



Towards a Uniform International Arbitration Law?

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Towards A Uniform International Arbitration Law

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Towards A Uniform International Arbitration Law:

Towards a Uniform International Arbitration Law? Emmanuel Gaillard, Anne Véronique Schlaepfer, Philippe Pinsolle, Louis Degos, 2012-04-01 The growing acceptance of the concept of transnational rules be they substantive or procedural has directly contributed to a substantial decrease of the influence of local norms Transnational principles often override domestic law and the arbitral process sometimes takes precedence over court decisions Moreover the exceptional development of investment arbitration has called into question traditional values of commercial arbitration such as confidentiality and the privacy of arbitral proceedings Widespread publication of awards rendered has also rejuvenated the debate on the value of arbitral awards as precedents This book critically explores the extent to which these phenomena contribute to the creation of a truly uniform international arbitration law

Towards a Uniform International Arbitration Law? International Arbitration Institute, 2005
The Interpretation and Uniformity of the UNCITRAL Model Law on International Commercial Arbitration Dean Lewis, 2016-03-22 Numerous jurisdictions worldwide have augmented their ratification of the New York Convention of 1958 with the UNCITRAL Model Law 1985 UML which takes a giant step forward toward global uniformity in legal application and understanding of the arbitration process This book develops a standard or benchmark for the UML objective of uniformity using the relevant legislation and case law of Hong Kong Singapore and Australia to consider whether a uniform approach to implementation of the UML and its interpretation is being achieved across those jurisdictions The author's methodological tools are eminently adaptable to other jurisdictions Given the importance of the ability to set aside an arbitral award the body of case law on setting aside and the directly related area of enforcement the emphasis throughout is on Article 34 In addition the study considers the meaning of uniformity in law and in the context of the UML the correct approach to interpretation of the UML pre and post Article 2A the interpretational relationship between the UML and the Convention on Contracts for the International Sale of Goods CISG the relationship between the UML and the New York Convention the degree of textual uniformity of Article 34 with the three jurisdictions focused on and the degree of applied uniformity of Article 34 both in terms of juristic methodology and similarity of results The author with more than thirty years of practice in the field of commercial arbitration in Hong Kong has had access to voluminous cases spanning decades and brings his specialist expertise to the subject This book considers whether the UML has succeeded in its aim of achieving uniformity It serves as a guide both academic and practical to exploring and adopting the correct approach to the interpretation of the UML as well as to the method of classification of court decisions under the UML This study is of immeasurable academic and practical value

Towards a Uniform Approach to Confidentiality of International Commercial Arbitration Elza Reymond-Eniaeva, 2019-06-11 The book deals with confidentiality as one of the most controversial issues in international commercial arbitration On the one hand it is widely recognized that confidentiality is an important advantage of arbitration which contributes to its attractiveness On the other hand there is no uniform regulation in

national legislations arbitration rules and other relevant sources as to the scope or even to the existence of a duty of confidentiality A uniform approach to confidentiality of international commercial arbitration is possible The best way to achieve it would be through harmonization of national arbitration laws which should impose a confidentiality obligation subject to certain exceptions The purpose of maintaining confidentiality would be to protect primarily the parties from undesirable leaks that can be avoided and to protect arbitration as an institution As to a systematic publication of arbitral awards without identifying the parties identity it is undesirable and should be the goal , The Oxford Handbook of Global Legal Pluralism Paul Schiff Berman, 2020-06-01 This volume brings together leading scholars from around the world to analyze all aspects of legal pluralism offering defenses critiques and applications of legal pluralism to 21st century legal analysis Volume editor Paul Schiff Berman introduces every chapter framing the various approaches and perspectives The result is the first comprehensive review of Global Legal Pluralism scholarship ever produced **The Comparative Law Yearbook of International Business 2007** Anita Alibekova, Dennis Campbell, 2007-01-01 The Comparative Law Yearbook of International Business in its 2007 edition treats two major topic areas litigation and dispute resolution and banking and finance The litigation and dispute resolution section examines various issues relating to international arbitration such as the status of non signatories the employment of electronic discovery the use of expert evidence and costs It further surveys the recognition of enforcement of foreign judgments in Italy developments in litigation in Australia Anton Pilar Orders and Internet defamation and Italian conflict of law rules The banking and finance section of the Yearbook examines Austrian capital maintenance rules bank secrecy in Israel and broker dealer and investment banking strategies Miscellaneous articles deal with Mexico and s commercial bankruptcy law Slovakia and s new bankruptcy legislation trade marks and the Madrid Protocol trade mark registration in Hong Kong franchising in Italy data protection Spanish antitrust legislation and cartel enforcement in Australia *Interpretation of Law in the Global World: From Particularism to a Universal Approach* Joanna Jemielniak, Przemyslaw Miklaszewicz, 2010-04-08 Capturing the Change Universalising Tendencies in Legal Interpretation Joanna Jemielniak and Przemyslaw Miklaszewicz International and supranational integration on the European continent as well as the harmonisation of the rules of international trade and the accompanying development and global popularity of the resolution of commercial disputes through arbitration constantly exerts a considerable influence on modern legal systems The sources of each of these phenomena are different and their action is dissimilar Each can be described as reaching either from the top to the bottom through the direct involvement of interested States and consequently affecting their internal legal systems international and supranational integration harmonisation of trade regulations through public international law instruments or bottom up as a result of activity by private parties leading to the achievement of uniform practices and standards arbitration lex mercatoria Nonetheless they both enrich national legal cultures and contribute to transgressing the limits of national local particularisms in creating interpreting and applying the law The aim of this book is to demonstrate

