

**Supplementary Written Evidence from Alex Mills,
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Special Public Bill Committee on the Arbitration Bill [HL]

1. Thank you for the opportunity to give oral evidence to the Committee at its recent hearing on 14 February 2024, following on from my previous submission of written evidence on 5 February 2024. You will recall that during the hearing I suggested that the wording of proposed section 6A of the Arbitration Bill might be tightened up to ensure that it is clear what it requires – that for a choice of law agreement to be effective in relation to an arbitration agreement, it must be both (i) express and (ii) specific to the arbitration agreement. I was asked if I might suggest some wording to achieve this, and I set out the proposed wording below.
2. As suggested in the hearing, I have consulted with my fellow panel members, Dr Ugljesa Grusic and Mr Toby Landau KC, and I am happy to confirm that they have both endorsed the proposed revisions set out below.
3. The suggested amendments to section 6A, with changes from the current draft marked up in revision mode, are as follows:

6A Law applicable to arbitration agreement

(1) The law applicable to an arbitration agreement is—

- (a) the law that the parties expressly agree applies specifically to the arbitration agreement, or
- (b) where no such agreement is made, the law of the seat of the arbitration in question.

(2) For the purposes of subsection (1), agreement between the parties that a particular law applies to an agreement of which the arbitration agreement forms a part does not, ~~of itself,~~ constitute an express agreement that that law ~~also~~ applies specifically to the arbitration agreement.

4. I hope this is helpful to the Committee, and would be happy to offer any further assistance.

Professor Alex Mills
16 February 2024