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this paper deals with the question of the determination of the applicable law in international commercial arbitration in particular it focuses on the determination of the substantive law governing the legal relationship of the parties as the law which needs to be distinguished from the law applicable to the arbitration agreement and lex arbitri it is argued that lex arbitri exercises great influence over the determination of the substantive law applicable to the merits and as such cannot be disregarded however the interaction works both ways meaning that the substantive law pursuant to which the arbitrators rendered their decision may impact the recognition and enforcement of the award furthermore the rules applicable in the czech republic are introduced and as both the private international law and in connection herewith the lex arbitri recently underwent changes a comparison is made between the former and current legislation it can be concluded that despite the changes in wording the fundamental principles remained untouched the last part of the paper deals with the current international trends and the growing role of party autonomy theories according to which the arbitrators are not bound to follow any normative set of rules are also discussed with the result that the transnational approach to arbitration cannot result in a complete detachment from any legal framework finally the most common methods used by the arbitrators in order to determine the applicable substantive law are described highly acclaimed by practitioners all over the world law practice of international commercial arbitration has deservedly become the leading text in its field with its comprehensive review of the legal context within which international commercial arbitration operates redfern hunter is the ultimate user friendly explanation of how arbitration and in particular international commercial arbitration works the 4th edition has been expanded to give a wider global scope to the work readers can also benefit from the expert insight and advice of world renowned international practitioners international practitioner contains a comprehensive review of the international commercial arbitration process from start to finish includes commentary on suitable places of arbitration developments in international trade law and the increasing harmonisation of national laws governing international arbitration appendices include the major international rules of arbitration and conventions explains how arbitration should be conducted to be cost effective and profitable fully updated to take account of the latest developments all over the world including a new chapter on investment arbitrations there has been an exponential rise in the use of ica for resolving international business disputes yet international arbitration is a scarcely regulated specialty industry international commercial arbitration an asia pacific perspective is the first book to explain ica topic by topic with an asia pacific focus written for students and practising lawyers alike this authoritative book covers the principles of ica thoroughly and comparatively for each issue it utilises academic writings from asia europe and elsewhere and draws on examples of legislation arbitration procedural rules and case law from the major asian jurisdictions each principle is explained with a simple statement before proceeding to more technical theoretical or comparative content real world scenarios are employed to demonstrate actual application to practice international commercial arbitration is an invaluable resource that provides unique insight into real arbitral practice specific to the asia pacific region within a global context the compendium like an encyclopedia contains entries for most of the foundational principles and concepts underlying arbitration each entry takes a holistic view of international arbitration as they tackle core concepts from both a commercial and an investment arbitration perspective focusing on the fundamental issues underlying the various topics rather than on the solutions adopted in any particular jurisdiction thus making the compendium a truly cross border transnational resource this innovative approach will allow readers to identify the commonalities as well as the differences between commercial and investment arbitration whether and where cross fertilization has taken place and what consequences it can have this approach allows the compendium to be a tool in promoting the creation of a culture of international arbitration that considers commercial arbitration and investment arbitration as part of a whole but with

certain distinct features particular to each arbitration clauses in international commercial contracts are often reused from existing contracts by so doing the parties choose to apply for example either ad hoc or institutional arbitration and the uncitral icc lcia scc swiss or other arbitration rules without necessarily being aware of the consequences moreover parties often assume that an arbitration clause has the effect of excluding any kind of interference from a court of law and of rendering any but the chosen law redundant this book highlights the specific features of various forms of arbitration and enables lawyers to make informed choices when drafting arbitration clauses chapters explain the framework for arbitration its relationship with national law and the features of the main arbitration institutions in europe the book also highlights new trends in other parts of the world that may have repercussions on the theory of international arbitration what is it about international arbitration that makes it so open to evolution and adaptation what are the main pressure points today and the unmet needs of stakeholders what are the opportunities for expansion to new sectors and new audiences what are the drivers for change the obstacles and the risks and equally important what are the core principles that should never be lost these were the topics of the twenty fourth icca congress held in sydney australia in april 2018 the proceedings of which are collected in this volume the volume highlights arbitration as a living organism that has adapted in the past to various challenges and that today under attack from various quarters might need to demonstrate its adaptability again accordingly the contributions address the evolving needs of users the impact of the rapidly changing face of technology the expectations of the public and the convergence and divergence of different aspects of legal traditions and cultures topical issues of interest for practitioners academics and students of arbitration include the following legitimacy and authority of arbitrators institutions and professional organizations to act as lawmakers investment treaty reform with particular reference to the definition of investment the evolution of substantive treaty standards and sustainable development obligations commercial arbitration reform including issues of public and private interest the development of common law and cost delay and transparency concerns revisiting party autonomy in choosing decision makers including through institutional appointments or investment courts equality of arms the economics of access and the role of costs and third party funding public private disputes and special issues that arise when state entities arbitrate public participation and transparency and their effect on both isds and commercial arbitration revisiting conventional wisdom in organizing arbitral proceedings lessons to be learned from other dispute resolution frameworks technology as friend and enemy including new tools new threats and cybersecurity arbitration of disputes in conflict and post conflict zones inter generational blame and praise in investment arbitration and the emergence of sovereign wealth funds as arbitration participants a special section on new frontiers in arbitration offers enlightening perspectives on new types of claims and new types of stakeholders likely to affect the future of international arbitration including the potential for climate change disputes and enlarged participation 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 international commercial arbitration contains detailed commentary case analyses and practice pointers full annotations and footnotes provide invaluable research assistance while clearly written analyses identify and discuss critical issues representative international arbitral awards and national court decisions are excerpted and detailed reference is made to leading institutional rules detailed appendices an easy to use table of contents and an extensive index to aid research and provide ready access to key materials co publication with kluwer law international north american sales rights only published under the transnational publishers imprint for class adoption a student edition is available for for many years it was said that the weakness of international law was the lack of a system for the enforcement of legal obligations commentators pointed to the paucity of cases in the international court and the unwillingness of states to undertake binding obligations to settle their disputes this position has now changed beyond recognition the number of international tribunals has increased and many of them such as icsid and the international court of justice are busier than at any time in their history increasingly the classical procedures of diplomatic protection are circumvented as corporations and individuals litigate in their own right against states in international tribunals this book surveys the range of procedures for the settlement of international disputes whether the disputes arise between states or between states and corporations or individuals the first part of the book examines non judicial procedures such as negotiation mediation fact finding as well as judicial procedures among the tribunals covered are icsid the uncc and the iran us claim tribunal the wto disputes panels ad hoc inter state and international commercial arbitral tribunals and the international court of justice in the second part of the book the emerging principles of procedural law applied in these tribunals are discussed here the authors go through the entire settlement process from the agreement to submit to a settlement procedure and the constitution of the tribunal through to the determination of the law applicable to the merits and to the procedure of the tribunal to the review and ultimately the recognition and enforcement of tribunal awards also available as an e book competence competence and corruption have for different reasons been mainstays of international dispute resolution thought and practice for the longest time in the last few years their intersection has become increasingly important and problematic these lectures seek to define the problem and to provide acceptable solutions where possible they attempt to derive support from both a stringent dogmatic approach and pragmatic attention to real life expectations and conduct more so than in other areas of private international law the intersection between the powers of the arbitrator and the illegality of the subject matter or the parties conduct poses a particular challenge that challenge is to postulate proper solutions under the law including principles of transnational or international law to conduct which can take on a multiplicity of appearances owing to conflicting cultural understandings of what is and is not legal in commercial life the statement that bribery and corruption offend transnational or international public policy does not relieve the arbitrator from the burden of scrutinizing that statement doctrinally and exploring its consequences in a period of ever increasing globalization of economic activity and investment arbitration is adjudication and like any form of adjudication it must ensure justice to parties justice requires that in settling disputes arbitrators constantly balance the opposing interests of the parties and the different legal systems relevant to the resolution of the dispute from time to time at hand this book addresses such issues by looking at the different stages of arbitration from the selection of the arbitral seat to the definition of jurisdictional limits from the choice of applicable law to the revision of arbitral awards the book collects essays by colleagues and friends

