Fouchard Gaillard Goldman On International Commercial Arbitration

Based on and includes revisions to : Traité de l'arbitrage commercial international / Ph. Fouchard, E. Gaillard, B. Goldman. 1996--Cf. foreword.

A Conflict of Laws Companion brings together a group of expert authors to write essays in honour of Professor Adrian Briggs QC. Professor Briggs has

been teaching in Oxford since 1980, and throughout that period, he has been an instrumental figure in shaping the conflict of laws in the UK and

elsewhere and has inspired generations of students (future practitioners and judges) to take a close interest in the subject. His books, including

Agreements on Jurisdiction and Choice of Law (OUP, 2008), The Conflict of Laws (4th edn, Clarendon, 2019), and Private International Law in

English Courts (OUP, 2015), are among the most widely used and cited texts on the subject. The book is divided into four sections, exploring

conflict of laws issues of different kinds and engaging with Professor Briggs' work on a diverse range of topics. Contributions by Professor Briggs' former

colleagues build on his work in the conflict of laws and his immeasurable contributions as a teacher and researcher at the University of

Oxford, not only to undergraduate teaching, but to his college (St Edmund Hall), the Law faculty, and the university. The book includes short personal

submissions from each of the authors, all of whom studied alongside, have been taught or supervised by, or worked closely with Professor Briggs.

This book examines the formation, nature and effect of the arbitrators' 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 arbitrator's contract in both ad hoc and institutional references. It also examines the

institution's contract with the disputing parties and its effect on the arbitrator'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 arbitrator'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 arbitrator's contract and the terms of this contract and the

institution'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 Arbitrator'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. Partners in this unique product- ICCA:

International Council for Commercial Arbitration; – PCA: The Permanent Court of Arbitration– ITA: Institute for Transnational Arbitratio

nKluwerArbitration.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

UNCITRAL Model Law on International Commercial Arbitration

A Commentary

IAI Seminar, Paris,

November 21, 2003

Cases and Materials

Rome Convention - Rome I Regulation

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. The

Review also devotes a section to the Willem C. Vis International Commercial Arbitration Moot and publishes the memoranda prepared by teams coached by Professor Gabriël 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 Gabriël 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 XII are Sybil Almeida, Gianni Bei, Luke

Rotondella, and Nicholas Summers from the Murdoch Law School. 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.

With this Festschrift, the Bahrain Chamber for Dispute Resolution (BCDR-AAA) is starting a tradition of honoring Arab scholars and practitioners who promote international arbitration and international law. Over the last few

decades, international arbitration institutions and international law societies have generously acknowledged the work of leading scholars and practitioners from the region. The time has come, however, for these individuals to be honored by

institutions within the region. It should come as no surprise that the BCDR-AAA is dedicating this first Festschrift to Professor Dr. Ahmed El-Kosheri. His immense contributions to international commercial arbitration, international investment arbitration,

and international law more broadly, as well as his significant influence on a generation of lawyers and students from the Arab region and beyond, fully justify this choice. As a testament to Dr. El-Kosheri's remarkable career, broad intellectual horizons and

extensive geographical reach, the Festschrift includes contributions from forty-six authors-judges, arbitrators, practitioners and scholars-representing twenty-one nationalities from the Middle East, North and Western Africa, East Asia, Europe,

and North and South America, who wrote on topics as diverse as international arbitration and ADR mechanisms, international investment law, public international law (including international administrative law), and private

international law in Arabic, English, and French. One can hardly think of another Arab figure who has done more than Dr. El-Kosheri to strengthen international law while bridging legal-cultural divides between the Arab region and the rest

of the world. He will undoubtedly continue to inspire many generations to come.

