‘Home Country’ Arbitration Clause More Trouble Than It’s Worth?

An agreement between two parties involved in an international contract may involve a mechanism, known as the “home country” provision, that provides that the party initiating arbitration must sue the other party in its home country.

A **post of the website** of Skadden, Arps, Slate, Meagher & Flom explains that “proponents of such clauses say they provide a disincentive to elevate disputes because a party will be reluctant to go to the other side’s home country. Though they are not widely used in large transactions (and are not recommended in arbitral literature or by arbitral institutions), they are occasionally present.”

The authors discuss two cases that illustrate that “home country” arbitration clauses may prove cumbersome to administer in practice and may result in unintended consequences for the parties.

Read the article.