
THE ROLE OF INTERNATIONAL ARBITRATION IN RESOLVING CROSS-BORDER BUSINESS DISPUTES

Saman Rizwan, LL.M, National University of Research and Study in Law, Ranchi

ABSTRACT:

The global economy is still experiencing significant changes almost two years after the onset of the COVID-19 epidemic, while a prolonged conflict threatens the edges of Europe. There is a possibility of a global economic recession, along with the worries associated with rapid inflation. It is anticipated that the far-reaching consequences of the pandemic, such as interruptions in the supply chain, shortages of labour, rising material expenses, and delays and cancellations of projects, will persist in the foreseeable future. To address these unique challenges, authorities have attempted to control inflation by raising interest rates, while still stimulating economic growth through increased government spending. Several governments have made substantial commitments to allocate funding for infrastructure projects. The promises mentioned are the US's \$1.2 trillion infrastructure package, the UK's £600 billion 'Build Back Better' program, and China's long-standing trillion-dollar Belt and Road Initiative, which is anticipated to expand in the future. The illicit hostilities instigated by Russia in Ukraine, along with the resultant economic sanctions, have resulted in the severance of ties between some Western corporations and Russia. Moreover, this has exacerbated the burden on worldwide transportation and supply chain networks, leading to a surge in energy and commodity costs.

The ongoing turbulent period is expected to result in an increase in cross-border conflicts. Under these circumstances, it is imperative to engage in strategic proactive preparation for dispute settlement. An excellent strategy is to incorporate meticulously designed dispute resolution provisions in your contracts. This essay will assess the benefits and limitations of the many conflict resolution options available to corporate lawyers: litigation, arbitration, and mediation. Next, we will provide specific instructions on how to draft an arbitration agreement, as it is frequently preferred for settling disputes that involve many jurisdictions.

Keywords: International arbitration; cross border; disputes; jurisdiction; issues and challenges.

INTRODUCTION:

As a result of the increasing interdependence of the global economy, there has been a significant rise in corporate transactions that cross national borders, leading to a commensurate increase in commercial conflicts. Effectively and efficiently resolving such issues is essential for upholding economic stability and promoting international trade ties. International arbitration has become a major method for addressing these issues, providing parties with a neutral platform for resolution that is apart from the conventional legal system. This research study examines the function of international arbitration in resolving commercial disputes that occur in cross-border situations. This methodology employs a comparison research to provide insight into the effectiveness, benefits, and constraints of this strategy.

The growing preference for international arbitration as a means of resolving disputes involving multiple countries can be attributed to the initial economic transactions between merchants operating under distinct legal frameworks.¹ Given the expansion of international trade and the growing intricacy of commercial dealings, it became clear that a regulated and efficient system was needed to handle and settle conflicts. International arbitration has become a feasible substitute for litigation in domestic courts due to its flexible nature, neutrality, and ability to enforce rulings.²

International arbitration provides numerous benefits, such as ensuring the protection of secrecy, leveraging the specialized knowledge of arbitrators, and enabling the enforcement of rulings on a global scale. However, it also encounters obstacles such as intricate protocols, expenses, and difficulties in executing rulings. Furthermore, continuing academic research is being conducted to analyse the relative efficacy of international arbitration in various legal systems and different institutional contexts. In order to strengthen the role of international arbitration in promoting global trade, it is crucial to thoroughly comprehend these issues and assess the effectiveness of this method in comparison to other dispute resolution strategies.

¹ Queen Mary University of London, *The Future of International Energy Arbitration* (2019), <https://arbitration.qmul.ac.uk/media/arbitration/docs/Future-of-International-Energy-Arbitration-SurveyReport.pdf>.

² Queen Mary University of London, *The Future of International Energy Arbitration* (2019), <https://arbitration.qmul.ac.uk/media/arbitration/docs/Future-of-International-Energy-Arbitration-SurveyReport.pdf>.

EVALUATING ALTERNATIVE METHODS FOR RESOLVING CONFLICTS:

International arbitration is the preferred method for resolving disputes in cross-border business transactions. This is primarily due to the fact that arbitration in the international setting offers specific advantages that go beyond those often associated with arbitration in the domestic context. Nevertheless, international arbitration has certain constraints, and it is important for parties to thoroughly evaluate whether litigation or mediation may be more suitable alternatives, taking into account their requirements, the underlying transaction, and the nature of their commercial relationship

Arbitration, whether in domestic or international settings, offers three widely acknowledged advantages:

- (i) confidentiality,
- (ii) procedural flexibility, and
- (iii) the parties' freedom to choose arbitrators.

