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## **International Arbitration 2018**

**15th Edition**

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# International Comparative Legal Guide International Arbitration

**Toms Krūmiņš**



## **International Comparative Legal Guide International Arbitration:**

*International Commercial Arbitration* Gary B. Born, 2020-11-23 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 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 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 J rgen Voss ICSID Case No ARB 06 18 1 March 2011 The International Comparative Legal Guide To: International Arbitration 2014 Steven Finizio, 2014 *INTERNATIONAL COMPARATIVE LEGAL GUIDE TO*, 2021

*The Roles of Psychology in International Arbitration* Tony Cole, 2017-03-15 The system of international arbitration is built on private contractual relations yet has been endorsed by governments around the world as a fair and reliable alternative to litigation in State courts As a private process however its authority and legitimacy derive entirely from the views and actions

of those involved in the arbitral process whether arbitrators counsel or parties. It is though increasingly clear that psychological factors complicate and in some cases radically change every arbitral proceeding. In this context psychological insights are crucial for understanding how international arbitration genuinely operates and whether the legal framework currently applied to it is well suited to achieving the aims of ensuring a fair and reliable dispute resolution procedure. This is the first book to focus on this important issue: the insights into international arbitration that can be gained from contemporary psychology. With contributions from nineteen internationally known figures in their fields: arbitrators, mediators, lawyers, law professors, psychology professors, psychologists, and drawing from a longer term project on the role of psychology in arbitration, this ground breaking volume addresses a range of topics including the following: the decision making processes of arbitrators; the ability of arbitration to serve as a genuine dispute resolution mechanism; the impact of particular procedures on the arbitral process; bias, self deception and vested interests in judgment and decision making; the role of arbitrators in managing the arbitral process; cultural differences in the evaluation of arguments; psychological influences on witness testimony; the impact of tribunal composition on arbitral decision making; the influence of arbitration's professional context on arbitrators and legal counsel; and methods for arbitrators and legal counsel to more effectively manage the arbitral process. Informed by the behavioural insights in these essays, counsel and arbitrators will be enabled to think critically about the underlying assumptions and the potential behavioural effects of a prospective arbitration while individuals researching arbitration will gain a greater understanding of the psychological context in which every arbitration occurs. This book meets the increasingly recognized need for understanding the role of psychology in arbitral proceedings and forms an indispensable foundation for subsequent work in this area. Its innovative and forward thinking analysis will be of immeasurable value to the international arbitration community as well as to institutions supporting arbitration and to academics in the field.

**The International Comparative Legal Guide to International Arbitration** Steven Finizio, 2011

*Handbook of Evidence in International Commercial Arbitration* Franco Ferrari, Friedrich Rosenfeld, 2022-04-07. In arbitration evidence provides the basis for almost every decision be it procedural, jurisdictional or substantive. However, users from different legal traditions may not share the same understanding as to how an arbitral tribunal ought to proceed in this regard. Therefore it is important for lawyers to know how to collect, develop and present evidence in arbitration proceedings not only from a legal perspective but also from a cultural point of view. It is against this backdrop that the editors have invited a diverse group of distinguished arbitration practitioners and academics to contribute to this matchless *Handbook of Evidence in International Commercial Arbitration*. Key concepts and issues related to evidence in arbitration covered include the following: the normative framework on evidence in arbitration proceedings; the burden and standard of proof; means of evidence including documents, experts and witnesses; questions of admissibility including issues of privilege and confidentiality; the assessment of evidence and its probative value; court assistance and sanctions. With its systematic analysis

of the key concepts of evidence holistic discussion of the applicable normative framework cross cultural perspectives on the taking of evidence in arbitration and reference to case law from major arbitration hubs this book will become an undisputed point of reference for academics and practitioners alike Critical acclaim This handbook elegantly captures the range of issues that arises regarding evidence in international arbitration Bringing together the foremost experts in the field each contribution offers a thoughtful analysis on these issues and the compilation deserves a prominent spot in every practitioner s arbitral library Chiann Bao Independent Arbitrator Arbitration Chambers and Vice President of the ICC Court of Arbitration This publication well deserves recognition as a landmark handbook on evidence in international commercial arbitration It comprehensively discusses the whole evidentiary process from its foundations taking a comparative and harmonizing perspective as well as the burden and standards of proof to the various evidentiary means up to the assessment of evidence Written by leading academics and practitioners from all over the world it will be a safe haven for anyone facing discrete evidentiary issues and looking for answers to fundamental or actual questions including as to privileges confidentiality virtual hearings or data protection Professor Filip De Ly Chair of the ILA International Commercial Arbitration Committee

