Fouchard Gaillard Goldman On International Commercial Arbitration

In 'Trade Usages and Implied

Terms in the Age of Arbitration', Fabien Gélinas, along with a distinguished group of leaders from the international community, provide a clear explanation of how usages, and more generally the implicit or implied content of

international commercial contracts, are approached by some of the most influential legal systems in the world.

The collected papers in ICCA Congress Series no. 11, as reflected in its title, address

important contemporary questions in international commercial arbitration. Included are contributions written by participants in the UNCITRAL Working Group on Arbitration and Conciliation on its current work on the requirement

of a written form for an arbitration agreement, interim measures of protection and UNCITRAL?s Model Law on International Commercial Conciliation. Further contributions give leading practitioners? views on illegality in the formation and

performance of contracts or in the conduct of the arbitration, examining questions on how the arbitral tribunal should deal with these vexed issues and how forgery and fraud may be detected. The factors that lead to acceptance

by parties of the decisions of arbitrators are dealt with in contributions on the psychological aspects of dispute resolution. The volume concludes with a series of articles on arbitration under investment treaties written by

experienced arbitrators and practitioners, with special emphasis on ICSID and NAFTA and the emerging issues of transparency, accountability and review. Contains lengthy articles on the ongoing work of UNCITRAL on proposed

amendments to the UNCITRAL Model Law on International Commercial Arbitration and the recently adopted Model Law on International Commercial Conciliation Details the current thinking on the requirement of an

arbitration agreement in writing and how this can be accommodated by the UNCITRAL Model Law and the 1958 New York Convention Addresses the granting of interim measures by arbitral tribunals and their enforcement by national and

foreign courts Analyzes issues raised by illegality in the formation and performance of contracts and in the conduct arbitrations and provides a systematic overview of the answers given by legislation, arbitrators and courts Provides

insight into the attitudes of arbitrators and parties regarding dispute settlement processes Addresses the changing public perception of arbitration under investment treaties
IAI Series No. 5 The International

Arbitration Institute (IAI) series on international arbitration is a new periodic series of publications that will focus on cutting edge issues and developments in international arbitration. About the IAI: The International Arbitration Institute

(IAI), an organization created under the auspices of the Comite Francais de l'Arbitrage (CFA), was created to promote exchanges international arbitration. The IAI is designed to promote exchanges on current issues in the field of

international commercial arbitration. Its activities include the regular organization of international conferences, colloquiums, as well as conducting various research projects. About the book: Arbitrators routinely refer in their

decisions to awards rendered by other arbitral tribunals that deal with the same issues. However natural it may seem to arbitrators and to parties who will refer to arbitral precedents in an attempt to support their position, such an approach

raises many practical and theoretical questions: Is there such a thing as arbitral precedent? What weight should arbitrators give to decisions previously rendered by other arbitral tribunals? Can arbitral "case law" exist without

consistency? Does such consistency exist? Is it necessary or simply desirable? What is the respective weight to be given to arbitral and national case law when arbitrators have to decide a case in accordance with a given law?

These are some of the questions that this book explores, in the context of both international commercial arbitration and investment arbitration.
International Commercial Arbitration is an authoritative 4,250

page treatise, in three volumes, providing the most comprehensive commentary and analysis, on all aspects of the international commercial arbitration process that is available. The Third Edition of International Commercial

Arbitration has been comprehensively revised, expanded and updated, To include all legislative, judicial and arbitral authorities, and other materials in the field of international arbitration prior to June 2020. It also includes

expanded treatment of annulment, recognition of awards, counsel ethics, arbitrator independence and impartiality and applicable law. The revised 4,250 page text contains references to more than 20,000 cases, awards and other authorities

and will enhance the treatise's position as the world's leading work on international arbitration. The first and second editions of International Commercial Arbitration have been routinely relied on by courts and arbitral

tribunals around the world ((including the highest courts of the United States, United Kingdom, Singapore, India, Hong Kong, New Zealand, Australia, the Netherlands and Canada) and international arbitral tribunals (including ICC,

SIAC, LCIA, AAA, ICSID, SCC and PCA), e.g.: U.S. Supreme Court – GE Energy Power Conversion France SAS, Corp. v. Outokumpu Stainless USA, LLC, 590 U.S. - (U.S. S.Ct. 2020); BG Group plc v. Republic of Argentina, 572 U.S. 25

