ASIL Guide to Electronic Resources for International Law

***GUIDE* HOME**

Private International Law
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I. Introduction

Private international law is the body of conventions, model laws, legal guides, and other documents and instr
that regulate private relationships across national borders. Private international law has a dualistic character,
balancing international consensus with domestic recognition and implementation, as well as balancing sovere
actions with those of the private sector. This chapter will examine accessible electronic resources maintained
international organizations, governments, universities and scholarly groups, trade organizations, and commer
information services. All hypertext links are correct as of the date of last revision.

II. International Organizations

This section describes the principal international organizations involved in the private international law. Each
these organizations maintains an Internet site which contains information about their current work and archiv
earlier documents, as well as status information on their conventions.



A. Hague Conference on Private International Law

The Hague Conference on Private International Law (http://www.hcch.net/), which traces its origins to a 189
conference convened by the Government of the Netherlands, is active in the development of conventions (rat
than principles, guidelines and model laws) in various areas of private law, addressing topics ranging from
traditional topics such as choice-of-law rules and jurisdictional rules to contemporary issues such as intercou
adoption and child abduction.

The Hague Conference introduced its Web site in English and French on October 8, 1998. The Hague Confe

Web site contains the full text, status and bibliographic information, and explanatory reports (where available its work, including:

- the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, done at T Hague, October 5, 1961 (http://www.hcch.net/index_en.php?act=conventions.text&cid=41) (Apostill Convention);
- the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commerci Matters, done at The Hague, November 15, 1965 (http://www.hcch.net/index_en.php?act=conventions.text&cid=17) (Hague Service Convention);
- the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, done at The Hagu March 18, 1970 (http://www.hcch.net/index_en.php?act=conventions.text&cid=82) (Taking of Evide Convention);
- the Convention on the Civil Aspects of International Child Abduction, done at The Hague, October 2 (http://www.hcch.net/index_en.php?act=conventions.text&cid=24) (Child Abduction Convention); a
- the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, don The Hague, May 29, 1993 (http://www.hcch.net/index_en.php?act=conventions.text&cid=69) (Hague Adoption Convention), *inter alia*.

The Hague Conference also maintains lists of Central Authorities designated under a number of conventions (http://www.hcch.net/index_en.php?act=authorities.listalt). Linked to each convention are status of the conve explanatory reports, a bibliography and bibliographic informaiton of available translations. The most recent addition to the Hague Conference web site is the Convention on Choice of Court Agreements, done at the Ha June 30, 2005 (http://www.hcch.net/index_en.php?act=conventions.text&cid=98).



B. UNCITRAL

The United Nations Commission for International Trade Law (UNCITRAL) (http://www.uncitral.org) , whic established by a resolution of the UN General Assembly in 1966 (http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/005/08/IMG/NR000508.pdf?OpenElement), is the catalyst for some of the most significant work in the progressive harmonization of private international law. UNCITRAL site contains primary documents and status information about established instruments such as

- the United Nations Convention on Contracts for the International Sale of Goods (CISG) (http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG.html),
- the Convention on the Limitation Period in the International Sale of Goods (http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1974Convention_limitation_period.htm
- the 1958 "New York" Convention on the Recognition and Enforcement of Foreign Arbitral Awards (http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention.html).

While the UNCITRAL site is maintained in English, French, and Spanish, documents are being added in Ara Chinese, and Russian, the other official languages of the United Nations.

In addition to conventions and similar instruments that are enacted at the international level by States, UNCI

furthers the harmonization of international trade law through the creation of model laws and legal guides des to inform domestic legislative drafters. Perhaps the best example is the UNCITRAL Model Law on the Procu of Goods, Construction and Services with Guide to Enactment (1994) (http://www.uncitral.org/pdf/english/texts/procurem/ml-procurement/ml-procure.pdf). Other UNCITRAL eff directed at private commercial parties, such as the well-known UNCITRAL Arbitration Rules (http://www.uncitral.org/pdf/english/texts/arbitration/arb-rules/arb-rules.pdf) and the recent UNCITRAL Not Organizing Arbitral Proceedings (http://www.uncitral.org/pdf/english/texts/arbitration/arb-notes/arb-notes-e.

