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## investment and commercial arbitration — similarities and divergences



## international commerce and arbitration volume 3

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# Investment And Commercial Arbitration Similarities And Divergences

**Richard Bailey**



## **Investment And Commercial Arbitration Similarities And Divergences:**

*Investment and Commercial Arbitration* Christina Knahr, 2010 This book contains the contributions to the Vienna Arbitration Forum on Investment and Commercial Arbitration Similarities and Divergences which took place at the University of Vienna Law School in November 2008 The conference focused on topical issues in international investment arbitration and in commercial arbitration Featuring speakers from academia as well as legal practices the Vienna Arbitration Forum addressed controversial topics and explored similarities and divergences Table of Contents include Consolidation of Proceedings in International Investment Arbitration Consolidation of Proceedings in International Commercial Arbitration The Limits of Party Autonomy in Investment Arbitration Limits of Party Autonomy in International Commercial Arbitration The Annulment of ICSID International Centre for Settlement of Investment Disputes Awards Annulment of Arbitral Awards in International Commercial Arbitration Independence Impartiality and Duty of Disclosure in Investment Arbitration Judicial Approaches to Arbitrator Independence and Impartiality in International Commercial Arbitration **Cambridge**

**Compendium of International Commercial and Investment Arbitration** Stefan Kröll, Andrea K. Bjorklund, Franco Ferrari, 2023-03-02 The Compendium like an encyclopedia contains entries for most of the foundational principles and concepts underlying arbitration Each entry takes a holistic view of international arbitration as they tackle core concepts from both a commercial and an investment arbitration perspective focusing on the fundamental issues underlying the various topics rather than on the solutions adopted in any particular jurisdiction thus making the Compendium a truly cross border transnational resource This innovative approach will allow readers to identify the commonalities as well as the differences between commercial and investment arbitration whether and where cross fertilization has taken place and what consequences it can have This approach allows the Compendium to be a tool in promoting the creation of a culture of international arbitration that considers commercial arbitration and investment arbitration as part of a whole but with certain distinct features particular to each **The Enforceability of the Interim Measures Granted by an Emergency**

**Arbitrator in International Commercial Arbitration** Junmin Zhang, 2024-09-06 This timely book offers a comprehensive study of the emergency arbitrator mechanism that provides interim measures in international commercial arbitration before the constitution of an arbitral tribunal focusing on the enforceability of the interim measures granted Based on the traditional legal doctrines of private international law international dispute resolution and arbitration law this book is featured mainly in comparative studies Six leading arbitral institutions are chosen to conduct systematic research on applying the emergency arbitration rules to establish a general and common procedural framework for emergency arbitration in discussion Normative and comparative law analyses investigate the status quo of available legal instruments used to recognize and enforce interim measures in emergency arbitration by examining international conventions and three representative chosen jurisdictions i e Singapore Mainland China and the USA Following these two levels of comparison it highlights and examines

the potential doctrinal and practical barriers that may impact the enforceability of interim measures rendered by an emergency arbitrator. Finally, it proposes various approaches that could be used to improve the enforceability controversy and it offers innovative suggestions for further research. This book is of particular relevance and interest to students, researchers and practitioners in dispute resolution and arbitration law as well as policymakers, legislators and arbitral institutions considering further reform in international arbitration. **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.

Investment Arbitration's Tightrope Paolo Vargiu, 2025-06-03. This book addresses the role of investment arbitrators within the framework of international investment law, a system that tends by design to prioritise the interests of foreign investors often at the expense of the economic and social policies of the host states. The theoretical foundations of this volume are doctrinal and the argument presented is aimed at contributing to the scholarly debate on the reform of the system of investment law. Because of this, the book is particularly focussed on the scholarship and is aimed at an audience already familiar with the system of investment arbitration and its case law. The author explores both the explicit and implicit duties of arbitrators and critically questions certain critiques of investment law that call for arbitrators to interpret bilateral investment treaties and free trade agreements in ways that also protect the host states' interests. While the author argues that challenges to the legitimacy and credibility of the current investment law regime are well founded, he also argues that arbitrators find themselves constrained by the prevailing legal framework, unable to fully balance the competing interests of foreign investors and host states. The book concludes that achieving greater equality in the investment legal regime necessitates a departure from the existing bilateral investment treaties paradigm and calls for a more just and balanced system of investment treaties. The author argues that until such a transformation occurs, arbitrators remain compelled to apply the current applicable law, highlighting the insurmountable limitations and tensions within the present system.

