

# QUO VADIS ARBITRATION?

- SIXTY YEARS OF ARBITRATION PRACTICE -

A COMPARATIVE STUDY

BY

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KLUWER LAW INTERNATIONAL

# Quo Vadis Arbitration sixty Years Of Arbitration Practice

**Lauren Gardner**



## **Quo Vadis Arbitration: Sixty Years Of Arbitration Practice:**

**Quo Vadis Arbitration?: Sixty Years of Arbitration Practice** Pieter Sanders, 1999-06-16 Lawyer arbitrator negotiator author educator drafter rapporteur andndash for sixty years Pieter Sanders has been in the eye of the storm as during this period arbitration grew into the world's preferred method for the resolution of commercial disputes No one is better qualified to assess the current worldwide condition and prospects of arbitration and conciliation or to offer practical insightful solutions to the problems confronting arbitration practice today Quo Vadis Arbitration will not disappoint the many lawyers judges legislators and businesspeople to whom it is addressed Drawing on his wide and varied experience and especially on the occasions when resourceful measures had to be taken in the absence of clear legal guidance Professor Sanders presents cogent well reasoned arguments and recommendations for the main issues which may arise in any arbitration a revision of the UNCITRAL Model Law a harmonisation of Rules on Conciliation and drafting a Model Law on Conciliation refining Codes of Ethics and Codes of Taking Evidence to strengthen bridges between cultural differences A list of the author's achievements is virtually a history of the development of international arbitration since the 1930s With many warmly shared anecdotes of the conflicts compromises and triumphs of pivotal meetings and conventions Professor Sanders takes the reader behind the scenes for a rare glimpse into the inner workings of the complex and rewarding process that created this invaluable modern discipline Quo Vadis Arbitration also provides a masterful but simple exposition of the arbitral process from the validity of the arbitration agreement to the means of recourse against the award This is a book that will be warmly appreciated and used by arbitration specialists of any degree of expertise anywhere in the world **European**

**Competition Law Annual 2001** Claus-Dieter Ehlermann, Isabela Atanasiu, 2003-07-22 The European Competition Law Annual 2001 is the sixth in a series of volumes following the annual workshops on EU Competition Law and Policy held at the Robert Schuman Centre of the European University in Florence The volume reproduces the materials of the roundtable debate that took place at the sixth edition of the Workshop 1 2 June 2001 which examined the conditions for an effective private enforcement of EC antitrust rules The application of EC antitrust rules in the context of private litigation before national courts and arbitration tribunals is becoming a highly topical subject against the background of the on going debate about the decentralisation of EC antitrust enforcement The participants a group of senior representatives of the Commission national judges arbitrators renowned academics and international legal experts in the field of antitrust discussed in particular the following aspects a the availability and effectiveness of substantive remedies in the enforcement of EC antitrust rules at the EU level in general and in four major EU jurisdictions in particular England France Italy and Germany b the procedural issues arising in the enforcement of EC antitrust rules by national courts in four EU jurisdictions England France Italy and Germany and at the EU level in general c the problems arising in the application of Article 81 3 EC by arbitration tribunals In addition to these issues the participants also discussed whether the public enforcement of EC

antitrust rules could be rendered more effective by introducing sanctions applicable to the individuals responsible for their violation

**Collected Courses of the Xiamen Academy of International Law, Volume 2 (2009)** The Xiamen Academy of International Law, 2009-11-23 The Collected Courses of the Xiamen Academy of International Law contain the Summer Courses taught at the Xiamen Academy of International Law by highly qualified international legal professionals The Second Volume of the Series contains the following articles Aspects de la question des sources du droit international Yves Daudet The Paradigms of Universalism and Particularism in the Age of Globalisation Western Perspectives on the Premises and Finality of International Law Armin von Bogdandy and Sergio Dellavalle Legal Aspects of Electronic Commerce Rules of Evidence Contract Formation and Online Performance Jose Angelo Estrella Faria The Elusive Pro Arbitration Priority in Contemporary Court Scrutiny of Arbitral Awards Tibor V. Nagy The Xiamen Academy of International Law aims to promote academic exchanges among legal communities across the globe encourage examination of major international issues and by so doing seek ways to improve the possibilities for world peace and international cooperation It seeks to achieve this aim by providing the highest level of education to individuals particularly those from Asian countries interested in the development and use of international law persons such as young lecturers in international law diplomats practitioners of transnational law government officials in charge of foreign affairs and officials of international organizations