**International Interplay** Riddhi Dasgupta, 2014-09-26 Are international tribunals heading towards greater sovereignty or towards greater liberalisation of property rights Can we glean specific deductions from prevailing cases outside the expropriation arena How can we justifiably extrapolate principles from international investment arbitration before modifying and applying these lessons to international human rights the World Trade Organization regime and other dispute settlement systems What if any degree of deference attends the assessment of various claims undertaken by international tribunals Does this depend on high commerce force majeure military or paramilitary control urgent nuclear and environmental considerations transboundary harms political instability fraud and deception or other special circumstances Where do textually strict treaty interpretations end and the general principles of international law take over Can autonomous treaty interpretation by international tribunals be reconciled with the host State s prerogative of defining its own protected public interests Where is the tipping point too frequently fraught with the potential to deprive States of the incentive to stay within the applicable international compact These issues must be comparatively addressed Contemporary international law developments and dislocations are occurring at a break neck pace We pause and contemplate the implications Riddhi Dasgupta analyses the standards of Expropriation Exhaustion of Local Remedies Continuous Nationality Non Discrimination National Treatment Most Favoured Nation and Domestic Discrimination Fair and Equitable Treatment Minimum Standard of Treatment and Compensation across international dispute settlement The foundational and evolving concept of consent is required to justify all public international law from genesis onwards The potency of expropriation based claims will continue to expand and the comparative lessons drawn from various international law regimes will interplay to stirring effect Writing accessibly Dasgupta proposes various legal strategies going forward and makes analytical prognostications about this area of

international law Dasgupta presents influential interview and anecdotal results as well as statistics concerning the growing flow of investments in targeted jurisdictions and sectors For the international lawyer s benefit the final chapter condenses the book s tactical scenario planning and advice Institutional dialogues among tribunals as well as tribunal dialogues with politicians investors NGOs and of course citizens the ultimate boson will assume absolutely indispensable significance This will be the true tipping point in the eye of the storm Legitimacy transparency justice efficiency and economy candour party autonomy coherence incentives and the tense clash of interests reappear as the constant motifs in this important but relatively unknown saga Studiedly neutral in its orientation this book strives to promote constructive solutions as well as public awareness International Arbitration in Latin America Gloria M. Alvarez,Mélanie Riofrio Piché,Felipe V.

Sperandio,2021-04-08 Energy projects in Latin America are a major contributor to economic growth worldwide This book is the first to offer a comprehensive in depth analysis of specific issues arising from energy and natural resources contracts and disputes in the region covering a wide range of procedural substantive and socio legal issues The book also includes how states have shifted from passive business partners to more active controlling players The book contains an extensive treatment and examination of the particularities of arbitration practice in Latin America including arbitrability public order enforcement and the complex public private nature of energy transactions Specialists experienced in resolving international energy and natural disputes throughout the region provide detailed analysis of such issues and topics including state owned entities as co investors or contracting parties role of environmental law indigenous rights and public participation issues related to political changes corruption and quantification of damages climate change renewable energy and the energy transition force majeure hardship and price reopeners arbitration in the electricity sector take or pay contracts recognition and enforcement of awards tension between stabilization clauses and human rights mediation as a method for dispute settlement in the energy and natural resources sector and different comparative approaches taken by national courts in key Latin American jurisdictions The book also delivers a clear explanation on the impact made to the arbitration process by Covid 19 emerging laws changes of political circumstances the economic global trends in the oil gas market the energy transition and the rise of new technologies This invaluable book will be welcomed by in house lawyers government officials as well as academics and rest of the arbitration community involved in international arbitration with particular interest in the energy and natural resources sector **International Commercial Arbitration** Gary Born,2009 International Commercial Arbitration Third Edition is an authoritative treatise providing the most complete available commentary and analysis on all aspects of the international commercial arbitration process This completely revised and expanded edition of Gary Born s authoritative work is divided into three main parts dealing with the International Arbitration Agreement International Arbitral Procedures and International Arbitral Awards The Third Edition provides a systematic framework for both current analysis and future developments as well as exhaustive citations from all leading legal systems INTERNATIONAL

