

International Council for Commercial Arbitration
Congress series no. 12

New Horizons in International Commercial Arbitration and Beyond

ICCA International Arbitration Congress

General editor Albert Jan van den Berg

with the assistance of the
Permanent Court of Arbitration
The Hague

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New Horizons For International Commercial Arbitration And Beyond International Council For Commercial Arbitration Congreb

Luke Nottage



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New Horizons in International Commercial Arbitration and Beyond A. J. van den Berg, 2005-01-01 ICCA s Congress Series No 12 reflecting the contributions of numerous renown arbitration experts to the 2004 ICCA Beijing Conference commences with an overview of the current international arbitration regime in China and Hong Kong noting both the progress that has been achieved and the work that remains to be done there The remainder of the volume comprises two sets of papers on contemporary substantive and procedural issues in international commercial arbitration The first set contains in depth reports on the topical subjects of arbitration of foreign investment disputes the granting of provisional or interim measures with respect to arbitration and the enforceability of awards supplemented by commentary from the point of view of various specializations and regions The second also using the format of reports and commentary addresses modalities of conciliation and settlement in relation to arbitration including various non binding ADR processes issues drafting step clauses and confidentiality in integrated dispute resolution systems which may combine conciliation and arbitration and the role of arbitrators as settlement facilitators

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, Yearbook Commercial Arbitration, 2004. Albert J. Van den Berg, 2004-12-01. For nearly three decades, the international legal business and academic communities have relied on the Yearbook Commercial Arbitration for comprehensive coverage of the complex field of international commercial arbitration. With its reporting on developments in legislation and arbitral institutions and its excerpts of arbitral awards and court decisions, Volume XXIX continues the Yearbook's tradition of providing topical information in special sections covering Awards from arbitral institutions not readily available elsewhere; Court decisions on arbitration including Canadian court decisions on awards made in connection with NAFTA Chapter 11 and US Supreme Court decisions on procedural issues, damages and the applicability of the Federal Arbitration Act; Arbitration rules from leading arbitral institutions this year featuring The new arbitration rules and code of ethics from the Arbitration Chamber of Milan with an introduction by Rinaldo Sali; The New Swiss Rules of International Arbitration introduced by Dr Wolfgang Peter; The American Arbitration Association American Bar Association's Code of Ethics for Arbitrators in Commercial Disputes with an introduction by William K. Slate II; The Guidelines on Conflicts of Interest in International Commercial Arbitration issued by the International Bar Association; The International Law Association's resolution on public policy as a ground for refusing recognition or enforcement of international arbitral awards introduced by Pierre Mayer and Audley Sheppard; Court Decisions on the leading international arbitration conventions with Excerpts of 72 court decisions applying the 1958 New York Convention from the national courts of 10 countries including extensive coverage of recent decisions from the German courts; US decisions applying the 1975 Panama Convention; A Bibliography of recent books and journals on arbitration. Edited by the International Council for Commercial Arbitration (ICCA), the world's leading organization representing practitioners and academics in the field, the Yearbook is a vital resource for anyone involved in the practice and study of international arbitration.

Procedure and Evidence in International Arbitration Jeffrey Waincymer, 2012-05-23. 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

International Commercial and Investor-State Arbitration Luke Nottage, 2021-02-26 This thought provoking book combines analysis of international commercial and investment treaty arbitration in order to examine how they have been framed by the twin tensions of in formalisation and glocalisation Taking a comparative approach the book focuses on Australia and Japan in their attempts to become regional hubs for international arbitration and dispute resolution services in the increasingly influential Asia Pacific context

Combining Mediation and Arbitration in International Commercial Dispute Resolution Dilyara Nigmatullina, 2018-06-28 Securing fast inexpensive and enforceable redress is vital for the development of international commerce In a changing international commercial dispute resolution landscape the combined use of mediation and arbitration has emerged as a dispute resolution approach which offers these benefits However to date there has been little agreement on several aspects of the combined use of processes which the literature often explains by reference to the practitioner s legal culture and there is debate as to how appropriate it is for the same neutral to conduct both mediation and arbitration Identifying the main ways of addressing concerns associated with the same neutral conducting both mediation and arbitration same neutral arb med arb this book examines how effectively these methods achieve the goal of fast inexpensive and enforceable dispute resolution evaluating to what extent the perception and use of the same neutral arb med arb depends on the practitioner s legal culture arguing that this is not a one size fits all process Presenting an empirical study of the combined use of mediation and arbitration in international commercial dispute resolution this book synthesises existing ways of addressing concerns associated with the same neutral arb med arb to provide recommendations on how to enhance the use of combinations in the future