how these processes have influenced the interpretation of law how they have shaped the methods and techniques of the interpretation and with what consequences for the outcomes of the interpretative procedures In assessing the extent of this influence due regard must be paid to the fact that the interpretation of law is not in principle directly determined by the provisions of law itself

Confidentiality in International Commercial Arbitration Kyriaki Noussia, 2010-03-10 Arbitration is an essential component in business In an age when transparency is a maxim important issues which the laws governing arbitration currently fail to address are the extent to which disclosure of information can be constrained by private agreement along with the extent to which the duty to preserve confidentiality can be stretched Absent a coherent legal framework and extensive qualitative and quantitative data it is equally difficult to suggest and predict future directions This book offers a tool for attaining centralised access to otherwise fragmentary and dispersed material as well as a comprehensive analysis and detailed exposition of the position in relation to confidentiality in arbitration in the jurisdictions of England USA France and Germany

International Arbitration in Switzerland Elliott Geisinger, Nathalie Voser, 2013-02-01 A convenient neutral location with a long standing tradition of arbitration arbitration friendly legislation arbitration supportive courts and an exemplary infrastructure for all of these reasons parties often choose Switzerland as their preferred seat of arbitration Switzerland continues to therefore play a leading role in the field of arbitration This book since its first edition in 2004 has been widely used as a peerless practitioners guide to international arbitration in Switzerland Keeping in line with the first edition this second edition describes in detail each phase of arbitral proceedings from drafting the arbitration clause to challenge and enforcement of the award The second edition continues to pay close attention to all aspects including procedure before the arbitral tribunal interim measures confidentiality the mediation alternative and many other topics The new edition has been extensively revised to take fully into account the newly amended Swiss Rules of International Arbitration as well as numerous changes internationally such as the revised ICC Rules and the revised UNCITRAL Rules Many new decisions of the Swiss Federal Tribunal relating to arbitration are also considered as is legal commentary The second edition also features a chart comparing major institutional arbitration rules on all aspects of the arbitral process covered by those rules There are also two entirely new chapters one on the legislative framework of Swiss arbitration law and one addressing costs of arbitration The approach throughout is rigorously practice oriented adding theoretical support whenever necessary With the help of this book practitioners will proceed confidently as they approach such tasks as the following drafting an effective arbitration clause and choosing between ad hoc and institutional arbitration understanding the manner in which arbitral proceedings can be structured and evaluating what is best suited to their needs weighing the possibilities of interim relief at their disposal anticipating the duration and costs of proceedings and assessing post award options Whilst focusing on the latest developments in international commercial arbitration *International Arbitration in Switzerland* includes sections on sports arbitration with a focus on the Court of Arbitration for Sport in