The work of UNCITRAL is furthered through six specialized working groups (http://www.uncitral.org/uncitral/en/commission/working_groups.html):

- Working Group I (http://www.uncitral.org/uncitral/en/commission/working_groups/1Procurement.htm which has recently completed its work on privately-financed infrastructure projects.
- Working Group II (http://www.uncitral.org/uncitral/en/commission/working_groups/2Arbitration.htm currently deals with the topic of international arbitration and conciliation.
- Working Group III (http://www.uncitral.org/uncitral/en/commission/working_groups/3Transport.htm currently deals with the topic of transport law.
- Working Group IV (http://www.uncitral.org/uncitral/en/commission/working_groups/4Electronic_Commerce.html) curre deals with the topic of electronic commerce.
- Working Group V (http://www.uncitral.org/uncitral/en/commission/working_groups/5Insolvency.htm currently deals with the topic of insolvency.
- Working Group VI (http://www.uncitral.org/uncitral/en/commission/working_groups/ 6Security_Interests.html) currently deals with the topic of security interests.

Each Working Group section contains drafts and preparatory documents that reflect the progress toward a fir document.

The UNCITRAL Web site is regularly updated. Persons interested in the work of UNCITRAL may obtain information regarding commission sessions (http://www.uncitral.org/uncitral/en/commission/sessions.html), vacancies and internships (http://www.uncitral.org/uncitral/en/vacancies_internships.html), and technical ass (http://www.uncitral.org/uncitral/en/technical_assistance_coordination.html) programs offered by UNCITRA

A useful feature of the UNCITRAL Web site is the Documents and Symbols page(http://www.uncitral.org/uncitral/en/types_symbols.html) which discusses the types of documents produ UNCITRAL and provides an explanation of the document symbols assigned to UNCITRAL documents. Sin the bibliography of recent writings relating to the work of UNCITRAL (http://www.uncitral.org/uncitral/en/publications/bibliography.html) sets forth bibliographic references comp by the Secretariat from 1993 to present, and is now regularly updated as new material is received. As a gene the United Nations Dag Hammarskjöld Library has a research guide (http://www.un.org/Depts/dhl/resguide/) providing information on United Nations documents, which is useful when consulting UNCITRAL materials

Two other features of the UNCITRAL Web site merit discussion.

- The CLOUT (Case Law on UNCITRAL Texts) database,

(http://www.uncitral.org/uncitral/en/case_law.html) provides abstracts of court decisions and arbitral
that are relevant to the interpretation or application of UNCITRAL legal text, such as the CISG or the
UNCITRAL Model Arbitration Law, prepared by a network of national correspondents. It should be
that the range of material available online through the CLOUT system has recently been expanded to
a range of new caselaw research aids, such as integrated thesauri and keyword charts. All decisions a
arbitral awards stored by the Secretariat will be made available to the public upon individual request,
to any copyright restriction attendant to the decisions and awards.

- Status information, travaux preparatoires, and bibliographies on UNCITRAL instruments are also ava
and regularly updated (see individual instrument). Status information about UNCITRAL Convention
also available at the United Nations Treaty Collection (http://untreaty.un.org), under the heading Mul
Treaties Deposited with the Secretary-General. (Note that the United Nations charges a fee for access
Treaty Collection). For a discussion of other online treaty sources, *see* ASIL Guide to Electronic Res
for International Law: Treaties (http://www.asil.org/resource/treaty1.htm).



