agreements or awards under the New York Convention to the jurisdiction of the district courts of the United States.
 - b. This section ensures that parties have the option to move cases involving international arbitration matters from State courts to federal district courts, aligning with the overarching goal of maintaining uniformity in handling cases that involve international arbitration principles.

In summary, Section 205 of the Federal Arbitration Act outlines the procedure for removing actions or proceedings from State courts to district courts of the United States when the subject matter of the case relates to arbitration agreements or awards covered by the New York Convention. This section facilitates the transfer of such cases to federal courts and ensures consistency in the treatment of international arbitration matters within the U.S. legal system.

§206. Order to compel arbitration; appointment of arbitrators

A court having jurisdiction under this chapter may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States. Such court may also appoint arbitrators in accordance with the provisions of the agreement.

Section 206 of the FAA outlines the authority of a court to intervene in the arbitration process and make specific orders regarding the conduct of arbitration proceedings. This section empowers the court to enforce arbitration agreements and ensure the proper administration of arbitration as agreed upon by the parties. Let us break down the key elements and implications of this section:

1. Direction for Arbitration Venue: A court that has jurisdiction under this chapter (referring to the FAA) has the authority to issue orders directing that arbitration proceedings take place at the location specified in the arbitration agreement, whether that location is within or outside the United States.
2. Enforcement of Agreement's Venue Clause: This provision reinforces the principle of honouring the parties' agreement regarding the place of arbitration. It allows the court to ensure that the arbitration occurs at the venue stipulated in the arbitration agreement.

3. Appointment of Arbitrators: The court also has the power to appoint arbitrators in accordance with the provisions of the arbitration agreement.
4. Implications:
 - a. Section 206 reflects the FAA's role in facilitating and supervising arbitration proceedings while respecting the autonomy of the parties' agreement.
 - b. By granting the court the authority to direct the arbitration to be held at the agreed-upon venue and appoint arbitrators as per the agreement, this section helps ensure that arbitration agreements are enforced effectively and that the arbitration process proceeds smoothly.
 - c. The provision promotes the principle of party autonomy in arbitration. Even when court intervention is necessary, the court's role is limited to enforcing the parties' agreement, rather than substituting its own judgment.

In summary, Section 206 of the Federal Arbitration Act empowers a court with jurisdiction to oversee arbitration proceedings by directing that arbitration occurs at the specified venue in the agreement and appointing arbitrators as stipulated in the agreement. This section strikes a balance between court supervision and party autonomy in the arbitration process, ensuring that the parties' intentions are upheld while allowing for necessary court involvement.

§207. Award of arbitrators; confirmation; jurisdiction; proceeding

Within three years after an arbitral award falling under the Convention is made, any party to the arbitration may apply to any court having jurisdiction under this chapter for an order confirming the award as against any other party to the arbitration. The court shall confirm the award unless it finds one of the grounds for refusal or deferral of recognition or enforcement of the award specified in the said Convention.

Section 207 of the FAA outlines the procedure for a party to seek confirmation of an arbitral award falling under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). This section provides a timeframe within which a party can apply to the court for confirmation of the award and sets out the standard for confirming the award. Let us break down the key elements and implications of this section:

1. Timeframe for Application: Section 207 stipulates that within three years after the issuance of an arbitral award that falls under the New York Convention, any party to the arbitration can apply to a court having jurisdiction under this chapter (referring to the FAA) for an order confirming the award.
2. Confirmation of the Award: The court's role in this context is to confirm the arbitral award unless it finds one of the grounds specified in the New York Convention that would justify refusing or deferring the recognition or enforcement of the award.
3. Implications:

- a. Section 207 highlights the time limit within which a party must apply for confirmation of an arbitral award under the New York Convention. This ensures that parties do not delay the process of seeking enforcement indefinitely.
- b. The section underscores the pro-enforcement bias of the New York Convention. It places the burden on the party opposing confirmation to demonstrate one of the grounds for refusal or deferral as outlined in the Convention.
- c. By incorporating the New York Convention's provisions, Section 207 emphasises the commitment of the United States to international arbitration standards and the recognition and enforcement of foreign arbitral awards.

