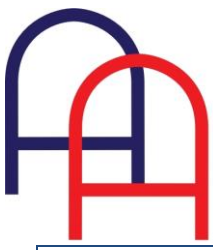


Professor	Recommended Reading Material
<p style="text-align: center;">Bernard Audit</p> <hr/> <p style="text-align: center;">Legal Issues Raised By The Agreement To Arbitrate</p>	<ul style="list-style-type: none"> • G. Bermann, “The ‘Gateway’ Problem in International Commercial Arbitration”, 37 Yale J. Int’l L. 1 (2012) • G. Born, <i>International Commercial Arbitration</i>, 2014, 2d ed, Wolters Kluwer Kluwer Amazon • <i>Fouchard, Gaillard and Goldman on International Commercial Arbitration</i>, Edited by E. Gaillard and J. Savage, Kluwer Law International, 1999 Kluwer Amazon • Jean-François Poudret, Sébastien Besson, <i>Comparative Law of International Arbitration</i>, Sweet & Maxwell, 2007 Thomson Reuters Amazon Google Books (pdf) • W. Michael Reisman, W. Laurence Craig, William Park, Jan Paulsson, <i>International Commercial Arbitration, Cases, Materials and Notes on the Resolution of International Business Disputes</i>, University Casebook Series, 2015, 2ed (Chapters 3, 4.III and IV, 7.III) Amazon OUP • The American Law Institute, <i>Restatement of the Law: The U.S. Law of Commercial International Arbitration</i>, Tentative Draft No. 4 (April 17, 2015) ALI • Institute of International Law, Session of Amsterdam 1957, Resolution on Arbitration and private international law <p style="text-align: center;">Journals</p> <ul style="list-style-type: none"> • Arbitration International, OUP, LCIA (since 1984) • Journal of International Arbitration, Wolters Kluwer, Law and Business (since 1984) • ICCA Yearbook Commercial Arbitration (since 1976) • <i>The American Journal of International Arbitration</i> (since 1989)
<p style="text-align: center;">Jan Paulsson</p> <hr/> <p style="text-align: center;">Simplifying the Major Conceptual Difficulties in International Arbitration</p>	<ul style="list-style-type: none"> • The Idea of Arbitration – Jan Paulsson OUP Amazon
<p style="text-align: center;">Guido S. Tawil</p> <hr/> <p style="text-align: center;">Evidence in International Arbitration</p>	<p style="text-align: center;"><u>Lesson 1: (Monday July 11th, 10:00am – 11:00am)</u></p> <p><i>Topics:</i> Introduction to evidence in international arbitration. Burden of proof in international arbitration. The relevance of cultural differences in evidentiary matters. Do local regulations have any relevance in evidentiary matters?</p> <p><i>Recommended readings:</i></p> <ul style="list-style-type: none"> • Gary Born, <i>International Commercial Arbitration</i>, Wolters Kluwer, (2009), Vol. II, Chapter 14-F(2). (see above) • Alan Redfern and Martin Hunter, <i>Law and Practice of International Commercial Arbitration</i>, Third Edition, Sweet & Maxwell (2009), Chapter 6.(5) – Evidence, pp. 6-61/68. Amazon Google books (pdf) • Jan Paulsson, “Cultural differences in advocacy in international arbitration”, in R. Doak Bishop and Edward G. Kehoe, <i>The Art of Advocacy in International Arbitration</i>, Second Edition, Juris (2010), Chapter 1. Juris Google books (pdf)



Guido S. Tawil

**Evidence in International
Arbitration**

- Anthony Sinclair, “Differences in the approach to witness evidence between civil and common law traditions”, in R. Doak Bishop and Edward G. Kehoe, *The Art of Advocacy in International Arbitration*, Second Edition, Juris (2010), Chapter 2. [Google books \(pdf\)](#)
- Guido S. Tawil, “Cómo acomodar expectativas culturales divergentes en el arbitraje”, 1(3) *Revista de Arbitragem e Mediação* 91 (2005). [BDJur](#)

Lesson 2: (Tuesday July 12th, 10:00am – 11:00am)

Topics: Regulations on evidence in international arbitration. Evidence in the Arbitration Rules (ICSID, ICC and UNCITRAL). The role of soft law in international arbitration. Recommended practices. The 2010 IBA Rules on the Taking of Evidence in International Arbitration.

