

2023 UNCITRAL SOUTH ASIA CONFERENCE

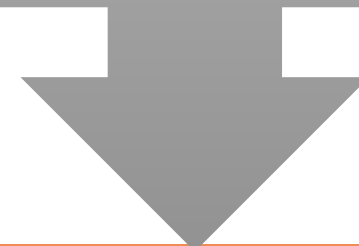
14 – 16 SEPTEMBER, NEW DELHI, INDIA

Case **L**aws **O**n **U**NCITRAL **T**exts (CLOUT)

- by Arjun Krishnan & Sriharsha Peechara, Advocates (National Correspondents for India for UNCITRAL CLOUT)

What are UNCITRAL Texts?

UNCITRAL was established by the United Nations General Assembly in 1966, with the objective to further the progressive harmonization and unification of the law of international trade. Disparities in national trade laws are barriers to the free flow of trade and commerce.



As part of its mandate, UNCITRAL has formulated treaties, conventions and model legislations on a variety of subjects :

International
Commercial
Arbitration &
Mediation

International
Transport;
Sale of Goods

Insolvency &
Security
Interests

Electronic
Commerce

Procurement
& Public-
Private
partnership

International
Payments
Etc.

India and UNCITRAL Texts

- India has either signed or ratified, or adopted/ enacted /taken into consideration while enacting law, the following UNCITRAL Texts
 - New York Convention 1958 (on recognition and enforcement of foreign arbitral awards)
 - UNCITRAL Model Law on International Commercial Arbitration 1985
 - Singapore Convention on Mediation 2018
 - UNCITRAL Model Law on Electronic Commerce 1996
 - UNCITRAL Model Law on Electronic Signatures 2001
 - UNCITRAL Model Law on Public Procurement 2011
 - Apart from this, UNCITRAL texts have been taken into consideration for interpretation by Indian courts

(Source:

<https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/overview-status-table.pdf>)

What is CLOUT?

- The UNCITRAL Secretariat has established a system for collecting and disseminating information – generally, case law abstracts and full-text judgments - on court decisions and arbitral awards relating to UNCITRAL's legal texts - including Conventions and Model Laws.
- The objective is that, in interpreting and applying UNCITRAL texts, judges and arbitrators should consider the international origin of the law and the need to promote uniformity in its application.
- The CLOUT database aims to further access to precedents from the various jurisdictions that have adhered to or implemented an UNCITRAL text.
- The database is freely available in all 6 official United Nations languages at https://uncitral.un.org/en/case_law .
- These abstracts are publicly available for access.

Creation of the CLOUT database

- **National Correspondents**: A network of National Correspondents, who are experts designated by States that are parties to UNCITRAL conventions or have enacted legislation based on UNCITRAL model laws, prepare abstracts of court decisions and arbitral awards relevant to interpretation of the UNCITRAL texts.
- **Institutional Partners**: Contributions to CLOUT can also be made through partnerships between the UNCITRAL secretariat and universities and research institutes, judicial training institutes and other organizations with a special interest in one or more areas of the work of UNCITRAL.
- **Voluntary Contributors**: Any individual (student, law professor and/or practitioner) or institution with an expertise in one or more UNCITRAL subject-areas is welcomed as a “Voluntary contributor” and to become part of the CLOUT Network, and as such can provide contributions to CLOUT.
- The CLOUT Steering Committee meets annually to review progress.

Using the CLOUT Database

- Useful for researchers/academics, lawyers and judges who want to see how the corresponding UNCITRAL Text provision has been interpreted in other jurisdictions i.e. a comparative perspective
- <http://www.uncitral.org/clout/index.jspx>
- Available to Browse by Country or UNCITRAL TEXT
- Also searchable with keywords

Browsing by Country

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Case Law on UNCITRAL Texts (CLOUT)



