The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 ("New York Convention") is generally considered to be the most important legal cornerstone for international business arbitration. It is also acclaimed to be the most successful international convention in international private law. There are now 156 Contracting States and more than 1,800 court decisions interpreting and applying the Convention (as of November 2016).

The course on the “International Arbitration and the New York Convention” will examine the interpretation and application of the New York Convention by various jurisdictions around the world. The course is a 4-week course which will consist of 8 sessions of approximately 2 hours each. Each session requires a preparation time of approximately 2 hours. The course is mandatory pass/fail and will attract 1 credit.

The cases and materials highlighted in yellow below are recommended to be read in advance of the sessions on 24 January – 16 February 2017. They are provided in pdf from. They can also be found via www.newyorkconvention.org using the log-in details provided for this course.

The majority of the court decisions on the New York Convention (including and in addition to the ones set out in this syllabus) are also published in the Yearbook: Commercial Arbitration and online on www.kluwerarbitration.com (subscription by Georgetown University Law Center). These court decisions can be located via the indices on www.newyorkconvention.org (go to “Court Decisions” and then choose either between “List of Topics / Decisions per Topic” or “Decisions per Country”). Once you have found a court decision by number, click on it, and you will be redirected to www.kluwerarbitration.com; login should be automatic via the Law Center.

Other materials are also published on www.newyorkconvention.org. You are invited to browse through the website.
In the schedule below, the “Topic” (¶) refers to the entry number(s) of the relevant topic on the List of Topics (copy provided). The List of Topics is derived from the Annotated List of Topics (copy provided and also available at www.newyorkconvention.org). The Annotated List of Topics is presently being revised (not yet available for publication).
Session 1  
Tuesday, 24 January 2017, 11:10 a.m. – 1:10 p.m.

Subjects:  
Introduction to the Course  
Introduction to International Arbitration (primer)  
Interpretation of Treaties  
Article I – Field of Application: Arbitral Award

Topics:  
¶¶ 001, 101-102

Readings:  
- ¶ 001: UK 82 (sub 19 and 32) (High Court of Justice, 17 April 2008 and Court of Appeal, 21 October 2008 (*IPCO Nigeria*));  
  US 287 (sub 6-9) (Second Circuit, 29 July 1999 (*Kahn Lucas*));  
  US 760 (D.C. Circuit, 17 January 2012 (*BG Group*));  
  *Blue Ridge Investments, LLC v. Republic of Argentina* (Southern District of New York, 30 September 2012);
- ¶ 101: US 517 (District of Columbia, 8 March 2005 (*Bechtel*));  
  US 562 (sub 1-4) (Southern District of New York, 14 December 2005 (*Weizmann*));
- ¶ 102: US 54 (Second Circuit, 17 June 1983 (*Bergesen*));  
  US 261 (Second Circuit, 10 September 1997 (*Yusuf*));  
  US 533 (sub 3-6 and 7-20) (Sixth Circuit, 18 March 2005 (*Jacada*));  
  US 625 (sub 1-7) (Southern District of New York, 1 August 2007 (*Caja*));  
  Brazil 14 (Superior Tribunal de Justica, 24 May 2011 (*Nuovo Pigone*));  
  India 48 (Supreme Court of India, 6 September 2012 (*Bharat Aluminium*)).

Literature:  
- History (see time line:  
- New York Convention (text);  
- General Introduction to the Convention;  
- Vienna Convention of 1969, Arts 31 and 32;  
- UNCITRAL Survey 2008, paras 34-40 [¶ 001];
- UNCITRAL Survey 2008, paras 26-33 [¶ 101];
- UNCITRAL Survey 2008 Add. 1, paras 36-39 [¶ 101];
- Annotated List of Topics, Tables A to C, at pp. 8-10;
- Annotated List of Topics at ¶¶ 101-102.
Session 2  
Wednesday, 25 January 2017, 11:10 a.m. – 1:10 p.m.