Party-Appointed Arbitrators in International Commercial Arbitration Alfonso Gómez-Acebo, 2016-04-26 The agreement of disputing parties to each make a unilateral appointment of an arbitrator is among the most distinctive features of arbitral practice A detailed examination long overdue of how this feature affects the actual process of arbitration is presented in this book The study includes a historical analysis of unilateral nominations a critical assessment of how the unilateral appointments system currently works and an empirical study of challenges of arbitrators The author s critical assessment addresses several issues including limits to the right of the parties to make unilateral appointments the principle of equality of the parties in the constitution of the

arbitral tribunal arbitrators duty to be impartial and independent specific problems of bias in tribunals with party appointed members the question of whether a different standard of impartiality and independence in party appointed arbitrators makes any sense the presumption that party appointed arbitrators can do things that presiding arbitrators cannot and the question of whether it is worth keeping the system of unilateral appointments as the default method for the constitution of multiple member tribunals or keeping it at all The empirical study in which the author offers a comparative analysis of challenges of arbitrators taking into account the method of appointment of the arbitrator reveals interesting differences and coincidences between party appointed and non party appointed arbitrators The book ends with some suggestions on how the system of unilateral appointments could be improved namely in order to increase the trust of each party in the arbitrator appointed by the other party and to allow an accurate match between what arbitration end users may want from party appointed arbitrators and what they ultimately get For both its thorough and well informed analysis and its sound recommendations the book is sure to be welcomed by professionals in the arbitral community worldwide as well as by arbitration law academics

The Evolution and Future of International Arbitration Stavros Brekoulakis, Julian D.M. Lew, 2016-06-24 The School of International Arbitration of the Centre for Commercial Law Studies at Queen Mary University of London celebrated its 30th anniversary in April 2015 with a major conference featuring presentations by 35 international arbitration practitioners and scholars from many countries representing a variety of legal systems This volume has emerged from that conference What is striking is not only the range and diversity of the topics examined but also the emergence of new subjects for examination demonstrating that arbitration law and practice do not stand still but are constantly evolving The issues and topics covered include the following Evolution of case law and practice in international arbitration The concept and autonomy of arbitral award Parties in international arbitration Parallel proceedings in international arbitration Court review of arbitration awards Geographic expansion of international arbitration Counsel regulation and conflicts disclosures The use of technology in international arbitration Teaching and research in international arbitration This superbly organised and edited volume like earlier conference volumes from the School of International Arbitration is sure to be welcomed and acclaimed and like them will prove of lasting value

Dispute Resolution in China Weixia Gu, 2021-02-22 China's ever expanding commercial influence has attracted global attention on how its civil and commercial disputes are resolved This compelling new book Dispute Resolution in China offers a detailed examination of the elements in the Chinese legal system and the relevant reforms to the multiplicity of approaches to civil and commercial disputes in China today This book reveals how civil litigation commercial arbitration mediation and their hybrid dispute resolution have distinctly responded to reformed and developed in the context of China's transformational economic growth societal development and international interaction in the last two decades It situates these developments and continued experimentation within a unique hybrid of empirical contextual and comparative analytical framework while paving productive pathways towards the future This book argues that

rather than being a legal project China's civil and commercial dispute resolution system is essentially a social development project which distinguishes the Chinese approach to civil justice reform from contemporary civil justice movements elsewhere Among the primary methods of dispute resolution commercial arbitration in China today uniquely transcending the traditional socio political constraints its reform has developed in favor of market oriented considerations and shaped by China's socio economic dynamics and internationalization needs By contrast civil litigation and mediation being more instrumentalist in nature their reform is socio politically embedded and continues to prioritize social stability This book also shines a fresh light on comparative assessments of top down and bottom up changes in China's dispute resolution discourse as well as on how China speaks to international dispute resolution systems Original and rich in its analysis this book will be essential reading and invaluable reference tool for scholars with a focus on Chinese law comparative and international dispute resolution and on broader legal institutional economic social political and cultural dimensions of dispute resolution development

The Impact of Investment Treaties on Contracts Between Host States and Foreign Investors Jan Ole Voss, 2010-12-10 In the field of investment treaty arbitration the co existence of contracts and treaties has generated an increasingly divided jurisprudence on central aspects of treaty interpretation This book comprehensively examines the legal problems surrounding the relationship of these two instruments

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fuel injection timing is controlled by a timer and a solenoid operated timing control valve the timer has a high pressure chamber and a low pressure chamber which are defined at both sides respectively of a timer piston

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web the present invention relates to a governor for a fuel injection pump for a diesel internal combustion engine it has been proposed in the prior art to provide a governor assembly including a floating lever the position of which is determined by a manual speed control lever and a flyweight assembly and which moves a control rod which controls

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