"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.
Global Sales and Contract Law
Procedure and Evidence in International Arbitration
Important Contemporary Questions
The Principles and Practice of

International Commercial Arbitration Annulment of ICSID Awards

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
This book offers an innovative approach to the topic of liability in international arbitration, a controversial topic that

has heretofore not been fully explored in the scholarship. Arbitral institutions have recently emerged as powerful actors with new functions in and outside

arbitration processes. The author proposes to shift the debate on liability from arbitrators to the arbitral institutions. The book re-evaluates

the orthodox understanding of the status, functions, and responsibility of arbitral institutions and is recommended for arbitration scholars,

practitioners, and students. It is argued that the current regulations regarding liability are inadequate given both the contractual obligations

and the emerging public function of arbitral institutions and that institutional arbitral liability is therefore necessary. The book also links the contemporary

functions of arbitral institutions to recent debates regarding legitimacy challenges in international commercial arbitration. Responding to these challenges, a

model of institutional contractual liability is proposed that invites arbitral institutions to proactively regulate the scope of their liability.

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.

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. Recognition and Enforcement of Foreign Arbitral Awards Towards a Uniform

International Arbitration Law? Challenges to the Regime of International Commercial Arbitration State Entities in International

Arbitration
International
Arbitration
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

In intemational arbitration, as in any other system of

adjudication, finality of the decision must be balanced against the need to ensure that justice has been administered fairly. Because finality is one of its essential features,

international arbitration has reached an equilibrium which guarantees to the parties a decision that cannot be appealed, while allowing a review of arbitral awards on limited

grounds. The review of international arbitral awards was the topic of the inaugural IAI forum, on the occasion of which 50 prominent academics, judges, arbitrators and

practitioners active in the field of international arbitration convened in the legendary Clos de Vougeot, in the heart of Burgundy for a two-day retreat. The presentations

were followed by extensive discussion, the transcript of which is included in the present volume. The International Arbitration Institute (IAI) was established in Paris with

the purpose of promoting communication and exchanges on current international arbitration issues. It now includes over 600 members residing in 44 countries. For

further detail, see www.iaiparis.com. Increased economic interdependencies and trade flows between states, innovations in information technology and

computer networks, a global shift toward market economies and regional and multilateral trade arrangements, have all led to an increasingly globalized world economy.

The Forces of Economic Globalization: Challenges to the Regime of International Commercial Arbitration examines some of the challenges facing the regime of

international commercial arbitration in the contemporary global economy. It considers the debates concerning the transformation of the global order and the role

of nation states within the context of international commercial arbitration. Issues discussed include the transformative effect of economic globalization,

the role of the epistemic community and the increased institutionalization within the international arbitral regime, the nationalization of

international commercial arbitration and the denationalization and harmonization trends, the competitive nature of legislative reform, convergence and divergence

in the international arbitral process, multilateralism and regionalism, market modernization and transnationalism, globalization and lex

mercatoria, and the development of online arbitration schemes in cyberspace. This book seeks to analyze the inner penetration of a form of world polity or

transnational order ? comprised of part epistemic community, institutional networks, national laws and multilateral conventions, norms, rules, principles

and transnational ideology ? on the traditional notion of state sovereignty within the international arbitral regime. The book will interest practitioners and

academics with an interest in international commercial arbitration. 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.

Choice-of-law Problems in International Commercial

Arbitration
A Global Commentary on the New York Convention
International Trade and Business Law Review: Volume XII
The Liability of Arbitral

Institutions: Legitimacy Challenges and Functional Responses

A Guide to the LCIA Arbitration Rules

The London Court of Arbitration (LCIA) is one of the world's

foremost arbitration institutions, with a growing annual caseload. The LCIA Arbitration Rules are among the most modern and forward-looking of the various sets of institutional arbitration rules but until now have not been the subject

of in-depth study. This is the first full length and comprehensive commentary on the rules, written by two well-known and experienced arbitration practitioners. Portable and functional, this book acts as a guide and provides an indispensable

resource for all involved in international arbitration under the LCIA rules. Grouped thematically, the commentary to each rule provides 1) a description of the rule and its intended meaning 2) the provenance and history of the rule 3)

the practical effect of the rule with reference to previous case law and jurisprudence and 4) a comparative look at conceptual and practical differences between each rule. Focusing specifically on how the rules of the LCIA differ from those

of the ICC and the UNCITRAL, this title emphasises the international nature of the LCIA and provides the only dedicated reference to the Rules.