of piero bernardini a leading practitioner of international arbitration who was a champion in achieving balance in the administration of justice through arbitration jurisdiction and arbitration agreements in contracts for the carriage of goods by sea focuses on party autonomy and its limitations in relation to jurisdiction and arbitration clauses included in contracts for the carriage of goods by sea in case of any cargo dispute the author takes the perspective of the shipping companies and the shipowners as these are the driving forces of the shipping industry due to their strategic importance the book provides an analysis of the existing law on the recognition and validity of jurisdiction and arbitration clauses in the contracts for the carriage of goods by sea the author also seeks to provide conclusions and to learn lessons for the future of the non recognition and the non enforcement of the clauses in the existing fragmented legal framework at an international european union and national level england wales and spain the interface between the different legal regimes reveals the lack of international harmonisation and the existence of forum shopping when a cargo interest sues the shipowner or the party to whom the shipowner charters the vessel this concise book provides a useful overview of existing research for students scholars and shipping lawyers irrespective of the increasing harmonization of law at the transnational level every arbitration raises a number of confl ict of laws problems relating to procedural questions as well as to issues concerning the merits of the case unlike a state court judge the arbitrator has no lex fori in the proper sense providing the relevant confl ict rules to determine the applicable law this raises the question of what confl ict of laws rules to apply and consequently of the extent of the freedom the arbitrator enjoys in dealing with this and related issues the best example of the importance of confl ict of laws questions in arbitration is the vivendi elektrim saga where the outcome of the various proceedings depended on the question of characterization this very beneficial book is dealing with the arbitration agreement the jurisdiction of the arbitral tribunal the law applicable to the merits and the arbitration procedure understanding international arbitration introduces students to the primary concepts necessary for an understanding of arbitration making use of illustrative case examples and references to legal practice throughout this text offers a comprehensive overview of the subject for those new to arbitration making use of a unique two part structure in each chapter understanding international arbitration provides a clear and simple statement of rules followed by detailed discussion of the ideas underlying those rules illustrated with relevant comparative law and case examples designed with students of arbitration in mind this text provides both a clear introduction to the subject and a comprehensive course text that will support students in their preparation for exams and practical assessments determining whether the iran us claims tribunal the tribunal is a truly public international tribunal is not merely an interesting theoretical exercise the tribunal s legal character has significant ramifications for example on enforceability at the international level the applicability and scope of res judicata regarding dismissed claims and the evidentiary value of its jurisprudence particularly pursuant to article 38 1 of the icj statute this title explores the legal character of the tribunal and its status under the law of peaceful settlement of international disputes the public or private nature of the tribunal is a matter of significant controversy certain peculiarities of the tribunal namely its accessibility to private claimants the exclusion of the exhaustion of local remedy rule and the regime provided for the execution of its awards suggests that it is not in fact wholly public conversely the author analyses the tribunal under a three part test for public international character 1 international treaty as origin 2 applicable law international in nature 3 controlling parties subject to international law and finds that it meets all three criteria in doing so the author admittedly counters the apparent position of the tribunal itself that its nature is a hybrid of both public and private elements the international law character of the iran united states claims tribunal includes a historical survey on international tribunals an analysis of the adverse arguments and a detailed discussion of the tribunal s practice on expropriation cases to give a concrete example of its functioning on international law level is considered in detail in part three the controversial nature of the author s thesis the thoroughness of the analysis and the importance of the tribunal itself make this a book of interest and import for academics who keep abreast of international law developments the sixth edition of the authoritative and acclaimed commercial law text a great book will be equally useful to legal practitioners students and business people financial times this sixth edition of goode on commercial law now retitled goode and mckendrick on commercial law remains the first port of call for the modern day practitioner with its theoretical and practical coverage of commercial law in both a national and an international