C. International Institute for the Unification of Private Law (UNIDROIT)

UNIDROIT (http://www.unidroit.org/), the International Institute for the Unification of Private Law, traces it
origins to the League of Nations and is today an autonomous international organization active in the harmoni
of private international law. English and French, the working languages of UNIDROIT, are both represented
Internet site. The Internet site includes full text and status information concerning UNIDROIT Conventions s

- the 1988 Ottawa Convention on International Financial Leasing
(http://www.unidroit.org/english/conventions/1988leasing/main.htm) and International Factoring
(http://www.unidroit.org/english/conventions/1988factoring/main.htm),
- the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects
(http://www.unidroit.org/english/conventions/1995culturalproperty/main.htm),
- the 2001 Capetown Convention on International Interests in Mobile Equipment
(http://www.unidroit.org/english/conventions/mobile-equipment/main.htm), and
- the 2001 Capetown Protocol to the Convention on International Interests in Mobile Equipment on Ma
Specific to Aircraft Equipment
(http://www.unidroit.org/english/conventions/mobile-equipment/main.htm#NR1).

One of the best-known accomplishments of UNIDROIT in recent years is the creation of the UNIDROIT Pri
of International Commercial Contracts (http://www.unidroit.org/english/principles/contracts/main.htm). The
Principles represent general rules of commercial contract law derived from various legal systems, and may b
by private parties as the law governing their contract, as a supplementary source to be used in conjunction wi
CISG, and as a codification of *lex mercatoria* for arbitration, *inter alia*.

The UNIDROIT Web site also includes status information on UNIDROIT Conventions
(http://www.unidroit.org/english/implement/i-main.htm), information on current projects
(http://www.unidroit.org/english/workprogramme/main.htm), and general news and events
(http://www.unidroit.org/english/news/main.htm).

UNILAW (http://www.unidroit.info) Set up by UNIDROIT, this database will provide the full text of UNIDI
instruments, as well as case law and secondary resources on each instrument. Work has started on the 1956

Convention on the Contract for the Internatioanl Carriage of Goods by Road (CMR).



III. International Sale of Goods

There are a number of Web sites relating to the international sale of goods and UNCITRAL's Convention on International Sale of Goods (CISG). A particularly valuable resource is the Pace database on the CISG (http://cisgw3.law.pace.edu/), produced by the Pace Law Library and the Pace University School of Law Inst International Commercial Law. The database contains the complete annotated text of the CISG, with hyperli from each individual article to its drafting history, along with interpretive case law and bibliographic referenc scholarly writing. Significantly, the database includes article-by-article cross-references to appropriate sectio the UNIDROIT Principles of International Commercial Contracts. The Pace database also includes informati the annual Willem C. Vis International Commercial Arbitration Moot on the CISG (http://cisgw3.law.pace.edu/vis.html), held at International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna. The Pace database is a masterful example of Internet-based scholarship and is a credit to creators.

An important new online resource for international sales law is the UNILEX (http://www.unilex.info) collect caselaw and bibliographic information on the CISG and the UNIDROIT Principles. The UNILEX database includes both case abstracts and the full text of decisions.

The Autonomous Network of CISG Web Sites (http://cisgw3.law.pace.edu/network.html) links to other usefu CISG Web sites, each focuses on case law from one or more countries in the language of the host country or region. Some of these Web sites are:

- the CISG-online.ch (http://www.cisg-online.ch) at the Law Faculty of the University of Basle, Switze which concentrates on Austrian, German, and Swiss case law on the CISG;
- the CISG-France (http://witz.jura.uni-sb.de/CISG) database which emphasizes French case law on the
- the CISG - Spain and Latin America database of the Universidad Carlos III de Madrid (http://www.uc3m.es/cisg/), which contains the Spanish language text of the CISG, along with CISG law from Mexico, Argentina, Spain, and other countries; and
- the CISG-Japan Database (http://www.law.kyushu-u.ac.jp/~sono/cisg/english.htm) which includes En digests of Japanese cases and arbitral award on CISG.



