Research Guide: International Commercial Arbitration

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The purpose of this research guide is to provide a brief overview of International Commercial Arbitration ("ICA") and the resources available on the topic, in Columbia's Diamond Law Library, through the library homepage, and on the Internet.

For additional assistance in finding ICA materials at the library, please do not hesitate to contact the reference librarians at the Reference Desk. Please consult the law library homepage for general library information and reference desk hours.

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Background

ICA is a method of resolving disputes through an arbitration proceeding heard by one or more arbitrators, instead of pursuing resolution of the dispute through an applicable court system. There are many reasons why parties may prefer arbitration to litigation. One, parties may wish to avoid the high costs of litigation, the uncertainty of proceedings in foreign (to the party) court systems and laws, and the
potential difficulties in enforcing foreign judgments. Two, arbitrations are normally binding and usually
do not allow for an extensive appeal process. Three, arbitral awards are normally confidential, unlike
most court decisions issued in litigation. Finally, the parties to the dispute traditionally select the
arbitrators to hear the dispute—"which allows for the selection of arbitrators well versed in the subject-
matter of the dispute at issue. 

Parties normally choose ICA to resolve disputes when drafting contracts and other agreements—a clause
selecting the institution or arbitral rules to be used in any future disputes can be added to the agreements
during negotiations.

Print Resources

The following is a selected list of the print resources available at the Diamond Law Library on ICA.
There are many more print resources available. See the library catalog and limit the display to material
type: print.

Monographs


Written by S.I. Strong, a former practitioner of ICA, this book is written for a novice in the ICA field.
Chapter 1 sets forth some of the unique issues in researching ICA, while Chapter 2 explains the different
sources of law involved (and sources of law that do not apply to ICA, but are commonly assumed to apply).
Chapter 3 discusses where to find the various sources of law and Chapter 4 discusses customs in
practicing ICA. Chapter 5 provides an extensive bibliography regarding ICA—including treatises,
journals, conventions, treaties and electronic resources.


Written by Simpson Thacher & Bartlett LLP, this publication is a chart comparing the model clauses and
rules of the: International Chamber of Commerce (the "ICC") Arbitration Rules (2012), American
Arbitration Association ("AAA")/International Center for Dispute Resolution ("ICDR") International
Arbitration Rules (2009), London Court of International Arbitration ("LCIA") Rules (1998), Stockholm
Chamber of Commerce Arbitration Institute ("SCCAI") Arbitration Rules (2010), International Centre
on International Trade Law ("UNCTR") Arbitration Rules (2010) and Center for Public Resources
("CPR") International Arbitration Rules (2007). The first five sets of rules are institutional arbitration
rules and the last two are ad hoc arbitration rules. Please note that the chart maybe slightly out-dated, as
the ICC, AAA/ICDR, SCCAI and UNICTRAL rules have been amended since the chart was published
in 2008. Links to the updated rules are available below in Arbitration Proceedings & Institutional Bodies

3. International Chamber of Commerce Arbitration  2nd Floor & 3rd Floor Reserve. JX6279 C8441
2000

Written by W. Laurence Craig, William W. Park and Jan Paulsson, this book addresses arbitration before
the ICC Court of Arbitration. The book begins with a general discussion of the ICC and arbitration
procedures. It continues with an extensive discussion of the clauses of arbitration agreements and the
selection (and challenge) of arbitrators. There is also a brief (and easy to understand) discussion of the
relationship between ICC arbitration and the New York Convention (see Conventions and Protocols
below), as well as the impact other treaties may have on the New York Convention.

The appendices contain a variety of statistics on ICC arbitration, including amounts in dispute, the costs of arbitration and the nationalities of the arbitrators and parties, through 1999. The authors included an extensive Table of Cases (with citations to the case as well as the discussion in the text) as well as a similar Table of Arbitral Awards and a Table of Authorities.


Written by Gary Born, a leading practitioner of ICA, this is a two-volume treatise. Volume I contains an extensive history of ICA, an overview of the major conventions and treaties, and an overview of the major institutional arbitration organizations. The remainder of Volume I provides a substantive overview of the different aspects of an international arbitration, including choice of law and enforcement issues.