context now updated to cover the most recent legal and technical changes this highly acclaimed and authoritative text which is regularly cited by all courts from the supreme court downwards combines a deep theoretical analysis of foundational principles with a practical approach in the context of typical commercial and financial transactions it is also replete with diagrams and specimen forms covering a wide range of transactions searching analysis and meticulous exposition coupled with a lucid clarity of style and a relaxed lightness of touch combine to make the book not only compulsory but compulsive reading for anyone interested in its field law quarterly review a work of immense scholarship professor goode s work must be as nearly exhaustive as can be possible and as produced by penguin is a triumph of paperback publishing solicitor s journal clear and comprehensive the student and practitioner will find it indispensable the interested layperson too will benefit from it as a work of reference british business a veritable tour de force business law review redfern and hunter on international arbitration is an established treatise on the law and practice of international arbitration the pre eminent method for the peaceful resolution of disputes in international trade investment and commerce this book serves as an introduction following the chronology of an arbitration from the drafting of the arbitration agreement right through to the enforcement of the arbitral award written by an author team with extensive experience as counsel and abitrators the book has been read and cited by international lawyers arbitrators and judges and has become a key learning text for teachers students and potential arbitrators in colleges and universities across the world the seventh edition has been significantly revised to incorporate the latest significant developments in the field includling changes in investor state dispute resolution leading court decisions on arbitration matters in a wider number of jurisdictions changes in the soft law of leading international arbitral institutions and of the international bar association and the impact of the covid 19 pandemic on the practice of international arbitration this shorter paperback edition does not include the appendices although international arbitration is widely hailed as an efficient confidential and flexible way of settling commercial disputes it has its limits the arbitral tribunal s lack of coercive power is thrown into particularly stark relief when it comes to the taking of evidence from third parties outside the arbitral proceedings if they do not comply voluntarily with the request of the arbitral tribunal to testify as a witness or disclose documents assistance must be sought from state courts as the success of a case hinges on the evidence that a party can obtain it is crucial to understand how to obtain evidence through state courts at the heart of this work is the question of the conditions under which state courts may offer assistance in international arbitral proceedings with a special focus on switzerland and comparative aspects this book provides helpful tactical insights for arbitral practitioners around the world overriding mandatory rules in international commercial arbitration discusses the applicability of mandatory rules of law in international commercial arbitration and addresses the concerns of the arbitrators and judges at various stages of arbitration and the enforcement of the award this book expounds the theory of international arbitration law it explains in easily accessible terms all the fundamentals of arbitration from separability of the arbitration agreement to competence competence over procedural autonomy finality of the award and many other concepts it does so with a focus on international arbitration law and jurisprudence in switzerland a global leader in the field with a broader reach than a commentary of chapter 12 of the swiss private international law act the discussion contains numerous references to comparative law and its developments in addition to an extensive review of the practice of international tribunals written by two well known specialists professor kaufmann kohler being one of the leading arbitrators worldwide and professor rigozzi one of the foremost experts in sports arbitration the work reflects many years of experience in managing arbitral proceedings involving commercial investment and sports disputes this expertise is the basis for the solutions proposed to resolve the many practical issues that may arise in the course of an arbitration it also informs the discussion of the arbitration rules addressed in the book from the icc arbitration rules to the swiss rules of international arbitration the cas code and the uncitral rules while the book covers commercial and sports arbitrations primarily it also applies to investment arbitrations conducted under rules other than the icsid framework this book explains how and why arbitration works offering comprehensive coverage of the basic requirements including recent changes in arbitration laws rules and guidelines the uncitral model law after twenty five years global perspectives on international commercial arbitration is a celebration of the model law s significant contribution to international arbitration law it assesses and evaluates the model law s impact on the

development of a universal arbitration law for a complex and mobile transnational community of lawyers judges and arbitrators written from the perspective of counsel arbitrators legislators and judges this collection is bold in its coverage of model law practice it considers questions of legislative implementation pre award issues such as the review of arbitral jurisdiction and the production of evidence post award issues such as judicial review of arbitral awards interpretation and harmonization methods and questions of future reform this is one of the only books on the market that considers the application of the uncitral model law in both great depth and breadth and from multiple perspectives it provides critical assessments and evaluations of the impact that the model law has had after 25 years in various aspects of the arbitral process the issues covered pertain to both substantive and procedural elements theoretical and practical historical and evolutional the uncitral model law after twenty five years global perspectives on international commercial arbitration adopts a comparative approach and covers practice in nearly all model law countries and many others as a seminal critique of the progress that the model law has made to date this collection of articles will be of great benefit to judges arbitrators lawyers academics and anyone interested in the future of international commercial arbitration 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 comprehensive introductory textbook on the law and practice of international arbitration investment arbitration has become the key forum to settle disputes between investors and the host state it is not clear from the arbitration agreements which body of law the arbitrators should apply national or international this book examines how the legal framework which the arbitral panels operate in influences which body of law they apply presents a collection of essays the first version of the uncitral arbitration rules was endorsed by the general assembly of the united nations in december 1976 now considered one of uncitral s greatest successes the rules have had an extraordinary impact on international arbitration as both instruments in their own right and as guides for others the iran us claims tribunal for example employs a barely modified version of the rules for all claims and many multilateral and bilateral foreign investment treaties adopt the uncitral rules as an arbitral procedure the rules are so pervasive and the consequences of the new version potentially so significant that they cannot be ignored this commentary on the rules brings the official documents together in one volume and includes the insights and experiences of the working group that are not included in the official reports arbitration in switzerland this book addresses issues concerning the shifting contemporary meaning of legal certainty the book focuses on exploring the emerging tensions that exist between the demand for legal certainty and the challenges of regulating complex late modern societies the book is divided into two parts the first part focusing on debates around legal certainty at the national level with a primary emphasis on criminal law and the second part focusing on debates at the transnational level with a primary emphasis on the regulation of transnational commercial transactions in the context of legal modernity the principle of legal certainty the idea that the law must be sufficiently clear to provide those subject to legal norms with the means to regulate their own conduct and to protect against the arbitrary use of public power has operated as a foundational rule of law value even though it has not always been fully realized legal certainty has functioned as a core