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. 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 Comité Français 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.
As of 17 December 2010, the Rome I Regulation (EU Regulation 593/2008) on the law applicable to contractual obligations is directly applicable in all EU Member States with the exception of Denmark. The

Rome I Regulation replaces the Rome Convention of 1980 in the EU Member States and will apply to all contracts concluded as of 17 December 2010. However, and herein lies the utility and great importance of this work, the Rome

Convention and the Rome I Regulation will be applied in parallel for a significant time to come (the author himself anticipates a ten-to-fifteen year period); in the latter case to contracts made after 17 December, 2010. This is why this

commentary takes into account both sources of law, in their mutual interaction and broader context. The comprehensiveness of the Rome Convention / Rome I Regulation is clearly apparent, but one of the great achievements of the author is his

amassing of over 1,800 judicial decisions, most of which are furnished with a detailed commentary; where these decisions apply national laws, the latter are cited both in the original and in translation. For a number of rulings,

the commentary include not only a case summary of the facts and an analysis of the conclusions drawn by the court, but also takes them as models to hypothesize what conclusions would be reached if the Rome I Regulation were to be

applied.
Kluwerarbitration. Com
The Review of International Arbitral Awards
Online Resolution of E-commerce Disputes
International Arbitration and Global

Governance
From the Arab World to the Globalization of International Law and Arbitration
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.

"Casebook on International

Arbitration"--

Acclaim for the first edition: ïThis 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 ElgarÍs. 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 countriesÍ 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 Czech Yearbooks Project, for the moment made up of the Czech Yearbook of International Law® and the Czech (& Central European) Yearbook of Arbitration®, began

with the idea to create an open platform for presenting the development of both legal theory and legal practice in Central and Eastern Europe and the approximation thereof to readers worldwide. This platform should serve as an open

forum for interested scholars, writers, and prospective students, as well as practitioners, for the exchange of different approaches to problems being analyzed by authors from different jurisdictions, and therefore providing interesting insight into issues

being dealt with differently in many different countries. The Czech (& Central European) Yearbook of Arbitration® , the younger twin project within the Czech Yearbooks, primarily focuses on the problematic of arbitration from both the national

and international perspective. The use of arbitration as a method of dispute resolution continues to increase in importance. Throughout Central and Eastern Europe, arbitration is viewed as being progressive, due to its practical aspects, and to its meeting

the needs of specialists in certain practice areas. Central and Eastern Europe, the primary, but not exclusive, focus of this project, is steeped in the Roman tradition of continental Europe, in which arbitration is based on the autonomy

of the parties and on informal procedures. This classical approach is somewhat different from the principles on which the system of arbitration in common-law countries is based. Despite similarities among countries in the region, arbitration in

Central and Eastern Europe represents a highly particularized and fragmented system. One shortcoming in the use of arbitration in Central and Eastern Europe is the absence of comparative standards or a baseline that would facilitate the identification

of commonalities and differences in individual countries, and help resolve problems that are common throughout the region. The CYArb® project aims to address this issue and provide a forum for comparisons of arbitration practice and doctrine in countries

within the region, and in relation to practices internationally. It sheds light on both practical and academic aspects within these countries, and compares those approaches to broader European and international practices. This project will also foster

a broad exchange of legal research and other information on the subject. The third volume of the CYArb® focuses on the blurry area which borders the procedural and substantial law. Editors, being motivated with an endeavour to

provide the readers with complex insight into the problematic, invited authors of Civil same as Common law jurisdictions to provide their insight and analysis on the problems of i.e. mandatory provisions of procedural same as substantive law,

issues of application of law in arbitration, adjudication according to the ex aequo et bono principles, issues of the burden and standard of proof and others. The issues are presented on highly comparative basis provided mostly by practitioners who are

simultaneously involved in academic activities. The book is divided into four sections. The backbone sections encompass the doctrinal articles of the authors same as case law analysis of the domestic courts from the region relating to the topic, covering the case

law of Constitutional, General same as Arbitral courts of the countries from the Central European Region. The rest of the book covers the news in the arbitration area same as interesting arbitration events or published articles and books of the

authors from the region. The new volume of the The Czech (& Central European) Yearbook of Arbitration® : Borders of Procedural and Substantive Law in Arbitral Proceedings (Civil versus Common Law Perspectives) brings useful

resource for everyone who is dealing with arbitration in all of its aspects, be it an academic, practitioner, law or international relations student who seeks global compendium on the issue including an overlap to economic and politic aspects of the problematic.