Lausanne and on Swiss based public international law dispute settlement mechanisms such as those of the WTO and the UNCC The book provides useful answers to concrete questions that in house lawyers outside counsel and arbitrators are confronted with when practicing international arbitration in Switzerland With its wealth of practical expertise and up to date information it will enable foreign in house and external counsel to make the appropriate choices and decisions It will be indispensable for all practitioners and academics interested in arbitration in Switzerland

Legal Theory of International Arbitration Emmanuel Gaillard, 2010-05-03 Review excerpts from the book on Scribd International arbitration readily lends itself to a legal theory analysis The fundamentally philosophical notions of autonomy and freedom are at the heart of its field of study Similarly essential are the questions of legitimacy raised by the parties freedom to favor a private form of dispute resolution over national courts to choose their judges to tailor the procedure and to choose the applicable rules of law and by the arbitrators freedom to determine their own jurisdiction to shape the conduct of the proceedings and to choose the rules applicable to the dispute The present work based on a Course given at The Hague Academy of International Law in the Summer 2007 identifies the philosophical postulates that underlie this field of study and shows their profound coherence and the practical consequences that follow from these postulates in the resolution of international disputes

The UNIDROIT Principles in Practice Michael Joachim Bonell, 2006-09-01 Since fall 2006 a new revised edition of Unidroit Principles in Practice featuring approximately 120 130 cases The UNIDROIT Principles of International Commercial Contracts published in 1994 were an entirely new approach to international contract law Prepared by a group of eminent experts from around the world as a restatement of international commercial contract law the Principles are not a binding instrument but are referred to in many legal matters They are widely recognized now as a balanced set of rules designed for use throughout the world irrespective of the legal traditions and the economic and political conditions of the countries in which they are applied

The Effect of the 1958 New York Convention on Foreign Arbitral Awards in the Arab Gulf States Reyadh Mohamed Seyadi, 2017-08-21 In the second half of the twentieth century alongside the evolution of the global economy modern technology rapid transportation and multinational enterprises there was an increased demand for a dispute resolution mechanism that met the needs of traders international trade and economic policy makers Arbitration as an alternative dispute resolution has significantly gained in popularity in the Arab Gulf States over the past two decades or so This is no doubt reason enough to take a closer look at the main theme that defines arbitration in this region National courts of the Arab Gulf states are invariably seen as not very arbitration friendly some possibly even hostile to arbitration Public order alongside the Islamic legal traditions is seen as unruly horse that could possibly undermine the development of international commercial arbitration in this region The contribution in this book will go some way toward dissipating the concerns that are routinely raised about the procedural and practical soundness of arbitration in the Arab Gulf states In addition the book serves to place arbitration in the Arab Gulf states in its present legal systems national laws and courts practices

FIDIC

2017 Nicholas Alexander Brown, 2025-01-20 FIDIC 2017 A definitive guide to claims and disputes is an indispensable resource for professionals engaged with FIDIC contracts It provides comprehensive treatment of the multi tiered dispute avoidance and resolution process within the 2017 FIDIC suite of contracts and includes numerous flowcharts and worked examples

Between East and West Kaj Hobér, Annette Magnusson, Marie Öhrström, Christopher Goddard, 2010-03-01 Friends and colleagues from all corners of the world have dedicated this publication to Ulf Franke in appreciation of his 35 years of service as Secretary General of the Arbitration Institute of the Stockholm Chamber of Commerce SCC Institute Mr Franke s expertise has been long recognized not only in Sweden but also in the international arbitration community Throughout an inspiring career Mr Franke has used his vast knowledge of international arbitration in combination with an inexhaustible energy to build and develop the practice of institutional arbitration and the SCC Institute Between East and West Essays in Honour of Ulf Franke contains 43 essays by leading members of the arbitration community The contributions not only look back on how international arbitration has developed over the course of Mr Franke s career but also discuss cutting edge issues that directly affect the future of this field