Subjects:

Article I – Field of Application: Arbitral Award (cont’d)

Topics:

¶¶ 103-114

Readings:

Cases:

- ¶ 103: UK 70 (sub 9) (High Court of Justice, 27 April 2005 (IPCO Nigeria));
- ¶ 104: India 21 (Supreme Court, 7 May 1992 (National Thermal Power Corporation));
  Colombia 4 (sub 13-18 and 27-31) (Consejo de Estado, 24 October 2003 and 22 April 2004 (Empresa Colombiana de Vías Férreas));
  US 625 (sub 2-7) (Southern District of New York, 1 August 2007 (Caja));
- ¶ 107: US 513 (sub 8-23) (Eleventh Circuit, 18 January 2005 (Bautista));
  Argentina 2 (Cámara de Apelación en lo Contencioso Administrativo, La Plata, 30 August 2007 (Milantic));
- ¶ 108: Italy 33 (sub I–II) (Corte di Cassazione, 18 September 1978 (Butera));
  Germany 68 (sub 5-6) (Bayerisches Oberstes Landesgericht, 22 November 2002 (Film Distributor));
- ¶ 109: US 100 (sub 14-19) (Ninth Circuit, 23 October 1989 (Gould));
- ¶ 110: US 338 (sub 3-14) (Seventh Circuit, 14 March 2000 (Publicis));
  Germany 109 (Bundesgerichtshof, 18 January 2007 (Claimant v. Defendant));
- ¶ 112: US 544 (sub 7-8) (Southern District of New York, 27 June 2005 (ChevronTexaco));
  Brazil 4 (Superior Tribunal de Justiça, 17 May 2006 and 3 March 2007 (Oleaginosa Moreno)).

Literature:

- UNCITRAL Survey 2008, paras 8-25 [¶ 113];
- UNCITRAL Survey 2008 Add. 1, para. 35 [¶ 113];
- Annotated List of Topics at ¶¶ 103-114.
Session 3  Tuesday, 31 January 2017, 11:10 a.m. – 1:10 p.m.

**Subjects:**
- Article II(1)-(2) – Arbitration Agreement (including writing requirement)
- Article II(3) – Referral by Court to Arbitration

**Topics:**
- ¶ 201-216

**Readings:**
- **Cases:**
  - ¶ 201: UK 77 (sub 43-49) (Court of Appeal, 24 January 2007 and House of Lords, 17 October 2007 (*Privalov v. Fiona Trust*));
  - ¶ 202: Spain 55 (sub 5-8) (Tribunal Supremo, 29 November 2002 (*Referij Empire*));
  - ¶ 203-204:
    - Germany 42 (sub 5) (Bundesgerichtshof, 3 December 1992 (*Buyer v. Seller*));
    - Switzerland 27 (sub 8-9) (Tribunal Fédéral, 16 January 1995 (*Compagnie de Navigation et Transports*));
    - US 741 (sub 3-10) (Southern District of New York, 15 April 2011 (*Maritima de Ecologia*));
  - ¶ 205: US 287 (sub 10-18) (Second Circuit, 29 July 1999 (*Kahn Lucas*));
  - ¶ 208: Netherlands 30 (Rechtbank, Leeuwarden, 3 September 2008 (*I.S.S. Tanks*));
  - ¶ 209: Switzerland 8 (sub 8-12) (Tribunal Fédéral, 7 February 1984 (*Tradax Export*));
  - ¶ 212: Russian Federation 8 (sub 6-13) (Moscow District Court, 21 April 1997 (*IMP Group*));
  - ¶ 214-216:
    - Italy 5 (Corte di Cassazione, 13 December 1971 (*Miserocchi*));
    - UK 12 (sub 1) (Court of Appeal, 3 December 1980 (*Haendler*));
    - US 50 (sub 3) (First Circuit, 30 August 1982 (*Ledee*));
    - Australia 7 (sub 21) (Federal Court of Australia, New South Wales District Registry, 11 April 1990 (*Dodwell*));
    - US 453 (sub 15-26) (Southern District of New York, 12 June 2003 (*DaPuzzo*));
    - US 466 (sub 3-9) (First Circuit, 22 September 2003)
(InterGen));
Spain 44 (Tribunal Supremo, 23 July 2001 (Kern Electrónica));
US 601 (Northern District of Texas, Dallas Division, 3 October 2006 (Hollingshad));
US 90 (Ninth Circuit, 9 June 1987 (Bauhinia));
US 188 (Second Circuit, 25 July 1994 (Jones)).