**The International Effectiveness of the Annulment of an Arbitral Award** Hamid Gharavi, Christoph Liebscher, 2002-03-14 In international arbitration as practiced today few issues are as controversial and hotly debated as the foreign enforcement of an arbitral award that has been annulled in its originating jurisdiction As more and more jurisdictions challenge such annulments the issue has inevitably attracted the intense scrutiny of practitioners and scholars Now in the first book written on the subject and a major work unlikely to be superseded for quite some time the international practitioner and scholar Dr Hamid G. Gharavi provides a keen in depth analysis of the sources legal and practical grounds and possible solutions of the problem particularly as it affects international business transactions in the global economy Dr Gharavi analyzes the relevant provisions in all major international arbitration conventions as well as national laws on the annulment and enforcement of arbitral awards in force in more than fifty different countries Among the book's most notable features are the following invaluable information on and an in depth analysis of the travaux préparatoires of the New York Convention pertaining to the articulation of annulment enforcement controls the effects of the cultural judicial and legal diversity of states and clear elucidation of the interests that often separate North from South in the practice of arbitration With detailed attention to theoretical and practical perspectives especially as they reveal the dangers to which the enforcement of annulled awards can subject international business operators Dr Gharavi arrives after consideration of all interests at a global resolution aiming to establish an effective and harmonious international legal framework for the control of awards in accordance with the nature and mission of arbitration

Conciliation in International Law Christian Tomuschat, Riccardo Pisillo Mazzeschi, Daniel

Thürer,2016-11-01 This volume collects the materials underlying the International Colloquium Conciliation in the Globalized World of Today held on 11 and 12 June 2015 in Vienna under the auspices of the Court of Conciliation and Arbitration within the OSCE The aim of the Colloquium was to examine the merits and possible shortcomings of this method of conflict resolution and it concluded that the pros heavily outweigh the cons This volume therefore draws the attention of everyone dealing with conflict management to those advantages It does not end by providing a summary of conclusions to be drawn from the examination of the rules governing the OSCE Court and the practice of the other institutions considered The reader will have to find out her himself what experiences have been made in other fields where conciliation has been institutionalized as a dispute settlement procedure In this regard the present book constitutes a treasury of lessons that cannot easily be brought down to a common denominator

**Rules and Networks** Richard Appelbaum,William Felstiner,Volkmar Gessner,2001-12-21 International business transactions are heavily influenced by culture practice and rule The pursuit of business relationships within nation states can be subject to differences in the generation of norms and the processing of disputes but these conflicts are magnified many times over in cross border transactions where nation state control and support is weak or absent This book seeks different explanations of the ways in which business people and their legal advisers try to minimise the effect of these magnified difficulties At the outset the editors suggest four sources through which the international business community might be considered to have supplemented nation state conflict prevention and dispute resolution institutions an international legal order the development of a private normative order based on common business practices denominated the *lex mercatoria* through the efforts and work product of internationalised law firms and by means of extensive thick personal relationships often referred to by their Chinese term *guanxi* Since most explanations are dominated by North American and European legal scholarship and practice a second concern of this book is to open up the discussion to competing explanatory frameworks Specifically it develops the notion that global legal convergence may not be the immediate inevitable result of increased global economic interaction Rather less formal mechanisms for achieving normative understanding and predictability in business dealings may also flourish