value and aspiration that has structured normative debates throughout political modernity both at a national and international level in recent decades however legal certainty has come under increasing pressure from a number of competing demands that are made of contemporary law in particular the demand that the law be more flexible and responsive to a social environment characterized by rapid social and technological change the expectation that the law operates in new transnational contexts and regulates every widening sphere of social life has created a new degree of uncertainty and this change raises difficult questions regarding both the possibility and desirability of legal certainty this book compiles in one edited volume research from a range of substantive areas of civil and criminal law that shares a common interest in understanding the multi layered challenges of defining legal certainty in a late modern society the book will be of interest both to lawyers interested in understanding the transformation of core rule of law values in the context of contemporary social change and to political scientists and social theorists arbitrating cross border business disputes has been common practice in italy since centuries it is no wonder then that italian arbitration law and jurisprudence are ample and sophisticated italian courts have already rendered thousands of judgments addressing complex problems hidden in the regulation of arbitration italian jurists have been among the outstanding members of the international arbitration community starting from when back in 1958 professor eugenio minoli was among the promoters of the new york convention being italy the third largest economy in the european union and the eighth largest economy by nominal gdp in the world it also comes as no surprise that italian companies and foreign companies with respect to the business they do in the italian market are among the main users of international arbitration nor that italy is part to a network of more than 80 treaties aimed to protect inbound and outbound foreign direct investments and being the ground for investment arbitration cases moreover in recent years italy has risen to prominence as a neutral arbitral seat in particular for the settlement of intra mediterranean disputes also thanks to the reputation acquired by the milan chamber of arbitration which has become one of the main european arbitral institutions this book is the first commentary on international arbitration in italy ever written in english it is an indispensable tool for arbitrators counsel experts officers of arbitral institutions and judges who happen to be involved in arbitral proceedings or arbitration related court proceedings somewhat linked to the italian legal system either because italy is the seat of the arbitration the italian jurisdiction has been ousted by a foreign seated arbitration the assistance of italian courts is sought for the granting of interim measures or the enforcement of a foreign award or the arbitration results from a multilateral or bilateral investment protection treaty to which italy is a party this book may also be of general interest for scholars and practitioners of international arbitration at large to the extent that it deals with the theory of international arbitration and illustrates original solutions offered by italian arbitration law to various complex issues such as the potential conflicts and required balance between party autonomy and state sovereignty in the governance of arbitrations the relationship between the new york convention and the legal system of the state of the arbitral seat the potential impact on cross border arbitrations of insolvencies human rights or european union law the arbitrability of corporate disputes the extension of arbitration agreements to necessary parties appendixes include an english translation of the main provisions of italian law relevant to arbitration a list of the investment protection treaties to which italy is a party and an english version of the rules of arbitration of the milan chamber of arbitration the author who is full professor of international law name partner of arblit the first italian boutique focusing on cross border dispute settlement and the current italian member of the icc court of arbitration has written the book aiming to combine his academic background with his long standing experience as counsel and arbitrator despite its many distinguished proponents over time ex aequo et bono the idea of deciding disputes on the basis of what an adjudicator regards as fair and equitable has failed to take hold in international commercial arbitration ica formalisation and fossilisation of arbitral procedure as manifested in the increasing use of litigation style practice unfortunately reign instead this bold and challenging book argues that parties to an arbitration should be more willing for their cross border disputes to be decided and arbitrators should be more prepared to decide those disputes in accordance with broad principles of equity and fairness rather than by strict adherence to technical rules of law putting forward suggestions based on extensive research and doctrinal considerations this book invites us to confront what ica was supposed to be what it now is and what it can be in particular dr teramura discusses how by resorting to ex