Literature:
- Annotated List of Topics at ¶¶ 201-216;
- UNCITRAL Model Law (as amended in 2006), Art. 7;
- UNCITRAL Recommendation 2006;
- UNCITRAL Survey 2008, paras 41-44 [¶¶ 214-216].
Session 4  Thursday, 2 February 2017, 11:10 a.m. – 1:10 p.m.

Subjects:  Article II(1)-(2) – Arbitration Agreement (including writing requirement)
Article II(3) – Referral by Court to Arbitration

Topics:  ¶¶ 217-229

Readings:  Cases:
- ¶ 217: US 50 (sub 3) (First Circuit, 30 August 1982 (Ledee));
  US 70 (sub 1) (Fifth Circuit, 12 August 1985 (Permargo));
  India 10 (sub 20-30) (Supreme Court of India, 16 August 1984 (Renusagar));
  US 486 (sub 26-29) (Eastern District of Louisiana, 8 April 2004 and Fifth Circuit, 23 March 2005 (Keytrade));
  Spain 64 (Tribunal Supremo, 14 November 2007 (Limber));
  US 871 (Ninth Circuit, 15 March 2016 (Vergnano v. ItalFlavors));
- ¶ 218: UK 65 (sub 29-30 and 34) (High Court of Justice, 25 April 2002 and 14 October 2002 and Court of Appeal, 3 July 2003 (Welex));
  Pakistan 1 (sub 9-15) (High Court, Karachi, 14 February 2006 (Travel Automation));
- ¶ 219: Pakistan 1 (sub 17-18) (High Court, Karachi, 14 February 2006 (Travel Automation));
- ¶ 220: US 51 (sub 3-10 and 16-23) (Virgin Islands, District of St. Thomas and St. John, 4 October 1982 and Third Circuit, 6 July 1983 (Lauro));
  US 550 (sub 5-14 and 25) (Southern District of New York, 3 August 2005 and Second Circuit, 15 February 2006 (JSC Surgutneftegaz));
  Switzerland 43 (Bundesgerichtshof 25 October 2010 (X Holding));
- ¶ 221: Sulamérica Cia Nacional de Seguros S.A. et al. v. Enesa Engenharia S.A. et al. (Court of Appeal, 16 May 2012);
  Germany 37 (sub 2-3) (Oberlandesgericht, Munich, 7 April 1989 (Hungarian seller v. German buyer));
  US 119 (Second Circuit, 15 January 1991 (Metallgesellschaft));
Switzerland 29 (sub 1-15) (Tribunal Fédéral, 21 March 1995 (Insurance company));

India 41 (sub 71-74) (Supreme Court, 12 August 2005 (Shin-Etsu));

Singapore 13 (Supreme Court of Singapore, High Court, 19 June 2014 (FirstLink Investments));

- ¶ 223: Belgium 6 (Cour d’appel, Brussels, 4 October 1985 (Company M));
  
  Belgium 9 (sub 9-17) (Tribunal de Commerce, Brussels, 5 October 1994) (Société Van Hopplynus);

  Belgium 12 (Tribunal de Commerce, Brussels, 20 September 1990) (Matermaco SA);

  US 470 (Seventh Circuit, 20 November 2003 (Stawski));

  US 505 (Second Circuit, 26 October 2004 (JLM Industries));

  Belgium 13 (Hof van Cassatie, 15 October 2004) (Colvi));

  Russian Federation 29 (Supreme Arbitrazh Court of the Russian Federation, 22 March 2010 (Rosneft));

- ¶ 228: US 5 (Third Circuit, 8 July 1974 (McCready));

  US 91 (sub 8-11) (Fifth Circuit, 26 June 1989 (E.A.S.T., Inc.));

- ¶ 229: Allianz SpA and Generali Assicurazioni Generali SpA v. West Tankers Inc. (ECJ, 10 February 2009).

Literature:

- Annotated List of Topics at ¶¶ 217-229.
Session 5  
Tuesday, 7 February 2017, 11:10 a.m. – 1:10 p.m.