Volume II includes chapters on the substance of arbitration agreements as well as the selection of arbitrators and the procedure for challenging arbitrators. Volume II also includes extensive lists of books, articles, legislation, treaties and UN documents regarding ICA. There is also an index of the arbitral awards referenced in the text.


Edited by Frank-Bernd Weigand, this is a one volume handbook. The book begins with a general introduction to ICA (and an extensive bibliography) and follows with separate chapters on ICA in Austria, Belgium, China and Hong Kong, England, France, Germany, Italy, Netherlands, Singapore, Sweden, Switzerland and the United States. Each country chapter also contains a thorough bibliography. The handbook concludes with chapters of commentaries on the UNICITRAL Model Law on ICA, the Arbitration Rules of the ICC, the UNICITRAL rules, the ICDR International Commercial Arbitration Rules and the LCIA Rules. Geared toward practitioners, the country chapters and commentary are to the point and succinct. There is also a Table of Cases and subject index.

For more information regarding finding monographs on ICA, please see the research guide *Finding Books and Articles on International and Foreign Law*.

**Reporters**

**World Arbitration Reporter** 3rd Floor Reserve. K2400 .W672

A six volume publication. Volumes 1 through 1B contain information and commentary on the arbitration laws of each applicable country. Volume 2 contains information and commentary on national arbitration institutions, normally with the applicable rules for such institution attached as an appendix. Volume 3 covers international arbitration institutions (with applicable rules attached as an appendix). Finally, Volume 4 covers treaties, bilateral and regional agreements (with the text of appropriate documents attached as appendices).

**Periodicals**

The following is a selected list of the ICA periodicals available at the Diamond Law Library. There are
many more periodicals available through the library catalog.

1. *The American review of international arbitration* (1990 to present) 3rd Floor Reserve & Cellar. JX1 Am334. Also available electronically through CLIO.

Published on a quarterly basis, this journal publishes articles (written by practitioners and academics) as well as book reviews of books on ICA.

2. *ASA Bulletin* (2003 to present) 3rd Floor Reserve and Cellar. JX1 As12. Also available electronically (Volume 1 (1983) to present) through Pegasus.

Published on a quarterly basis, this is the journal of the Swiss Arbitration Association ("ASA"). Issues can include articles written by practitioners and academics, cases from Swiss courts, cases from foreign jurisdictions, arbitral awards and orders, book reviews and information regarding ASA. Articles can be published in English, French or German.


Published twice a year, this is the publication of the International Chamber of Commerce International Court of Arbitration. Issues may contain reports and information regarding the ICC, new rules or regulations regarding ICA and excerpts from ICC arbitral awards.

4. *ICSID Review Foreign Investment Law Journal* (1986 to present) 3rd Floor Reserve and Cellar. JX1 Ic7. Also available electronically (1986 to present) through CLIO.

Published twice a year, this is the publication of ICSID. Issues may contain articles (sometimes on a particular subject or theme), student articles, reports and book reviews.


Published six times a year, this journal includes shorter articles and news relating to ICA. Each article has keywords associated with it, which can be used to locate similar articles via the annual index.


Published six times a year, this publication includes shorter articles (from practitioners and academics) and the International Arbitration Events Calendar.

**Finding ICA Articles Using Periodical Indexes**

Individual journal articles on ICA can also be found by using periodical indexes (follow the link for a complete list of periodical indexes available at the law library).

Here are some search terms to get started:

- International Commercial Arbitration
- International Chamber of Commerce
- Model International Commercial Arbitration Act
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards
ICA Conventions

ICAs are normally governed by conventions signed by member states. The following is a list of the major conventions in ICA today. Please also see the World Arbitration Reporter (discussed in Reporters above) for additional ICA conventions and treaties.


Two early modern agreements on ICA are the 1923 Geneva Protocol (27 L.N.T.S. 157, from HeinOnline, available to the CLS community) and the 1927 Geneva Convention (92 L.N.T.S. 301, from HeinOnline, available to the CLS community).


The list of parties to the New York Convention and any declarations or reservations made by such party to the convention are available at through the UN Treaty Collection.