Although secrecy is not universally ensured (as it may require explicit contractual agreement), the capacity to maintain proceedings in a confidential manner remains an attractive attribute due to its ability to safeguard sensitive material and mitigate reputational hazards.³ The appeal of arbitration also lies in its capacity to select uncomplicated procedural regulations, such as bypassing lengthy and costly pre-trial investigations, and customizing those regulations to suit the specific characteristics of the disagreement. Companies often turn to arbitration as it enables them to choose arbitrators who possess specialized knowledge and industry experience. These arbitrators can effectively employ their skills to efficiently resolve technical disagreements.

Furthermore, international arbitration offers three distinct advantages specific to conflicts that span across several countries:⁴ The three key elements are

³ Noble, Piotr, "Confidentiality in International Commercial Arbitration: Bedrock or Window Dressing?", *Kluwer Arbitration Blog* (Feb. 21, 2017), <https://arbitrationblog.kluwerarbitration.com/2017/02/21/confidentialityinternational-commercial-arbitration-bedrock-window-dressing/>.

⁴ Stephen L. Brodsky, *Cross Border Arbitration: A Beneficial Alternative to Resolving International Commercial Disputes*, MAZZOLA LINDSTROM LLP (July 15, 2021), <https://www.mazzolalindstrom.com/news-post-4/>

- (i) a singular platform for discussion;
- (ii) an impartial platform; and
- (iii) a legally binding decision.

Given that cross-border conflicts typically encompass events occurring in many jurisdictions and involve individuals from other countries, they frequently give rise to conflicting assertions of jurisdiction by courts from various states. Although it is possible to legally assign a national court exclusive authority over a dispute that crosses borders, such as the courts of England and Wales, there is currently no universally recognized international agreement in effect for acknowledging and enforcing such clauses that determine the jurisdiction of the court. In contrast, a venue selection clause that refers a matter to arbitration is highly enforceable under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, also known as the New York Convention,⁵ which has been ratified by around 170 countries. In addition, international arbitration enables parties to circumvent a foreign court where their opponent may have an advantage due to familiarity with the local legal system. An international arbitration can take place in a country that is neutral, with the rules being administered by an impartial arbitral institution, and the arbitrators not being citizens of either party's state. In addition, it is important to note that although there is no universally accepted treaty for the acknowledgment and enforcement of foreign court decisions (this procedure is typically guided by principles of mutual respect in most nations), the recognition and enforcement of arbitration awards is significantly eased due to the widely accepted New York Convention. This convention mandates the recognition of international arbitration awards, with only a few specific cases where recognition may be denied.

Although arbitration offers numerous benefits, choosing this option frequently means giving up certain potentially captivating aspects of litigation. For example, while a decision made by a court can usually be challenged through an appeal process, an award made by an arbitration panel is normally not subject to appeal. The grounds for annulling an arbitral award are typically more restricted compared to those for vacating a judicial verdict. Furthermore, arbitrators typically possess narrower authority compared to judges when it comes to making decisions on various issues that may emerge throughout the processes. These issues include

⁵ Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 3.

compelling witnesses, issuing injunctions, making summary judgments, and including non signatories in multiparty disputes.⁶

Mediation presents the opportunity to circumvent a lengthy process of resolving disputes, be it through litigation or arbitration. Nevertheless, the primary function of a mediator is to promote the exchange of information and dialogue between the involved parties, who may still be unable to come to a resolution. If mediation is not effective, the parties will be left with no alternative but to pursue either arbitration or litigation. However, mediation is often the optimal choice for resolving intricate conflicts between parties, particularly those involved in a continuing business relationship, as it avoids favouring one side over the other. An effective mediator can facilitate the development of innovative resolutions that are acceptable to all parties involved.

INTERNATIONAL ARBITRATION AND CROSS-BORDER DISPUTE:

The subject matter is highly relevant due to its consequences for global trade, investment, and economic progress. Given the growing amount of foreign transactions conducted by firms, it is crucial to rapidly and fairly address any issues that arise. This article examines the significance of international arbitration in relation to the rule of law, institutional frameworks, and legal processes that regulate global trade. It contributes to the broader discussion on this topic.