IV. International Commercial Arbitration

International commercial arbitration is recognized as an important component of private international law, la though the wide acceptance of the 1958 "New York" Convention on the Recognition and Enforcement of For Arbitral Awards. International commercial arbitration may either be "ad hoc" pursuant to the UNCITRAL Arbitration Rules, or "institutional", following the rules of arbitration promulgated by private organizations s the International Chamber of Commerce (ICC) (http://www.iccwbo.org), the American Arbitration Associati (AAA), or the London Court of International Arbitration (http://www.lcia-arbitration.com/), *inter alia*. For a detailed guide to international commercial arbitration, see the ASIL Guide to Electronic Resources for Intern

Law: International Commercial Arbitration (http://www.asil.org/resource/arb1.htm).

The International Court of Arbitration of the ICC (http://www.iccwbo.org/index_court.asp) is a major source expertise in international commercial arbitration. The ICC Web site includes the 1998 revision of the Rules o Arbitration of the International Chamber of Commerce (http://www.iccwbo.org/court/english/arbitration/rule and more general information (http://www.iccwbo.org/court/english/arbitration/introduction.asp) on ICC arbitration, including model ICC arbitration clauses (http://www.iccwbo.org/court/english/arbitration/model_clause.asp) and rules on ICC appointment of arbitra ad hoc arbitrations (http://www.iccwbo.org/court/english/appointing_authority/all_topics.asp) under the UNCITRAL Arbitration Rules.

The American Arbitration Association (http://www.adr.org) is the primary private arbitral authority in the Un States. The AAA has promulgated rules and procedures (http://www.adr.org/RulesProcedures) and serves as administering body for the arbitration process, including acting as an appointing authority for arbitrators, if necessary, as well as providing online services (http://www.adr.org/OnlineServices) such as filing and managing cases online, online access to cases and cal for neutrals, etc. Like other institutional arbitral bodies, the AAA maintains Biographical Information for AA Mediators (http://www.mediatorindex.com/) for consideration as possible arbitrators or mediators.

There are a number of excellent general resources for international commercial arbitration.

- The T.M.C. Asser Instituut (http://www.asser.nl/) of the Netherlands maintains a comprehensive colle of links to arbitral institutions, domestic arbitration laws, and the full text of arbitral conventions (http://www.asser.nl/ica/index.htm).
- ICSID (International Centre for Settlement of Investment Disputes) (http://www.worldbank.org/icsid/ autonomous organization with close ties to the World Bank, offers a number of documents online, in cases (http://www.worldbank.org/icsid/cases/cases.htm) and a very useful list of bilateral investment (BITs) (http://www.worldbank.org/icsid/treaties/treaties.htm)

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V. Regional Harmonization
This section describes the principal efforts in harmonizing private law on a regional basis.

A. European Union (EU)
The EU harmonizes private international law of its member nations through the development of conventions, directives and regulations. An intiative to create an European Civil Code is also underway.

- The Brussels Convention and the Lugano Convention (http://www.curia.eu.int/common/recdoc/convention/en/index.htm) aim to "determine the internationa jurisdiction of their courts, to facilitate recognition and to introduce an expeditious procedure for secu the enforcement of judgments, authentic instruments and court settlements." (from the Preamble of th Conventions) The Lugano Convention extended the rules on jurisdiction and the enforcement of judg beyond the boundaries of the European Union.
- Convention on the Law Applicable to Contractual Obligations (Rome Convention) (http://www.rome

convention.org/instruments/i_conv_orig_en.htm) stipulates that a contract shall be governed by the la chosen by the parties and demonstrated in the terms of the contract or the circumstances of the case. convention.org (http://www.rome-convention.org) is the online database on the Convention set up by Trier Academy of European Law with financial support from the Grotius Programme of the European Commission. It provides access to the text of the Rome Convention, its interpretive protocol, explana reports (including the Giuliano-Lagarde Reprot), cases and a bibliography.