3. European Convention on ICA

The European Convention on ICA deals with arbitration agreements, arbitral procedures and awards.

The list of parties to the European Convention on ICA and any declarations or reservations made by such party to the convention are available through the UN Treaty Collection.

4. Panama Convention (Inter-American Convention on International Commercial Arbitration)

This convention was entered into in 1975 among the United States and most South American nations. It is also known as the Panama Convention. The signatories to the convention can be found through the website of the General Secretariat of the Organization of American States.

5. ICSID Convention; Washington Convention (International Center for the Settlement of Investment Disputes Convention)

This convention is also known as the ICSID Convention or the Washington Convention of 1965. It deals with investment disputes between a state (or some state entities) and an individual who is a national of another state that signed the ICSID convention.
The language of the *convention*, rules and regulations regarding arbitrations through the can be found through the website of the World Bank as well as a relatively current list of *parties* to the ICSID convention.

**6. Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters**

This *convention* was concluded in 1971, but has been entered into by only 5 countries. Currently, the five *signatories* are: Albania, Cyprus, Kuwait, Netherlands and Portugal.


This *regulation* deals with the issue of enforcement of arbitral decisions for members of the European Union.

**8. Inter-American Convention on International Commercial Arbitration**

The text of the *convention* and the *signatories* can be found on the Organization of American States website.

**Bilateral Investment Treaties**

Bilateral Investment Treaties ("BITs") are treaties between two countries that often contain clauses allowing foreign investors to require international arbitration of some categories of investment disputes with the state in which the foreign investment has been made. These treaties often have provisions relating to the enforceability of international arbitration awards.

ICSID’s website contains a *database* of bilateral investment treaties. One can browse by country or year of signature. One can also search for a particular treaty between two countries. This database consists of information provided by the countries which enter into such BITs and is therefore not necessarily complete.

The looseleaf publication *Investment Promotion and Protection Treaties* (Fourth Floor, K1112 .I581) is complied by ICSID and contains the text of the bilateral investment treaties that ICSID has been provided by the signatories to such treaties.

The United Nations Conference on Trade and Development's ("UNCTAD") website contains a database where one can search all the *bilateral investment treaties* entered into by a particular country, with date of signature and date of entry into force.

Individual countries will sometimes provide a list of their BITs. The *list* of BITs currently in force by the United States can be found at the website of the Trade Compliance Center, along with links to the text of such treaties.

**UNICITRAL Model Law on ICA**

The *ICA model law* was originally adopted in 1985 to help states adapt their laws to accommodate international commercial arbitration and was *amended in 2006*.

UNICITRAL keeps track of which *countries* have adopted ICA legislation consistent with the language of the Model Law.
Arbitration Proceedings & Institutional Bodies

There are two types of arbitrations—institutional and adhoc. Institutional arbitrations are overseen by an institutional body and controlled by arbitration rules specific to the particular institution (which can also play an administrative role), while adhoc arbitrations are conducted by individual arbitrators, normally controlled by the particular arbitration rules agreed to by the parties in the contract of the underlying dispute and potentially any applicable national arbitration legislation.

In an institutional arbitration proceeding, the arbitration bodies will normally administer the resolution of the dispute, as opposed to resolving the disputes directly. In other words, the arbitrators are selected by the parties to the dispute (although often confirmed by the institutional body and sometimes the arbitrators are chosen by the institutional body), but the arbitrators are not part of the institutional body itself.

The following is a list (and links to) some of the major international arbitration bodies:

**Major International Arbitration Institutions**

1. **International Chamber of Commerce (“ICC”)**

   The ICC publishes rules of arbitration to govern ICA disputes. The 2012 version of the rules are available on the ICC website in Arabic, Chinese, English, French, German, Italian, Japanese, Polish, Portuguese, Russian, Spanish, Thai, and Ukrainian. Only the English and French versions are official versions.

2. **London Court of International Arbitration (“LCIA”)**

   Arbitrations are governed by the LCIA rules, most recently revised in 2014. The LCIA provides a brief summary of the rules here.