International arbitration is a process used to resolve disputes between parties from different countries. It involves the use of a neutral third party, known as an arbitrator, who makes a binding decision on the matter. This method is commonly used in international business transactions to avoid the complexities and potential biases of national court systems.⁷ Disputes, irrespective of whether they pertain to individuals, businesses, or governments, become considerably more complex when they transcend national borders. As a result, it is unsurprising that a variety of international arbitration systems, as well as other forms of conflict resolution including mediation, are already available for resolving these issues.

⁶ Katie Shonk, International Arbitration: What It Is and How It Works, Harv. L. Sch. Program on Negotiation (Mar. 23, 2023), <https://www.pon.harvard.edu/daily/international-negotiation-daily/international-arbitration>

⁷ The Commonwealth, Blog: How a Robust International Arbitration Framework Can Boost Global Trade and Economic Growth, The Commonwealth (Jan. 18, 2022), <https://thecommonwealth.org/news/blog-how-robust-international-arbitration-framework-can-boost-global-trade-and-economic-growth> (last accessed Apr. 21, 2024).

Arbitration is a process in which two competing parties agree to have an unbiased individual or group make a final and binding judgment to settle their dispute. This decision is based on preset rules and regulations. International arbitration entails the resolution of a dispute by presenting it to an impartial tribunal or panel, which will render a definitive and binding decision, usually grounded in international law. This description is provided by Jeswald W. Salacuse, the dean and distinguished professor emeritus of Tufts University's Fletcher School of Law and Diplomacy. The New York Convention, officially titled the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, governs the validity and implementation of arbitration agreements and awards across 169 countries. The Convention requires national courts to recognize and enforce foreign arbitral rulings and arbitration agreements.

According to Salacuse in the *Negotiation Journal*, there are three primary categories of international arbitration. The three categories share identical ideas and methods, and frequently involve the same individuals serving as arbitrators or legal counsel across all three types. However, the specifics of the various forms of international arbitration differ depending on the characteristics of the individuals involved and the regulations they have mutually accepted to govern their disagreement. We will examine each category of international arbitration individually.

1. Interstate Arbitration:

Interstate arbitration is a process where nations, represented by their respective governments, settle their disputes by means of arbitration. According to Salacuse in the *Negotiation Journal*,⁸ interstate arbitration is not just a legal process, but also has tactical and strategic significance in resolving major international conflicts between nations, under suitable conditions. For instance, the Red Sea Islands Arbitration between Eritrea and Yemen sought to resolve conflicting assertions on several unpopulated formations in the Red Sea. According to Salacuse, international arbitration had the additional benefit of offering a method to resolve a

⁸ Erika R. George, *Embracing Meaningful Constraints: Recognizing the Rule of Law and International Human Rights Standards in AI Governance*, 41 *Northwestern Journal of International Law & Business* 401 (2021), <https://doi.org/10.1111/nejo.12393>

potentially harmful military conflict in 1995 that posed a threat to a significant global commerce route, while allowing the involved parties to save face.⁹

Interstate arbitration, despite its potential to effectively resolve international conflicts, is not often utilized and is often neglected in discussions and teachings on conflict resolution, as stated by Salacuse. He contends that international mediators and the training programs that educate them should prioritize the potential of interstate arbitration to facilitate diplomatic efforts.

2. Investor-State Arbitration:

It refers to the process of resolving disputes between foreign investors and host states through international arbitration. According to Salacuse in the *International Lawyer*, investor-state arbitration is considered a groundbreaking advancement in international litigation. This rapidly expanding field of international arbitration resolves conflicts between sovereign states and private foreign investors, including individuals or corporations from other countries.

Investor-state arbitration emerged during the latter part of the 20th century as a result of governments engaging in negotiations for bilateral and multilateral investment treaties. These treaties involve nations making pledges on their treatment of investors and investments from other countries. They also agree to specific enforcement procedures, such as arbitration, to resolve problems with foreign investors. Investor-state arbitration grants foreign investors the privilege to legally pursue a host government for financial reparation through an international arbitration tribunal in cases where they have suffered harm due to the actions of that government. Therefore, it represents a significant deviation from previous approaches to resolving such conflicts, which necessitated investors depending on the diplomatic support of their respective nations. As of 2021, investors had filed lawsuits against 124 countries in more than 1,100 cases that were submitted to investor-state arbitration.¹⁰ Salacuse states that a significant number of these international arbitration cases led to arbitration verdicts amounting to hundreds of millions of dollars, but not the majority of them.

