

Arbitration involving States

- ▶ There are some institutions devoted to administer disputes between States and private entities
- ▶ The State may be allowed to enter into «private» arbitration agreements

Mixed International Arbitration Studies In Arbitration Between States And Private Persons

J Romesh Weeramantry



Mixed International Arbitration Studies In Arbitration Between States And Private Persons:

Mixed International Arbitration Stephen J. Toope, 1993-01-01 This book focuses on the process of arbitration between States and private persons On the basis of an examination of this process particularly the manner through which tribunals are created and by which they render judgment the author assesses the role of the parties the relative importance of their interests the sources of law and the role of the adjudicator Part one is an exploration of some central difficulties both theoretical and practical that arise in mixed international arbitration In the forefront of these is the question of the applicable law and particularly the question of the delocalisation of both the procedural and the substantive law Part two contains extensive studies of the three most important regimes of mixed international arbitration currently in operation the International Chamber of Commerce the World Bank Centre for the Settlement of Investment Disputes and the Iran US Claims Tribunal

International Contracts and National Economic Regulation: Dispute Resolution Through International Commercial Arbitration Mahmood Bagheri, 2000-12-06 The growth of national economic regulation and the process of globalisation increasingly expose international transactions to an array of regulations from different jurisdictions These developments often contribute to widespread international contractual failures when parties claim the incompatibility of their contractual obligations with regulatory laws The author challenges conventional means of dispute resolution and argues for an interdisciplinary approach whereby disciplines such as international economic law conflict of laws contract law and economic regulations are functionally united to resolve international and multifaceted regulatory disputes He identifies the normative foundation of contract law as an important determinant in this process contending that contract law is essentially neutral and underpinned by the concept of corrective justice while economic regulations are mainly prompted by distributive justice Applying this corrective distributive justice dichotomy to international contracts the author critically assesses major conflict of laws approaches such as proper law the Rome Convention and governmental interest analysis which could disregard either public interest or private rights The author taking these theories into account proposes an alternative two dimensional interest analysis approach He tests the viability of this approach with reference to arbitral awards and court decisions in various jurisdictions and concludes that it uniquely fits into the structure of international commercial arbitration In adopting this approach arbitrators would take into account both corrective and distributive justice and to the extent that corrective justice prevails would be able to avert a total failure of the contract

The Settlement of International Disputes Nii Lante Wallace-Bruce, 2023-09-20 The first part of this book deals with the general principles relating to international disputes settlement It starts by looking at the nature of an international dispute in contemporary international law and by discussing the principles governing the ascertainment of the existence of an international dispute It then moves on to a consideration of the diplomatic means of an international dispute settlement The book not only focuses on the peaceful means but also considers other means in particular countermeasures A separate chapter is devoted to the

International Court of Justice enabling in depth treatment of the issues The book critically analyses the cases in which Australia and New Zealand have been involved first as applicants and then as respondents thereby assessing the contributions made by these two countries to the development of the law relating to international disputes settlement

Carbonneau on International Arbitration Thomas E. Carbonneau, 2011-01-01 The chapters of this volume represent the majority of Professor Carbonneau's scholarly writings on the subject of international commercial arbitration They reflect his interest over the course of thirty years of law teaching in international litigation comparative law and of course international arbitration Some of the chapters are of a recent vintage while others were written a decade or two ago Whatever their date of production the chapters have a continuing professional interest Each addresses some of the major issues of trans border arbitration law A number of chapters emphasize the importance of courts in developing and maintaining a legal culture that is hospitable to arbitration The work of the courts has been instrumental to the reception of arbitration in the United States and in several European jurisdictions The courts can make or break arbitration by upholding arbitration agreements and enforcing arbitral awards Other chapters underscore that arbitration can operate as a complete legal system It not only provides workable trial procedures but arbitrators can also create law in their rulings With the addition of an internal arbitral appellate mechanism arbitrations can function with almost absolute independence The world law on arbitrations seems to favor the a national and a juridical operation of the arbitral process A few of the chapters recognize that arbitration is being increasingly employed to resolve political or mixed political and commercial disputes Investment arbitration and BITs are the most recent expression of this development it had been apparent in WTO and NAFTA dispute resolution The Iran U S Claims Tribunal presented the first great occasion for assessing the vocation of arbitration in a mixed dispute situation While arbitration has made significant inroads in this area political sovereignty remains resistant to the imposition of limitations In many less visible political cases determinations are nonetheless made and rendered enforceable The concluding chapters address more specific developments in the field of ICA A number of cases point to the strong perhaps overweening support of the judiciary for arbitration The courts in some jurisdictions support arbitration unequivocally and are bent upon a single outcome no matter the impact on doctrine Lawyer presence in the arbitral process has lead to increased formalization in some proceedings The judicialization of arbitration tilts the process toward the protection of rights and hinders its ability to function effectively and reach finality Lawyers can readily misunderstand and undermine the gravamen of arbitration The concluding chapters also establish that the UK Arbitration Act 1996 is one of the world's outstanding arbitration statutes It rivals and bests the UNCITRAL Model Law on ICA and is the equal of the French codified law on arbitration Finally the express text of the New York Arbitration Convention appears to have been altered significantly by court practice The possible limitations of national law have been neutralized and the provisions of the Convention articulate a truly trans border regulation of the enforcement of awards In sum the chapters in this book reflect

