

# LINGUISTIC AND LANGUAGE ISSUES IN INTERNATIONAL ARBITRATION—PROBLEMS, PITFALLS AND PARANOIA

*Stephan Wilske*\*

*“Come, let us go down, and confuse their language there, so that they  
will not understand one another’s speech.”*

(Genesis 11:7)<sup>1</sup>

---

\*Partner, Gleiss Lutz, Stuttgart (Germany); FCIArb, admitted to the New York and German bar as well as to the U.S. Supreme Court, the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Appeals for the Second Circuit; Maîtrise en droit, Université d’Aix-Marseille III, France; LL.M. (The University of Chicago; Casper Platt Award); Dr. iur (Tübingen); Diploma in International Arbitration (Chartered Institute of Arbitrators); lecturer at the Universities of Heidelberg and Jena; Visiting Professor at the National Taiwan University, College of Law (Spring 2010); Advisory Committee Member of the Swiss Arbitration Academy. Senior Committee Member of the Contemporary Asia Arbitration Journal; International Correspondent (Germany) of *Revista Română de Arbitraj* (Romanian Arbitration Review). Since 2011, he has been a member of the American Law Institute (ALI) and since 2016 a member of the SIAC Users Council. This paper was presented at the 2016 Taipei International Conference on Arbitration and Mediation (August 29 and 30, 2016), which was hosted by the Chinese Arbitration Association (CAA) and the Asian Center for WTO & International Health Law and Policy, College of Law, National Taiwan University. For research assistance I thank Laura Pfiz. Many thanks go to Yu-Fen Chang for her valuable input and sharing of Chinese wisdom, my esteemed colleague Todd J. Fox for a critical review of the manuscript, Sarah Römer and Nicole Rohbeck for their invaluable assistance in patiently formatting the work of my various night shifts and Isabelle Dinkela for her assistance in the publication process. For all errors and omissions the author assumes sole responsibility. The author can be reached at: [stephan.wilske@gleisslutz.com](mailto:stephan.wilske@gleisslutz.com).

<sup>1</sup> This translation follows the New Revised Standard Version Catholic Edition (NRSVCE).

## ABSTRACT

*This paper deals with challenges in international arbitration that are caused by linguistic and language issues. The author starts on the presumption that English is the lingua franca of international arbitration. The author describes potential problems and pitfalls, and, in particular, warns native English speakers to neither ignore these issues nor exaggerate them. The author also describes some inadequate attitudes for dealing with these issues. He encourages non-native English speakers to not accept being marginalized because of supposed language disadvantages. In reality, only a multi-lingual and multi-cultural approach is successful, as the author tries to demonstrate.*

**KEYWORDS:** *ambush of witnesses, authentic versions, BREXIT, bullying of witnesses, credibility, cross-examination, cultural sensitivity, culture, global English, Globish, lingua franca, linguistics, Monoglots, Monolingual, tactical maneuvering, pathological translation, trap of hidden meaning, World English*