Investment Treaty Arbitration as Public International Law Eric De Brabandere, 2014-09-15. Investment treaty arbitration

is fast becoming one of the most common methods of dispute settlement in international law. Despite having ancient roots, tensions remain between the private interests in international investment relations and the public international law features of the arbitral procedure. This book, which presents an account of investment treaty arbitration as a part of public international law as opposed to commercial law, provides an important contribution to the literature on this subject. Eric De Brabandere examines the procedural implications of conceiving of investment treaty arbitration in such a way with regard to issues such as the principles of confidentiality and privacy and remedies. The author demonstrates how the public international law character of investment treaty arbitration derives from and has impacted upon the dispute settlement procedure.

**The Principle of Effective Legal Protection in Administrative Law** Zoltán Sente, Konrad Lachmayer, 2016-08-05. This collection presents a comparative analysis of the principle of effective legal protection in administrative law in Europe. It examines how European states consider and enforce the related requirements in their domestic administrative law. The book is divided into three parts: the first comprises a theoretical introductory chapter along with perspectives from International and European Law; part two presents 15 individual country reports on the principle of effective legal protection in mostly EU member states. The core function of the reports is to provide an analysis of the domestic instruments and procedures. Adopting a contextual approach, they consider the historical, political, and legal circumstances as well as analysing the relevant case law of the domestic courts. The third part provides a comparative analysis of the country reports. The final chapter assesses the influence and relevance of EU law and the ECHR. The book thus identifies the most important trends and makes a valuable contribution to the debate around convergence and divergence in European national administrative systems. The Open Access version of this book is available at <https://www.taylorfrancis.com>.  
books: principle effective legal protection administrative law zolt n sente konrad lachmayer e 10 4324 9781315553979 has been made available under a Creative Commons Attribution Non Commercial No Derivatives 4.0 license. [The fundamentals of international commercial arbitration](#) Niek Peters, 2017-10-30. Written from a comparative perspective with an eye for international conventions and instruments, this book deals with the particulars of international commercial arbitration. In an easily accessible manner, it amongst others considers the characteristics of international commercial arbitration, advantages and perceived disadvantages of international commercial arbitration, pros and cons of ad hoc and institutional arbitration, laws applicable in international commercial arbitration, essentials of the arbitration agreement and questions of arbitrability, the establishment and composition of the tribunal, the duty to disclose conflicts of interests and the challenge of arbitrators, the end of the arbitrators' mandate and their replacement, the organisation of the arbitration, powers, duties, and liability of arbitrators, the jurisdiction of arbitrators, the course of the arbitration proceedings from the request for arbitration to the award, including questions of evidence and document production, the form and contents of awards, recognition, enforcement, and annulment of awards. Everything is presented practically and analytically amongst others drawing on case law, different