ARBITRATION AGREEMENTS Legal Framework for International Arbitration Agreements International Arbitration Agreements and the Separability Presumption Choice of Law Governing International Arbitration Agreements Formation Validity and Legality of International Arbitration Agreements International Arbitration Agreements and Competence Competence Effects and Enforcement of International Arbitration Agreements Interpretation of International Arbitration Agreements INTERNATIONAL ARBITRAL PROCEDURES AND PROCEEDINGS Legal Framework for International Arbitral Proceedings Selection Challenge and Replacement of Arbitrators in International Arbitration Rights and Duties of International Arbitrators Selection of Arbitral Seat in International Arbitration Procedures in International Arbitration Disclosure and Discovery in International Arbitration Provisional Measures in International Arbitration Consolidation Joinder and Intervention in International Arbitration Choice of Substantive Law in International Arbitration Confidentiality in International Arbitration Legal Representation and Professional Conduct in International Arbitration INTERNATIONAL ARBITRAL AWARDS Legal Framework for International Arbitral Awards Form and Content of International Arbitral Awards Correction Interpretation and Supplementation of International Arbitral Awards Annulment of International Arbitral Awards Recognition and Enforcement of International Arbitral Awards Preclusion Lis Pendens and Stare Decisis in International Arbitral Awards     International Protection of Investments August Reinisch, Christoph Schreuer, 2020-07-16 This book outlines the protection standards typically contained in international investment agreements as they are actually applied and interpreted by investment tribunals It thus provides a basis for analysis criticism and stocktaking of the existing system of investment arbitration It covers all main protection standards such as expropriation fair and equitable treatment full protection and security the non discrimination standards of national treatment and MFN the prohibition of unreasonable and discriminatory measures umbrella clauses and transfer guarantees These standards are covered in separate chapters providing an overview of textual variations explaining the origin of the standards and analysing the main conceptual issues as developed by investment tribunals Relevant cases with quotations that illustrate how tribunals have relied upon the standards are presented in depth An extensive bibliography guides the reader to more specific aspects of each investment standard permitting the book's use as a commentary of the main investment protection standards     **Arbitration and Human Rights** Toms Krūmiņš, 2020-08-12 This book presents a creative synthesis of two ostensibly disparate fields of law arbitration and human rights More specifically it focuses on various legislative approaches to excluding the annulment of arbitral awards setting aside proceedings at the seat of arbitration and evaluates the compatibility of such approaches with the European Convention on Human Rights ECHR in particular the right to a fair trial under Article 6 1 The book first assesses the applicability and impact of the ECHR in particular Article 6 1 on international commercial arbitration It then analyses a number of legislative approaches to excluding setting aside proceedings focusing on two synergetic phenomena exclusion agreements and the total lack of setting aside proceedings in national arbitration law Lastly the book investigates

to what extent the lack of setting aside proceedings in national arbitration law may lead to a violation of arbitrating parties right to a fair trial under Article 6 1 and puts forward certain de lege ferenda recommendations on how to best approach the regulation of setting aside proceedings in national arbitration law from the standpoint of compliance with the ECHR

**International Commercial Arbitration** Simon Greenberg, Christopher Kee, J. Romesh Weeramantry, 2011-01-17 There has been an exponential rise in the use of ICA for resolving international business disputes yet international arbitration is a scarcely regulated specialty industry International Commercial Arbitration An Asia Pacific Perspective is the first book to explain ICA topic by topic with an Asia Pacific focus Written for students and practising lawyers alike this authoritative book covers the principles of ICA thoroughly and comparatively For each issue it utilises academic writings from Asia Europe and elsewhere and draws on examples of legislation arbitration procedural rules and case law from the major Asian jurisdictions Each principle is explained with a simple statement before proceeding to more technical theoretical or comparative content Real world scenarios are employed to demonstrate actual application to practice International Commercial Arbitration is an invaluable resource that provides unique insight into real arbitral practice specific to the Asia Pacific region within a global context