(U.S. S.Ct. 2014); Canadian Supreme Court – Uber v. Heller, 2020 SCC 16 (Canadian S.Ct.); Yugraneft Corp. v. Rexx Mgt Corp., [2010] 1 R.C.S. 649, 661 (Canadian S.Ct.); U.K. Supreme Court – Jivraj v. Hashwani [2011] UKSC 40, ¶78

(U.K. S.Ct.); Dallah Real Estate & Tourism Holding Co. v. Ministry of Religious Affairs, Gov't of Pakistan [2010] UKSC 46 (U.K. S.Ct.); Swiss Federal Tribunal – Judgment of 25 September 2014, DFT 5A_165/2014 (Swiss Fed. Trib.);

Indian Supreme Court – Bharat Aluminium v. Kaiser Aluminium, C.A. No. 7019/2005, ¶¶138-39, 142, 148-49 (Indian S.Ct. 2012); Singapore Court of Appeal – Rakna Arakshaka Lanka Ltd v. Avant Garde Maritime Servs. Ltd, [2019] 2

SLR 131 (Singapore Ct. App.); PT Perusahaan Gas Negara (Persero) TBK v. CRW Joint Operation, [2015] SGCA 30 (Singapore Ct. App.); Larsen Oil & Gas Pte Ltd v. Petroprod Ltd, [2011] SGCA 21, ¶19 (Singapore Ct. App.);

Australian Federal Court – Hancock Prospecting Pty Ltd v. Rinehart, [2017] FCAFC 170 (Australian Fed. Ct.); Hague Court of Appeal – Judgment of 18 February 2020, Case No. 200.197.079/01 (Hague Gerechtshof); Arbitral Tribunals –

Lao Holdings NV v. Lao People's Democratic Republic I, Award in ICSID Case No. ARB(AF)/12/6, 6 August 2019; Gold Reserve Inc. v. Bolivarian Republic of Venezuela, Decision regarding the Claimant’s and the Respondent’s Requests

for Corrections, ICSID Case No. ARB(AF)/09/1, 15 December 2014; Total SA v. The Argentine Republic, Decision on Stay of Enforcement of the Award, ICSID Case No. ARB/04/01, 4 December 2014; Millicom Int'l Operations B.V. v.

Republic of Senegal, Decision on Jurisdiction of the Arbitral Tribunal, ICSID Case No. ARB/08/20, 16 July 2010; Lemire v. Ukraine, Dissenting Opinion of Jürgen Voss, ICSID Case No. ARB/06/18, 1 March 2011.

UNCITRAL Secretariat Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958)
Pervasive Problems in International Arbitration
International & Comparative

Perspectives
Towards Default Arbitration
The Principles and Practice of International Commercial Arbitration
The present work, based on a Course given at The

Hague Academy of International Law in the Summer 2007, identifies the philosophical postulates that underlie this field of study and shows their profound

coherence and the
practical consequences
that follow from these
postulates in the
resolution of
international disputes.
This book examines the

formation, nature and effect of the arbitratorsâe(tm) contract, addressing topics such as the appointment, challenge, removal and duties and

rights of arbitrators, disputing parties and arbitration institutions. The arguments made in the book are based on a semi-autonomous theory of the juridical nature of

international arbitration and a contractual theory of the legal nature of these relationships. From these premises, the book analyses the formation of the arbitratorâe(tm)s

contract in both ad hoc and institutional references. It also examines the institutionâe(tm)s contract with the disputing parties and its

effect on the arbitratorâe(tm)s contract under institutional references. The book draws from national arbitration laws and institutional rules in various

jurisdictions to give a global view of the issues examined in it. The arbitratorâe(tm)s contract is analysed from a global perspective of arbitral law and practice with

insights from various jurisdictions in Africa, Asia, Europe, North and South America. The primary focus of the book is an analysis of the formation of the arbitratorâe(tm)s

contract and the terms of this contract and the institutionâe(tm)s contract. The primary question of the consequences (if any) of the breaches of the terms

of these contracts and its impact on the exclusion or limitation of liability of arbitrators and institutions is also analysed with the conclusion that since

these transactions are contractual and the terms can be categorised as in any normal contract, then normal contractual remedies can be applied to the breaches of these

terms. International Commercial Arbitration and the Arbitratorâe(tm)s Contract will be of great value to arbitration practitioners and researchers in

arbitration. It will also be very useful to students of arbitration on the topics of arbitrators and arbitration institution. The Guide on the New York Convention provides an

insight on the application of the Convention by State courts.

