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International Arbitration: Doctrinal Foundation and Practical Applications in 2021

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Panel 1

Introduction to International Arbitration

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Table of Sources and Resources

Caveat: *This table merely scratches the surface. I hope it helps you!*

Bibliographies

The Pechota bibliography on arbitration Smit, Hans.; Pěchota, Vratislav.; Mistelis, Loukas A., 1967-; Parker School of Foreign and Comparative Law (updated regularly).

The 1958 New York Convention: A Bibliography (last updated in June, 2018), available as pdf at <https://newyorkconvention1958.org/ajax.php?module=cms&categ=document&action=render&id=145>

SELECTED BIBLIOGRAPHY FOR INTERNATIONAL COMMERCIAL ARBITRATION (books only) available at <http://dzungsrt.com/wp-content/uploads/2015/10/SELECTED-BIBLIOGRAPHY-FOR-INTERNATIONAL-COMMERCIAL-ARBITRATION-books-only.pdf>

Research Aids

Harvard Law School site available at:

<https://guides.library.harvard.edu/international-arbitration>

Queen Mary University of London School of International Arbitration Research website

<http://www.arbitration.qmul.ac.uk/research/>

What is Arbitration?

Bergsten 2005 (*infra*), 4-8.

Hensler, Deborah R. "Court-Ordered Arbitration: An Alternative View," University of Chicago Legal Forum: Vol. 1990: Iss. 1, Article 12. Available at:

<http://chicagounbound.uchicago.edu/uclf/vol1990/iss1/12>.

History of Arbitration

See Conklin, *Introduction: Beyond the FAA: Arbitration Procedure, Practice, and Policy in Historical Perspective*, 2016 J. Disp. Resol. 1 (2016) (provides a wealth of citations to sources on arbitration history).

Emerson, *History of Arbitration Practice and Law*, 19 Clev. St. L. Rev. 155, 157 (1970) available at

<https://engagedscholarship.csuohio.edu/clevstlrev/vol19/iss1/19>

Scott v Avery, 1843-1860 All E.R. Rep. 1 HL.

German Code of Civil Procedure (1877) Book 10 (English translation not found); see Respondek, *Arbitration in Germany*, 25 *American Review of International Arbitration* 289 (2014), available at <https://www.rflegal.com/upload/document/rechtsanwalt-thailand-arbitration-in-germany.pdf>.

See brief description of French arbitration provisions enacted 1806 in Carbonneau, *The Reform of the French Procedural Law on Arbitration: An Analytical Commentary on the Decree of May 14, 1980*, 4 *Hastings Int'l & Comp. L. Rev.* 273, 275-276 (1981).

For description of the early history of arbitration in what became the USA, see Certilman, *This Is a Brief History of Arbitration in the United States*, *New York Dispute Resolution Lawyer* 2010 Vol. 3 No. 1, available at <https://www.certilman.com/wp-content/media/Extract%20-%20History%20of%20Arb.pdf>

New York State: New York Laws of 1920, Ch. 275 (see Popkin, *Judicial Construction of the New York Arbitration Law of 1920*, 11 *Cornell L. Rev.* 329 (1926) Available at: <http://scholarship.law.cornell.edu/clr/vol11/iss3/3>).

The Federal Arbitration Act, Section 1-14, February 12, 1925 (43 Stat. 883), codified July 30, 1947 as Title 9, US Code (61 Stat. 669) (see Szalai, *Exploring the Federal Arbitration Act through the Lens of History Symposium*, 2016 *J. Disp. Resol.* (2016) Available at: <https://scholarship.law.missouri.edu/jdr/vol2016/iss1/9>)

International Commercial Arbitration

Bergsten, *International Commercial Arbitration*, Chapter 5 of the UNCTAD Course on Dispute Settlement in International Trade, Investment and Intellectual Property, UNCTAD/EDM/Misc.232/Add.38S, 2005, available at https://unctad.org/system/files/official-document/edmmisc232add38_en.pdf (hereafter Bergsten 2005)

Blackaby, Nigel Redfern and Hunter on International Arbitration, Kluwer 2009

Born, Gary International Commercial Arbitration, Kluwer 2014

Gaillard & Savage Fouchard Gaillard Goldman on International Commercial Arbitration, Kluwer 1999

Lew et al Comparative International Arbitration, Kluwer 2003

Park, William W. Arbitration of International Business Disputes 2nd ed., Oxford 2012

Weigand & Baumann eds Practitioner's Handbook on International Commercial Arbitration, 3rd ed., Oxford 2019

ICCA Yearbook Commercial Arbitration (Annual Publication), Kluwer

New York Convention

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted by a United Nations diplomatic conference 10 June 1958 and entered into force on 7 June 1959. The text and much other information on the Convention is available on line, particularly on the UNCITRAL site <https://uncitral.un.org/>.

Born, *The New York Convention: A Self-Executing Treaty*, 40 *MICH.J. INT'LL.* 115 (2018). Available at: <https://repository.law.umich.edu/mjil/vol40/iss1/4>

Gaillard and Di Pietro, eds, Enforcement of Arbitration Agreements and International Arbitral Awards, The New York Convention in Practice A New York Convention Primer, London, 2008
https://www.americanbar.org/groups/dispute_resolution/publications/dispute_resolution_magazine/2019/summer-2019-new-york-convention/summer-2019-ny-convention-primer/

Van den Berg, Albert The New York Convention of 1958 (Deventer and Boston 1981)

Arbitral Institutions

CIETAC

CIETAC Rules available at <http://www.cietac.org/index.php?m=Page&a=index&id=106&l=en>