Subjects:
- Article III - Procedure for Enforcement
- Article IV - Conditions to be Fulfilled by the Petitioner
- Article V - Grounds for Refusal of Enforcement in General

Topics:
- ¶¶ 301-406, 500-504

Readings:

Cases:
- ¶ 301: Netherlands 34 (Hoge Raad, 25 June 2010 (Yukos));
  - US 756 (Second Circuit, 14 December 2011 (Figueiredo Ferraz Consultoria));
  - Italy 136 (sub 6) (Corte di Appello, Florence, 29 November 1991 (Hackenberg));
  - Bulgaria 1 (sub 7 and 16) (Supreme Court of Appeal, 23 February 1999 (ECONERG));
- ¶ 303: US 730 (sub 45-61) (District of Oregon, 31 January 2011 (ESCO));
- ¶ 304: Germany 88 (sub 12-16) (Court of Appeal, Koblenz, 28 July 2005 (Claimant v. Defendant));
  - US 548 (sub 11) (District of Delaware, 2 August 2005 (China Three Gorges));
  - US 638 (Fifth Circuit, 20 February 2008 (Wartsila));
- ¶ 305: US 509 (sub 2-11) (Second Circuit, 10 December 2008 (Phoenix));
- ¶ 401: Australia 35 (sub 21-72, 186-210, 267-335) (Supreme Court of Victoria, 28 January 2011 and 3 February 2011 (Altain Khuder));
- ¶ 402: Germany 52 (sub 4-6) (Bundesgerichtshof, 17 August 2000 (Investor v. Republic of Poland));
  - Germany 14 (sub 2-3) (Oberlandesgericht Köln, 10 June 1976 (Danish buyer v. German seller));
  - Italy 136 (sub 2-4) (Corte di Appello, Florence, 29 November 1991 (Hackenberg));
  - Italy 137 (sub 1-8) (Corte di Appello, Bologna, 4 February 1993 (WTB));
  - Bulgaria 1 (sub 1-11) (Supreme Court of Appeal, 23 February 1999 (ECONERG));
- ¶ 403: UK 60 (sub 7-10) (Court of Appeal, 18 April 2002 (Yukos));
- ¶ 404: Spain 57 (sub 1 and 5-8) (Tribunal Supremo, 1 April 2003 (Satico));
  Germany 14 (sub 2) (Oberlandesgericht Köln, 10 June 1976 (Danish buyer v. German seller));
  Bulgaria 1 (sub 1-11) (Supreme Court of Appeal, 23 February 1999 (ECONERG));
  Austria 24 (Oberster Gerichtshof, 24 August 2011 (C Ltd v. M GmbH));
- ¶ 405: Italy 150 (sub 1-10) (Corte di Cassazione, 20 September 1995 (Campomarzio));
  Switzerland 38 (sub 4-6) (Tribunal Fédéral, 8 December 2003 (A SA));
  Spain 70 (Audiencia Provincial, Soria, 17 September 2010 (Ventus));
  Switzerland 42 (sub 3-7) (Bundesgerichtshof, 4 October 2010 (X AG));
- ¶ 406: Netherlands 10 (sub 1) (President, Rechtbank, Amsterdam, 12 July 1984 (SPP));
  Switzerland 46 (sub 4-5) (Tribunal Fédéral, 2 July 2012 (X v Z));
  Austria 16 (sub 3-12) (Oberster Gerichtshof, 26 April 2006 (D SA));
- ¶ 500: US 7 (Second Circuit, 23 December 1974 (Parsons));
- ¶ 501: Brazil 6 (Superior Tribunal de Justiça, 16 May 2007 (Bouvery));
- ¶ 502: Australia 36 (sub 12 & 97-105) (Federal Court of Australia, 22 February 2011 (Uganda Telecom));
- ¶ 503: US 520 (sub 3) (Second Circuit, 31 March 2005 (Encyclopaedia Universalis));
- ¶ 504: US 459 (sub 2-32 and 40-44) (Third Circuit, 26 June 2003 (China Minmetals)).