Reaching past the secrecy so often met in arbitration, the second edition of this commentary

explains clearly and fully the workings of the UNCITRAL Rules of Arbitral Procedure recommended for use in 1976 by the United Nations. This new edition fully takes account of the

revised Rules adopted in 2010 while maintaining coverage of the original Rules where these remain relevant. The differences between the old and the new Rules are clearly

indicated and explained. Pulling together difficult to obtain sources from the Iran-United States Claims Tribunal, arbitrations under Chapter 11 of the North American Free Trade

Agreement, and ad hoc arbitrations, it illuminates the shape the UNCITRAL Rules take in practice. The authors cogently critique that practice in the light of

the negotiating history of the rules and solutions adopted by the other major private rules of arbitral procedure. To aid the specialist in the field, the practice of these

various tribunals is extensively extracted and reproduced. Rich both in its analysis and sources, this text is indispensable for those working in or studying international

arbitration.
Recognition and Enforcement of Foreign Arbitral Awards
Elgar Encyclopedia of Comparative Law, Second Edition

International Commercial Arbitration
International Arbitration
Anti-suit Injunctions in International Arbitration
This title provides the reader with immediate access to understanding the

world of international arbitration. Arbitration has become the dispute resolution method of choice in international transactions. This book explains how and why arbitration works. It provides the legal and regulatory framework for international

arbitration, as well as practical strategies to follow and pitfalls to avoid. It is short and readable, but comprehensive in its coverage of the basic requirements, including changes in arbitration laws, rules, and guidelines. In the book, the author

includes insights from numerous international arbitrators and counsel, who tell firsthand about their own experiences of arbitration and their views of the best arbitration practices. Throughout the book, the principles of arbitration are supported and explained

by the practice, providing a concrete approach to an important means of resolving disputes.

International arbitration has developed into a global system of adjudication, dealing with disputes arising from a variety of legal relationships: between

states, between private commercial actors, and between private and public entities. It operates to a large extent according to its own rules and dynamics - a transnational justice system rather independent of domestic and international law. In response to its

growing importance and use by disputing parties, international arbitration has become increasingly institutionalized, professionalized, and judicialized. At the same time, it has gained significance beyond specific disputes and indeed contributes to the

shaping of law. Arbitrators have therefore become not only adjudicators, but transnational lawmakers. This has raised concerns over the legitimacy of international arbitration. Practising Virtue looks at international arbitration from the 'inside', with an emphasis on

its transnational character. Instead of concentrating on the national and international law governing international arbitration, it focuses on those who practice international arbitration, in order to understand how it actually works, what its sources of

authority are, and what demands of legitimacy it must meet. Putting those who practice arbitration into the centre of the system of international arbitration allows us to appreciate the way in which they contribute to the development of the law they apply.

This book invites eminent arbitrators to reflect on the actual practice of international arbitration, and its contribution to the transnational justice system.

This book provides a comprehensive commentary on the UNCITRAL Model

Law on International Arbitration. Combining both theory and practice, it is written by leading academics and practitioners from Europe, Asia and the Americas to ensure the book has a balanced international coverage. The book not only provides an article-by-

article critical analysis, but also incorporates information on the reality of legal practice in UNCITRAL jurisdictions, ensuring it is more than a recitation of case law and variations in legal text. This is not a handbook for practitioners needing a supportive

citation, but rather a guide for practitioners, legislators and academics to the reasons the Model Law was structured as it was, and the reasons variations have been adopted.