the author's lifetime work in the area of international arbitration and are required reading for all those practicing in the field law students arbitrators academics and practicing lawyers

International Investment Law and Arbitration C. L. Lim, Jean Ho, Martins Paparinskis, 2021-03-11 A new edition connecting extracts from arbitral decisions treaties and scholarly works with concise up to date and reliable commentary

International Commercial Arbitration and African States Amazu A. Asouzu, 2001-10-18 International Commercial Arbitration and African States is a timely assessment of the arbitral process in the African context The book focuses on the contribution that arbitration and other methods of alternative dispute resolution may make to the development of African states and peoples while satisfying the legitimate expectations of inward investors and traders Although focusing on dispute resolution regimes affecting or concerning African states and their nationals the work will also have practical policy and comparative implications for dispute resolution commercial arbitration and foreign investment in other regions

International Arbitration and the Permanent Court of Arbitration Manuel Indlekofer, 2013-08-01 The modern tendency to restrict international arbitration to matters of commerce and investment is succumbing to a renewed recognition of the original impetus for dispute resolution by arbitration i.e. matters of public international law most importantly the settlement of disputes that pose a threat of international conflict Recent developments suggest a renaissance of public international arbitration most clearly manifested in the present flourishing of the Permanent Court of Arbitration PCA the oldest existing dispute settlement institution in international law As the calls for the development of new and more appropriate methods for dispute settlement in international law increased during the 1990s the PCA undertook a structural reform and is today a vital forum for dispute settlement with scores of arbitrations currently pending under its auspices This book the most comprehensive study of the institution to date covering its history its present status and its future prospects proves the PCA's contemporary relevance within the international dispute settlement framework Among aspects of the PCA's work covered are the following how public international arbitration functions in comparison to other means available for dispute settlement in international law the PCA's historical contributions to the current dispute settlement framework arbitrations between a state and a non state actor that are in whole or in part governed by public international law the fields in which public international arbitration plays a revived role the PCA's present day institutional framework and its current activities the prospects for public international arbitration and the PCA in the dispute settlement framework of the twenty first century and proposals to increase the PCA's activities in future and to sustain and enhance the institution's ongoing revitalization A very useful Practitioner's Guide provides an overview of the PCA's various services and the best means of accessing them along with a summary of the key provisions of the new PCA Arbitration Rules 2012 For lawyers who are involved in dispute resolution proceedings there can be little doubt about the PCA's relevance This book is at once an academic work indispensable for scholars of the institution and a practical guide that will be a required addition to the libraries of counsel arbitrators and others involved in dispute resolution proceedings