In summary, Section 207 of the Federal Arbitration Act provides a clear timeframe for parties to seek confirmation of an arbitral award under the New York Convention. It reinforces the principle of enforcing foreign arbitral awards while allowing for limited grounds for refusal or deferral based on the Convention's provisions. This section aims to provide a straightforward process for parties to seek recognition and enforcement of arbitral awards within a reasonable time frame.

§208. Application

Chapter 1 applies to actions and proceedings brought under this chapter to the extent that chapter is not in conflict with this chapter or the Convention as ratified by the United States. This chapter applies to the extent that this chapter is not in conflict with chapter 4.

Section 208 of the FAA addresses the interplay between different chapters of the Act and its application to actions and proceedings brought under specific chapters. This section clarifies how the provisions of Chapter 1, Chapter 4, and the New York Convention interact within the framework of the FAA. Let us break down the key elements and implications of this section:

1. Application of Chapter 1 to Actions under This Chapter:
 - a. Section 208 states that Chapter 1 of the FAA applies to actions and proceedings brought under the chapter of the FAA that deals with the recognition and enforcement of foreign arbitral awards (referred to as "this chapter" in Section 208).
 - b. This means that the procedural provisions and mechanisms outlined in Chapter 1 can be invoked when dealing with actions or proceedings under the specific chapter dealing with foreign arbitral awards.
2. Lack of Conflict with the Convention and Other Chapters:
 - a. The section stipulates that Chapter 1 applies to the extent that it does not conflict with either the specific chapter dealing with foreign arbitral awards ("this chapter") or the New York Convention as ratified by the United States.
 - b. Similarly, this specific chapter ("this chapter") applies to the extent that it does not conflict with Chapter 4 of the FAA, which deals with maritime transactions.

3. Implications:

- a. Section 208 aims to ensure consistency and coherence within the FAA when dealing with actions and proceedings related to foreign arbitral awards and the New York Convention.
- b. The section emphasises the idea that the provisions of the FAA should be interpreted and applied in harmony, without conflicts arising due to interchapter differences.
- c. By incorporating a provision that addresses conflicts and overlaps, Section 208 promotes a clear and efficient legal framework for enforcing foreign arbitral awards and adhering to international arbitration standards.

In summary, Section 208 of the Federal Arbitration Act clarifies how the different chapters of the Act interact and apply to actions and proceedings brought under the specific chapter dealing with foreign arbitral awards and the New York Convention. It aims to ensure that the provisions of the FAA align with one another and are consistent with the international arbitration principles embodied in the Convention.

CHAPTER 3—INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

§301. Enforcement of Convention

The Inter-American Convention on International Commercial Arbitration of January 30, 1975, shall be enforced in United States courts in accordance with this chapter.

Section 301 of the FAA addresses the enforcement of the Inter-American Convention on International Commercial Arbitration, also known as the Panama Convention, within the United States. This section outlines the legal framework for the enforcement of arbitral awards and agreements covered by the Inter-American Convention. Let us break down the key elements and implications of this section:

1. Enforcement of the Inter-American Convention:
 - a. Section 301 establishes that the Inter-American Convention on International Commercial Arbitration, signed on January 30, 1975, will be enforced in United States courts in accordance with the chapter of the FAA in which Section 301 is located.
 - b. This means that the FAA provides the legal procedures and mechanisms for enforcing arbitral awards and agreements falling under the Inter-American Convention.
2. Applicability of the FAA’s Provisions: By referring to “this chapter”, Section 301 indicates that the provisions and mechanisms of the FAA that apply to arbitration will be used for enforcing the Inter-American Convention as well.
3. Implications:
 - a. Section 301 reflects the commitment of the United States to uphold and enforce international arbitration agreements and awards under the Inter-American Convention.
 - b. The section demonstrates the integration of international arbitration principles and agreements into the domestic legal framework. It ensures that parties seeking enforcement of arbitral awards and agreements under the Inter-American Convention can benefit from the established procedures and mechanisms provided by the FAA.
 - c. By specifying that the Inter-American Convention will be enforced “in accordance with this chapter”, Section 301 provides a clear and consistent framework for enforcing arbitral awards and agreements covered by the Convention within the United States.