In the context of harmonisation of arbitration law and practice worldwide,

to what extent do local legal traditions still influence local arbitration practices, especially at a time when non-Western countries are playing an increasingly important role in international commercial and financial markets? How are the new economic

powers reacting to the trend towards harmonisation? China provides a good case study, with its historic tradition of non-confrontational means of dispute resolution now confronting current trends in transnational arbitration. Is China showing signs of adapting to the

current trend of transnational arbitration? On the other hand, will Chinese legal culture influence the practice of arbitration in the rest of the world? To address these challenging questions it is necessary to examine the development of arbitration in the

context of China's changing cultural and legal structures. Written for international business people, lawyers, academics and students, this book gives the reader a unique insight into arbitration practice in China, based on a combination of theoretical analysis

and practical insights. It explains contemporary arbitration in China from an interdisciplinary perspective and with a comparative approach, setting Chinese arbitration in its wider social context to aid understanding of its history, contemporary practice, the

legal obstacles to modern arbitration and possible future trends. In 2011 the thesis on which this book was based was named 'Best Thesis in International Studies' by the Swiss Network for International Studies. “What distinguishes this work from

other books on international arbitration is its interdisciplinary perspective and comparative approach...this book makes a remarkable contribution to the understanding of arbitration in China and transnational arbitration in general. Academics, scholars and students of

international arbitration, comparative studies and globalisation may all find this book stimulating. It also provides useful guidance for practitioners involved or interested in arbitration in China." From the Foreword by Gabrielle Kaufmann-Kohler

Towards a Uniform International Arbitration Law?
Procedure and Evidence in International Arbitration
International Arbitration
A Commentary
International Commercial Arbitration and the Arbitrator's Contract

Arbitration Law of Czech Republic: Practice and Procedure

States get involved in international affairs either directly or through their instrumentalities. The activities of these instrumentalities raise

many issues, two of which have given rise to significant recent developments both in arbitral and domestic case law. The first is whether and under what conditions a State may be held liable for the conduct of such

instrumentalities on the basis of an investment treaty. This issue will be the subject of a systematic survey of ICSID and ICC case law and that of other arbitral tribunals so as to identify the circumstances in

which such liability may arise. The second issue, which is addressed by State courts, is whether and under what conditions State instrumentalities that have a separate and autonomous legal

personality may be held liable for the pecuniary obligations of the State. A comparative law study focusing in particular on solutions found in French, English and U.S. law will provide answers to the question

as to whether an award holding a State liable may be enforced against the assets of instrumentalities of that State, where such instrumentalities are prima facie separate juridical persons.

Written by today ' s leading arbitrators and counsel, this remarkably candid guide provides insight into the practitioner ' s approach, conduct, style, and techniques that have proven most effective.

While the facts and the law are fundamental, a successful outcome is the product of painstaking document review, witness interviews, legal research, strategizing and focusing the case, and

developing compelling written and oral presentations. How to properly perform these tasks is the subject of this book. And where the first edition focused mainly on the cultural differences in advocacy

performed in various regions of the world, this new edition expands on this theme by addressing each functional aspect of an international arbitration and the techniques that have been developed for

good written and oral advocacy. Intended to assist both the novice in learning the techniques of advocacy, and the experienced advocate in improving his skills, this is an essential reference.

Arbitration is the dominant method in the world for resolving international commercial disputes. As compared with institutional arbitration, ad hoc arbitration has many advantages that make

it a preferred way to resolve commercial disputes on many occasions. The Arbitration Law of the People ’ s Republic of China, however, requires that parties appoint an arbitration institution in their arbitration

agreement; otherwise an ad hoc arbitration agreement is invalid. This rule seems to preclude ad hoc arbitration under Chinese law and threatens the validity of many arbitration agreements that are imperfectly drafted.

Fortunately, however, this does not mean Chinese courts will never enforce an ad hoc arbitration agreement or an ad hoc arbitration award. This book informs parties and practitioners of potential pitfalls

related to ad hoc arbitration in China and offers practical guidance. It also conducts a comparative study of the history of arbitration in the Western world and in China, to identify the reasons for this

hostility to ad hoc arbitration and calls for changes to this requirement under Chinese law. Corruption's involvement in arbitration is far from novel, but, there remains a lack of uniformity among arbitral

tribunals on how to tackle corruption.This study delves into these controversial concerns and analyses practical solutions within the context of theory and practice.