**The Law and Policy of New Eurasian Regionalization** Anna Aseeva,Jędrzej Górski,2021-01-25 The Law and Policy of New Eurasian Regionalization Economic Integration Trade and Investment in the Post Soviet and Greater Eurasian Space edited by Anna Aseeva and J drzej G rski makes several unique contributions to the literature First and foremost most of the current literature is in either economics or politics with only a secondary focus on legal and institutional matters Secondly and consequently the book is accessible and relevant to readers both inside and outside the boundaries of the Eurasian area not only geographical boundaries but also legal geopolitical geoeconomic cultural and indeed disciplinary boundaries Drawing on international transnational and comparative legal scholarship this rich volume offers the insights by a plethora of leading international scholars in economics institutional theory area studies international relations global political economy political science and

sociology The contributors come from four corners of the globe including Asia Europe and North America Multi-Tier Approaches to the Resolution of International Disputes Anselmo Reyes, Weixia Gu, 2021-12-16 Multi tier dispute resolution MDR entails an early attempt at mediation followed by arbitration or litigation if mediation is unsuccessful Seemingly everyone acknowledges MDR s attractiveness as a means of resolving disputes due to its combination of the flexibility and informality of mediation with the rigour and formality of arbitration or litigation Yet the question is why except in China and some Asian jurisdictions MDR is not resorted to around the world and MDR clauses in commercial contracts remain relatively uncommon This book responds to that question by 1 surveying global regulatory approaches frameworks for MDR 2 comparing MDR trends in Asia and the wider world 3 identifying MDR s strengths and weaknesses and 4 prescribing ways to address MDR s weaknesses the enforceability of MDR clauses the difficulties arising when the same person acts as mediator and decision maker in the same dispute and the enforcement of mediated settlement agreements resulting from MDR

**Practitioner's Handbook on International Commercial Arbitration** Frank-Bernd Weigand, 2009-12-24 The Practitioner s Handbook on International Commercial Arbitration provides concise country reports on important jurisdictions for international arbitral proceedings as well as commentaries on well known arbitration rules which are frequently incorporated in international legal agreements Most international commercial contracts now include an arbitration clause as an alternative to resolving disputes in the state courts This second edition of the Practitioner s Handbook includes newly updated country chapters expanded international coverage and commentary on the most important arbitration rules worldwide It is written by world leading arbitration practitioners and academics and combines a practical approach with in depth legal research and analysis of important national and international case law The book is unique in its coverage providing uniformly designed country reports and thorough commentaries on internationally recognized arbitration rules in just one volume There are individual chapters for the following countries Austria Belgium China and provides details of national arbitration laws arbitral institutions in the jurisdiction model arbitration clauses and a bibliography including a list of key judicial decisions The first edition was reviewed as an outstanding book and an extremely useful tool The work is an indispensable one stop reference point for lawyers drafting international arbitration clauses or handling arbitration proceedings in different countries The Forces of Economic Globalization Katherine Lynch, Katherine L. Lynch, 2003-01-01 Increased economic interdependencies and trade flows between states innovations in information technology and computer networks a global shift toward market economies and regional and multilateral trade arrangements have all led to an increasingly globalized world economy The Forces of Economic Globalization Challenges to the Regime of International Commercial Arbitration examines some of the challenges facing the regime of international commercial arbitration in the contemporary global economy It considers the debates concerning the transformation of the global order and the role of nation states within the context of international commercial arbitration Issues discussed include the transformative effect of

economic globalization the role of the epistemic community and the increased institutionalization within the international arbitral regime the nationalization of international commercial arbitration and the denationalization and harmonization trends the competitive nature of legislative reform convergence and divergence in the international arbitral process multilateralism and regionalism market modernization and transnationalism globalization and lex mercatoria and the development of online arbitration schemes in cyberspace This book seeks to analyze the inner penetration of a form of world polity or transnational order comprised of part epistemic community institutional networks national laws and multilateral conventions norms rules principles and transnational ideology on the traditional notion of state sovereignty within the international arbitral regime The book will interest practitioners and academics with an interest in international commercial arbitration