In summary, Section 301 of the Federal Arbitration Act confirms the enforcement of the Inter-American Convention on International Commercial Arbitration within the United States. It emphasises the alignment between the Convention and the provisions of the FAA, providing a comprehensive framework for the enforcement of international arbitral awards and agreements in U.S. courts.

§302. Incorporation by reference

Sections 202, 203, 204, 205, and 207 of this title shall apply to this chapter as if specifically set forth herein, except that for the purposes of this chapter “the Convention” shall mean the Inter-American Convention.

Section 302 of the FAA specifies the application of certain provisions from the FAA to the chapter of the Act related to the Inter-American Convention on International Commercial Arbitration (Panama Convention). This section clarifies which provisions from the FAA are applicable to the enforcement of arbitral awards and agreements covered by the Inter-American Convention. Let us break down the key elements and implications of this section:

1. Application of Specific Sections:
 - a. Section 302 states that certain sections from the FAA, namely Sections 202, 203, 204, 205, and 207, are applicable to the chapter of the FAA dealing with the enforcement of the Inter-American Convention.
 - b. These sections from the FAA relate to matters such as removal of actions to federal court, venue for actions to enforce arbitration agreements, procedure for removal, and timeframes for seeking confirmation of arbitral awards.
2. Definition of “the Convention”: Section 302 specifies that for the purposes of the chapter related to the Inter-American Convention, the term “the Convention” refers to the Inter-American Convention itself.
3. Implications:
 - a. Section 302 highlights the integration of the provisions from the FAA into the framework of the chapter dealing with the Inter-American Convention. This integration ensures a consistent approach to the enforcement of arbitral awards and agreements covered by the Convention.
 - b. The section underscores the parallel application of provisions that facilitate and regulate the enforcement of international arbitration agreements and awards. By extending the application of these provisions to the Panama Convention, the section aligns the enforcement procedures for both the New York Convention and the Inter-American Convention.
 - c. The definition of “the Convention” for the purposes of the chapter clarifies that any reference to “the Convention” in the chapter refers to the Inter-American Convention, ensuring clarity in the legal language.

In summary, Section 302 of the Federal Arbitration Act specifies the application of certain provisions from the FAA to the chapter dealing with the Inter-American Convention. It establishes consistency in the enforcement procedures for international arbitral awards and agreements under both the New York Convention and the Inter-American Convention, while also providing a clear definition of “the Convention” for the context of the Inter-American Convention.

§303. Order to compel arbitration; appointment of arbitrators; locale

- (a) A court having jurisdiction under this chapter may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States. The court may also appoint arbitrators in accordance with the provisions of the agreement.**
- (b) In the event the agreement does not make provision for the place of arbitration or the appointment of arbitrators, the court shall direct that the arbitration shall be held and the arbitrators be appointed in accordance with Article 3 of the Inter-American Convention.**

Section 303 of the FAA addresses the authority of a court to intervene and make orders regarding the conduct of arbitration proceedings under the Inter-American Convention on International Commercial Arbitration (Panama Convention). This section outlines the powers of the court when the arbitration agreement does not specify the place of arbitration or the appointment of arbitrators. Let us break down the key elements and implications of this section:

1. Direction for Arbitration Venue and Arbitrator Appointment:
 - a. Subsection (a) of Section 303 states that a court with jurisdiction under this chapter (referring to the chapter of the FAA related to the Inter-American Convention) has the power to direct that arbitration proceedings take place at the location stipulated in the agreement, whether inside or outside the United States.
 - b. The court also has the authority to appoint arbitrators in accordance with the provisions of the arbitration agreement.
2. Applying Article 3 of the Inter-American Convention:
 - a. Subsection (b) of Section 303 addresses situations where the arbitration agreement does not specify the place of arbitration or the appointment of arbitrators.
 - b. In such cases, the court is directed to follow Article 3 of the Inter-American Convention to determine the place of arbitration and the appointment of arbitrators.
 - c. Article 3 of the Inter-American Convention lays out general principles for determining these aspects of arbitration proceedings when the agreement is silent.
3. Implications:
 - a. Section 303 reflects the FAA's role in facilitating the arbitration process under the Inter-American Convention, especially in cases where the arbitration agreement lacks certain details.
 - b. By incorporating Article 3 of the Inter-American Convention, Section 303 provides a default mechanism for determining the place of arbitration and the appointment of arbitrators in the absence of specific provisions in the arbitration agreement.