Literature:
- Annotated List of Topics at ¶¶ 301-406, 500-504;
- UNCITRAL Survey 2008, paras 45-48 [¶ 301];
- UNCITRAL Survey 2008 Add. 1, paras 1-5, 11-32 [¶ 301];
- UNCITRAL Survey 2008 Add. 1, paras 40 & 43 & 45[¶ 301];
- UNCITRAL Survey 2008 Add. 1, paras 6-10 & 44, Ann [¶ 306];
- UNCITRAL Survey 2008, paras 49-55 [¶¶ 402-404];
- UNCITRAL Survey 2008 Add. 1, para. 41 [¶¶ 402-404];
- UNCITRAL Survey 2008, paras 58-60 [¶ 405];
- UNCITRAL Survey 2008 Add. 1, para. 42 [¶ 405];
- UNCITRAL Survey 2008, paras 56-57 [¶ 406].
Session 6

Thursday, 9 February 2017, 11:10 a.m. – 1:10 p.m.

**Subjects:**
Article V - Grounds for Refusal of Enforcement in General (cont’d)
Article V(1) – Grounds for Refusal of Enforcement to be Proven by the Respondent

**Topics:**
¶¶ 505-517, 601

**Readings:**

**Cases:**
- ¶ 505-506:
  UK 92 (Supreme Court, 3 November 2010 (*Dallah*));
- ¶ 507: US 520 (Second Circuit, 31 March 2005 (*Encyclopaedia Universalis*));
  Australia 36 (sub 12 & 43-64) (Federal Court of Australia, 22 February 2011 (*Uganda Telecom*));
  Brazil 36 (Superior Tribunal de Justiça, 12 November 2013 (*Inepar*));
- ¶ 508: US 7 (Second Circuit, 23 December 1974 (*Parsons*));
  Germany 53 (Bayerisches Oberlandesgericht, 16 March 2000 (*Russian seller*));
- ¶ 509: Russian Federation 17 (Presidium of the Supreme Arbitrazh Court of the Russian Federation, 22 February 2005 (*Codest*));
  Russian Federation 22 (Federal Arbitrazh Court, Northwestern District, 12 February 2007 (*Inko Food*));
- ¶ 511: US 472 (sub 9-11) (Fifth Circuit, 26 November 2003 (*Consorcio Rive*));
- ¶ 512: Italy 53 (sub 4 and 7-8) (Corte di Appello, Trento, 14 January 1981 (*General Organization*));
  US 812 (US Supreme Court, 5 March 2014 (*BG Group*));
- ¶ 513: Netherlands 27 (sub 7-13) (Rechtbank, Amsterdam, 27 August 2002 (*Goldtron*));
  US 520 (sub 2-11) (Second Circuit, 31 March 2005 (*Encyclopaedia Universalis*));
  US 717 (Ninth Circuit, 28 September 2010 (*Polimaster*));
  China PR 6 (sub 2-17, 27-29 and 34) (Higher People’s Court, Fujian Province, 12 October 2007 and Supreme People’s Court, 27 February 2008 (*First Investment Corp*));
- ¶ 514: Belgium 11 (sub 3-10 and 16-20) (COUR de Cassation, 5 June 1998 (*Inter-Arab Investment Guarantee Corporation*));
  UK 93 (sub 11-26) (High Court of Justice, 27 July 2011)
(Dowans));

Austria 26 (Oberster Gerichtshof, 16 April 2013 (Diag Human SE));

UK 98 (High Court of Justice, 22 May 2014 (Diag Human SE));

US 850 (District of Columbia, 7 August 2015 (Newco Limited v. Belize));

- ¶ 516: France 42 (Cour de Cassation, 29 June 2007 (Putrabali));

Netherlands 31 (sub 2-23) (Gerechtshof, Amsterdam, 28 April 2009 (Yukos)), see also A. J. van den Berg, “Enforcement of Arbitral Awards Annulled in Russia – Case Comment on Court of Appeal of Amsterdam, April 28, 2009” (2010) 27 Journal of International Arbitration, Issue 2, pp. 179–198;

Netherlands 41 (Rechtbank, Amsterdam, 17 November 2011 (Maximov));

Netherlands 42 (Rechtbank, Amsterdam 10 May 2012 (Kompas));

UK 94 (Court of Appeal, 27 June 2012 (Yukos));

US 621 (sub 1-20) (District of Columbia Circuit, 25 May 2007 (TermoRio));

US 727 (sub 8-24) (District of Columbia, 21 January 2011 (International Trading));

Corporación Mexicana De Mantenimiento Integral v. Pemex-Exploración Y Producción (Second Circuit, 2 August 2016).