⁹ John Braithwaite, *Optimism and Pessimism in International Arbitration*, 25 *New Eng. J. Int'l & Comp. L.* 351 (2019), <https://onlinelibrary.wiley.com/doi/abs/10.1111/nejc.12393>.

¹⁰ United Nations Conference on Trade and Development, *Global Investment Trends Monitor No. 40*, at 1 (Jan. 2021), https://unctad.org/system/files/official-document/diaepcbinf2021d7_en.pdf.

3. International Commercial Arbitration:

International business arbitration, which is the prevailing type of international arbitration, takes place when parties from different nations are involved. The majority of commercial arbitration cases are to contractual disputes among firms. Businesses from many nations typically favor arbitration over litigation in the courts of either party. The reason for this belief is because an international tribunal is expected to possess greater impartiality towards national biases and possess a deeper understanding of international business practices compared to a regular national court of law. Consequently, the majority of contracts between multinational firms include a dispute resolution language that stipulates that any disagreements originating from the contract will be resolved through arbitration instead of going to court. During the negotiation of their first contract, it is advisable for the parties to clearly define the forum for the arbitration, procedural procedures, and governing law. Arbitration applies various types of legislation, including both procedural and substantive international treaties and state laws, as well as the procedural norms of the relevant arbitral institution.

COMPARATIVE ANALYSIS OF INTERNATIONAL ARBITRATION WITH LITIGATION:

The selection of a method for resolving disputes deserves careful consideration. Among the several methods available for settling international commercial disputes, arbitration presents numerous advantages compared to litigation. Benefits of arbitration include its strong enforcement. The New York Convention, formally known as the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, was established in 1958 and is currently ratified by over 170 countries. It encompasses nearly all nations and territories engaged in active global business endeavours.

According to the agreement, every country that agrees to it must acknowledge and uphold all foreign arbitration rulings, unless they have specifically declared reciprocity and made a commercial reserve at the time of signing the treaty¹¹. This guarantees the implementation of international arbitral judgments in these participating nations.

¹¹ Rashda Rana, International Arbitration vs. Cross-Border Litigation, Law.asia, <https://law.asia/internationalarbitration-v-cross-border-litigation/>. (Oct. 1, 2023).

1. **Enforceability:** Nevertheless, there is currently no universally influential agreement for the mutual recognition and enforcement of court rulings. The recognition and enforcement of a court ruling from one state in another state is contingent upon the presence of a bilateral treaty on judicial aid or a reciprocal relationship. This creates a significant amount of ambiguity when it comes to cross-border recognition and enforcement.
2. **Privacy.** In the context of international commercial conflicts, litigants typically aim to avoid garnering public attention. Confidentiality is a crucial factor to consider when selecting a dispute resolution technique. It is ensured under the arbitration regulations of prominent international commercial arbitration organizations.

Arbitration proceedings and their substantive material will not be made public without the approval of the parties involved. In contrast, public hearings are a customary aspect of civil litigation in numerous nations, allowing for the parties' participation and pertinent rulings to be easily accessible through public channels. Nevertheless, the level of confidentiality in arbitration is not without limitations. Arbitration proceedings frequently necessitate the involvement of judicial proceedings, such as challenges to jurisdiction, temporary injunctions, and the enforcement of arbitral rulings. During these proceedings, certain details of the conflicts may still be disclosed to some degree.

3. **Impartiality.** During arbitrations, those involved in the legal dispute have the freedom to select the arbitration process, the nationality of the arbitrators, the relevant laws, and the language and location where the arbitration will take place. By choosing a neutral country as the location for arbitration, parties can effectively circumvent the jurisdiction of courts in the country where the dispute is situated. Arbitration offers several additional benefits, including the ability to exercise one's own judgment and adaptability in the process. Arbitration rules exhibit greater uniformity between institutions, while litigation procedures differ considerably among countries. Parties have the option to form an arbitral tribunal consisting of highly skilled industry specialists who will provide expert judgments.

Due to its numerous advantages, arbitration has emerged as the prevailing option for resolving disputes in international business agreements. Nevertheless, in certain

instances, the authoritative influence of court litigation is more effective in safeguarding the interests of the party who is not at fault.¹²

The advantages of employing arbitration in a dispute that spans multiple countries Arbitration, in contrast to litigation, can assist in preserving your commercial relationship. Litigation almost invariably causes a significant breakdown in a long-standing corporate partnership, and opting for arbitration instead of litigation can, in certain instances, aid in maintaining a commercial relationship in the years to come. Implementing this measure can help you avoid the risk of jeopardizing a significant commercial partnership. When both sides have reached a joint conclusion, there is a higher probability of compliance since they have collaborated to find a solution.