and the experience of the author Where indicated national arbitration acts as well as various predrafted arbitration rules are compared and differences are highlighted For those who want to get acquainted with international commercial arbitration or seek guidance with regard to a specific question that may arise in the course of an international commercial arbitration this book provides a convenient work *Analogies in International Investment Law and Arbitration* Valentina Vadi, 2016 In recent years concerns have arisen in investor state arbitration with regard to the magnitude of the decision making power allocated to investment treaty tribunals This book explores whether the use of analogies can improve the functioning of such arbitration and how such analogies might be drawn *The Legitimacy of Investment Arbitration* Daniel Behn, Ole Kristian Fauchald, Malcolm Langford, 2022-01-13 International investment arbitration remains one of the most controversial areas of globalisation and international law This book provides a fresh contribution to the debate by adopting a thoroughly empirical approach Based on new datasets and a range of quantitative qualitative and computational methods the contributors interrogate claims and counter claims about the regime s legitimacy The result is a nuanced picture about many of the critiques lodged against the regime whether they be bias in arbitral decision making close relationships between law firms and arbitrators absence of arbitral diversity and excessive compensation The book comes at a time when several national and international initiatives are under way to reform international investment arbitration The authors discuss and analyse how the regime can be reformed and how a process of legitimisation might occur *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

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March 2011      **China and International Investment Law** Wenhua Shan,Jinyuan Su,2014-10-30 The first volume in the  
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Membership examines cutting edge issues of international investment law and arbitration in interaction with China the  
second largest economy of the world With particular attention to ongoing major negotiations of bilateral and regional  
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International Investment Law and Arbitration organized to commemorate the 20th anniversary of China s accession to the  
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Increasing international investment the proliferation of international investment agreements domestic legislation and  
investor State contracts have contributed to the development of a new field of international law that defines obligations  
between host states and foreign investors with investor State dispute settlement This involves not only vast sums but also a  
panoply of rights duties and shifting objectives at the juncture of national and international law and policy This engaging  
Research Handbook provides an authoritative account of these diverse investment law issues      **The International  
Arbitration Rulebook** Arif Hyder Ali,Jane Wessel,Alexandre de Gramont,Ryan Mellske,2019-10-24 The numerous arbitral  
regimes around the world differ in subtle yet complex ways These variations can have a profound effect on the procedural  
rights and obligations of the parties Broadly speaking the choice of regime will impact the way in which an arbitration is  
conducted its duration and expense the outcome of the dispute and the ultimate enforceability of the award To inform the  
parties choice this book is the first to deal specifically and in depth with a broad range of institutional and ad hoc arbitration  
rules on a comparative basis It provides a practical guide to the rules in one book a one stop shop from a distinctly rule and

guide point of view This book has its genesis in the authors experience as practitioners and educators in international commercial and investor state arbitration and as advisers to and trainers for arbitral institutions arbitrators judges and government officials around the world This comprehensive descriptive and analytical road map covers the broad range of issues addressed in nine representative major sets of arbitration rules The authors detail the distinct ways in which rules governing such important issues as the following may differ among the various arbitral regimes the governance structure and role of the administering institutions in the arbitration including case management and administrative support the critical and recommended issues to be established in the agreement to arbitrate such as the place of arbitration and the governing law among others the requirements and best practices for starting the arbitration on the right foot the procedures for selecting appointing and challenging arbitrators the impact of the initial procedural conference on the proceedings the rules on presenting the case in chief written submissions documentary evidence witness and expert testimony and more the costs and fees of leading institutions the procedures and standards for award scrutiny and enforceability and a range of special and innovative procedures such as expedited proceedings interim relief and consolidation of proceedings The comparative analysis is organized around the chronological phases of an international arbitration and supported by rule comparison tables and clear explanations of each step of the process With this eminently practical book contract negotiators counsel and arbitrators can confidently navigate any international arbitration Thorough coverage of the applicable rules and guidelines enables parties and or the tribunal to design bespoke arbitration procedures based upon the various rules of leading regimes Arbitral institutions can survey the different approaches and identify emerging best practices in the design and drafting of arbitral regimes All in all this volume is a useful guide and comprehensive framework of rules for both arbitration practitioners and users of arbitration services as well as for students and teachers of international arbitration **Applicable**