*Confidentiality in International Commercial Arbitration* Ileana M. Smeureanu, 2011-01-01 After neutrality and international enforcement the next most valued feature of international commercial arbitration is confidentiality For reasons easy to imagine businessmen do not want their trade secrets business plans strategies contracts financial results or any other types of business information to be publicly accessible as would commonly happen in court proceedings Yet the case law of arbitration shows that in practical terms confidentiality is not to be taken for granted in fact it has become one of the most undetermined matters in international arbitration Although the emperor of arbitration may have clothes as one scholar has quipped his raiments of secrecy can be torn with surprising ease This book deciphers the current degree of confidentiality in international commercial arbitration as reflected by the most important arbitration rules national laws other arbitration related enactments and practices of arbitral tribunals and domestic courts globally Drawing on this data and analysis the author then sets forth criteria to assess the breach of confidentiality in international arbitration and the proper rules for protecting or sanctioning such breaches What do we understand by confidentiality in arbitration What are its limitations Who is bound to observe it How can we quantify its breach In addressing these questions the book engages such issues as the following reasons for disclosure e g for the establishment of a defence for the enforcement of rights in the public interest or in the interests of justice disclosure by consent express or implied circumstances triggering statutory obligation of disclosure recent trends towards greater transparency in investor State arbitration court measures in support of arbitral confidentiality such as award of damages for breach of confidentiality and categories of persons bound by confidentiality including third parties such as witnesses and experts Structured along the main stages of the arbitral process the analysis covers the duty of confidentiality from the initiation of arbitral proceedings through their unfolding to the issuance of the award and after The



scope of confidentiality is reviewed in the practice of arbitral tribunals and domestic courts and from the perspective of international arbitration institutions with detailed attention to various arbitration rules and numerous significant cases. In its elucidation of the amount of confidentiality that veils each phase of the arbitral process and its ground breaking identification of patterns of disclosure this book is sure to raise awareness about the various facets and problems posed by confidentiality in arbitration. Although its scholarly contribution to the law of international commercial arbitration cannot be gainsaid corporate counsel worldwide will quickly prize its more practical value.

**International Commercial Courts** Stavros Brekoulakis, Georgios Dimitropoulos, 2022-04-21 The book presents international commercial courts from a comparative perspective and highlights their role in transnational adjudication.

**Stockholm Arbitration Yearbook 2020** Axel Calissendorff, Patrik Schöldström, 2020-11-27 Each year Stockholm is the arbitration seat of choice for numerous parties endeavouring to resolve international disputes. It is the second most used venue for investment disputes and it is often the venue for disputes arising from the Energy Charter Treaty. This annual publication launched under the auspices of the Stockholm Centre for Commercial Law is designed to meet the information needs of arbitration practitioners and parties from all over the world. The present edition provides authoritative chapters, some of them with a Swedish angle that address current matters of global concern in arbitration including the following: dispute resolution in the financial sector, emergency arbitration, recent Swedish case law related to arbitration and in particular one seminal case, arbitrator liability, the right to a public hearing in arbitration and squeeze out arbitration. The Yearbook provides both perspective and detailed analyses that will be welcomed by arbitration practitioners, counsel and judges deciding arbitration cases. It will also provide valuable insights for arbitration academics, in-house counsel at multinational companies and arbitral institutions worldwide.

Arbitration Clauses for International Contracts - 2nd Edition Paul D. Friedland, 2007-07-01 This book by a leading international arbitration practitioner offers suggested language for every option that a drafter of an international arbitration clause may need. Following a succinct assessment of the choice between arbitration and litigation and commentary on the choices among arbitration fora and formats the author presents an accessible how-to for drafting. While other works offer theory and a smattering of drafting tips, there is no other comprehensive collection of workable language presented accessibly with easy-to-reference appendices. This book will be a standard reference for both in-house counsel and outside practitioners. This book provides in an accessible format clauses that address all the significant issues that contracting parties face and in any event should consider when they decide to draft a dispute resolution clause for an international contract. Those who wish immediate access to suggested language may turn directly to the Appendices. Those who wish to understand the analysis that leads to the suggested language should read the text.

