

SUPPLEMENTARY WRITTEN EVIDENCE FROM LORD PHILLIPS, SIR RICHARD AIKENS, SIR CHRISTOPHER CLARKE, SALIM MOOLLAN KC AND EMILIE GONIN (BRICK COURT CHAMBERS), SIR BERNARD RIX (20 ESSEX STREET) AND RICKY DIWAN KC (ESSEX COURT CHAMBERS) AND LORD HOFFMANN (BRICK COURT CHAMBERS)

EVIDENCE ON THE ARBITRATION BILL

(HOUSE OF LORDS' SPECIAL PUBLIC BILL COMMITTEE)

PROPOSED REVISED WORDING OF CLAUSE 6A

[**CLOSED WORDING** IN CONTRAST TO THE
OPEN WORDING PROPOSED BY THE LAW
COMMISSION AND
(MUCH) IMPROVED BY PROF. MILLS]

"6A Law applicable to arbitration agreement

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

(a) the law that the parties expressly agree applies to the arbitration agreement in the manner provided for in section 6A(2), or

(b) where no such agreement is made, the law of the seat of the arbitration in question.

(2) For the purposes of section 6A(1)(a), the parties shall have expressly agreed the law that applies to the arbitration agreement only if that express choice of law is in, specifically relates to, or specifically references, the arbitration agreement."

[underlined words added in clause 6A(1), new clause 6A(2) based on the wording suggested by Mr Peter Ashford at para. 6 of his response to the Committee's Call for Evidence, and endorsed by Mr Landau KC at para. 29.ii of his response to the Committee's Call for Evidence]