3. **International Centre for Dispute Resolution (“ICDR”)**

   The ICDR administers all of the American Arbitration Association’s international arbitrations. The ICDR’s rules, the ICDR International Dispute Resolution Procedures (updated in 2014), are available in English, Spanish, Portuguese, Chinese, Italian, and Arabic.

4. **Swiss Chambers' Arbitration Institution (SCAI)**


   Note that the 2004 rules were based on the UNICITRAL rules (updated 2014), with some modifications. The 2012 rules struck this introductory language. You may find a comparison of the 2004 and 2012 rules here.

5. **Vienna International Arbitral Centre ("VIAC")**

   VIAC coordinates arbitrations based on the VIAC Rules (updated 2013). The main advantage of the Vienna Rules is their flexibility which enables the parties and arbitrators to tailor the proceedings exactly
to the needs of the parties and their dispute. The rules are reproduced in a variety of languages with an English PDF of the updated 2013 rules here and the previous 2006 rules here.

The entire VIAC website (http://www.internationales-schiedsgericht.at/) and arbitration rules are available in English, German, Czech and Russian.

6. Hong Kong International Arbitration Centre ("HKIAC")

HKIAC administers arbitrations pursuant to the HKIAC Administered Arbitration Rules (updated 2013) which are available in English, Chinese, Korean, Portuguese, Spanish, Japanese, and Russian. The English language version is the official version. HKIAC states that their rules are based on the UNICITRAL arbitration rules. The previous version (2008) of the rules can be found here.

7. China International Economic and Trade Arbitration Commission ("CIETAC")

CIETAC administers arbitrations in accordance with the CIETAC Arbitration Rules (updated 2014). The rules are available in English, French, Japanese, Korean, Spanish, and Russian.

8. Cairo Regional Centre for International Commercial Arbitration ("CRCICA")

CRCICA administers arbitrations based on the CRCICA rules which it states are based on the UNICITRAL rules with minor modifications. Copies of the rules are available in English and Arabic.

9. Stockholm Chamber of Commerce Arbitration Institute ("SCC")

The SCC administers arbitrations in accordance with its rules, the SCC Arbitration Rules (2010) or other arbitration rules agreed to by the parties to the dispute. The SCC Arbitration rules are available in English, Swedish, Russian, and Chinese, but the English version is the official version.

10. International Institute for Conflict Prevention and Resolution (CPR)

Developing its own rules for arbitration of international disputes in 2013, the CPR's rules reflect best practices and are modeled on UNICITRAL's rules. A synopsis of key features of CPR's international arbitration rules can be found here.

Subject-Specific International Arbitration Institutions

Institutional arbitration bodies can choose to administer arbitrations dealing with a particular subject matter. The following are two of such institutional bodies:

1. World Intellectual Property Organization

The World Intellectual Property Organization ("WIPO") offers a variety of dispute resolution services, including arbitration, that focus on intellectual property. However, disputes of any topic may be heard by WIPO. You may view the WIPO arbitration rules here, but for more information on WIPO, please see the Resource Guide for Researching Intellectual Property Law in an International Context.

2. Court of Arbitration of Sport

The Court of Arbitration of Sport deals with sports-related disputes. The website is available in English and French and its arbitration rules (updated 2013), similarly, are available in English and French.
Recent arbitral decisions are available in English or French in .pdf format. An archive of non-confidential decisions since 1986 are in a database, also in .pdf format. One can browse decisions by sport or by year and can do keyword searching.

**Ad Hoc Arbitrations**

Ad hoc arbitrations are not conducted under the auspices of an institutional body—rather they are organized by the parties to the dispute.

1. **UNICITRAL**

The UNICITRAL Arbitration Rules are designed to be used in ad hoc arbitrations. The texts of the original rules (1976) and the updated rules (2014) are available on the UNICITRAL's Arbitration Rules page.

2. **CPR**

The CPR created the CPR Rules for Non-Administered Arbitration of International Disputes and Commentary, which were most recently revised in 2007.

**Arbitral Awards**

In contrast to court opinions, arbitration submissions and awards are often confidential. This makes locating the awards much more difficult than locating court opinions. However, there are a variety of electronic databases and print reporters that publish arbitral awards. These awards are sometimes excerpts (and confidential information has been removed).

