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PREFACE

International commerce depends upon an effective dispute resolution mechanism. Foreign judgments are very often not enforceable abroad; in these cases, judgments cannot effectively settle international commercial disputes. International arbitration can provide an effective alternative dispute resolution if foreign arbitral awards will be enforced abroad. The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958 obliges the contracting states to recognize and enforce foreign arbitral awards except in seven limited circumstances; this obligation to generally enforce foreign arbitral awards is primarily responsible for the success of the New York Convention which is effective in 146 countries. Six of the limited exceptions to the obligation to recognize and enforce foreign arbitral awards do generally not cause a lot of discussion; however, rather often the losing party invokes the public policy exception under Art. V (2) (b) to avoid the enforcement of a foreign arbitral award. Therefore, it is of great importance to understand what the drafters and the signatories to the New York Convention wanted to achieve with the public policy exception. The drafting history confirms that the signatories intended a narrow interpretation and application of the public policy clause. This book also explores how the public policy clause is applied in many commercially important countries; unfortunately, not all contracting states apply the public policy exception narrowly. The book shall help companies and their advisors to draft effective arbitration clauses and to enforce foreign arbitral awards abroad.

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Anton G. Maurer
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