aequo et bono arbitrators can construe contractual terms including the limits apply trade usages deal with mandatory rules of a given forum or place of performance minimise the cost and length of time that arbitration takes avoid the abuse of discretion and ensure predictable results the book examines significant differences in the way that ex aequo et bono arbitration is understood among various state and international institutions it attempts to identify a common core of universally accepted concepts underlying those different understandings the book argues that ex aequo et bono has the potential to reform ica without undermining its positive aspects along the way it discusses the implications of ex aequo et bono arbitration on the now widely used uncitral model law on ica it should thus appeal to lay business persons and commercial law practitioners who are looking for an economical and efficient way to solve business disputes within a globalised arbitration framework the book has been authored by a highly regarded international legal scholar in commercial and private law the book highlights how the legal landscape for in data protection cross border data flows and cybersecurity law is highly diverse and fragmented amongst all commonwealth countries the book focuses on addressing the gaps in data cybersecurity and national arbitration law of these countries the aim of this book is to promote more engagement between commonwealth countries to ensure they capitalise on the growing digital economy notwithstanding the above the digital economy is rapidly changing the way we work and live when coupled together cybersecurity and data law will be an important component of the future digital economy they will both be integral to transnational trade and investment that said there will likely be disputes and international arbitration can be an effective legal mechanism to resolve trade and investment disputes across the digital economy on that basis this book augments how the respective laws of commonwealth countries along with the model data and cyber laws of the commonwealth should be reviewed to minimise any legal divergence this book provides a comparison and practical guide for academics students and the business community of the current day data protection laws and cross border data flows among all commonwealth countries a comprehensive review of the arbitration law and practice in the czech republic including discussion of arbitration practice and procedure an examination of the jurisdiction of the arbitral tribunal the appointment of arbitrators including the challenge and replacement of arbitrators an analysis of the various types of awards including a discussion on deliberations agreements settlements and the costs of arbitration a discussion on the amendment and challenge of awards including the liability of arbitrators and a review of the enforcement of domestic and foreign arbitration awards examining the notion nature and extent of consent in both commercial arbitration and investment arbitration this book provides practitioners and academics with a thorough case related analysis of an issue which raises many questions whilst considering the evolution of arbitration and its consensual nature enlargement of the parties freedom to consent to arbitration and development from commercial arbitration to investment arbitration it addresses important theoretical questions to offer practical solutions these include how consent to arbitrate is expressed and when mutual consent to arbitration is reached which law shall govern the arbitration agreement or more particularly consent as an element of the substantive validity of it and conversely according to which law will a possible lack of consent be judged how consent should be interpreted which relationship exists between consent as part of the substantive validity of an arbitration agreement and its formal validity which if any are the implied terms when consenting to arbitration how consent to arbitrate influences procedural aspects counterclaims joinder consolidation and which solutions adopted by treaties national laws or arbitration rules are or would be the most respectful of parties consent in this respect what in investment arbitration is the relationship between consent and most favoured nation clauses or the influence of umbrella clauses the book includes original arguments and puts forward new suggestions with regard to the changeable consensual character of arbitration it also provides a particular focus on problems that frequently arise in practice of international arbitration for example issues related to complex multiparty arbitration and to jurisdictional questions in investment arbitration this book provides a comprehensive overview of the key aspects and contracts involved in the process of developing oil and gas projects with an emphasis on offshore developments project development in oil and gas carries with it numerous unique risks and challenges by identifying and managing risk through the various contract stages each stage of the project is seen in perspective and therefore gives readers a better understanding of how that stage was arrived at and what is expected to come later to do this the authors

use illustrative international case studies from past and current projects thereby deepening the reader s understanding and awareness of risk from practical experience as well as suggesting answers for those who are involved in developing oil and gas projects the application of contracts in developing offshore oil and gas projects is intended for project owners project managers contractors finance managers commercial managers and lawyers who seek to understand the subject from a practical point of view the 1958 new york convention has been called the most effective instance of international legislation in the entire history of commercial law however the succinct text of the convention leaves open a host of significant and complex questions which may be and have been answered in a variety of ways as difficult cases arise and demand solutions they generate inconsistent outcomes for all its remarkable success the convention has on occasion proved itself to be unreliable and unpredictable this book simultaneously exposes the difficulties of the convention and explores potential solutions it examines each substantive article of the new york convention in accordance with the following outline the text and its issues original intent the prism of the rules of interpretation of the vienna convention judicial outcomes and appraisal by drawing on the convention s drafting history in great detail the book presents a coherent account of how the most frequently recurring interrogations about the text are reflected or not in judicial practice the author studied more than 1 700 decisions rendered under the convention since its inception in 1958 in order to provide a succinct selection of landmark cases per article with its intense investigation of the complex reality underlying contracting states commitment in principle and judicial application in fact the author s judicial understanding of the convention provides a clear conceptual framework that will help avoid outcomes at odds with the purposes of this important instrument lawyers and judges will rely on this book not only to situate the convention in the national legal orders where it is intended to produce its effects but also discover practical ways to respond to distinct questions of application

The Lex Arbitri 2018 this paper deals with the question of the determination of the applicable law in international commercial arbitration in particular it focuses on the determination of the substantive law governing the legal relationship of the parties as the law which needs to be distinguished from the law applicable to the arbitration agreement and lex arbitri it is argued that lex arbitri exercises great influence over the determination of the substantive law applicable to the merits and as such cannot be disregarded however the interaction works both ways meaning that the substantive law pursuant to which the arbitrators rendered their decision may impact the recognition and enforcement of the award furthermore the rules applicable in the czech republic are introduced and as both the private international law and in connection herewith the lex arbitri recently underwent changes a comparison is made between the former and current legislation it can be concluded that despite the changes in wording the fundamental principles remained untouched the last part of the paper deals with the current international trends and the growing role of party autonomy theories according to which the arbitrators are not bound to follow any normative set of rules are also discussed with the result that the transnational approach to arbitration cannot result in a complete detachment from any legal framework finally the most common methods used by the arbitrators in order to determine the applicable substantive law are described

Should the Lex Fori be the Lex Arbitri? 1998 highly acclaimed by practitioners all over the world law practice of international commercial arbitration has deservedly become the leading text in its field with its comprehensive review of the legal context within which international commercial arbitration operates redfern hunter is the ultimate user friendly explanation of how arbitration and in particular international commercial arbitration works the 4th edition has been expanded to give a wider global scope to the work readers can also benefit from the expert insight and advice of world renowned international practitioners international practitioner contains a comprehensive review of the international commercial arbitration process from start to finish includes commentary on suitable places of arbitration developments in international trade law and the increasing harmonisation of national laws governing international arbitration appendices include the major international rules of arbitration and conventions explains how arbitration should be conducted to be cost effective and profitable fully updated to take account of the latest developments all over the world including a new chapter on investment arbitrations