Germany 150 (Oberlandesgericht, Munich, 30 July 2012 and Bundesgerichtshof, 23 April 2013 (Ukrainian dealer v. German manufacturer));

US 809 (Southern District of New York, 6 February 2014 (Thai-Lao Lignite));

UK 101 (High Court of Justice, 19 February 2015 (Malicorp)) [temporary case no.: UK 2016-1];

Brazil 44 (Superior Tribunal de Justiça, 2 December 2015 (EDF)) [temporary case no.: Brazil 2016-1];

Literature:
- Annotated List of Topics at ¶¶ 505-517, 601;

Session 7  
Tuesday, 14 February 2017, 11:10 a.m. – 11:10 p.m.

Subjects:
- Article V(2) – Public Policy as Ground for Refusal of Enforcement
- Article VII(1) – More-Favorable-Right Provision and Compatibility Provision
- Article VII(2) – Geneva Treaties of 1923 and 1927
- Article XI – Federal State Clause
- Article XIV – General Reciprocity Clause

Topics:
¶ 518-524, 710-914

Readings:
- ¶ 518: US 7 (Second Circuit, 23 December 1974 (Parsons));
  - US 59 (sub 8-11, 18-19 and 21-22) (Supreme Court, 2 July 1985 (Mitsubishi Motors));
  - US 731 (Southern District of New York, 16 February 2011 (Ameropa));
  - Switzerland 48 (Tribunal Fédéral, 26 February 2015 (Club A v. B and C));
  - US 877 (District of Columbia Circuit, 13 May 2016 (Belize));
- ¶ 523: Germany 14 (Oberlandesgericht, Cologne, 10 June 1976 (Danish Buyer v. German Seller));
- ¶ 524: US 877 (District of Columbia Circuit, 13 May 2016 (Belize));
- ¶ 701: Germany 89 (sub 1 and 4-16) (Bundesgerichtshof, 21 September 2005 (Claimant v. Defendant));
  - France 7 (sub 9-20) (Cour de Cassation, 9 October 1984 and Cour d’Appel, Paris, 19 November 1982 (Pabalk));
  - Switzerland 14 (sub 3) (Tribunal Fédéral, 5 November 1985 (Tracomin));
- ¶ 702: Germany 70 (sub 4-7) (Bundesgerichtshof, 25 September 2003 (Claimant v. Defendant));
  Netherlands 28 (sub 6-10) (Gerechtshof, The Hague, 22 February 2000 (Petrasol));
  France 42 (Cour de Cassation, 29 June 2007 (Putrabali));

- ¶ 703: Switzerland 9 (Tribunal Fédéral, 14 March 1984 (Denysiana));
  Spain 46 (sub 4-5) (Tribunal Supremo, 20 July 2004 (Antilles Cement));

- ¶ 704: Italy 57 (sub 3-11) (Corte di Cassazione, 8 February 1982 (Fratelli Damiano));
  Germany 110 (Oberlandesgericht, Dresden, 31 January 2007 (Supplier v. State enterprise));

- ¶ 704A:
  US 544 (sub 8) (Southern District of New York, 27 June 2005 (ChevronTexaco));

- ¶ 704C:
  Spain 63 (Tribunal Supremo, 17 May 2007 (Ceràmicas Casao)).

Literature:
- Annotated List of Topics at ¶¶ 518-524, 710-914;
- A. J. van den Berg, “Article VII(1) New York Convention”, presentation in ICC/RAA conference of 9 December 2015 (Russia as a Place for Dispute Resolution);
- UNCITRAL Recommendation 2006.
Session 8    Thursday, 16 February 2017, 11:10 a.m. – 1:10 p.m.

**Subjects:** Cont’d from Tuesday, 14 February 2017 (Session 7)
Preliminary Draft Convention

**Reading:**  
**Literature:**