- Study Group on a European Civil Code (http://www.sgecc.net) is a network of academics from across EU conducting comparative law research in private law with an aim to produce a codified set of Princ of European Law for the law of obligations and core aspects of the law of property. The impetus for work was two Parliamentary resolutions: OJ C 158 (28.6.1989), resolution of 26th May 1989, and OJ (25.7.1994), resolution of 6th May 1994 whereby the European Parliament summoned the legal acade community to take on the task of the creation of a European Code of Private Law. The Web site prov their work-in-progress and information on their methodology.
- Commission on European Contract Law: Principles of European Contract Law (http://frontpage.cbs.dk/law/commission_on_european_contract_law/) Also known as the Lando Commission, the Commission drafted the Principles of Contract Law which are intended to be applie general rules of contract law in the European Communities when the parties have agreed to incorpora into their contract or when the parties have agreed that their contract is to be governed by them.

Other useful Web sites for European harmonization of private law are:

- Research Group on European Private Law (University of Girona, Spain) has a Web site called Europe Comparative Private Law Page (http://civil.udg.es/epclp/). The Web site provides links to internation private law materials, and European private law materials (EU directives, treaties and principles) deal with commercial law. It also includes national legal materials from eight European countries, Canada United States.
- European Private Law Forum (European University Institute) (http://www.iue.it/LAW/ResearchTeaching/EuropeanPrivateLaw/) The Forum is concerned with the harmonization of European Private Law. The web site provides access to the results of and informati about the Forum‘s research activities.

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B. Inter-American Specialized Conferences on Private International Law (CIDIPs)

Under the auspices of the Organization of American States, Inter-American Specialized Conferences on Priv International Law (known by the Spanish Acronym as CIDIPs) (http://www.oas.org/dil/private_international_law.htm) play a central role in the harmonization and codificat Private International Law in the Western Hemisphere. Six Conferences have been held in various cities in th Americas:

- CIDIP-I (http://www.oas.org/dil/CIDIPI_home.htm) was held in Panama City, Panama in 1975. Six convetions were adopted.
- Seven conventions and one protocol was adopted in CIDIP-II (http://www.oas.org/dil/CIDIPII_home held in Montevideo, Uruguay in 1979.
- CIDIP-III (http://www.oas.org/dil/CIDIPIII_home.htm), held in La Paz, Bolivia in 1984, adopted thre conventions and one protocol.

- Held once again in Montevideo, CIDIP-IV (http://www.oas.org/dil/CIDIPIV_home.htm) in 1989 ado three conventions.
- CIDIP-V (http://www.oas.org/dil/CIDIPV_home.htm) in Mexico City in 1994 saw the adoption of tw conventions.
- CIDIP-VI (http://www.oas.org/dil/CIDIPVI_home.htm) held in OAS's Headquarters in Washington, adopted three instruments.
- CIDIP-VII (http://www.oas.org/dil/CIDIP-VII_home.htm) is currently in the preparatory work stage.

The instruments adopted fall into four general categories of private international law:

- applicable law (http://www.oas.org/dil/PrivateIntLaw-studytopics_applicablelaw.htm),
- enforcement and procedural law (http://www.oas.org/dil/PrivateIntLaw-studytopics_enforcement.htm
- family law (http://www.oas.org/dil/PrivateIntLaw-studytopics_familylaw.htm), and
- commercial law (http://www.oas.org/dil/PrivateIntLaw-studytopics_commerciallaw.htm).

C. Organisation pour l'Harmonisation en Afrique du Droit des Affaires (OHADA)
OHADA (http://www.ohada.org) started legal unification process in Africa in October 1992 with the coopera the head of states of sixteen OHADA countries. The first OHADA treaty - Treaty on the Harmonisation of Business Law in Africa (http://www.ohada.com/traite.php?categorie=10) - was signed in Mauritius in Octob 1993. The OHADA.com Web site (http://www.ohada.com) was launched in November 2000 to disseminate information regarding the ongoing works of OHADA. In addition to treaty-making (http://www.ohada.com/traite.php?newlang=english), OHADA is also creating uniform acts (http://www.ohada.com/textes.php?newlang=english), such as the Uniform Act Relating to General Commer Law. The treaties and uniform acts are accessible by the general public. The "Case Law," "Doctrine," and "Bibliography" sections are only available to OHADA members.