Does the Delocalisation of Lex Arbitri Make International Commercial Arbitration Attractive? 2006 there has been an exponential rise in the use of ica for resolving international business disputes yet international arbitration is a scarcely regulated specialty industry international commercial arbitration an asia pacific perspective is the first book to explain ica topic by topic with an asia pacific focus written for students and practising lawyers alike this authoritative book covers the principles of ica thoroughly and comparatively for each issue it utilises academic writings from asia europe and elsewhere and draws on examples of legislation arbitration procedural rules and case law from the major asian jurisdictions each principle is explained with a simple statement before proceeding to more technical theoretical or comparative content real world scenarios are employed to demonstrate actual application to practice international commercial arbitration is an invaluable resource that provides unique insight into real arbitral practice specific to the asia pacific region within a global context

Lex Mercatoria and Arbitration 1990 the compendium like an encyclopedia contains entries for most of the foundational principles and concepts underlying arbitration each entry takes a holistic view of international arbitration as they tackle core concepts from both a commercial and an investment arbitration perspective focusing on the fundamental issues underlying the various topics rather than on the solutions adopted in any particular jurisdiction thus making the compendium a truly cross border transnational resource this innovative approach will allow readers to identify the commonalities as well as the differences between commercial and investment arbitration whether and where cross fertilization has taken place and what consequences it can have this approach allows the compendium to be a tool in promoting the creation of a culture of international arbitration that considers commercial arbitration and investment arbitration as part of a whole but with certain distinct features particular to each

Choice of Law in International Arbitration (with Respect to Corresponding Legal Regulations in the Czech Republic). 2015 arbitration clauses

in international commercial contracts are often reused from existing contracts by so doing the parties choose to apply for example either ad hoc or institutional arbitration and the uncitral icc lcia scc swiss or other arbitration rules without necessarily being aware of the consequences moreover parties often assume that an arbitration clause has the effect of excluding any kind of interference from a court of law and of rendering any but the chosen law redundant this book highlights the specific features of various forms of arbitration and enables lawyers to make informed choices when drafting arbitration clauses chapters explain the framework for arbitration its relationship with national law and the features of the main arbitration institutions in europe the book also highlights new trends in other parts of the world that may have repercussions on the theory of international arbitration

Law and Practice of International Commercial Arbitration 2004 what is it about international arbitration that makes it so open to evolution and adaptation what are the main pressure points today and the unmet needs of stakeholders what are the opportunities for expansion to new sectors and new audiences what are the drivers for change the obstacles and the risks and equally important what are the core principles that should never be lost these were the topics of the twenty fourth icca congress held in sydney australia in april 2018 the proceedings of which are collected in this volume the volume highlights arbitration as a living organism that has adapted in the past to various challenges and that today under attack from various quarters might need to demonstrate its adaptability again accordingly the contributions address the evolving needs of users the impact of the rapidly changing face of technology the expectations of the public and the convergence and divergence of different aspects of legal traditions and cultures topical issues of interest for practitioners academics and students of arbitration include the following legitimacy and authority of arbitrators institutions and professional organizations to act as lawmakers investment treaty reform with particular reference to the definition of investment the evolution of substantive treaty standards and sustainable development obligations commercial arbitration reform including issues of public and private interest the development of common law and cost delay and transparency concerns revisiting party autonomy in choosing decision makers including through institutional appointments or investment courts equality of arms the economics of access and the role of costs and third party funding public private disputes and special issues that arise when state entities arbitrate public participation and transparency and their effect on both isds and commercial arbitration revisiting conventional wisdom in organizing arbitral proceedings lessons to be learned from other dispute resolution frameworks technology as friend and enemy including new tools new threats and cybersecurity arbitration of disputes in conflict and post conflict zones inter generational blame and praise in investment arbitration and the emergence of sovereign wealth funds as arbitration participants a special section on new frontiers in arbitration offers enlightening perspectives on new types of claims and new types of stakeholders likely to affect the future of international arbitration including the potential for climate change disputes and enlarged participation

International Commercial Arbitration 2011-01-17 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

Cambridge Compendium of International Commercial and Investment Arbitration 2023-03-02 international commercial arbitration contains detailed commentary case analyses and practice pointers full annotations and footnotes provide invaluable research assistance while clearly written analyses identify and discuss critical issues representative international arbitral awards and national court decisions are excerpted and detailed reference is made to leading institutional rules detailed appendices an easy to use table of contents and an extensive index to aid research and provide ready access to key materials co publication with kluwer law international north american sales rights only published under the transnational publishers imprint for class adoption a student edition is available for

International Commercial Arbitration 2013-03-14 for many years it was said that the weakness of international law was the lack of a system for the enforcement of legal obligations commentators pointed to the paucity of cases in the international court and the unwillingness of states to undertake binding obligations to settle their disputes this position has now changed beyond recognition the number of international tribunals has increased and many of them such as icsid and the international court of justice are busier than at any time in their history increasingly the classical procedures of diplomatic protection are circumvented as corporations and individuals litigate in their own right against states in international tribunals this book surveys the range of procedures for the settlement of international disputes whether the disputes arise between states or between states and corporations or individuals the first part of the book examines non judicial procedures such as negotiation mediation fact finding as well as judicial procedures among the tribunals covered are icsid the uncc and the iran us claim tribunal the wto disputes panels ad hoc inter state and international commercial arbitral tribunals and the international court of justice in the second part of the book the emerging principles of procedural law applied in these tribunals are discussed here the authors go through the entire settlement process from the agreement to submit to a settlement procedure and the constitution of the tribunal through to the determination of the law applicable to the merits and to the procedure of the tribunal to the review and ultimately the recognition and enforcement of tribunal awards