1. **Reports of International Arbitral Awards**

Part of the United Nations website, this database contains pdf versions of the Reports of International Arbitral Awards (“RIAA”), currently through Volume XXX (2013). Each volume contains a table of contents, index and foreword explaining the awards published in the particular volume. One can search by volume of the RIAA or by party to a dispute. One can also conduct a full-text search of the volumes.

The RIAA is limited to arbitral decisions between states or between states and international organizations. There are also some decisions between individuals and states in which the individual has a sponsoring state.

The awards are published in English and French (and normally both)—with footnotes stating when the translation has been done by the United Nations Secretariat. The RIAA publishes recent awards, as well as older awards (previously published elsewhere) which have become less accessible over time. There are sometimes maps published in connection with an award—such maps are only available in the print version.

This United Nations publication is also available in print (through Volume 29) and online through Hein Online (currently through Volume 30, from HeinOnline, available to the CLS community).

2. **Case Law on Uncitral Texts (CLOUT)**

Part of the United Nations Commission on International Trade Law website, this is a freely accessible
database of court decisions and arbitral awards relating to:

- UNCITRAL Model Law on International Credit Transfers (1992)
- UNCITRAL Model Law on Cross-Border Insolvency (1997)

Decisions and awards are collected by national correspondents of each state that is a party to one of the conventions listed above and/or has adopted legislation based on one of the model laws listed above. The correspondents then prepare abstracts of such decisions and awards. The abstracts are published intermittently and are made available in the six official UN languages: Arabic, Chinese, English, French, Russian and Spanish.

Abstracts can be browsed (by date of publication) or searched by a number of subjects: legislative text and article, date, country, court, parties and keyword.

3. ICSID Cases

ICSID provides a database of pending and concluded cases to search, from the 1980's onward, with fairly extensive information about each case. Citations to decisions (if publicly available) are also provided. The database is advanced, allowing searching by applicable rules, economic sector, case number, and outcome.

4. UNCTAD

UNCTAD provides a database of information regarding arbitral awards (concluded or pending) that one can browse or search. There are a variety of facets available (parties, home country of investor, type of investment, rules etc.). However, the search feature is extremely slow (and isn't always working) and there are no links to the actual awards.

5. Collection of ICC Arbitral Awards Fourth Floor, K2400.A47 C65

There are six volumes of ICC Court of Arbitration cases, covering years 1974-2001. Each volume contains abstracts of awards and commentary on the Court of Arbitration cases that have been previously published in the Yearbook Commercial Arbitration and the Journal du Droit International. There are indexes to search by date (and case number) and by subject. Abstracts and commentaries are available in English and French (but not always both).

This resource is also available on Westlaw (Database ICC-AWARDS) covering the years 1974-2004.

Starting in 1976 and published annually, this publication provides references to new or amended foreign arbitration rules, a short description of recent ICA developments in relevant countries and, most importantly, arbitral awards and court decisions. Many of the awards are excerpts, but the complete award or decision is available at Kluwer Arbitration.com (which is a subscription database available to the CLS community). The awards are organized by arbitral body and the court decisions are organized by the ICA convention that is relevant to the case. For ease of searching, there is a subject index for arbitral awards.

7. **ICSID Reports** 3rd Floor Reserve, JX1976.S1 Ic71 1993

Currently a 15 volume set, the ICSID Reports publish arbitral reports (in full text when available) by tribunals or ad hoc committees based on the ICSID Convention. Volume 1 contains cases commenced between 1972 and 1981 and Volume 15 covers cases commenced between 1998 and 2004. Each volume contains a table of cases published in the particular volume, a table of cases published in all existing volumes and a digest for cases published in the particular volume. There is also a subject index at the back of each volume. Volumes 1 through 10 have cumulative subject indexes, while volumes 11 through 15 have individual subject indexes. All reports (either full-text or excerpts) are printed in English. For each report, the editors have added headings (in bold) indicating the main issues of law and a summary of the proceedings.