**Language and Law in Professional Discourse** Vijay K. Bhatia, Giuliana Elena Garzone, Girolamo Tessuto, 2014-03-17 This book provides insights into the ways in which legal professionals participate in their day to day activities and critically focuses on how language is used and exploited in everyday professional discourse It is organised into two parts dealing with topic areas of legal discourse written and spoken relevant to professional practice and communication The innovative research landscape offered by this book covers diverse and complex features of legal discourse construction where socially informed aspects of language use are negotiated by professional practices Such features provide the wide scope for the critical study of legal language as a tool for social action and set up a descriptive and interpretive framework for engaging with representations of legal discourses and genres where authority power ideology as well as areas of hybridity intertextuality interdiscursivity and recontextualization are involved in legal discourse This book brings together scholars from a wide academic spectrum around the globe with an interest in the intricacies of language and law as they play out in the real world The book therefore offers both a resource and a stimulus to the wider readership

*The Cambridge Handbook of Judicial Control of Arbitral Awards* Larry A. DiMatteo, Marta Infantino, Nathalie M-P Potin, 2020-10-29 A unique collaboration between academic scholars legal practitioners and arbitrators this handbook focuses on the intersection of arbitration as an alternative to litigation and the court systems to which arbitration is ultimately beholden The first three parts analyze issues relating to the interpretation of the scope of arbitration agreements arbitrator bias and conflicts of interest arbitrator misconduct during the proceedings enforceability of arbitral awards and the grounds for vacating awards The next section features fifteen country specific reviews which demonstrate that despite the commonality of principles at the international level there is a significant amount of differences in the application of those principles at the national level This work should be read by anyone interested in the general rules and principles of the enforceability of foreign arbitral awards and the grounds for courts to vacate or annul such awards

*Obscurity and Clarity in the Law* Sophie Cacciaguidi-Fahy, 2016-12-05 This book explores the intricate and multi dimensional conception of clarity and obscurity in the law It presents and examines the most recent research and theories giving practical guidance on how to avoid obscurity in

legal drafting and its impact on legal interpretation The book is aimed at a multidisciplinary audience and seeks to promote an interdisciplinary debate on clarity law and language calling for the moving of clarity beyond the study of plain language The aims of the book are thus two fold The first is to critically reach a nexus between the disciplines of law and language with respect to the debates on clarity in legal discourse The second is to achieve an international perspective on the issue drawing from a wide range of legal and political contexts

**Interim Measures in International Commercial Arbitration** Association for International Arbitration, 2007 The Association for International Arbitration AIA was founded in order to promote Arbitration and increase the level of knowledge about Alternative Dispute Resolutions This book is the result of a conference held in October 2007 The contributions are written by international experts and based on analytical insights and research of new tendencies that provide in depth information The theme is a vital issue for arbitration services users and practitioners and also an interesting topic for scholars and students

**Applicable Law in International Investment Disputes** Taida Begic, 2005 This book gives a comprehensive overview of all relevant aspects of the issue of applicable substantive law in the context of investor State arbitration It is a comparative survey of both the International Center for Settlement of Investment Disputes ICSID and non ICSID arbitral practice The applicable substantive law represents an important issue in investment disputes as it determines the rules of law that should be applied to the merits of the dispute This study demonstrates the need for a discussion on the applicable law before examining the merits of the case as it appears to be non existent in most arbitral awards The author gives an extensive survey of choice of law clauses as found in direct agreements between parties and in multilateral or bilateral investment treaties Furthermore the author analyzes the following issues stabilization clauses in investment agreements the application of the residual rule if parties failed to agree on the applicable law the special position of the Iran US Claims Tribunal and various annulment decisions

New Perspectives on (Im)Politeness and Interpersonal Communication Lucis Fernández Amaya, Maria de la O Hernández López, Reyes Gómez Morón, 2012-12-18 New Perspectives on Im Politeness and Interpersonal Communication gathers eleven studies by prominent scholars which explore issues related to im politeness in human communication The study of linguistic im politeness is undoubtedly one of the central concerns in the field of pragmatics as attested to by the numerous conferences and journals currently dedicated to the topic the various theoretical models and approaches developed or developing so far and the seemingly endless list of insightful and inspiring empirical studies tackling the topic from a wide variety of angles This volume contributes to the subfield of social pragmatics by putting together works that review the state of the art of im politeness studies analysing im politeness in media contexts like the Internet or dubbed films and other contexts looking into the effects and consequences of some speech acts for social interaction drawing implications for language teaching and approaching some of the linguistic mechanisms which help to communicate im politeness Resulting from the efforts made by specialists in the field the chapters in this volume offer additional evidence that examining the