Evolution and Adaptation 2019-12-17 also available as an e book competence competence and corruption have for different reasons been mainstays of international dispute resolution thought and practice for the longest time in the last few years their intersection has become increasingly important and problematic these lectures seek to define the problem and to provide acceptable solutions where possible they attempt to derive support from both a stringent dogmatic approach and pragmatic attention to real life expectations and conduct more so than in other areas of private international law the intersection between the powers of the arbitrator and the illegality of the subject matter or the parties conduct poses a particular challenge that challenge is to postulate proper solutions under the law including principles of transnational or international law to conduct which can take on a multiplicity of appearances owing to conflicting cultural understandings of what is and is not legal in commercial life the statement that bribery and corruption offend transnational or international public policy does not relieve the arbitrator from the burden of scrutinizing that statement doctrinally and exploring its consequences in a

period of ever increasing globalization of economic activity and investment

International Commercial Arbitration 2020-11-23 arbitration is adjudication and like any form of adjudication it must ensure justice to parties justice requires that in settling disputes arbitrators constantly balance the opposing interests of the parties and the different legal systems relevant to the resolution of the dispute from time to time at hand this book addresses such issues by looking at the different stages of arbitration from the selection of the arbitral seat to the definition of jurisdictional limits from the choice of applicable law to the revision of arbitral awards the book collects essays by colleagues and friends of piero bernardini a leading practitioner of international arbitration who was a champion in achieving balance in the administration of justice through arbitration

International Commercial Arbitration: Commentary and Materials 2021-11-15 jurisdiction and arbitration agreements in contracts for the carriage of goods by sea focuses on party autonomy and its limitations in relation to jurisdiction and arbitration clauses included in contracts for the carriage of goods by sea in case of any cargo dispute the author takes the perspective of the shipping companies and the shipowners as these are the driving forces of the shipping industry due to their strategic importance the book provides an analysis of the existing law on the recognition and validity of jurisdiction and arbitration clauses in the contracts for the carriage of goods by sea the author also seeks to provide conclusions and to learn lessons for the future of the non recognition and the non enforcement of the clauses in the existing fragmented legal framework at an international european union and national level england wales and spain the interface between the different legal regimes reveals the lack of international harmonisation and the existence of forum shopping when a cargo interest sues the shipowner or the party to whom the shipowner charters the vessel this concise book provides a useful overview of existing research for students scholars and shipping lawyers

The Settlement of Disputes in International Law 2000 irrespective of the increasing harmonization of law at the transnational level every arbitration raises a number of confl ict of laws problems relating to procedural questions as well as to issues concerning the merits of the case unlike a state court judge the arbitrator has no lex fori in the proper sense providing the relevant confl ict rules to determine the applicable law this raises the question of what confl ict of laws rules to apply and consequently of the extent of the freedom the arbitrator enjoys in dealing with this and related issues the best example of the importance of confl ict of laws questions in arbitration is the vivendi elektrim saga where the outcome of the various proceedings depended on the question of characterization this very beneficial book is dealing with the arbitration agreement the jurisdiction of the arbitral tribunal the law applicable to the merits and the arbitration procedure

Competence-Competence in the Face of Illegality in Contracts and Arbitration Agreements 2013-08-16 understanding international arbitration introduces students to the primary concepts necessary for an understanding of arbitration making use of illustrative case examples and references to legal practice throughout this text offers a comprehensive overview of the subject for those new to arbitration making use of a unique two part structure in each chapter understanding international arbitration provides a clear and simple statement of rules followed by detailed discussion of the ideas underlying those rules illustrated with relevant comparative law and case examples designed with students of arbitration in mind this text provides both a clear introduction to the subject and a comprehensive course text that will support students in their preparation for exams and practical assessments

Arbitration as Balanced Administration of Justice 2024-08-06 determining whether the iran us claims tribunal the tribunal is a truly public international tribunal is not merely an interesting theoretical exercise the tribunal s legal character has significant ramifications for example on enforceability at the international level the applicability and scope of res judicata regarding dismissed claims and the evidentiary value of its jurisprudence particularly pursuant to article 38 1 of the icj statute this title explores the legal character of the tribunal and its status under the law of peaceful settlement of international disputes the public or private nature of the tribunal is a matter of significant controversy certain peculiarities of the tribunal namely its accessibility to private claimants the exclusion of the exhaustion of local remedy rule and the regime provided for the execution of its awards suggests that it is not in fact wholly public conversely the author analyses the tribunal under a three part test for public international character 1 international treaty as origin 2 applicable law international

in nature 3 controlling parties subject to international law and finds that it meets all three criteria in doing so the author admittedly counters the apparent position of the tribunal itself that its nature is a hybrid of both public and private elements the international law character of the iran united states claims tribunal includes a historical survey on international tribunals an analysis of the adverse arguments and a detailed discussion of the tribunal s practice on expropriation cases to give a concrete example of its functioning on international law level is considered in detail in part three the controversial nature of the author s thesis the thoroughness of the analysis and the importance of the tribunal itself make this a book of interest and import for academics who keep abreast of international law developments

Jurisdiction and Arbitration Agreements in Contracts for the Carriage of Goods by Sea 2021-03-09 the sixth edition of the authoritative and acclaimed commercial law text a great book will be equally useful to legal practitioners students and business people financial times this sixth edition of goode on commercial law now retitled goode and mckendrick on commercial law remains the first port of call for the modern day practitioner with its theoretical and practical coverage of commercial law in both a national and an international context now updated to cover the most recent legal and technical changes this highly acclaimed and authoritative text which is regularly cited by all courts from the supreme court downwards combines a deep theoretical analysis of foundational principles with a practical approach in the context of typical commercial and financial transactions it is also replete with diagrams and specimen forms covering a wide range of transactions searching analysis and meticulous exposition coupled with a lucid clarity of style and a relaxed lightness of touch combine to make the book not only compulsory but compulsive reading for anyone interested in its field law quarterly review a work of immense scholarship professor goode s work must be as nearly exhaustive as can be possible and as produced by penguin is a triumph of paperback publishing solicitor s journal clear and comprehensive the student and practitioner will find it indispensable the interested layperson too will benefit from it as a work of reference british business a veritable tour de force business law review