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VI. Private International Law in the United States
The State Department Office of the Assistant Legal Adviser for Private International Law (L/PIL) (http://www.state.gov/s/l/c3452.htm) has primary responsibility for coordinating US efforts in the developme private international law. Practitioners, corporate counsels, scholars, and government attorneys participate in private international law harmonization process through membership in the Secretary of State's Advisory Committee on Private International Law, specialized study groups, and delegations to UNCITRAL, UNIDRO the Hague Conference, and the OAS Inter-American Conferences on Private International Law (CIDIP). L/P draws heavily on the private sector for sectoral expertise and works closely with the National Conference of Commissioners on Uniform State Laws (NCCUSL) (http://www.nccusl.org/) and members of the American Institute (ALI) (http://www.ali.org/), among others.

The Office of the Legal Adviser (http://www.state.gov/s/l) maintains a central Web page.

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VII. Private International Law on LEXIS, WESTLAW, and in EISIL and International Law In Brief

The two most widely-accepted commercial legal databases in the United States are LEXIS (http://www.lexis and WESTLAW (http://www.westlaw.com/). Today, both may be accessed over the Internet using a Web br such as Netscape or Microsoft Internet Explorer rather than requiring the installation and use of special dial-u software.

Both LEXIS and Westlaw include case law and legislation on international commercial and law - primarily f United States, some treaty materials, European Union materials, information on GATT and the WTO, interna law journals, and the ASIL publications International Legal Materials (ILM) (http://www.asil.org/resources/ilm.html) and Basic Documents in International Economic Law (BDIEL) (http://www.asil.org/resources/iel.html).

International Law In Brief (ILIB) (http://www.asil.org/ilib/ilibarch.htm), a publication of The American Soc International Law (ASIL), is delivered twice a month by email, and frequently abstracts documents reflecting developments in private international law. Subscriptions are free.

The Electronic Information System for International Law (EISIL) (http://www.eisil.org) is an extensive datab quality international law information available on the web. EISIL is developed and maintained by the ASIL, includes sections on International Economic Law and Private International Law, among others.



VIII. Research Guides

- Duncan Alford, A Guide on the Harmonization of International Commercial Law (http://www.nyulawglobal.org/globalex/Unification_Harmonization.htm) This guide focuses on the intergovernmental organizations whose purpose is to harmonize commercial laws, treaties that harmo commercial law, and research institutes that support it.
- Jean M. Wenger, ASIL Guide to Electronic Resources for International Law: International Economic Chapter (http://www.asil.org/resource/iel1.htm) provides links to important and current sources of information for international economic law.
- Jean Wenger, International Commercia Arbitration: Locating the Resources (LLRX) (http://www.llrx.com/features/arbitration2.htm) includes a selection of comprehensive compilations c international arbitration resources: treaties, institutions, rules, national laws, awards, and literature.
- Gloria Miccioli, ASIL Guide to Electronic Resources for International Law: International Commercia Artibtration Chapter (http://www.asil.org/resource/arb1.htm)

IX. Private International Law Interest Groups and Sections

The Private International Law Interest Group of The American Society of International Law (ASIL) (http://www.asil.org) conducts meetings and panels on topics of relevance in private international law, such a Corporate Codes of Conduct and the CISG.

The American Bar Association (http://www.abanet.org/home.html) Section of International Law and Practice (http://www.abanet.org/intlaw/home.html) has a number of divisions and committees

(http://www.abanet.org/intlaw/committees/roster/newroster.html) of interest to private international lawyers.



*This chapter was originally created by David Levy.

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