conducted at the PCA Finnish Yearbook of International Law, Volume 7 (1996) Martti Koskenniemi, Kari Takamaa, 2023-09-14 As of Volume VII 1996 The Finnish Yearbook will be published by Martinus Nijhoff Publishers Kluwer Law International Despite its Finnish initiative and pedigree The Finnish Yearbook of International Law does not restrict itself to purely Finnish topics On the contrary it reflects the many connections in law between the national and the international The Finnish Yearbook of International Law annually publishes in both English and French articles of high quality dealing with all aspects of international law including international law aspects of European law with close attention to developments that affect Finland Its offerings include longer articles of a theoretical nature exploring new avenues and approaches shorter polemics commentaries on current international law developments book reviews and documentation of relevance to Finland's foreign relations not easily available elsewhere The Finnish Yearbook offers a fertile ground for the expression of and reflection on the connections between Finnish law and international law as a whole and insight into the richness of this interaction **The ICSID Convention** Christoph H. Schreuer, 2001-07-23 The Convention on the Settlement of Investment Disputes between States and Nationals of other States entered into force in October 1966 and is administered by ICSID International Centre for Settlement of Investment Disputes There are now 131 countries which have ratified the convention Its caseload has grown substantially during the last ten years In this unique compendium the official text and Professor Schreuer's updated commentary on the entire Convention is set out Article by Article as at June 2000 This book offers the most comprehensive explanation of the functioning of this important mechanism for the settlement of investor host State disputes It incorporates the preparatory work the literature and the practice under the Convention as well as a complete tables and index and cross references to the ICSID Reports This practice oriented guide will be an indispensable tool for anyone dealing with the ICSID Convention The ICSID Convention Christoph Schreuer (juriste), 2009 This is a practice oriented guide including text commentary tables and index for anyone dealing with the International Centre for Settlement of Investment Disputes ICSID *ICSID Convention after 50 Years: Unsettled Issues* Crina Baltag, 2017-02-15 The International Centre for Settlement of Investment Disputes ICSID has played a leading role in establishing the field of foreign investment law It is primarily due to the ICSID that it is no longer peculiar for individuals and corporations to have legal standing in claims against governments probably the most notable development of international law of the last half century Now in its fiftieth year and ratified by more than 150 states the ICSID received in 2015 its 500th case This book celebrates this anniversary with an overview and analysis of ICSID case law to date and focusing particularly on unsettled issues assesses possible developments in the institution's next phase This volume collects twenty two essays by prominent practitioners with substantial experience in investment arbitration law The topics they cover encompass such issues as the following the political and economic reasons behind the creation of the ICSID admissibility and jurisdiction ICSID vis vis bilateral investment treaties States concerns about the partiality of arbitrators in favour of investors applicable laws under

the ICSID Convention fact finding rules conflicting interpretations of ICSID Convention provisions interaction of foreign investment and economic development value of ICSID awards in the light of EU law annulment of ICSID awards effects of denunciation Bolivia Ecuador Venezuela and non contracting States Russia Brazil India attribution of conduct of State owned enterprises SOEs counterclaims guarantees against political risk and allocation of costs As a detailed response to the question whether ICSID has contributed as promised to an improvement in the investment climate and promoted the flow of private foreign capital and as an assessment of the present and future feasibility of the ICSID system for the resolution of investment disputes by arbitration and conciliation this book has no peers Considering the current crisis of investment law the book s immediate value not only to investors and their counsel but also to practitioners and academics in the field of investment law and arbitration and public international law cannot be overstated Dr Crina Baltag is the author of Kluwer s 2012 book *The Energy Charter Treaty The Notion of Investor and the Associate Editor of Kluwer Arbitration Blog*

Cultural Property Disputes: The Role of Arbitration in Resolving Non Contractual Disputes Isabelle Gazzini, 2021-10-25 The originality of this work lies in its in depth consideration of practical procedural problems related to transnational arbitration in extra contractual situations Particular attention is given to voluntary and forced intervention and to consolidation co ordination or suspension of related arbitration proceedings Those concerned with restitution of cultural property and the effective use of arbitration in non contractual disputes will find this book a valuable resource Published under the Transnational Publishers imprint The Rational Design of International Institutions Barbara Koremenos, Charles Lipson, Duncan Snidal, 2003-12-08 International institutions vary widely in terms of key institutional features such as membership scope and flexibility In this 2004 book Barbara Koremenos Charles Lipson and Duncan Snidal argue that this is so because international actors are goal seeking agents who make specific institutional design choices to solve the particular cooperation problems they face in different issue areas Using a Rational Design approach they explore five features of institutions membership scope centralization control and flexibility and explain their variation in terms of four independent variables that characterize different cooperation problems distribution number of actors enforcement and uncertainty The contributors to the volume then evaluate a set of conjectures in specific issue areas ranging from security organizations to trade structures to rules of war to international aviation Alexander Wendt appraises the entire Rational Design model of evaluating international organizations and the authors respond in a conclusion that sets forth both the advantages and disadvantages of such an approach ICSID Reports: Volume 1 Rosemary Rayfuse, 1993 The World Bank Convention on the Settlement of Investment Dispute entered into force in 1965 An international dispute settlement system which is of great and growing importance its reports have been published haphazardly in various periodicals but are presented in these volumes in consolidated form for the first time together with materials related to the ICSID cases from national courts around the world All the decisions are presented in English with summaries and are translated from other languages where necessary This

first volume contains materials relating to proceedings from 1975 to 1990 and is fully indexed