Cases and Materials

The Art of Advocacy in International Arbitration
Annulment of ICSID Awards
Trade Usages and Implied Terms in the Age of Arbitration
The UNCITRAL Arbitration Rules

Advanced notion of the Creeping Codification which is based on the 'TransLex Principles', operated by the Center for Transnational Law (CENTRAL) of Cologne University at www.trans-lex.org. The Trans- Lex Principles are based on the 'List of

Principles, Rules and Standards of the Lex Mercatoria' which was reproduced in the Annex of the first edition of this book. This Internet-based codification method realized through the TransLex Principles corresponds to the unique character

of the Creeping Codification of the New Lex Mercatoria which is an ongoing, spontaneous, and dynamic process which is never completed. This treatise describes the practice of international commercial arbitration with reference to the major

international treaties and instruments, arbitration rules and national laws. It provides an analysis of the interaction between party autonomy and arbitration practice.

A convenient single volume introduction to international

arbitration written by experts, including discussion of the latest developments.
Central to the book ’ s purpose is the procedural challenge facing arbitrators at each and every stage of the arbitral process when fairness

arguments conflict with efficiency concerns and trade-offs must be determined. Some key themes include how can a tribunal be fair, and in particular be neutral, if parties are so diverse? How can arbitration be made efficient and cost-effective without

undue inroads into fairness and accuracy? How does a tribunal do what is best if the parties are choosing a suboptimal process? When can or must an arbitrator ignore procedural choices made by the parties? The author thoroughly evaluates

competing arguments and adds his own practical tips, expertly synthesizing and engaging with the conference literature and differing authors ' views. He identifies criteria that offer a harmonized approach to each stage of the arbitral process, with

particular attention to such aspects of international arbitration as: appropriate trade-offs between flexibility and certainty; the rights, duties and powers of arbitrators; appointment and challenge of arbitrators; responses to ‘ guerilla ’

tactics; drafting of arbitration agreements, including specialty clauses; drafting of required commencement notices and response documents; set-off; fast track arbitration and other efficiency options; strategic use of preliminary

conferences and timetabling; online arbitration; multi-party, multi-contract, class arbitration; amicus and third party funders; pre-arbitral referees and interim relief; witness evidence, both factual and expert; documentary evidence, production

obligations, and challenges to production; identifying applicable law; and remedies and costs.
The Cambridge Companion to International Arbitration
Important Contemporary Questions
IAI Seminar, Paris, November 21,

2003
Arbitrability
UNCITRAL Model Law on International Commercial Arbitration
A comprehensive review of the arbitration law and practice in the Czech Republic including: discussion of

arbitration practice and procedure; an examination of the jurisdiction of the arbitral tribunal; the appointment of arbitrators including the challenge and replacement of arbitrators; an analysis of the various types of awards including a discussion on deliberations, agreements,

settlements, and the costs of arbitration; a discussion on the amendment and challenge of awards including the liability of arbitrators; and, a review of the enforcement of domestic and foreign arbitration awards.

Partners in this unique product- ICCA:

International Council for Commercial Arbitration; - PCA: The Permanent Court of Arbitration- ITA: Institute for Transnational ArbitrationKluwerArbitration.com contains over 115,000 pages of the most essential Arbitration materials.-

Arbitration treaties 12 conventions- Legislation over 321 national laws- Rules over 386 rules- Case law over 3,061 court decisions and 1,390 awards- Commentary 5,051 full-text commentary articles and 7 authoritative books- Extensive bibliographies over

3,500 entries- A Guide to the New ICC Rules of Arbitration, edited by Yves Derains and Eric Schwartz- Arbitration in the America's Cup: The XXXI America's Cup Arbitration Panel and its Decisions, edited by Henry Peter- Collection of WIPO Domain Name

Panel Decisions, edited by Eun-Joo Min and Mathias Lilleengen- Fouchard, Gaillard, Goldman on International Commercial Arbitration, edited by Emmanuel Gaillard and John Savage- International Commercial Arbitration: Commentary and Materials, by Gary

Born- Recueil des sentences du TAS/Digest of CAS Awards, edited by Matthieu Reeb (Volume 1, 1986-1998 and Volume II, 1998-2000)- Arbitral Awards of the Cairo Regional Centre for International Commercial Arbitration, by Mohie Eldin I. Alam Eldin and M.