... or start browsing by



Country



Legislative text

A	Afghanistan (0)	Albania (5)	Algeria (0)	Andorra (0)
	Angola (0)	Antigua and Barbuda (0)	Argentina (9)	Armenia (3)
	Australia (76)	Austria (68)	Azerbaijan (0)	
B	Bahamas (1)	Bahrain (0)	Bangladesh (0)	Barbados (0)
	Belarus (18)	Belgium (5)	Belize (0)	Benin (1)
	Bermuda (1)	Bhutan (0)	Bolivarian Republic of Venezuela (0)	Bolivia (0)
	Botswana (0)	Brazil (26)	Brunei Darussalam (0)	Bosnia and Herzegovina (3)
	Burkina Faso (1)	Burundi (0)	Bulgaria (0)	
C	Cambodia (0)	Cameroon (1)	Canada (177)	Cape Verde (0)

Browsing by Country eg. India

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Order by:
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Filter results by:

▶ **Decision date**

▼ **Country (1)**

 **India (39)**

▶ **Court / Arbitral tribunal (13)**


▼ **Legislative text (3)**

[Convention on the Limitation Period in the International Sale of Goods \(New York, 1974\)](#)
(1 case(s))


[Model Law on International Commercial Arbitration \(1985\)](#)
(16 case(s))

[New York Convention \(1958\)](#)
(23 case(s))





Additional criteria:

Country: **India** 

[Clear all](#)

Found 39 case(s)



CLOUT case 177 CLOUT issue: 13

§ Model Law on International Commercial Arbitration (1985)



India

Court name: Supreme Court of India

Decision date: 18/11/1996

CLOUT case 1424 CLOUT issue: 152

§ New York Convention (1958)



India

Court name: Supreme Court of India

Decision date: 06/09/2012

CLOUT case 1427 CLOUT issue: 152

§ New York Convention (1958)



India

Court name: High Court of Madras

Decision date: 29/10/2008

CLOUT case 1423 CLOUT issue: 152

§ New York Convention (1958)

Browsing by UNCTRAL Legislative Text

... or start browsing by



Country



Legislative text

CISG (1980) (994 case(s))

Convention on Independent Guarantees and Standby Letters of Credit (1 case(s))

Convention on the Limitation Period in the International Sale of Goods (1980, amended text) (Limitation Convention) (7 case(s))

Convention on the Limitation Period in the International Sale of Goods (New York, 1974) (10 case(s))

Convention on the Use of Electronic Communications in International Contracts (6 case(s))

Hamburg Rules (1978) (6 case(s))

Legislative Guide on Insolvency Law (1 case(s))

Model Law on Cross-Border Insolvency (1997) (176 case(s))

Model Law on Electronic Commerce (1996) (43 case(s))

Model Law on Electronic Signatures (2001) (2 case(s))

Model Law on International Commercial Arbitration (1985) (534 case(s))

Model Law on International Credit Transfers (1992) (1 case(s))

New York Convention (1958) (293 case(s))

Browsing by UNCTRAL Legislative Text


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▶ **Country** (43)
▶ **Legislative text** (4)
▶ **Article** (163)
▶ **Keyword** (192)



Search cases

Additional criteria:

Legislative text: **Model Law on International Commercial Arbitration (1985)** X

Clear all

Found 534 case(s)

CLOUT case 583 CLOUT issue: 52

§ Model Law on International Commercial Arbitration (1985)

 Canada

Court name: Cour d'appel du Québec

Decision date: 18/05/1994

CLOUT case 584 CLOUT issue: 52

§ Model Law on International Commercial Arbitration (1985)

 Canada

Court name: Alberta Court of Queen's Bench

Decision date: 30/09/1993

CLOUT case 585 CLOUT issue: 52

§ Model Law on International Commercial Arbitration (1985)

 Canada


Filtering results by: Article & Keyword

Filter results by:


- ▶ **Decision date**
- ▶ **Country (43)**
- ▶ **Legislative text (4)**
- ▼ **Article (163)**
 - 1 (5 case(s))
 - 1(1) (7 case(s))
 - 1(2) (9 case(s))
 - 1(3) (10 case(s))
 - 1(3)(a) (3 case(s))
 - 1(3)(b) (1 case(s))
 - 1(3)(b)(i) (2 case(s))
 - 1(3)(b)(ii) (6 case(s))
 - 2 (5 case(s))
 - 10 (3 case(s))
 - 11 (5 case(s))
 - 11(2) (1 case(s))
 - 11(3) (12 case(s))
 - 11(3)(a) (5 case(s))
 - 11(3)(b) (3 case(s))
 - 11(4) (8 case(s))
 - 11(4)(a) (3 case(s))
 - 11(5) (9 case(s))
 - 12 (10 case(s))
 - 12(1) (6 case(s))

