

Empirical Analysis of Arbitration Dynamics in Cross-Border Insolvency: The Role of Lex Mercatoria in Asset Recovery

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Abstract. This study examines the integration of lex mercatoria principles in international arbitration cases concerning cross-border insolvency. Using a mixed-methods approach, we analyzed 50 arbitration awards from 2024-2026 where lex mercatoria was invoked. Our findings reveal significant variations in asset recovery outcomes, suggesting that standardized guidelines could mitigate jurisdictional discrepancies. These insights contribute to ongoing debates on harmonizing international trade laws and underscore the importance of adaptable legal frameworks in bankruptcy arbitration. This research advances both theoretical understanding and practical application of arbitration laws in a globalized economy.

Keywords: cross-border insolvency, international arbitration, lex mercatoria, asset recovery, jurisdictional discrepancies, harmonizing trade laws, bankruptcy arbitration

Introduction

In the increasingly interconnected global economy, the complexities of cross-border insolvency present significant challenges to legal practitioners and policymakers. The evolving landscape of international trade and finance necessitates a reevaluation of traditional legal frameworks, particularly in the context of arbitration. Cross-border insolvency cases often involve multiple jurisdictions, each with its own legal traditions and regulations. This complexity is further compounded by the involvement of multinational corporations and the varying interests of stakeholders. In this setting, lex mercatoria—a body of commercial law used by merchants throughout Europe during the medieval period and still influential today—emerges as a pivotal intermediary to adjudicate disputes. Its principles, characterized by flexibility and adaptability, are increasingly being invoked in

arbitration proceedings to resolve cross-border insolvency issues. This study explores the application of *lex mercatoria* in arbitration, emphasizing its potential to harmonize conflicting legal systems. We employ a comprehensive mixed-methods approach, analyzing a selection of arbitration awards from 2024 to 2026, to evaluate how *lex mercatoria* is applied in practice and its impact on asset recovery. The findings aim to shed light on the effectiveness of *lex mercatoria* as a tool for achieving equitable resolutions in complex cross-jurisdictional insolvency cases. The paper is structured as follows: Section 2 details the methodological framework employed in the study. Section 3 presents the empirical findings and discussion. Section 4 offers a conclusion with policy recommendations and future research directions.

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