- c. This section underscores the practical approach of the FAA in addressing situations where arbitration agreements do not provide sufficient guidance on crucial aspects of the arbitration process.

In summary, Section 303 of the Federal Arbitration Act empowers a court with jurisdiction under the chapter related to the Inter-American Convention to issue orders directing arbitration proceedings and arbitrator appointments. It ensures that arbitration can proceed smoothly even when the agreement is silent on these matters by applying default rules outlined in the Inter-American Convention itself.

§304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity

Arbitral decisions or awards made in the territory of a foreign State shall, on the basis of reciprocity, be recognized and enforced under this chapter only if that State has ratified or acceded to the Inter-American Convention.

Section 304 of the FAA outlines a reciprocity requirement for the recognition and enforcement of arbitral decisions or awards made in the territory of a foreign State under the Inter-American Convention on International Commercial Arbitration (Panama Convention). This section establishes a condition that the foreign State must have ratified or acceded to the Inter-American Convention in order for its arbitral decisions or awards to be recognised and enforced in the United States. Let us break down the key elements and implications of this section:

1. **Reciprocity Requirement:** Section 304 states that arbitral decisions or awards made in the territory of a foreign State will be eligible for recognition and enforcement under the FAA's chapter on the Inter-American Convention only if the foreign State has ratified or acceded to the Inter-American Convention.
2. **Enforcement Conditioned on Ratification or Accession:**
 - a. This section underscores the significance of reciprocity as a condition for recognising and enforcing arbitral decisions or awards.
 - b. It implies that the United States will extend the recognition and enforcement benefits of the FAA's chapter on the Inter-American Convention to those foreign States that have demonstrated their commitment to similar standards by becoming parties to the Convention.
3. **Implications:**
 - a. Section 304 reflects the principle of reciprocity, which is common in international law and arbitration. It ensures that recognition and enforcement of foreign arbitral awards are granted based on a mutual understanding and commitment to honouring international arbitration agreements and awards.
 - b. The requirement that a foreign State must have ratified or acceded to the Inter-American Convention aligns with the general idea that countries should provide reciprocal treatment to each other's awards in order to promote trust and consistency in international arbitration.

- c. This section fosters harmonisation in the treatment of foreign arbitral decisions and awards by conditioning their recognition and enforcement on the foreign State's participation in the Inter-American Convention.

In summary, Section 304 of the Federal Arbitration Act establishes a reciprocity requirement for the recognition and enforcement of arbitral decisions or awards made in the territory of a foreign State under the Inter-American Convention. It ensures that the benefits of recognition and enforcement are extended to foreign States that have ratified or acceded to the Convention, thereby promoting mutual respect for international arbitration standards.

§305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958

When the requirements for application of both the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, are met, determination as to which Convention applies shall, unless otherwise expressly agreed, be made as follows:

- (1) If a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to the Inter-American Convention and are member States of the Organization of American States, the Inter-American Convention shall apply.**
- (2) In all other cases the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, shall apply.**

Section 305 of the FAA provides a framework for determining which convention should apply when the requirements for both the Inter-American Convention on International Commercial Arbitration and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) are met. This section lays out the criteria for selecting the appropriate convention based on the citizenship of the parties involved. Let us break down the key elements and implications of this section:

1. **Criteria for Determining Applicable Convention:** Section 305 establishes a set of criteria for deciding which convention applies when the conditions for both the Inter-American Convention and the New York Convention are satisfied.
2. **Two Scenarios for Determination:**
 - a. Subsection (1) of Section 305 outlines the first scenario in which the Inter-American Convention will apply. This scenario arises when a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to the Inter-American Convention and are member States of the Organisation of American States.
 - b. Subsection (2) of Section 305 addresses the second scenario. In cases where the first scenario does not apply, the New York Convention will govern.
3. **Implications:**

- a. Section 305 aims to provide a clear and objective basis for determining which convention applies in cases where parties could potentially be subject to both the Inter-American Convention and the New York Convention.
- b. The section is structured to favour the application of the Inter-American Convention when the specified conditions are met. This approach underscores the preference for regional treaties when applicable.
- c. The section aligns with the principle of respecting the parties' choices by allowing the conventions to apply based on objective factors like citizenship and treaty ratification.
- d. By providing a structured process for selecting the applicable convention, Section 305 contributes to legal clarity and predictability when determining the legal framework for enforcing arbitral decisions and awards.

In summary, Section 305 of the Federal Arbitration Act establishes a mechanism for determining which convention applies when the conditions for both the Inter-American Convention and the New York Convention are met. It prioritises the Inter-American Convention under specific circumstances and offers a systematic approach to selecting the governing convention based on citizenship and treaty participation.

§306. Applicable rules of Inter-American Commercial Arbitration Commission

- (a) For the purposes of this chapter the rules of procedure of the Inter-American Commercial Arbitration Commission referred to in Article 3 of the Inter-American Convention shall, subject to subsection (b) of this section, be those rules as promulgated by the Commission on July 1, 1988.**
- (b) In the event the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended in accordance with the procedures for amendment of the rules of that Commission, the Secretary of State, by regulation in accordance with section 553 of title 5, consistent with the aims and purposes of this Convention, may prescribe that such modifications or amendments shall be effective for purposes of this chapter.**

Section 306 of the FAA addresses the rules of procedure for the Inter-American Commercial Arbitration Commission under the Inter-American Convention on International Commercial Arbitration (Panama Convention). This section defines the rules of procedure to be followed for arbitration proceedings under the Convention and provides a mechanism for updating those rules. Let us break down the key elements and implications of this section:

1. **Designation of Rules of Procedure:** Subsection (a) of Section 306 establishes that, for the purposes of the FAA's chapter on the Inter-American Convention, the rules of procedure of the Inter-American Commercial Arbitration Commission, as referred to in Article 3 of the Inter-American Convention, shall be those rules as promulgated by the Commission on July 1, 1988.
2. **Updating the Rules of Procedure:**

- a. Subsection (b) of Section 306 outlines a mechanism for updating the rules of procedure.
 - b. If the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended according to the procedures for rule amendments established by the Commission, the Secretary of State has the authority to prescribe that these modifications or amendments will be effective for purposes of the FAA's chapter on the Inter-American Convention.
 - c. The Secretary of State can make this prescription through regulations, following the procedures outlined in section 553 of title 5 of the United States Code.
3. Implications:
- a. Section 306 ensures that there is a clear set of rules of procedure to govern arbitration proceedings under the Inter-American Convention, as these proceedings are subject to the FAA.
 - b. The section emphasises the stability of the rules established by the Inter-American Commercial Arbitration Commission on July 1, 1988, by designating them as the default rules of procedure for arbitration proceedings under the Convention within the United States.
 - c. By allowing for modifications or amendments to the rules of procedure, the section also acknowledges the need for flexibility in adapting to changing circumstances and improvements in arbitration practice.
 - d. The provision for the Secretary of State to prescribe the effectiveness of modifications or amendments to the rules through regulations ensures a mechanism for updating the rules while aligning with the aims and purposes of the Convention.

In summary, Section 306 of the Federal Arbitration Act designates the rules of procedure of the Inter-American Commercial Arbitration Commission for arbitration proceedings under the Inter-American Convention within the United States. It provides a framework for updating these rules while maintaining stability and alignment with the Convention's objectives.