The Creeping Codification of the New Lex Mercatoria
Fouchard, Gaillard, Goldman on International Commercial Arbitration
Anti-suit Injunctions in International Arbitration
The Iran-United States Claims

Tribunal

A Legal and Cultural Analysis

Most literature on international arbitration is practice-oriented, technical, and promotional. It is by arbitrators and largely for

arbitrators and their clients. Outside analyses by non-participants are still very rare. This book boldly steps away from this tradition of scholarship to reflect analytically on international

arbitration as a form of global governance. It thus contributes to a rapidly growing literature that describes the profound economic, legal, and political transformation in

which key governance functions are increasingly exercised by a new constellation that include actors other than national public authorities. The book brings together leading

scholars from law and the social sciences to assess and critically reflect on the significance and implications of international arbitration as a new locus of global private authority. The views

predictably diverge. Some see the evolution of these private courts positively as a significant element of an emerging transnational private legal system that gradually evolves according

to the needs of market actors without much state interference. Others fear that private courts allow transnational actors to circumvent state regulation and create an illegitimate

judicial system that is driven by powerful transnational companies at the expense of collective public interests. Still others accept that these contrasting views serve as useful starting

points of an analysis but are too simplistic to adequately understand the complex governance structures that international arbitration courts have been developing over the last two decades. In

sum, this book offers a wide-ranging and up-to-date analytical overview of arguments in a vigorous nascent interdisciplinary debate about arbitration courts and their exercise of

private governance power in the transnational realm. This debate is generating fascinating new insights into such central topics as legitimacy, constitutional order and justice beyond

classical nation state institutions.
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.
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. Although the 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) is one of the most successful international

conventions to date, it remains the case that those involved in the international sale of goods must refer to a multitude of laws. Indeed the CISG itself does not cover all issues relating to

international sales contracts, so it must necessarily be supplemented by domestic law. Global Sales and Contract Law provides a truly comparative analysis

of domestic laws in over sixty countries so as to deliver a global view of domestic and international sales law. The book reports on the real practice of sales law, taking into account

present day problems. Complex questions on the obligations under a sales contract, the ways in which these are established, as well as the remedies following the breach of

obligations, are all discussed. By addressing regional uniform projects, like OHADA, and comparing differences in domestic legal approach where the CISG would not apply, the work

goes beyond existing commentaries which tend to focus only on the CISG. The analysis has been based on an unprecedented survey drawn from the world's top fifty companies as well as

international traders, lawyers advising international traders, arbitral institutions, arbitrators, and law schools. This work encompasses all aspects of a sale of goods

transaction and takes a wide view of sale by including general contract law. The book gives practitioners invaluable insight into judicial trends and possible solutions in different legal

systems, whether preparing for litigation or drafting an international contract. Global Sales and Contract Law is the most comprehensive and thorough compilation of

legal analysis in the field of the sale of goods and is a reliable source for any practitioner dealing in international commerce.

Legal Theory of International Arbitration

Ad Hoc Arbitration in China
Festschrift Ahmed Sadek El-Kosheri
Elgar Encyclopedia of Comparative Law, Second Edition
The European Convention on

International Commercial 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.
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.
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 book discusses how technological innovations have affected the resolution of disputes arising from electronic

commerce in the European Union, UK and China. Online dispute resolution (ODR) is a form of alternative dispute resolution in which information technology is used to establish a process that is more effective and conducive to resolving the specific types of dispute for which it was created. This book

focuses on out-of-court ODR and the resolution of disputes in the field of electronic commerce. It explores the potential of ODR in this specific e-commerce context and investigates whether the current use of ODR is in line with the principles of access to justice and procedural fairness.