complexity of interpersonal communication from different standpoints can benefit a more complete understanding of social interaction in general Their scope and practical applications demonstrate the transversality and versatility of interpersonal communication The editors hope that these works will retain scholars interest and attention for some time to come and spark off further research *Netherlands Reports to the Seventeenth International Congress of Comparative Law, Utrecht 2006*

,2006 This book gives the reader an overview of current developments in Dutch Law The contributions are from leading academics from different universities in the Netherlands Amongst others the following topics are covered Dutch family law in the 21st Century Trend setting and straggling behind at the same time M Antonkolskaia and K Boele Woelki Mediation in the Netherlands past present future A de Roo and R Jagtenberg Mandatory and non mandatory rules in Dutch corporate law M Meinema Limits and control of competition with a view to international harmonisation P J Slot Rights of minority shareholders in the Netherlands L Timmerman and A Doorman Constitution international treaties contracts and torts M van Empel and M de Jong Human rights and private corporations A Dutch legal perspective S van Bijsterveld The rights of the embryo and the foetus under Dutch law V Derckx and E Hondius Regulating electronic commerce in the Netherlands C Prins

*Stockholm Arbitration Yearbook 2023* Patrik Scholdstrom,Christer Danielsson,2024-01-16 Each year Stockholm is the arbitration seat of choice for numerous parties endeavouring to resolve international disputes It is the second most used venue for investment disputes and it is often the venue for disputes arising from the Energy Charter Treaty This annual publication launched under the auspices of the Stockholm Centre for Commercial Law is designed to meet the information needs of arbitration practitioners and parties from all over the world The present edition s topics include arbitration and EU sanctions against Russia the ins and outs of arbitrator selection the divide between lawful and unlawful expropriation in investment arbitration tactical misuse of GDPR in arbitration court assisted preservation of evidence and the distinction between jurisdiction and admissibility The Yearbook provides both perspective and detailed analyses that will be welcomed by arbitration practitioners counsel and judges deciding arbitration cases It will also provide valuable insights for arbitration academics in house counsel at multinational companies and arbitral institutions worldwide **Cambridge Compendium of**

**International Commercial and Investment Arbitration** Stefan Kröll,Andrea K. Bjorklund,Franco Ferrari,2023-03-02 The Compendium like an encyclopedia contains entries for most of the foundational principles and concepts underlying arbitration Each entry takes a holistic view of international arbitration as they tackle core concepts from both a commercial and an investment arbitration perspective focusing on the fundamental issues underlying the various topics rather than on the solutions adopted in any particular jurisdiction thus making the Compendium a truly cross border transnational resource This innovative approach will allow readers to identify the commonalities as well as the differences between commercial and investment arbitration whether and where cross fertilization has taken place and what consequences it can have This approach allows the Compendium to be a tool in promoting the creation of a culture of international arbitration that

considers commercial arbitration and investment arbitration as part of a whole but with certain distinct features particular to each

**The Discourses of Dispute Resolution** Vijay Kumar Bhatia, Christopher Candlin, Maurizio Gotti, 2010 This volume presents some of the findings from a project on various aspects of Alternative Dispute Resolution ADR including conciliation mediation and arbitration To study the discursive practices of ADR today an international initiative has been undertaken by a group of specialists in discourse analysis law and arbitration from more than twenty countries The chapters in this volume draw on discourse based data narrative documentary and interactional to investigate the extent to which the integrity of ADR principles is maintained in practice and to what extent there is an increasing level of influence from litigative processes and procedures The primary evidence for such practices comes from textual and discourse based studies ethnographic observations and narratives of experience on the part of experts in the field as well as on the part of some of the major corporate stakeholders drawn from commercial sectors

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