I.M. Aboul-Enein- Arbitration International: complete set from 1985- ASA Bulletin: as from 2000- Journal of International Arbitration: complete set from 1984- Revue de l'arbitrage: as from 1986- ICCA Yearbook: over 28 years of reporting- ICCA Handbook: over 20

years of reporting- ICCA Congress Series: Volumes 3, 6 and 9- Iran-UnitedStates Claims Tribunal case law (selected cases)- Milan Bibliography- ITA monthly r

Acclaim for the first edition: ï This is a very important and immense book. . .

The Elgar Encyclopedia of Comparative Law is a treasure-trove of honed knowledge of the laws of many countries. It is a reference book for dipping into, time and time again. It is worth every penny and there is not another as comprehensive in its coverage

as Elgar Í s. I highly recommend the
Elgar Encyclopedia of Comparative Law
to all English chambers. This is a very
important book that should be sitting in
every university law school library. Í _
Sally Ramage, The Criminal Lawyer
Containing newly updated versions of

existing entries and adding several important new entries, this second edition of the Elgar Encyclopedia of Comparative Law takes stock of present-day comparative law scholarship. Written by leading authorities in their respective fields, the contributions in this

accessible book cover and combine not only questions regarding the methodology of comparative law, but also specific areas of law (such as administrative law and criminal law) and specific topics (such as accident compensation and consideration). In

addition, the Encyclopedia contains reports on a selected set of countries Í legal systems and, as a whole, presents an overview of the current state of affairs. Providing its readers with a unique point of reference, as well as stimulus for further research, this volume is an

indispensable tool for anyone interested in comparative law, especially academics, students and practitioners.
The analysis thoroughly covers the major issues that have arisen in the application of the Convention, including the following: - the use of reservations made

by Contracting States; - the distinctions between recognition and enforcement and between recognition sought at the seat of the arbitration and outside the seat; - the role of the courts in reviewing arbitral awards and, in particular, the Convention's focus on safeguarding due

process standards; - the more favourable rightsA" principle embodied in Article VII(1); - the relevance of forum shopping and asset spotting to the application of the Convention; and - the role of formalities and formalism. The end result is an invaluable work that will

prove enormously useful to all international commercial arbitration practitioners and scholars, regardless of location.

Corruption in International Arbitration

Ad Hoc Arbitration in China

Private International Law and Arbitral

Jurisdiction
Fouchard, Gaillard, Goldman on International Commercial Arbitration
Practising Virtue
This important casebook is based upon one of the leading books in the field Born's treatise, International

Commercial Arbitration. It offers a comprehensive approach to international commercial arbitration (focused on the New York Convention and UNCITRAL Model Law), while providing comparative examples drawn from state-to-state and investment

arbitration. An easy-to-use chronological structure follows the course of an international arbitration. Features: Thoroughly revised to reflect amendments to UNCITRAL Rules, ICC Rules and other institutional arbitration rules New sections addressing IBA

Guidelines on Party Representation in International Arbitration Revised to reflect amendments to representative national arbitration legislation in France, Singapore and elsewhere Streamlined excerpts of cases and awards; added excerpts of new arbitral awards on

selected topics.
Based on and includes revisions to :
Trait é de l'arbitrage commercial international / Ph. Fouchard, E. Gaillard, B. Goldman. 1996--Cf. foreword.
This volume provides a detailed review of the process of international

commercial arbitration, from the drafting of the arbitration agreement to the enforcement of the arbitral tribunal's award. It has been revised to include appendices which describe the arbitration rules of various countries. "This important book will be of great

interest to arbitration lawyers, international lawyers and business people, as well as to academics, libraries, and students of dispute resolution."--Publisher's website.

Inside International Arbitration

International Commercial Arbitration and the Arbitrator's Contract
Precedent in International Arbitration
State Entities in International Arbitration
Examines the formation, nature and effect of arbitrators' contract, addressing topics including the appointment,

challenge, removal and duties and rights of arbitrators. This book also examines the practice of various jurisdictions including the USA, England, China, Argentina and Nigeria, alongside relevant case law from the ICSID and the PCA.