Moreover, it examines the major concerns surrounding the development of ODR, e.g. the extent to which electronic ADR agreements are recognized by national courts in cross-border e-commerce transactions, how procedural justice is ensured in ODR proceedings, and whether ODR

outcomes can be effectively enforced. To this end, the book assesses the current and potential role of ODR in resolving e-commerce disputes, identifies the legal framework for and legal barriers to the development of ODR, and makes recommendations as to the direction in which practice and the current legal

framework should evolve. In closing, the book draws on the latest legislation in the field of e-commerce law and dispute resolution in order to make recommendations for future ODR design, such as the EU Platform-to-Business Regulation on Promoting Fairness and Transparency for Business

Users of Online Intermediation Services (2019) and the United Nations Convention on International Settlement Agreements Resulting from Mediation (2018), which provide the legal basis for ODR's future development.

Czech (& Central European) Yearbook of Arbitration - Borders of Procedural

and Substantive Law in Arbitral Proceedings - 2013
Precedent in International Arbitration
International Commercial Arbitration
Arbitration in China
International Commercial Arbitration and the Arbitrator’s Contract
More and more, intellectual property

disputes tend to be multijurisdictional in nature, and parties everywhere are turning to international arbitration as the most promising means of resolution. Although these two legal specialisms ' intellectual

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. Originally drafted during the Cold War era to facilitate trade between

Western and Eastern European countries, the European Convention on International Commercial Arbitration (ECICA) has come to the fore in recent years as commercial relationships proliferate between Western Europe and such

resource-rich countries as Russia, Ukraine, and Kazakhstan. This commentary is the first comprehensive overview in English of the Convention's provisions, annexes, subsequent agreements, and relevant case law and

scholarship. Following three introductory chapters—on subjective arbitrability, applicable law, and ordre public in enforcement procedures—the book provides detailed commentary and analysis of each of the Convention's articles in

turn. Detailed answers will be found to such questions as the following: • Which law is applicable to the substance of a dispute within the Convention's scope of application? • Can a defective arbitration clause be “saved” and, if so, how? • In which

circumstances can awards be enforced which have been set aside in the state of origin? • In which circumstances may courts decide in a matter governed by an arbitration agreement? In contrast to the other major international commercial

arbitration body of rules—the New York Convention—the ECICA goes beyond enforcement and recognition of awards and codifies standards of conduct and procedure. These innovative provisions are discussed in depth. Arbitration disputes are

increasing across the vast geographical region in which the ECICA is applicable, and practitioners acting in such disputes will welcome this thorough commentary on the functionality, advantages, and disadvantages of

each of the Convention's provisions. They will approach national courts and arbitral tribunals with full knowledge of the rules of procedure and benefit from analysis of court decisions. Global firms, particularly in the oil and gas industry, will also

appreciate the book's masterful explication of this powerful instrument in international commercial arbitration.
The Iran-United States Claims Tribunal is arguably the most significant arbitral institution of the

twentieth century. Although the completion of its last few cases could take a long time, the Tribunal's impressive work must be made available now as a guide to the resolution of ongoing disputes and for future tribunals. The Tribunal

has, by this point, disposed of well over 98 percent of its caseload. Little more remains for its participants to learn, but the Tribunal shows no signs of fading away. Both of the two States Parties, for different reasons, see greater

advantage in the Tribunal's prolongation than in its elimination. The authors have succeeded in dealing with all of the most deserving Tribunal subjects. Moreover, their intimate involvement in and knowledge of

the Tribunal ensure that their book is a fascinating, important, and indispensable contribution to the literature of International Law. This is a definitive book on a monumental event in the law and in history at the close of a century.

"The Iran-United States Claims Tribunal" was awarded the ASIL Certificate of Merit.
Perspectives from the European Union, the UK, and China
Pervasive Problems in International Arbitration

The Forces of Economic Globalization
A Conflict Of Laws Companion

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.

Contending Theories and

Evidence International Intellectual Property Arbitration Cases and Materials [Connected EBook]