International Arbitration Review James H Carter, 2017-09-19 The International Arbitration Review edited by James H Carter of Wilmer Cutler Pickering Hale and Dorr provides an analytical review of what has occurred in each of the important arbitration jurisdictions during the past year capturing recent developments and putting them in the context of the jurisdiction s legal arbitration structure and selecting the most important matters for comment In this book leading practitioners seek to provide current information on both general international commercial arbitration and international investment arbitration treating important investor state dispute developments in each jurisdiction as a separate but closely related topic There are in depth examinations of arbitration in 41 jurisdictions as well as editorial chapters on The Impact of Corporate Taxation on Economic Losses and overviews on ASEAN and Africa Contributors include Bart Legum Michelle Bradfield and Jean Christophe Honlet Dentons James Nicholson FTI Consulting This new and timely publication promises to tackle pressing and present day global concerns and to make valuable contributions to the ongoing dialogue on international arbitration Peter Tomka President International Court of Justice The Hague Comprehensive and topical an excellent reference Professor Christine Mallin University of Birmingham Business School The most discursive and engaging survey of the world of arbitration today Jamie Maples Weil Gotshal Manges LLP

Party-Appointed Arbitrators in International Commercial Arbitration Alfonso Gómez-Acebo, 2016-04-26 The agreement of disputing parties to each make a unilateral appointment of an arbitrator is among the most distinctive features of arbitral practice A detailed examination long overdue of how this feature affects the actual process of arbitration is presented in this book The study includes a historical analysis of unilateral nominations a critical assessment of how the unilateral appointments system currently works and an empirical study of challenges of arbitrators The author s critical assessment addresses several issues including limits to the right of the parties to make

unilateral appointments the principle of equality of the parties in the constitution of the arbitral tribunal arbitrators duty to be impartial and independent specific problems of bias in tribunals with party appointed members the question of whether a different standard of impartiality and independence in party appointed arbitrators makes any sense the presumption that party appointed arbitrators can do things that presiding arbitrators cannot and the question of whether it is worth keeping the system of unilateral appointments as the default method for the constitution of multiple member tribunals or keeping it at all The empirical study in which the author offers a comparative analysis of challenges of arbitrators taking into account the method of appointment of the arbitrator reveals interesting differences and coincidences between party appointed and non party appointed arbitrators The book ends with some suggestions on how the system of unilateral appointments could be improved namely in order to increase the trust of each party in the arbitrator appointed by the other party and to allow an accurate match between what arbitration end users may want from party appointed arbitrators and what they ultimately get For both its thorough and well informed analysis and its sound recommendations the book is sure to be welcomed by professionals in the arbitral community worldwide as well as by arbitration law academics

Arbitration and Human Rights Toms Krūmiņš, 2020-08-12 This book presents a creative synthesis of two ostensibly disparate fields of law arbitration and human rights More specifically it focuses on various legislative approaches to excluding the annulment of arbitral awards setting aside proceedings at the seat of arbitration and evaluates the compatibility of such approaches with the European Convention on Human Rights ECHR in particular the right to a fair trial under Article 6 1 The book first assesses the applicability and impact of the ECHR in particular Article 6 1 on international commercial arbitration It then analyses a number of legislative approaches to excluding setting aside proceedings focusing on two synergetic phenomena exclusion agreements and the total lack of setting aside proceedings in national arbitration law Lastly the book investigates to what extent the lack of setting aside proceedings in national arbitration law may lead to a violation of arbitrating parties right to a fair trial under Article 6 1 and puts forward certain de lege ferenda recommendations on how to best approach the regulation of setting aside proceedings in national arbitration law from the standpoint of compliance with the ECHR

Evidence, Proof, and Fact-Finding in WTO Dispute Settlement Michelle T. Grando, 2009-12-24 This book examines how a World Trade Organization WTO dispute settlement panel formulates its conclusions with respect to the facts of a dispute brought before it It does so by discussing the legal concepts which shape the process of fact finding analysing the approach taken by panels thus far and offering suggestions for improvement

Yearbook on International Investment Law & Policy 2008-2009 Karl P Sauvant, 2009-06-19 Today international investment law consists of a network of multifaceted multilayered international treaties that in one way or another involve virtually every country of the world The evolution of this network continues raising a host of issues regarding international investment law and policy especially in the area of international investment disputes This Yearbook monitors current developments in international investment law and policy focusing in Part

One on trends in foreign direct investment FDI international investment agreements and investment disputes with a special look at developments in the oil and gas sector Part Two then looks at central issues in the contemporary discussions on international investment law and policy With contributions by leading experts in the field this title provides timely authoritative information on FDI that can be used by a wide audience including practitioners academics researchers and policy makers

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