Title:
XIII.1.1 - Arbitration agreement

Content:
No. XIII.1.1 - Arbitration agreement

(a) An arbitration agreement is an agreement by the parties to submit to arbitration - whether administered (institutional arbitration) or not (ad hoc arbitration) - all or certain disputes or disagreements which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not.

(b) An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement (submission agreement).

(c) An arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defense in which the existence of an agreement is alleged by one party and not denied by another.

(d) The law applicable to the arbitration agreement is to be determined according to Principle XIV.1.

Commentary:
1 The question whether and which disputes are covered by an arbitration agreement must be determined by interpreting the agreement pursuant to the in favorem rule of construction.

2 The fact that arbitration agreements cover not only "disputes" but also "disagreements" relates to the fact that arbitral tribunals may also adapt contracts to changed circumstances or fill gaps in contracts, see Trans-Lex-Commentary to Principle VIII.2, Para 3.