Publisher's website

*The Future of Investor-State Dispute Settlement* Ben Beaumont, Fahira Brodlija, Robert Ashdown, Armand Terrien, 2024-02-13 What makes investor-State dispute settlement (ISDS) as dynamic a field as it is especially in comparison with international commercial

arbitration is its uncanny ability to engage directly with the most topical and pressing issues of the day including human rights regulation of the energy sector and climate change and the environment more generally This book provides a deep dive into the reality behind the causes and effects of the expressed concerns regarding ISDS and the extent to which they can and have been addressed by ongoing reform processes at national regional and international levels Deeply informed insights from leading scholars and practitioners on the status quo and perspectives of ISDS shed clear light on such aspects as the following reform instruments adopted at the UNCITRAL Working Group III issues surrounding the legitimacy of ISDS dispute prevention and amicable settlement mechanisms the proposed multilateral investment court implications of climate change and energy transition for investment policies and disputes recent regional trends in policymaking and perspectives the ICSID UNCITRAL Code of Conduct investment protection standards and dispute resolution mechanisms in recent international investment treaties viability of the modernized Energy Charter Treaty use of artificial intelligence and participation of civil society organizations As an in depth analysis of the most recent developments in international investment law and dispute resolution this book offers a realistic view of the reform processes thus underlining the necessary legal and institutional measures that will translate into real life effects in the future With its help policymakers and government officials will identify ongoing trends and anticipate risks that require intervention while practitioners and the broader dispute resolution community will find valuable information about the evolving contours of investment protection treaties and ISDS For academics and civil society organizations interested in the developments and implications of ISDS the book provides factual nuanced and effective analysis of the relevant issues      International Law and Muslim States Dawood Hamzah,2021-08-12

This book analyses the general interaction between international law and Islamic law in the Muslim world today It interrogates factors that often form the root of the tension between the two legal regimes Literalist interpretations of Islamic law and the modern international law s disposition that does not give due consideration to differences among cultures and civilizations are some of these factors This work examines the Saudi Arabia textualist approach to the two primary sources of law in Islam the Qur an and Sunnah and argues that a liberal approach of interpretation has become sine qua non especially now that myriad issues are confronting the Muslim world generally and Saudi Arabia in particular Similarly globalization has generated an unprecedented multi culturalism legal pluralism and trans border interactions in socio economic and political relations Therefore Saudi Arabia as the bastion of Islam and Islamic nations is faced with the imperative of adopting a liberal approach to interpretation of Islamic law with a view to accommodating a wide spectrum of other laws and cultures The book provides a timely examination of the issue of modern Saudi Arabia Islamic legal order vis vis the contemporary concept of international law and international relations in specific areas such as international human rights law and trans national economic matters As such it will be of interest to academics and researchers working in Islamic law international and comparative law human rights law and law and religion      **Islamic Law and International Commercial Arbitration**

Maria Bhatti,2018-09-27 This book examines the intersection between contemporary International Commercial Arbitration and Shari a law in order to determine possible tensions that may arise between the two systems It develops evidentiary and procedural rules under Shari a as well as examining the consequences of stipulating qualifications of arbitrators based on gender and or religion The author extensively analyses the prohibition against interest riba and uncertainty gharar under Shari a and its impact on arbitration agreements arbitral awards and public policy The book also explores the prohibition against riba in light of international conventions such as the United Nations Convention on Contracts for the International Sale of Goods Case studies in the book include the Asian International Arbitration Centre formerly the Kuala Lumpur Regional Centre for Arbitration and the International Islamic Centre for Reconciliation and Arbitration as well as the Shari a Standards developed by the Accounting and Auditing Organization for Islamic Financial Institutions The book will be a valuable resource for academics students and practitioners working in the areas of Islamic law and the Islamic finance industry

**International Trade and Business Law Review: Volume XI** Gabriel Moens,Roger Jones,2012-11-12 The International Trade and Business Law Review publishes leading articles comments and case notes as well as book reviews dealing with international trade and business law arbitration law foreign law and comparative law It provides the legal and business communities with information knowledge and understanding of recent developments in international trade business and international commercial arbitration The Review contributes in a scholarly way to the discussion of these developments while being informative and having practical relevance to business people and lawyers It also devotes a section to the Willem C Vis International Commercial Arbitration Moot and publishes the memoranda prepared by teams coached by Professor Gabri l A Moens The Review is edited at the Murdoch University School of Law in Perth Australia The Editors in Chief are Mr Roger Jones Partner Latham Watkins LLP Chicago and Gabri l A Moens Dean and Professor of Law Murdoch Law School It is an internationally refereed journal The Review is supervised by an international board of editors that consists of leading international trade law practitioners and academics from the European Union the United States Asia and Australia The Student Editors for Volume XI are Adam Totaro and Peter Clay from the Murdoch Law School

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