**Title:**

**Table of Contents:**
RECOMMENDATIONS

**Content:**
RECOMMENDATIONS

1. To promote efficiency and finality of international commercial arbitration, arbitral awards should have conclusive and preclusive effects in further arbitral proceedings.

2. The conclusive and preclusive effects of arbitral awards in further arbitral proceedings set forth below need not necessarily be governed by national law and may be governed by transnational rules applicable to international commercial arbitration.

3. An arbitral award has conclusive and preclusive effects in further arbitral proceedings if:
   3.1 it has become final and binding in the country of origin and there is no impediment to recognition in the country of the place of the subsequent arbitration;
   3.2 it has decided on or disposed of a claim for relief which is sought or is being reargued in the further arbitration proceedings;
   3.3 it is based upon a cause of action which is invoked in the further arbitration proceedings or which forms the basis for the subsequent arbitral proceedings; and
   3.4 it has been rendered between the same parties.

4. An arbitral award has conclusive and preclusive effects in the further arbitral proceedings as to:
   4.2 determinations and relief contained in its dispositive part as well as in all reasoning necessary thereto;
   4.2 issues of fact or law which have actually been arbitrated and determined by it, provided any such determination was essential or fundamental to the dispositive part of the arbitral award.

5. An arbitral award has preclusive effects in the further arbitral proceedings as to a claim, cause of action or issue of fact or law, which could have been raised, but was not, in the proceedings resulting in that award, provided that the raising of any such new claim, cause of action or new issue of fact or law amounts to procedural unfairness or abuse.

6. The conclusive effects of an arbitral award can be invoked in further arbitration proceedings at any time permitted under the applicable procedure.

7. The preclusive effects of an arbitral award need not be raised on its own motion by an arbitral tribunal. If not waived, such preclusive effects should be raised as soon as possible by a party.

**Referring Principles:**
XIII.4.5 - Conclusive and preclusive effects of awards; res judicata