Yu et al, A Guide to the CIETAC Arbitration Rules, Oxford University Press 2020

Wei & Willems, Arbitration in China, Kluwer 2015

HKIAC

Website <https://www.hkiac.org/arbitration/what-is-arbitration>

Rules and Practice notes available at <https://www.hkiac.org/arbitration/rules-practice-notes>

Moser & Bao A Guide to the HKIAC Arbitration Rules, Oxford University Press 2017

International Chamber of Commerce Court of Arbitration (ICC)

Derains & Schwartz A Guide to the ICC Rules of Arbitration, 2nd Edition (The Hague 2005)

Webster & Buehler Handbook of ICC Arbitration, 4th ed. (London, 2018)

American Arbitration Association International Centre for Dispute Resolution (ICDR)

Rules available at https://www.icdr.org/rules_forms_fees

Gusy et al, A Guide to the ICDR International Arbitration Rules, Oxford University Press 2011

Japan Commercial Arbitration Association (JCAA)

<https://www.jcaa.or.jp/en/>

Sun and Tu, An Introduction to the Japan Commercial Arbitration Association and JCAA Arbitration Rules, available at <https://www.atlantis-press.com/proceedings/ecss-19/55916392>

KCAB International

http://www.kcabinternational.or.kr/common/index.do?jpath=/contents/sub0402&CURRENT_MENU_CODE=MENU0020&TOP_MENU_CODE=MENU0018

Kim & Bang, eds., Arbitration Law of Korea, Practice & Procedure, Juris 2012

London Court of International Arbitration (LCIA)

<https://www.lcia.org/>

Turner & Mohtashami, A Guide to the LCIA Arbitration Rules, Oxford 2009

Singapore International Arbitration Centre (SIAC)

www.siac.org.sg

Choong, Mangan & Lingard, A Guide to the SIAC Arbitration Rules 2nd Edition, Oxford 2018

Stockholm Chamber of Commerce

Website, The Arbitration Institute of the Stockholm Chamber of Commerce, <https://sccinstitute.com/>

Magnussen et al, eds International Arbitration in Sweden: A Practitioners Guide, Second Edition, Wolters Kluwer “coming soon” as of March 2021

Madsen, Commercial Arbitration in Sweden, 4th Edition, Jure 2016

Calissendorf & Schoeldstrom, eds, Stockholm Arbitration Yearbook 2020, Wolters Kluwer

Ad Hoc Arbitration

Clanchy, Ad Hoc Arbitration and its Enemies, https://uploads-ssl.webflow.com/5755536ae00e5fe22ed8417e/5e78d59d131351aee400c720_ICMA-XXI-J-Clanchy-Ad-Hoc-Arbitration-and-its-Enemies.pdf.

Modern Arbitration Laws

Arbitration Laws of the World, <https://www.international-arbitration-attorney.com/arbitration-law-of-world/>, offers English translations of the arbitration laws of, by my count, 88 nations.

UNCITRAL:

UNCITRAL Model Law on International Commercial Arbitration (United Nations documents A/40/17, annex I and A/61/17, annex I)(As adopted by the United Nations Commission on International Trade Law on 21 June 1985, and as amended by the United Nations Commission on International Trade Law on 7 July 2006), available on the UNCITRAL site at

https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration

Howard M Holtzmann and Joseph E Neuhaus, A Guide to the UNCITRAL Model Law on International Commercial Arbitration. Legislative History and Commentary (Kluwer) 1989 / 1994.

China:

Xu, International Arbitration Laws and Regulations- China (2020) may be purchased in pdf format at <https://iclg.com/practice-areas/international-arbitration-laws-and-regulations/china>

Moser, ed., Dispute Resolution in China, Second Edition, Juris 2020

England:

Arbitration Act 1996, UK Public General Acts 1996 c. 23, available at <https://www.legislation.gov.uk/ukpga/1996/23/contents>

Soderlund, *A Comparative Overview of Arbitration Laws* (Sweden, England, Russia), 20 *Arbitration International* 73 (2004).

France:

Fouchard, Gaillard, *Goldman on International Commercial Arbitration* (ed. by Emmanuel Gaillard and John Savage), Kluwer Law International 1999 (excellent book, consistently comparative, often quite detailed on French law).

Matthieu de Boissésou, *Le droit français de l'arbitrage interne et international*, 2nd edition, Paris (GLN Joly) 1990.

India:

The Arbitration and Conciliation Act, 1996 (as amended by the Arbitration and Conciliation (Amendment) Act, 2019).

ICLG.com India: *International Arbitration Laws and Regulations 2020*, available at <https://iclg.com/practice-areas/international-arbitration-laws-and-regulations/india>

Latin America:

Nigel Blackaby, *International Arbitration in Latin America*, Kluwer 2003

Sweden:

Ulf Franke et al, ed., *International Arbitration in Sweden, a Practitioner's Guide*, Kluwer 2013

Soderlund, *A Comparative Overview of Arbitration Laws* (Sweden, England, Russia), 20 *Arbitration International* 73 (2004).

Switzerland:

Heinrich Honsell et al., *International Arbitration in Switzerland*, Kluwer 2000

USA:

9 US Code Title 9, available at <https://www.law.cornell.edu/uscode/text/9>

Carbonneau, Thomas *The U.S. Law of Arbitration: From 1925 to 2019* available on the Kluwer Arbitration Blog, <http://arbitrationblog.kluwerarbitration.com/2019/11/17/the-u-s-law-of-arbitration-from-1925-to-2019/>

Domke, Martin *The Law and Practice of Commercial Arbitration*, Chicago 1968 with Supplement 1974.

Shimabukuro & Staman, *Mandatory Arbitration and the Federal Arbitration Act*, Congressional Research Service 2017, available at <https://fas.org/sgp/crs/misc/R44960.pdf>