**Law in Investor-State Arbitration** Hege Elisabeth Kjos, 2013-03-21 Investment arbitration has become the key forum to settle disputes between investors and the host state It is not clear from the arbitration agreements which body of law the arbitrators should apply national or international This book examines how the legal framework which the arbitral panels operate in influences which body of law they apply Schreuer's Commentary on the ICSID Convention Stephan W. Schill, Loretta Malintoppi, August Reinisch, Christoph H. Schreuer, Anthony Sinclair, 2022-09-14 This unique compendium offers an article by article commentary on the Convention on the Settlement of Investment Disputes between States and Nationals of Other States Providing a comprehensive explanation of the functioning of this important mechanism for the settlement of investor State disputes it incorporates the preparatory work the Convention s text various rules and regulations adopted under the Convention the practice of arbitral tribunals under the Convention and academic writings on the subject The first and second editions of this Commentary have been relied upon by numerous arbitral tribunals This third edition follows the same system and approach but extensive updates and revisions reflect the vast increase in arbitral practice since



the publication of the second edition A number of novel issues that have emerged through this practice are now addressed making this practice oriented guide an indispensable tool for anyone dealing with the ICSID Convention Likewise the number of contributors to and editors of the third edition has increased

**Reconceptualising the Rule of Law in Global Governance, Resources, Investment and Trade** Photini Pazartzis, Maria Gavouneli, 2016-06-30 The relevance and importance of the rule of law to the international legal order cannot be doubted and was recently reaffirmed by the Declaration of the High level Meeting of the General Assembly on the Rule of Law at the National and International Level s solemn commitment to it on behalf of states and international organizations In this edited collection leading scholars and practitioners from the fields of global governance resources investment and trade examine how the commitment to the rule of law manifests itself in the respective fields The book looks at cutting edge issues within each field and examines the questions arising from the interplay between them With a clear three part structure it explores each area in detail and addresses contemporary challenges while trying to assure a commitment to the rule of law The contributions also consider how the rule of law has been or should be reconceptualised Taking a multi disciplinary approach the book will appeal to international lawyers from across the spectrum including practitioners in the field of international investment and trade law

International Investment Law Krista Nadakavukaren Schefer, 2016-09-28 This fully revised and updated edition of International Investment Law remains a complete and concise guide to the law of international investment protection and continues to approach the subject with an easy to follow broad and balanced text New to this edition updates to include numerous new cases completely reworked sections on standards of treatment new Q A section to capture practitioner views Key Features balance of cases and explanatory comment familiarises students with reading opinions and enables them to grasp the core concepts at stake concise suitable for one semester course for non specialists or as a first text for students who will take further specialised courses in the area excerpts from the most influential arbitration decisions outline differing interpretations and ensure students don t learn in a theoretical vacuum questions throughout encourage readers to come to their own opinions

**The Award in International Investment Arbitration** Katia Fach Gómez, Catharine Titi, 2024-08-28 The Award in International Investment Arbitration is a comprehensive study of the international investment award which serves as a unique reference work and an authoritative one stop resource on the topic for both practitioners and academics The book reviews the award in a holistic manner from award drafting to the procedural principles that govern it from arbitral deliberations and tribunal dynamics to post award challenges from the role of gender in decision making to the impact of tribunal secretaries It puts emphasis on the practitioners needs with a careful selection of hands on topics such as fact finding in complex disputes the role of experts and legal reasoning and persuasion Sensitive to contemporary challenges the book addresses both existing questions that have evolved over time and novel topics that have not yet received sufficient attention such as the impact of technology on award drafting By bringing together the biggest names in the contemporary

investment arbitration scene a unique line up of highly qualified arbitrators and experts from academia and international legal practice The Award in International Investment Arbitration offers a singular reservoir of knowledge and experience on the topic drawn from a diverse set of angles and perspectives

**Regional Organizations and Social Policy in Europe and Latin America** Andrea C. Bianculli, Andrea Ribeiro Hoffmann, 2016-01-26 The contributors assess to what extent regional organizations in Europe and Latin America provide a space for the regulation and provision of social policies in the area of social protection higher education and health They analyse the impact of regional organizations on social citizenship following political struggle and contestation

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