Utilizing alternative conflict resolution can effectively safeguard the reputation of your firm. One of the primary benefits of ADR is its private nature, as it avoids the involvement of a public court that is accessible to the general public, including journalists and competitors.

Engaging in a highly publicized or delicate conflict can be detrimental and harm your company's standing.

CASE STUDIES: EXAMINATION OF SELECT CROSS-BORDER BUSINESS DISPUTES RESOLVED THROUGH INTERNATIONAL ARBITRATION:

Chevron Corporation v. Republic of Ecuador:¹³ The case of *Chevron Corporation v. Republic of Ecuador* is a notable instance of a transnational commercial conflict settled through international arbitration. In this case, the multinational oil company Chevron initiated an arbitration claim against the Republic of Ecuador, seeking resolution under the jurisdiction of the Permanent Court of Arbitration (PCA) located in The Hague, Netherlands. The conflict originated from a protracted court conflict concerning environmental pollution and purported violations of investment protection agreements.

¹² United Nations Conference on Trade and Development, *Investment Policy Review: Sri Lanka*, UN Doc. UNCTAD/ED/Misc/232/Add.38 (2015), https://unctad.org/system/files/officialdocument/edmmisc232add38_en.pdf.

¹³ *Chevron and TexPet v. Ecuador (I)- Chevron Corporation and Texaco Petroleum Company v. The Republic of Ecuador (I)* (PCA Case No. 2007-02/AA277)

The controversy arose from Chevron's purchase of Texaco Inc., which managed oil reserves in Ecuador from 1964 to 1992. Following Texaco's cessation of operations, Ecuadorian plaintiffs initiated legal proceedings in the United States against Chevron, claiming environmental harm resulting from oil drilling operations. Chevron contended that Texaco had previously resolved its ecological obligations with the Ecuadorian government in a 1995 accord, and any additional demands should be directed at the government rather than Chevron.

The initial verdict of the Ecuadorian courts favoured the plaintiffs, compelling Chevron to pay a substantial sum of money in damages. Nevertheless, Chevron disputed the legitimacy of these rulings, claiming that there was fraud and corruption involved in the Ecuadorian legal proceedings. Chevron then commenced international arbitration proceedings against Ecuador pursuant to the Bilateral Investment Treaty (BIT) between the United States and Ecuador.

The arbitration tribunal, consisting of three impartial arbitrators, was assigned the responsibility of resolving Chevron's allegations of violations of the BIT, such as denial of justice, lack of fair and equitable treatment, and infringement of the principle of full protection and security. The tribunal conducted hearings, examined voluminous documentation evidence, and listened to testimonies from expert witnesses on environmental, legal, and economic issues.

The tribunal's ultimate verdict, given in 2018, held Ecuador responsible for violating the Bilateral Investment Treaty (BIT) and granted Chevron over \$96 million in compensation for damages, in addition to covering costs and legal fees. The tribunal determined that Ecuador's court system had not afforded Chevron with impartial and just treatment, and that the legal proceedings in Ecuador were marred by errors and infringements of due process.

The Chevron v. Ecuador case illustrates the intricate nature and difficulties involved in crossborder economic disputes, highlighting the significance of international arbitration as a means of resolving such conflicts. Furthermore, it emphasizes the significance of investment protection agreements and the implementation of arbitral rulings in fostering global trade and instilling trust in investors. This practical scenario provides a valuable opportunity to examine the effectiveness, benefits, and constraints of international arbitration in the context of intricate multinational conflicts. Indeed, presented below are four concrete instances of cross-border business conflicts that were successfully resolved via international arbitration:

Rusoro Mining vs. Venezuela:¹⁴ Rusoro Mining, a Canadian mining firm, has filed for arbitration against the government of Venezuela after its gold mining activities in the country were nationalized. The conflict emerged in the midst of political and economic chaos in Venezuela, with Rusoro claiming that the government's actions constituted expropriation without sufficient compensation. The arbitration panel, established by the International Centre for Settlement of Investment Disputes (ICSID), ruled in favor of Rusoro, granting substantial compensation for the illegal seizure of its assets. The case highlighted the significance of investment protection agreements and international arbitration in protecting the rights of foreign investors in politically volatile settings.