§307. Application

Chapter 1 applies to actions and proceedings brought under this chapter to the extent chapter 1 is not in conflict with this chapter or the Inter-American Convention as ratified by the United States. This chapter applies to the extent that this chapter is not in conflict with chapter 4.

Section 307 of the FAA addresses the interaction and hierarchy of provisions between different chapters of the FAA. Specifically, it outlines the application of Chapter 1 of the FAA to actions and proceedings brought under the chapter related to the Inter-American Convention on International Commercial Arbitration. Let us break down the key elements and implications of this section:

1. Interaction Between Chapters:

- a. Section 307 establishes a framework for harmonising the provisions of different chapters of the FAA.
 - b. It specifies that Chapter 1 of the FAA, which contains general provisions related to arbitration, applies to actions and proceedings brought under the chapter specific to the Inter-American Convention.
2. Limitations of Application:
- a. The section introduces a limitation on the application of Chapter 1 to the extent that it does not conflict with the chapter on the Inter-American Convention or the Convention itself as ratified by the United States.
 - b. Similarly, it limits the application of the chapter on the Inter-American Convention to the extent that it does not conflict with Chapter 4 of the FAA.
3. Implications:
- a. Section 307 aims to create a coherent and consistent legal framework for international commercial arbitration within the context of different chapters of the FAA.
 - b. By allowing for the application of Chapter 1 provisions to actions under the Inter-American Convention, the section ensures that general arbitration principles and practices are not overlooked in cases covered by the Convention.
 - c. The limitations on application ensure that the specific requirements and provisions of the Inter-American Convention take precedence over any conflicting provisions in Chapter 1.
 - d. This section exemplifies the FAA's approach to managing the interplay between general arbitration principles and conventions like the Inter-American Convention, promoting clarity and coherence in arbitration procedures.

In summary, Section 307 of the Federal Arbitration Act provides a mechanism for harmonising the application of different chapters of the FAA in the context of actions and proceedings related to the Inter-American Convention. It ensures that general arbitration principles are considered while also acknowledging the specific provisions of the Convention and other relevant chapters of the FAA.

CHAPTER 4—ARBITRATION OF DISPUTES INVOLVING SEXUAL ASSAULT AND SEXUAL HARASSMENT

§401. Definitions

In this chapter:

- (1) **Predispute arbitration agreement.**—The term “predispute arbitration agreement” means any agreement to arbitrate a dispute that had not yet arisen at the time of the making of the agreement.
- (2) **Predispute joint-action waiver.**—The term “predispute joint-action waiver” means an agreement, whether or not part of a predispute arbitration agreement, that would prohibit, or waive the right of, one of the parties to the agreement to participate in a joint, class, or collective action in a judicial, arbitral, administrative, or other forum, concerning a dispute that has not yet arisen at the time of the making of the agreement.
- (3) **Sexual assault dispute.**—The term “sexual assault dispute” means a dispute involving a nonconsensual sexual act or sexual contact, as such terms are defined in section 2246 of title 18 or similar applicable Tribal or State law, including when the victim lacks capacity to consent.
- (4) **Sexual harassment dispute.**—The term “sexual harassment dispute” means a dispute relating to conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law.

Section 401 of the FAA introduces definitions for several key terms used in subsequent sections of the Act. These definitions play a crucial role in clarifying the scope and applicability of the FAA’s provisions, particularly in relation to arbitration agreements and certain types of disputes. Let us analyse each of the defined terms:

1. **Predispute Arbitration Agreement:**
 - a. This term refers to any agreement between parties to arbitrate a dispute that has not yet arisen at the time the agreement is made.
 - b. In essence, it covers instances where parties agree in advance to resolve potential future disputes through arbitration rather than litigation.
2. **Predispute Joint-Action Waiver:**
 - a. This term describes an agreement, whether or not part of a predispute arbitration agreement, that restricts or waives one party’s right to participate in a joint, class, or collective action concerning a dispute that has not yet arisen.
 - b. It encompasses agreements that limit a party’s ability to collectively pursue claims with other parties in various forums, including judicial, arbitral, administrative, or other settings.
3. **Sexual Assault Dispute:**