8. **World Trade and Arbitration Materials** 3rd Floor Reserve, JX1 W8928

This publication is available in print (starting with Volume 6 1993/1994 to present) and online via Pegasus through Kluwer Law International (1989 to present). The contents of the online issues appear to be pdf scans of the printed version, but missing the cover page and the table of contents. This journal publishes some arbitration awards and information on arbitration statutes and legislation (in addition to reports relating to trade policy in various countries).

9. **Mealey's International Arbitration Report**

This print publication contains information and commentaries on awards and issues relating to international arbitration, as well as some full-text awards and other publications. The "Cases in this Issue" chart on the inside cover page of each issue indicates which full-text documents are available in the publication.

This publication is also available through Lexis.com under the International Arbitration tab as International Arbitration: Mealey's Litigation Report. Links to the various documents referenced in the articles are also available.

10. Subscription Databases

Arbitral awards are also available through the subscription databases listed below (available to members of the CLS community).

**Subscription Databases**

There are several subscription databases available to the CLS community for ICA:

1. **Kluwer Arbitration**

This database includes a large number of books, including Born's International Commercial Arbitration,
Yearbook Commercial Arbitration and Redfern and Hunter on International Arbitration. One can browse the books through the table of contents or search in particular sources (using the advanced search feature). There are also several journals available through this database. The full-text of many ICA conventions, national legislation, rules and BITs can be browsed as well. In addition, there is a collection of New York Convention decisions, organized by article of the convention. Kluwer also has a blog with posts by practitioners and scholars in the ICA field. The blog is available without a subscription to the database.

Using the advanced search feature, one can search for different types of documents (awards, rules, commentary etc.), party, source and organization (among others).

2. **Lexis.com & Lexis Advance**

LexisNexis has an "International Arbitration" tab which includes databases such as: International Arbitration: Mealey's Litigation Report (starting in 1993) and the journal American Review of International Arbitration (from 1996). There is also a database of U.S. Treaties. See the International Arbitration tab in LexisNexis for a full list of available databases.

In Lexis Advance, using the Browse function, browse Topics to International Trade Law, where you'll find Dispute Resolution and International Commercial Arbitration.

3. **WestlawNext**

Under the Alternative Dispute Resolution area of practice, Westlaw provides a number of ICA databases including: International Commercial Arbitration-Cases (ICA-CASES) which includes published and unpublished cases from a number of countries, a variety of ICA treatises and rules and ICA journals. See the Arbitration Materials section in Westlaw (search for arbitration materials and select the suggested content) for a full list of available databases.

4. **Investment Arbitration Reporter**

This database provides both news articles on investment arbitration and copies of the underlying arbitration documents. One can browse new articles by topic, for example, ICC Rules, NAFTA or Environmental Disputes (among many others) and download pdf copies of the documents mentioned in the news articles. The news articles are compiled into newsletters which can be downloaded as pdfs.

5. **Transnational Dispute Management**

Transnational Dispute Management is an online journal published approximately 4 to 5 times a year, focusing on international arbitration. Issues can be browsed (or downloaded as pdfs) and articles can be browsed by topic or author. There are search features (regular and advanced). The advanced search feature gives the option of full-text searching, but limited to a particular category of articles. The database also includes a variety of documents—arbitration agreements, legislation, awards and cases that can be browsed or searched. The most helpful browsing capability is by country.

Although not ICA specific, the *Foreign Law Guide* and the *Global Legal Information Network* are also useful databases for foreign and international resources.

**National Arbitration Laws**

Conducting research on ICA will often require research into the arbitration laws of individual countries.
Although such laws are beyond the scope of this research guide, the *World Arbitration Reporter* (discussed in *Reporters*, above) contains information and commentary on the arbitration laws of many countries. The American Society of International Law *International Commercial Arbitration* research guide contains links to many national arbitration laws.

**Other Research Guides**

For more information, please see the following research guides on ICA:

Cornell Law Library. *International Commercial Arbitration*

Georgetown Law Library. *International Commercial Arbitration Research Guide*

Miccioli, Gloria. The American Society of International Law. *International Commercial Arbitration*

Please send comments regarding this guide to Alison P. Sherwin, Reference Librarian, Columbia University, Diamond Law Library, at alison.sherwin@law.columbia.edu

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