



Towards a Uniform International Arbitration Law?

Alexandre-Marcinique Schmeigler, Philippe Fouché
and Louis Dégès editors

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Emmanuel Gaillard



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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

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 International Arbitration Law?*

International Arbitration Institute, 2005 **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 , Interpretation of Law in the Global World: From Particularism to a Universal Approach Joanna Jemielniak, Przemysław Mikłaszewicz, 2010-04-08

Capturing the Change Universalising Tendencies in Legal Interpretation Joanna Jemielniak and Przemysław Mikłaszewicz 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 **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

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 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 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

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