Siemens vs. Argentina:¹⁵ Siemens, a German multinational business, became embroiled in a conflict with the government of Argentina regarding a contract for the development of gasfired power facilities. The Argentine government cancelled the contract, citing corruption and irregularities in the tendering procedure. Siemens refuted the accusations and commenced arbitration proceedings in accordance with the regulations of the International Chamber of

Commerce (ICC). The arbitration tribunal concluded that Argentina had unlawfully terminated the contract and granted Siemens significant compensation for the contract violation. The case exemplified the significance of international arbitration in resolving intricate contractual conflicts that arise from government contracts and infrastructure projects in developing economies.

CONCLUSION:

While ADR techniques are generally considered to be less expensive than litigation, international commercial arbitration can often be more costly, particularly in complex international cases where both parties hire renowned lawyers and expensive arbitrators.¹⁶ Furthermore, due to the absence of stringent adherence to the rules of evidence, the arbitration panel may be exposed to irrelevant and inflammatory materials, resulting in wastage of time and resources on unnecessary matters. In certain circumstances, arbitration is not typically favoured. For instance, certain sovereign States are reluctant to engage in arbitration, while

¹⁴ Rusoro Mining v. Venezuela- Rusoro Mining Ltd. v. Bolivarian Republic of Venezuela (ICSID Case No. ARB(AF)/12/5)

¹⁵ Siemens v. Argentina- Siemens A.G. v. The Argentine Republic (ICSID Case No. ARB/02/8)

¹⁶ "Arbitration vs. Litigation," LexisNexis Legal Insights, Accessed at 25 March 2024. Available at: , <https://www.lexisnexis.com/community/insights/legal/b/thought-leadership/posts/arbitration-vs-litigation>

bank creditors, along with their legal representatives, tend to favor litigation for resolving conflicts resulting from certain international loan arrangements. It is highly preferable for the rules and procedures of all or most nations to be uniform in regards to international commercial arbitration, regardless of whether those rules and practices pertain to public policy or not. If such homogeneity already existed, there would be no objection whatsoever to it. Currently, there is a lack of standardization, particularly in regards to public policy standards. This study aims to propose the development of standardized or at least closely aligned (including public policy regulations) universally accepted norms for the arbitration of international commercial disputes. Uniform rules should necessarily consider the interests of all nations or at least regions, and should not appear to be created by a single group or region and imposed on others without taking into account cultural, historical, and present-day differences.

Furthermore, there is a valid concern that certain countries, particularly those in the developing world, could hinder the establishment of consistent arbitration rules for international business disputes. This is particularly true because many of these developing countries have only recently begun utilizing arbitration for resolving international disputes, and some of them still demonstrate a lack of enthusiasm towards arbitration. When considering the issue of arbitration in international disputes involving developing countries, one important question arises: should contracts for the exploitation of natural resources, which are crucial to the economies of these countries, be resolved through arbitration or solely by their domestic courts applying domestic laws, even when there are other international parties involved? This question can be extended to consider whether these contracts should be subject to the domestic laws of the respective countries or a specific set of universal legal rules guiding international conflicts, or an international law specifically for contracts. There is a concern that these developing countries are unlikely to make these conflicts subject to arbitration. Nevertheless, there might be certain cases that deviate from this line of thinking.

Furthermore, it is important to note that there are potential restrictions on confidentiality. Even in cases when parties choose to maintain the confidentiality of their arbitration, there may be legal obligations that mandate the disclosure of certain details of the procedure. Entities that are not directly involved in a legal dispute, such as a parent business, an insurance, or a guarantor, may have valid reasons for wanting to be kept informed about the details of an ongoing arbitration process. Any confidentiality agreement between the parties must explicitly address the company's need to disclose arbitration proceedings or awards that may impact its

financial decisions. The most challenging issue that can impede the efficiency of arbitration pertains to conflicts and parties involved. It is possible that a disagreement may occur with a connected organization within the counter-party's corporate group, rather than the counter-party itself, which has agreed to arbitration.¹⁷ Consequently, complex jurisdictional concerns can arise. Although several countries have established regulations and principles about "piercing the corporate veil" and other methods of resolving technical issues, any uncertainty over the identification of the appropriate parties involved in the dispute can significantly increase costs and cause delays in the process.³⁸ In conclusion, it is imperative for the primary governing bodies overseeing arbitration procedures, particularly in the realm of international business disputes, to prioritize simplicity and minimize complexity. This is crucial to maintain the appeal of arbitration and to establish a more consistent and universally applicable system of international arbitration, which in turn facilitates the enforcement of awards.