 Canada
Court name: Cour d'appel du Québec
Decision date: 18/05/1994

CLOUT case 584 **CLOUT issue: 52**

§ Model Law on International Commerce
 Canada
Court name: Alberta Court of Queen's Bench
Decision date: 30/09/1993


CLOUT case 585 **CLOUT issue: 52**
§ Model Law on International Commerce
 Canada
Court name: British Columbia Court of Appeal
Decision date: 16/07/1993


CLOUT case 582 **CLOUT issue: 52**
§ Model Law on International Commerce
 Canada
Court name: British Columbia, Supreme Court
Decision date: 22/04/1989

CLOUT case 600 **CLOUT issue: 54**
§ Model Law on International Commerce
 Hong Kong, China

- ▶ **Article (163)**
- ▼ **Keyword (192)**
 - International nature of arbitration (1 case(s))
 - additional award (3 case(s))
 - amiable composition (2 case(s))
 - annulment of award (1 case(s))
 - annulment of jurisdictional decision (1 case(s))
 - applicable law (11 case(s))
 - appointment of a substitute arbitrator (1 case(s))
 - appointment of arbitrator by parties (1 case(s))
 - appointment of arbitrator by tribunal (5 case(s))
 - appointment of arbitrators (4 case(s))
 - appointment procedures (19 case(s))
 - arbitrability (17 case(s))
 - arbitral award (17 case(s))

§ Model Law on International Commerce
 Canada
Court name: Alberta Court of Queen's Bench
Decision date: 30/09/1993

CLOUT case 585 **CLOUT issue: 52**
§ Model Law on International Commerce
 Canada
Court name: British Columbia Court of Appeal
Decision date: 16/07/1993

CLOUT case 582 **CLOUT issue: 52**
§ Model Law on International Commerce
 Canada
Court name: British Columbia, Supreme Court
Decision date: 22/04/1989

CLOUT case 600 **CLOUT issue: 54**
§ Model Law on International Commerce
 Hong Kong, China
Court name: High Court, Court of First Instance
Decision date: 24/07/1998

CLOUT case 588 **CLOUT issue: 52**
§ Model Law on International Commerce

Example of an Abstract available on the CLOUT database

Case 1953: NYC IV; V; MAL 35; 36

India: Supreme Court of India

Civil Appeal 3185 of 2020

Government of India v. Vedanta Limited & others

16 September 2020

Original in English

Published: (2020) 10 SCC 1

Available at: <https://indiankanoon.org/doc/177552381/>

Abstract prepared by: Gourab Banerji, Promod Nair, Manisha Singh, George Pothan Poothicote, Arjun Krishnan, Sriharsha Peechara, Ajay Thomas, National Correspondents

[Keywords: enforcement, foreign seated arbitration, limitation, public policy]

Vedanta Limited (“Vedanta”), Ravva Oil (Singapore) Ltd and Videocon Industries Limited (“Videocon”) obtained an award in April 2011 from a Kuala Lumpur seated arbitral tribunal to recover development costs of US\$ 278.87 million from the Government of India (“Government”). The dispute arose out of a production sharing contract for the development of the Ravva oil and gas fields situated in India. The Government unsuccessfully challenged the award in Malaysia. Thereafter, a judgment dated 19 February 2020 was passed by the Delhi High Court directing the enforcement of the award in India. The Government filed an appeal before the

Relevant Article of the Text : NYC Article IV
Model Arb. Law Art 35, 36 (s. 46-48 Act)

Case Details

Citation; public link

Keywords (searchable in database)

Summary of the case -

1. Facts
2. Issue
3. Contentions
4. Interpretation and Finding

Questions

Thank You from:

India National CLOUT Correspondents:

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Ajay Thomas, George Pothan Poothicote, Sriharsha Peechara,
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