Principles of International Economic Law Matthias Herdegen, 2016 *Principles of International Economic Law* provides a comprehensive overview of the central topics in international economic law with an emphasis on the interplay between the different economic and political interests on both the international and domestic levels Following recent tendencies the book sets the classic topics of international economic law like WTO law investment protection commercial law and monetary law in context with aspects of human rights environmental protection and the legitimate claims of developing countries The book draws a concise picture of the architecture of international economic law with all its complexities without getting lost in fragmented details Providing a perfect introductory text to the field of international economic law the book thoroughly analyses legal developments within their wider political economic or social context Topics covered range from codes of conduct for multinational enterprises to the human rights implications of the exploitation of natural resources The book demonstrates the economic foundations and economic implications of legal frameworks It puts into profile the often complex relationship between on the one hand international standards on liberalization and economic rationality and on the other state sovereignty and national preferences It describes the new forms of economic cooperation which have developed in recent decades such as the growing number of transnational companies in the private sector and forms of cooperation between states such as the G8 or G20 This fully updated second edition covers new aspects and developments including the growing importance of corporate social responsibility mega regional agreements like CETA TTIP and TPP trade and investment related aspects of human rights law

ICSID Reports: Volume 1 University of Cambridge. Research Centre for International Law, 1993-03 These reports present in a single comprehensive series all those decisions of ICSID tribunals which are in the public domain as well as the decisions of national courts relating to such proceedings

Beyond Human Rights Anne Peters, 2016-10-27 *Beyond Human Rights* previously published in German and now available in English is a historical and doctrinal study about the legal status of individuals in international law

The Oxford Handbook of International Investment Law Peter Muchlinski, Federico Ortino, Christoph Schreuer, 2008 The Oxford Handbook series is a major new initiative in academic publishing Each volume offers an authoritative and state of the art survey of current thinking and research in a particular subject area Specially commissioned essays from leading international figures in the discipline give critical examinations of the progress and direction of debates Oxford Handbooks provide scholars and graduate students with compelling new perspectives upon a wide range of subjects in the humanities and social sciences The Oxford Handbook of International Investment Law aims to provide the first truly exhaustive account of the current state and future development of this important and topical field of international law The Handbook is divided into three main parts Part One deals with fundamental conceptual issues Part Two deals with the main substantive areas of law and Part Three deals with the major procedural issues arising out of the settlement of international investment disputes The book has a policy

oriented introduction setting the more technical chapters that follow in their policy environment within which contemporary norms for international foreign investment law are evolving The Handbook concludes with a chapter written by the editors to highlight the major conclusions of the collection to identify trends in the existing law and to look forward to the future development of this field

Treaty Interpretation in Investment Arbitration J Romesh Weeramantry, 2012-03-08 The rise of investment arbitration in the last decade has generated an unprecedented body of arbitral case law The work of these arbitral tribunals has provided scholars and practitioners with public international law jurisprudence including materials on treaty interpretation which has not yet been thoroughly analysed This book evaluates the contribution of investment arbitration treaty interpretation jurisprudence to international law covering all key aspects of treaty interpretation Included in the book's coverage are awards which feature in prominent discussions or in applications of treaty interpretation rules Among the significant portion of arbitral awards analysed which deal with investment treaties are ICSID awards ad hoc investment arbitration awards NAFTA awards and Energy Charter Treaty awards The extensive analysis of investment arbitration awards and decisions has also been used to create a table highlighting both the references to principles of treaty interpretation and instances in which they were rejected This invaluable insight into the practice of investment tribunals will be of interest to both practitioners and academics alike Foreword by Professor Michael Reisman Yale Law School _

International Protection of Investments August Reinisch, Christoph Schreuer, 2020-07-16 This book outlines the protection standards typically contained in international investment agreements as they are actually applied and interpreted by investment tribunals It thus provides a basis for analysis criticism and stocktaking of the existing system of investment arbitration It covers all main protection standards such as expropriation fair and equitable treatment full protection and security the non discrimination standards of national treatment and MFN the prohibition of unreasonable and discriminatory measures umbrella clauses and transfer guarantees These standards are covered in separate chapters providing an overview of textual variations explaining the origin of the standards and analysing the main conceptual issues as developed by investment tribunals Relevant cases with quotations that illustrate how tribunals have relied upon the standards are presented in depth An extensive bibliography guides the reader to more specific aspects of each investment standard permitting the book's use as a commentary of the main investment protection standards

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