¹⁷ Greenberg, S. H., & Mazza, C. (2018). The Role of Institutional Arbitration in Resolving Cross-Border Business Disputes. *Journal of International Dispute Settlement*, 9(1), 85-112.

BIBLIOGRAPHY:

1. Carr Indira(2005) “International Trade Law”, Routledge-Cavendish.
2. Nations Commission on International Trade Law (UNCITRAL). (2020). UNCITRAL Model Law on International Commercial Arbitration.
3. International Chamber of Commerce (ICC). (2017). ICC Rules of Arbitration.
4. London Court of International Arbitration (LCIA). (2021). LCIA Arbitration Rules.
5. International Centre for Dispute Resolution (ICDR). (2014). ICDR International Arbitration Rules.
6. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) (1958).
7. Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) (1965).
8. Born, G. (2014). International Commercial Arbitration (2nd ed.). Kluwer Law International.
9. Blackaby, N., Partasides, C., Redfern, A., & Hunter, M. (2015). Redfern and Hunter on International Arbitration (6th ed.). Oxford University Press.
10. Mistelis, L. A., & Shore, L. (Eds.). (2019). Comparative International Commercial Arbitration. Kluwer Law International.
11. Gaillard, E., & Di Pietro, A. (Eds.). (2015). Enforcement of Arbitration Agreements and International Arbitral Awards: The New York Convention in Practice. Cameron May Ltd.
12. Van den Berg, A. J. (Ed.). (2014). The New York Arbitration Convention of 1958: Towards a Uniform Judicial Interpretation. Kluwer Law International.

13. Park, W. W., & Paulsson, J. (Eds.). (2015). ICCA Congress Series No. 18: Arbitration in Practice. Kluwer Law International.
14. Lew, J. D. M., Mistelis, L. A., & Kröll, S. (Eds.). (2003). Comparative International Commercial Arbitration. Kluwer Law International.
15. Scherer, M. (2017). International Arbitration in Switzerland: A Handbook for Practitioners (3rd ed.). Wolters Kluwer.
16. Van Hooft, S. J. (Ed.). (2016). Arbitration Costs: Myths and Realities in Investment Treaty Arbitration. Kluwer Law International.
17. Black, J., & Donald, D. C. (Eds.). (2015). Law and Practice of International Commercial Arbitration. Sweet & Maxwell.
18. van den Berg, A. J. (2006). The New York Arbitration Convention of 1958: Towards a Uniform Judicial Interpretation. *Journal of International Arbitration*, 23(1), 3-40.
19. Hwang, M. J. (2018). The Evolution of International Commercial Arbitration: From Customary Rules of Procedure to Modern Institutions. *Fordham International Law Journal*, 41(1), 81-122.
20. Franck, S. D. (2007). The Legitimacy Crisis in Investment Treaty Arbitration: Privatizing Public International Law through Inconsistent Decisions. *Fordham Law Review*, 73(4), 1521-1592.
21. Scherer, M. (2015). Transparency in International Commercial Arbitration. *American Review of International Arbitration*, 26(3), 379-398.
22. Moses, M. L. (2008). The Principles and Practice of International Commercial Arbitration. Cambridge University Press.
23. Williams, J. (2013). Arbitration in Asia: A Comparative Perspective. *Asian Dispute Review*, 15(2), 65-74.

24. Greenberg, S. H., & Mazza, C. (2018). The Role of Institutional Arbitration in Resolving Cross-Border Business Disputes. *Journal of International Dispute Settlement*, 9(1), 85-112.
25. Mistelis, L. A., & Perales Viscasillas, P. (Eds.). (2014). *Arbitration Costs: Myths and Realities in Investment Treaty Arbitration*. Kluwer Law International.
26. Zekos, G. I. (2016). *International Commercial Arbitration: A Comparative Study*. Springer.
27. Van Hooft, S. J., & Lee, J. (2017). Assessing the Efficiency of Investment Treaty Arbitration: A Comparative Analysis. *Journal of World Investment and Trade*, 18(5), 921-942.
28. <https://www.pon.harvard.edu/daily/international-negotiation-daily/internationalarbitration-what-it-is-and-how-it-works/>