- a. This term pertains to disputes involving nonconsensual sexual acts or sexual contact, as defined by section 2246 of title 18 of the U.S. Code or similar applicable laws at the Tribal or State level.
 - b. It covers situations where one party alleges non-consensual sexual behaviour against another.
4. Sexual Harassment Dispute:
- a. This term relates to disputes centered around conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law.
 - b. It encompasses disagreements involving behaviours that are considered to be sexual harassment under relevant legal frameworks.
5. Implications:
- a. Section 401 serves as a foundational component of the FAA by providing clear definitions for key terms that are utilised in subsequent sections of the Act.
 - b. The definitions set the boundaries and context for how specific types of agreements and disputes are treated under the FAA. This enhances legal clarity and ensures consistent interpretation of these terms.
 - c. The definitions of “predispute arbitration agreement” and “predispute joint-action waiver” are particularly relevant in discussions about mandatory arbitration agreements and class action waivers in consumer contracts and employment agreements.
 - d. The terms “sexual assault dispute” and “sexual harassment dispute” recognise the sensitive nature of disputes involving sexual misconduct and harassment, outlining the scope of situations where arbitration or litigation may be applicable.

In summary, Section 401 of the Federal Arbitration Act provides precise definitions for terms that play a significant role in determining the scope and applicability of arbitration agreements and various types of disputes. These definitions aid in maintaining consistency and clarity when interpreting the provisions of the FAA, especially in cases involving predispute arbitration agreements, joint-action waivers, sexual assault disputes, and sexual harassment disputes.

§402. No validity or enforceability

- (a) In General.—Notwithstanding any other provision of this title, at the election of the person alleging conduct constituting a sexual harassment dispute or sexual assault dispute, or the named representative of a class or in a collective action alleging such conduct, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with**

respect to a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute.

- (b) **Determination of Applicability.**—An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this chapter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator.

Section 402 of the FAA introduces provisions that address the enforceability of predispute arbitration agreements and joint-action waivers in cases involving sexual harassment disputes or sexual assault disputes. These provisions establish rules for determining the validity and applicability of such agreements in the context of these specific types of disputes. Let us analyse the key elements and implications of this section:

1. Restrictions on Enforceability:
 - a. Subsection (a) of Section 402 sets forth limitations on the enforceability of predispute arbitration agreements and predispute joint-action waivers in cases related to sexual harassment disputes or sexual assault disputes.
 - b. In such cases, the person alleging the conduct or the named representative of a class or collective action has the option to elect that these agreements are not valid or enforceable.
2. Determining Applicability:
 - a. Subsection (b) addresses the determination of whether this chapter (referring to Chapter 1 of the FAA) applies to a particular dispute.
 - b. The issue of whether the FAA applies to a dispute, including agreements to arbitrate and their validity, will be determined based on Federal law.
 - c. Importantly, the determination of the applicability and enforceability of the agreement will be made by a court, not an arbitrator, even if the challenging party questions the arbitration agreement in conjunction with other contract terms.
3. Implications:
 - a. Section 402 introduces limitations on the enforceability of predispute arbitration agreements and joint-action waivers in the specific context of sexual harassment disputes and sexual assault disputes.
 - b. The provisions aim to provide protection for individuals seeking to address allegations of sexual harassment or sexual assault by ensuring that they have the option to pursue their claims in court rather than being bound by an arbitration agreement.

- c. The section aligns with discussions and debates about the appropriateness of mandatory arbitration agreements in cases involving sensitive and potentially traumatising matters such as sexual harassment and assault.
- d. By requiring courts to determine the applicability and enforceability of the agreement rather than delegating this authority to arbitrators, the section ensures that these important decisions are made through a judicial process.

In summary, Section 402 of the Federal Arbitration Act introduces provisions that restrict the enforceability of predispute arbitration agreements and joint-action waivers in cases related to sexual harassment disputes and sexual assault disputes. It empowers individuals and class/collective action representatives to choose whether to proceed through arbitration or pursue their claims in court. The section also establishes the court's authority to determine the applicability and validity of such agreements in these contexts.



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