Recommended readings:

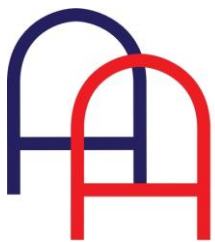
- Alexander J. Belohlávek, “Rights and duties of parties in connection with taking of evidence in Investor-State Arbitration”, *CYArb*, 2016, 6. [Academia](#)
- Gary Born, *International Commercial Arbitration*, Wolters Kluwer, (2009), Vol. II, Chapter 14-F(3). (see above)
- Christoph H. Schreuer, *The ICSID Convention. A Commentary*, Second Edition, Cambridge University Press (2009) pp. 640-671. [Amazon](#) [CUP](#)
- Judith Gill – Guido S. Tawil – Richard Kreindler, “The 2010 revisions to the IBA Rules on the Taking of Evidence in International Arbitration”, in Charles Kaplan – Alexis Mourre, *Les Cahiers de l’Arbitrage – The Paris Journal of International Arbitration*, 2011-1, L.G.D.J., p. 23/32. [Lextenso](#)
- IBA Arbitration Committee, “Commentary on the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration”. [IBAnet](#) [CUP](#)
- [ICSID Convention](#) (Article 43), ICSID Arbitration Rules (Articles 33 to 37), [ICC Arbitration Rules](#) (Articles 25 and 26), [UNCITRAL Arbitration Rules](#) (Articles 27 to 32).

Lesson 3: (Wednesday July 13th, 10:00am – 11:00am)

Topics: Documentary evidence. Document disclosure. U.S.-style discovery vs. International arbitration disclosure. Document production techniques. The Redfern schedule. Privilege-related issues.

Recommended readings:

- Gary Born, *International Commercial Arbitration*, Wolters Kluwer, (2009), Vol. II, Chapters 15-A and 15-B. (see above)
- Alan Redfern and Martin Hunter, *Law and Practice of International Commercial Arbitration*, Third Edition, Sweet & Maxwell (2009), Chapter 6 – Evidence, pp. 6-68 *et seq.* (see above)
- Bernard Hanotiau, “Document production in international arbitration: A tentative definition of ‘best practices’”, in Teresa Giovannini and Alexis Mourre, *Written Evidence and Discovery in International Arbitration*, ICC Dossiers 698 (2009). [ICC Store](#)
- Carole Malinvaud, “Will electronic evidence and e-discovery change the face of arbitration?”, in Teresa Giovannini and Alexis Mourre, *Written Evidence and Discovery in International Arbitration*, ICC Dossiers 698 (2009). [ICC Store](#)
- Lucy Reed and Ginger Hancock, “US-style discovery: good or evil?”, in Teresa Giovannini and Alexis Mourre, *Written Evidence and Discovery in International Arbitration*, ICC Dossiers 698 (2009). [ICC Store](#)



Guido S. Tawil

Evidence in International
Arbitration

- Guido S. Tawil and Ignacio J. Minorini Lima, "Privilege-related issues in international arbitration", in Teresa Giovannini and Alexis Mourre, *Written Evidence and Discovery in International Arbitration*, ICC Dossiers 698 (2009). [ICC Store](#)

Lesson 4: (Friday July 15th, 10:00am – 11:00am)

Topics: Witnesses' written statements and experts' reports. Oral testimony at evidentiary hearings. Conduct of witness and expert examination. Direct, cross and redirect examination. The role of arbitral tribunals.

Recommended readings:

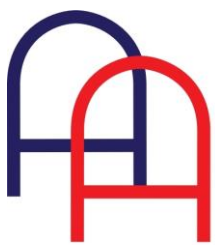
- Gary Born, *International Commercial Arbitration*, Wolters Kluwer, (2009), Vol. II, Chapter 14 (*selected materials*). (see above)
- Fouchard, Gaillard, Goldman, *On International Commercial Arbitration*, Kluwer, (1999), Part IV, Chapter II, Section III. (see above)
- Alan Redfern and Martin Hunter, *Law and Practice of International Commercial Arbitration*, Third Edition, Sweet & Maxwell (2009), Chapter 6 – Evidence, pp. 6-76 *et seq.* (see above)
- Pierre Bienvenu and Martin Valasek, "Witness statements and experts reports", in R. Doak Bishop and Edward G. Kehoe, *The Art of Advocacy in International Arbitration*, Second Edition, Juris (2010), Chapter 10. [Online PDF](#) [Amazon](#)
- Nigel Blackaby, "Direct and redirect examination of the witnesses", in R. Doak Bishop and Edward G. Kehoe, *The Art of Advocacy in International Arbitration*, Second Edition, Juris (2010), Chapter 15. [Juris](#) [Google books \(pdf\)](#)
- Edward Kehoe, "Cross-examination and re-cross in international arbitration", in R. Doak Bishop and Edward G. Kehoe, *The Art of Advocacy in International Arbitration*, Second Edition, Juris (2010), Chapter 16. [Juris](#)
- Guido S. Tawil, "Attacking the credibility of witnesses and experts", in R. Doak Bishop and Edward G. Kehoe, *The Art of Advocacy in International Arbitration*, Second Edition, Juris (2010), Chapter 18. [Juris](#)

Lesson 5: (Friday July 15th, 11:00am – 12:00pm)

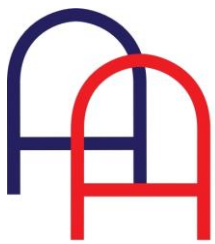
Topics: Arbitral tribunal's powers to obtain evidence. Site inspections. Local courts assistance in evidence-taking. Admissibility and assessment of evidence. The role of arbitral tribunals. Sanctions for party's failure to produce evidence. Adverse inferences. Evidence and arbitration costs.

