

Exam Date	22.06.2015		
Examination No.			
Student ID			
Date of Correction			
	Comments	Points	Pts. Achieved
Question 1			
a) Lis pendens		28	
Definition lis pendens; risk of parallel proceedings and contradicting decisions		4	
Analysis of Art 186 (1bis) PILA: no general lis pendens- rule		4	
- „noteworthy grounds“- exception		4	
- examples for circumstances to take into account		4	
Competence-competence: tribunal itself shall decide on jurisdictional matters		4	
Art II NYC: courts shall refer parties to arbitration		4	
Conclusion		4	
b) Separability doctrine		12	
Art 178 (2) (3) PILA - Definition: Separability doctrine		4	
Specific analysis: - deadline fixed (end of 2014/2015 season)		4	
- obvious intent of the parties		4	
c) Parties to the agreement		8	
Swiss Federal Tribunal: Extension to third parties: assignment of the claim (singular succession) Art 178 (2) PILA		8	

d) Formal validity		12	
Art 178 (1) PILA: analysis of the writing requirement - no signature needed		8	
Fulfilled for A and B, but not for C; - however: predominant view, that C would also be bound by the agreement		4	
e) Objective arbitrability of employment contracts		4	
Art 177 (1) PILA: all disputes concerning economic interests are arbitrable		4	
f) Subjective Arbitrability		4	
Art 177 (2) PILA: state entity cannot rely on its own law		4	
g) Jurisdiction of the arbitral tribunal		32	
Applicable legal framework: Domestic/international		4	
When does Chapter 12 apply? Art 176 (1) PILA seat		4	
Art 176 (2) PILA exclusion?		4	
Art 176 (3) PILA seat determined by parties		4	
Art 186 (3) PILA - preliminary decision by the tribunal		4	
- purpose: to clarify jurisdiction as soon as possible		4	
Art 190 (3) PILA: - challenge of preliminary award;		4	
otherwise this constitutes a waiver		4	
Total Question 1 (100%)		100	