IAI Series No. 2 The International Arbitration Institute (IAI) series on international arbitration is a new periodic series of publications that will focus on cutting edge issues and developments in international arbitration. About the IAI: The

International Arbitration Institute (IAI), an organization created under the auspices of the Comit é Fran ç ais de Arbitrage (CFA), was created to promote exchanges in international arbitration. The IAI is designed to promote exchanges on current issues in

the field of international commercial arbitration. Its activities include the regular organization of international conferences, colloquiums, as well as conducting various research projects. About the Book: Anti-suit injunctions are a device, originally found in common

law countries, whereby a court - which retains its jurisdiction or anticipates to do so and which seeks to protect that jurisdiction or, more generally, the jurisdiction of the forum it deems to be the most appropriate - orders a party to refrain from bringing a claim before the

courts of another State or before an arbitral tribunal or, if the party has already brought such a claim, orders that party to withdraw from, or the arbitrators to suspend, the proceedings. In the past few years, the use of anti-suit injunctions in the context of international arbitration

has been spreading at a disturbing pace. The courts of many common law countries but also those of civil law tradition frequently resort to this device at a party's request, in order to disrupt the arbitration process or resist the enforcement of the award. How best to

resolve those conflicts arising as a result of national courts' differing perspectives on the validity and scope of certain arbitration agreements? Are anti-suit injunctions in conformity with the requirements of public international law? When the courts of certain States enjoin

a party to refrain from proceeding with an arbitration, should other courts enjoin them not to enjoin, or should they, like the U.S. Court of Appeal for the 5th Circuit in the Pertamina case, exercise a commandable "self-restriction"? These are just a few of the

issues addressed in Anti-Suit Injunctions in International Arbitration.

Drawing on a wide range of previously unpublished sources, this unique history of international commercial arbitration in the modern era identifies three periods in its development: the Age of

Aspirations (c. 1780 – 1920), the Age of Institutionalization (1920s – 1950s), and the Age of Autonomy (1950s – present). Mika ë l Schinazi analyzes the key features of each period, arguing that the history of international commercial arbitration has oscillated between

moments of renewal and anxiety. During periods of renewal, new approaches, instruments, and institutions were developed to carry international commercial arbitration forward. These developments were then reined in during periods of anxiety, for fear that

international arbitration might be overstepping its bounds. The resulting tension between renewal and anxiety is a key thread running through the evolution of international commercial arbitration. This book fills a key gap in the scholarship for anyone interested in

the fields of international arbitration, legal history, and international law. The Association for International Arbitration (AIA) was founded in order to promote Arbitration and increase the level of knowledge about Alternative Dispute Resolutions.This book is the

result of a conference held in October 2007.The contributions are written by international experts and based on analytical insights and research of new tendencies that provide in-depth information.The theme is a vital issue for arbitration services users and

practitioners and also an interesting topic for scholars and students.

International Arbitration and International Commercial Law

A Legal and Cultural Analysis

Rethinking International Commercial Arbitration

Legal Theory of International Arbitration
Arbitration in China
It often seems today that no dispute is barred from resolution by arbitration. Even the fundamental question of whether a dispute falls under the exclusive jurisdiction of a judicial body

may itself be arbitrable. Arbitrability is thus an elusive concept; yet a systematic study of it, as this book shows, yields innumerable guidelines and insights that are of substantial value to arbitral practice. Although the book takes the form of a collection of essays, it is

designed as a comprehensive commentary on practical issues that emerge from the idea of arbitrability. Fifteen leading academics and practitioners from Europe and the United States each explore different facets of arbitrability always with a

perspective open to international developments and comparative evaluation of standards. The presentation falls into two parts: in the first the focus is on the general features of arbitrability, its rationale and the laws applicable to it. In the second,

arbitrability is specifically examined in the context of administrative, criminal, corporate, IP, financial, commercial, and criminal law This book has its origins in an International Conference on Arbitrability held at Athens in September 2005. Seven papers presented there are

here reviewed and updated, and nine others are added. The subject of the book and arbitrability and is one that is much talked about, but seldom if ever given the in-depth treatment presented here. Arbitrators and other practitioners in the field will welcome the

way the analysis moves logically from theory to practice regarding every issue, and academics will recognize a definitive treatment of arbitrability as understood and applied in the settlement of disputes today.

