



# Towards a Uniform International Arbitration Law?

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Alexandre-Marcinique Schmeidler, Philippe Fouché  
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# Towards A Uniform International Arbitration Law

# Towards A Uniform International Arbitration Law

**Elza Reymond-Eniaeva**



## **Towards A Uniform International Arbitration Law 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 privity 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 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 its commercial bankruptcy law Slovakia and its 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

*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

*Interpretation of Law in the Global World: From Particularism to a Universal Approach* Joanna Jemielniak, Przemysław Miklaszewicz, 2010-04-08 Capturing the Change Universalising Tendencies in Legal Interpretation Joanna Jemielniak and Przemysław 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

**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

**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

**International Commercial Arbitration** Gary B. Born, 2020-11-23 International Commercial Arbitration is an authoritative 4 250 page treatise in three volumes providing the most comprehensive commentary and analysis on all aspects of the international commercial arbitration process that is available The Third Edition of International Commercial Arbitration has been comprehensively revised expanded and updated To include all legislative judicial and arbitral authorities and other materials in the field of international arbitration prior to June 2020 It also includes expanded treatment of annulment recognition of awards counsel ethics arbitrator independence and impartiality and applicable law The revised 4 250 page text contains references to more than 20 000 cases awards and other authorities and will enhance the treatise s position as the world s leading work on international arbitration The first and second editions of International Commercial Arbitration have been routinely relied on by courts and arbitral tribunals around the world including the highest courts of the United States United Kingdom Singapore India Hong Kong New Zealand Australia the Netherlands and Canada and international arbitral tribunals including ICC SIAC LCIA AAA ICSID SCC and PCA e g U S Supreme Court GE Energy Power Conversion France SAS Corp v Outokumpu Stainless USA LLC 590 U S U S S Ct 2020 BG Group plc v Republic of Argentina 572 U S 25 U S S Ct 2014 Canadian Supreme Court Uber v Heller 2020 SCC 16 Canadian S Ct Yugraneft Corp v Rexx Mgt Corp 2010 1 R C S 649 661 Canadian S Ct U K Supreme Court Jivraj v Hashwani 2011 UKSC 40 78 U K S Ct Dallah Real Estate Swiss Federal Tribunal Judgment of 25 September 2014 DFT 5A\_165 2014 Swiss Fed Trib Indian Supreme Court Bharat Aluminium v Kaiser Aluminium C A No 7019 2005 138 39 142 148 49 Indian S Ct 2012 Singapore Court of Appeal

Rakna Arakshaka Lanka Ltd v Avant Garde Maritime Servs Ltd 2019 2 SLR 131 Singapore Ct App PT Perusahaan Gas Negara Persero TBK v CRW Joint Operation 2015 SGCA 30 Singapore Ct App Larsen Oil Australian Federal Court Hancock Prospecting Pty Ltd v Rinehart 2017 FCAFC 170 Australian Fed Ct Hague Court of Appeal Judgment of 18 February 2020 Case No 200 197 079 01 Hague Gerechtshof Arbitral Tribunals Lao Holdings NV v Lao People s Democratic Republic I Award in ICSID Case No ARB AF 12 6 6 August 2019 Gold Reserve Inc v Bolivarian Republic of Venezuela Decision regarding the Claimant s and the Respondent s Requests for Corrections ICSID Case No ARB AF 09 1 15 December 2014 Total SA v The Argentine Republic Decision on Stay of Enforcement of the Award ICSID Case No ARB 04 01 4 December 2014 Millicom Int l Operations B V v Republic of Senegal Decision on Jurisdiction of the Arbitral Tribunal ICSID Case No ARB 08 20 16 July 2010 Lemire v Ukraine Dissenting Opinion of J rgen Voss ICSID Case No ARB 06 18 1 March 2011 **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

*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 **Report of the ... Annual Meeting of the American Bar Association**

American Bar Association,1905 **Annual Report** American Bar Association,1904 Covers 1st 95th 29th 30th each in 2 v annual meetings held 1878 1972 *Annual Report of the American Bar Association* American Bar Association,1904

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 *The UNCITRAL Model Law on International Commercial Arbitration* Gilles Cuniberti, 2022-11-15 This Commentary provides rich and detailed analysis both of the provisions of the UNCITRAL Model Law on International Commercial Arbitration the Model Law and of its implementation including a comparative account of the operation of the Model Law in the numerous jurisdictions which have adopted it throughout the world **Forum Shopping Despite Unification of Law** Franco Ferrari, 2021-08-16 Watch the interview with Franco Ferrari on Forum Shopping Despite Unification of Law According to some commentators forum shopping is an evil that must be eradicated It has been suggested that the unification of substantive law through international conventions constitutes one way to achieve this outcome This book shows that the drafting of uniform substantive law convention cannot prevent forum shopping The reasons are classified into two main categories convention extrinsic and convention intrinsic reasons The former category comprises those reasons upon which uniform substantive law conventions do not have an impact at all These reasons range from the costs of access to justice to the bias of potential adjudicators to the enforceability of judgments The convention intrinsic reasons on the other hand are reasons that relate to the nature and design of uniform substantive law conventions and include their limited substantive and international spheres of application as well as their limited scope of application the need to provide for reservations etc This book also focuses on another reason why forum shopping cannot be overcome the impossibility of ensuring uniform applications and interpretations of the various uniform substantive law conventions



## Reviewing **Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law:** Unlocking the Spellbinding Force of Linguistics

In a fast-paced world fueled by information and interconnectivity, the spellbinding force of linguistics has acquired newfound prominence. Its capacity to evoke emotions, stimulate contemplation, and stimulate metamorphosis is actually astonishing. Within the pages of "**Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law**," an enthralling opus penned by a very acclaimed wordsmith, readers embark on an immersive expedition to unravel the intricate significance of language and its indelible imprint on our lives. Throughout this assessment, we shall delve to the book is central motifs, appraise its distinctive narrative style, and gauge its overarching influence on the minds of its readers.

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### **Table of Contents Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law**

1. Understanding the eBook Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - The Rise of Digital Reading Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Advantages of eBooks Over Traditional Books
2. Identifying Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law

- User-Friendly Interface
- 4. Exploring eBook Recommendations from Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Personalized Recommendations
  - Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law User Reviews and Ratings
  - Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law and Bestseller Lists
- 5. Accessing Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law Free and Paid eBooks
  - Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law Public Domain eBooks
  - Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law eBook Subscription Services
  - Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law Budget-Friendly Options
- 6. Navigating Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law eBook Formats
  - ePub, PDF, MOBI, and More
  - Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law Compatibility with Devices
  - Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Highlighting and Note-Taking Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Interactive Elements Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law

8. Staying Engaged with Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
9. Balancing eBooks and Physical Books Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Setting Reading Goals Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Fact-Checking eBook Content of Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements

- Interactive and Gamified eBooks

### **Towards A Uniform International Arbitration Law Towards A Uniform International Arbitration Law Introduction**

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