Recommended readings:

- Gary Born, *International Commercial Arbitration*, Wolters Kluwer, (2009), Vol. II, Chapter 15-C. (see above)
- Alan Redfern and Martin Hunter, *Law and Practice of International Commercial Arbitration*, Third Edition, Sweet & Maxwell (2009), Chapter 6 – Evidence, pp. 6-91 *et seq.* (see above)
- Vera van Houtte, "Adverse inferences in international arbitration", in Teresa Giovannini and Alexis Mourre, *Written Evidence and Discovery in International Arbitration*, ICC Dossiers 698 (2009). [ICC Store](#)
- Julian D. M. Lew, "Document disclosure, evidentiary value of documents and burden of evidence", in Teresa Giovannini and Alexis Mourre, *Written Evidence and Discovery in International Arbitration*, ICC Dossiers 698 (2009). [ICC Store](#)



	<ul style="list-style-type: none"> Guido S. Tawil, “Los sistemas de valoración de la prueba y el arbitraje internacional”, 3(8) Revista de Arbitragem e Mediação 209 (2006). BDJur
<p>James Dow & Richard Caldwell</p> <hr/> <p>Quantum Issues in Arbitration: Damages and Valuation</p>	<p>The lectures will give an overview of the main methods used to estimate damages in arbitration, and discuss the most common problems and debates that arise in applying these methods. Please buy a copy of a textbook on finance and valuation, for use in conjunction with the arbitration academy materials and for future reference. There are several good textbooks including:</p> <ul style="list-style-type: none"> Richard A Brealey, Stewart C Myers and Franklin Allen, <i>Principles of Corporate Finance</i>, McGraw-Hill. Online PDF Amazon Jonathan Berk and Peter DeMarzo, <i>Corporate Finance</i>, Pearson. Online PDF Amazon Mark Grinblatt and Sheridan Titman, <i>Financial Markets & Corporate Strategy</i>, McGraw-Hill Online PDF Amazon <p>Please read in advance:</p> <ul style="list-style-type: none"> Franklin Fisher and Craig Romaine’s article, “Janis Joplin’s Yearbook and the Theory of Damages” <i>Journal of Accounting Auditing and Finance</i>, 1990. Online PDF Sage
<p>Kaj Hober</p> <hr/> <p>Emergency Arbitrations</p>	<ul style="list-style-type: none"> Article 17 of the amended UNCITRAL Model Law. Online PDF <i>Provisional Measures in International Commercial Arbitration</i>, by Ali Yesilirmak (2005) Kluwer Interim Measures, by Alan Redfern, in <i>Leading Arbitrators Guide to International Arbitration</i> (3rd ed. 2014, at 372) Juris <i>Pre-arbitral urgent relief: The new SCC Emergency Arbitrator Rules</i>, by Patricia Shaughnessy, <i>Journal of International Arbitration</i> (2010 at 343) Kluwer <i>Running in the ICC Emergency Rules: The First Ten Cases</i>, by Carlevaris and Feris, in <i>ICC International Court of Arbitration Bulletin</i> (N°1 2014, at 37) ICC <i>The Emergency Arbitrator—Flawed Fashion or Sensible Solution?</i>, by Jason Fry in <i>Dispute Resolution International</i> (N° 2 2013, at 179) Online PDF <p>These are just suggestions. The students are of course free to read any other material they can find on the topic.</p>
<p>Charles Jarrosson</p> <hr/> <p>Contracts Revolving Around the Arbitration Agreement</p>	<p><i>Some questions for discussion during the Seminar (the participants are invited to consider them in advance, in preparation of the Seminar)</i></p> <ul style="list-style-type: none"> What are the contracts revolving around the arbitration agreement? Can a provision of the arbitration agreement be applicable to the relations between parties and arbitrators? To what extent can an arbitrator be assisted by other persons? Can an award be set aside because an arbitral institution has infringed its own rules? Who is able to decide that the seat of an arbitration has to be changed? If both parties remain silent for months during the arbitral proceedings, who must put an end to these proceedings?



arbitration
academy

Richard W. Naimark

ICDR Workshop

- *Expectations and perceptions of attorneys and business people: a forced-rank analysis* – Richard Naimark and Stephanie E. Keer
- *Post Award Experience in International Commercial Arbitration* – Richard Naimark and Stephanie E. Keer
- The New ICDR International Arbitration Rules
- *Why Can't Arbitration Go Faster* – Michael McIlwrath, July 19, 2014, Kluwerblog
- *The Big Unknown amongst the Arbitral Institutions*, Dispute Resolution by Dr. Maxi Scherer and Dr. Sarah Ganz.