Arbitration is the normal and preferred

mode for resolving international commercial disputes. It presents an essential advantage over national courts by offering neutrality of adjudication, but is currently only available where both parties have consented to it. This innovative book proposes a fundamental

rethink of this assumption and argues that arbitration should become the default mode of resolution in international commercial disputes. International investment law is in a state of evolution. With the advent of investor-State arbitration in the latter part of the

twentieth century - and its exponential growth over the last decade - new levels of complexity, uncertainty and substantive expansion are emerging. States continue to enter into investment treaties and the number of investor-State arbitration claims continues to rise. At

the same time, the various participants in investment treaty arbitration are faced with increasingly difficult issues concerning the fundamental character of the investment treaty regime, the role of the actors in international investment law, the new significance of procedure in

the settlement of disputes and the emergence of cross-cutting issues. Bringing together established scholars and practitioners, as well as members of a new generation of international investment lawyers, this volume examines these developments and

provides a balanced assessment of the challenges being faced in the field. Over the last half-century, as UNCITRAL official, professor, arbitrator and father of the Willem C. Vis Arbitration Moot, Eric Bergsten has been at the forefront of progress in

international commercial arbitration. Now, on the occasion of his eightieth birthday, the international arbitration and sales law community has gathered to honour him with this substantial collection of new essays on the many facets of the field to which he continues

to bring his intellect, integrity, inquisitive nature, eye for detail, precision, and commitment to public service. Celebrating the long-standing and sustained contribution Eric Bergsten has made in international commercial law, international arbitration, and legal

education, more than fifty colleagues - among them quite a few of the best-known arbitrators and arbitration academics in the world - present 45 pieces that, individually both engaging and incisive, collectively present a thorough and far-reaching account of

the state of the field today, with contributions covering international sales law, commercial law, commercial arbitration, and investment arbitration. In addition, nine essays on issues in legal education mirror the great importance of the renowned Willem C. Vis

International Commercial Arbitration Moot, Eric's Vienna project which has offered a life-changing experience for so many young lawyers from all over the world.

Law and Practice of International Commercial Arbitration

The Three Ages of International Commercial Arbitration
Comparative International Commercial Arbitration
Kluwerarbitration. Com
Synergy, Convergence, and Evolution : Liber Amicorum Eric Bergsten

International commercial arbitration and litigation are often seen as competing fora, fields of law, or markets. This intersection is at its highest at the forefront of any proceedings, at the jurisdictional stage. The analysis of jurisdictional issues at the forefront of an

arbitration has been confined in a descriptive analysis of the law and jurisprudence, dealing with jurisdictional intersections almost in a mechanistic manner. These are not, however, issues which can be treated as mere mechanical rules. They are issues pertaining to core

notions of authority, sovereignty, their origins and their allocation. At the same time, the pragmatic and practical domination of party autonomy is a fact which cannot be disregarded when one considers the normative and theoretical foundations of any model of dealing with

these issues. This book moves beyond an analysis of arbitration and jurisdiction clauses to reconcile theory and practice, and provides an underlying theoretical model to explain and regulate jurisdictional intersections at the early stages of an arbitration from a private

international law perspective. It combines both an in-depth engagement with the theoretical literature as well as a close examination and analysis of its practical consequences in the form of a restatement of the law of England and Wales. From a methodological

perspective, it utilises contemporary theories in private international law to propose a coherent model of regulating arbitral jurisdictions which promotes autonomy and freedom of the parties at this stage. Demonstrating, first, how the theoretical model can be applied in

practice and, second, to provide a basis for a potential future top-down or bottom-up approach of adopting the proposed model, it includes a succinct and practical codification of the current state of affairs in relation to the whole spectrum of jurisdictional issues in

England and Wales to serve as a useful tool for practitioners considering jurisdictional issues both from the perspective of State courts and from the perspective of arbitral tribunals, as well as academics researching in these areas. The growing acceptance of the concept

of transnational rules, be they substantive or procedural, has directly contributed to a substantial decrease of the influence of local norms. Transnational principles often override domestic law, and the arbitral process sometimes takes precedence over court decisions.

Moreover, the exceptional development of investment arbitration has called into question traditional values of commercial arbitration such as confidentiality and the privity of arbitral proceedings. Widespread publication of awards rendered has also rejuvenated the

debate on the value of arbitral awards as precedents. This book critically explores the extent to which these phenomena contribute to the creation of a truly uniform international arbitration law.

A Global Commentary on the New York Convention

Evolution in Investment Treaty Law and Arbitration
Interim Measures in International Commercial Arbitration
The Creeping Codification of the New Lex Mercatoria