Conflict of Laws in International Arbitration 2010-12-23 redfern and hunter on international arbitration is an established treatise on the law and practice of international arbitration the pre eminent method for the peaceful resolution of disputes in international trade investment and commerce this book serves as an introduction following the chronology of an arbitration from the drafting of the arbitration agreement right through to the enforcement of the arbitral award written by an author team with extensive experience as counsel and abitrators the book has been read and cited by international lawyers arbitrators and judges and has become a key learning text for teachers students and potential arbitrators in colleges and universities across the world the seventh edition has been significantly revised to incorporate the latest significant developments in the field includling changes in investor state dispute resolution leading court decisions on arbitration matters in a wider number of jurisdictions changes in the soft law of leading international arbitral institutions and of the international bar association and the impact of the covid 19 pandemic on the practice of international arbitration this shorter paperback edition does not include the appendices

Understanding International Arbitration 2019-10-08 although international arbitration is widely hailed as an efficient confidential and flexible way of settling commercial disputes it has its limits the arbitral tribunal s lack of coercive power is thrown into particularly stark relief when it comes to the taking of evidence from third parties outside the arbitral proceedings if they do not comply voluntarily with the request of the arbitral tribunal to testify as a witness or disclose documents assistance must be sought from state courts as the success of a case hinges on the evidence that a party can obtain it is crucial to understand how to obtain evidence through state courts at the heart of this work is the question of the conditions under which state courts may offer assistance in international arbitral proceedings with a special focus on switzerland and comparative aspects this book provides helpful tactical insights for arbitral practitioners around the world

The International Law Character of the Iran-United States Claims Tribunal 2023-09-20 overriding mandatory rules in international commercial arbitration discusses the applicability of mandatory rules of law in international commercial arbitration and addresses the concerns of the arbitrators and judges at various stages of arbitration and the enforcement of the award

Goode and McKendrick on Commercial Law 2021-03-25 this book expounds the theory of international arbitration law it explains in easily accessible terms all the fundamentals of arbitration from separability of the arbitration agreement to competence competence over procedural autonomy finality of the award and many other concepts it does so with a focus on international arbitration law and jurisprudence in switzerland a global leader in the field with a broader reach than a commentary of chapter 12 of the swiss private international law act the discussion contains numerous references to comparative law and its developments in addition to an extensive review of the practice of international tribunals written by two well known specialists professor kaufmann kohler being one of the leading arbitrators worldwide and professor rigozzi one of the foremost experts in sports arbitration the work reflects many years of experience in managing arbitral proceedings involving commercial investment and sports disputes this expertise is the basis for the solutions proposed to resolve the many practical issues that may arise in the course of an arbitration it also informs the discussion of the arbitration rules addressed in the book from the icc arbitration rules to the swiss rules of international arbitration the cas code and the uncitral rules while the book covers commercial and sports arbitrations primarily it also applies to investment arbitrations conducted under rules other than the icsid framework

Redfern and Hunter on International Arbitration 2023-01-18 this book explains how and why arbitration works offering comprehensive coverage of the basic requirements including recent changes in arbitration laws rules and guidelines

Court Assistance in the Taking of Evidence in International Arbitration 2020-10-19 the uncitral model law after twenty five years global perspectives on international commercial arbitration is a celebration of the model law s significant contribution to international arbitration law it assesses and evaluates the model law s impact on the development of a universal arbitration law for a complex and mobile transnational community of lawyers judges and arbitrators written from the perspective of counsel arbitrators legislators and judges this collection is bold in its coverage of model law practice it considers questions of legislative implementation pre award issues such as the review of arbitral jurisdiction and the production of evidence post award issues such as judicial review of arbitral awards interpretation and harmonization methods and questions of future reform this is one of the only books on the market that considers the application of the uncitral model law in both great depth and breadth and from multiple perspectives it provides critical assessments and evaluations of the impact that the model law has had after 25 years in various aspects of the arbitral process the issues covered pertain to both substantive and procedural elements theoretical and practical historical and evolutional the uncitral model law after twenty five years global perspectives on international commercial arbitration adopts a comparative approach and covers practice in nearly all model law countries and many others as a seminal critique of the progress that the model law has made to date this collection of articles will be of great benefit to judges arbitrators lawyers academics and anyone interested in the future of international commercial arbitration

Overriding Mandatory Rules in International Commercial Arbitration 2019-12-27 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 Arbitration: Law and Practice in Switzerland 2015-10-22 comprehensive introductory textbook on the law and practice of international arbitration
The Principles and Practice of International Commercial Arbitration 2017-04-06 investment arbitration has become the key forum to settle disputes between investors and the host state it is not clear from the arbitration agreements which body of law the arbitrators should apply national or international this book examines how the legal framework which the arbitral panels operate in influences which body of law they apply
The UNCITRAL Model Law after Twenty-Five Years: Global Perspectives on International Commercial Arbitration 2013-08-01 presents a collection of essays
Procedure and Evidence in International Arbitration 2012-05-23 the first version of the uncitral arbitration rules was endorsed by the general assembly of the united nations in december 1976 now considered one of uncitral s greatest successes the rules have had an extraordinary impact on international arbitration as both instruments in their own right and as guides for others the iran us claims tribunal for example employs a barely modified version of the rules for all claims and many multilateral and bilateral foreign investment treaties adopt the uncitral rules as an arbitral procedure the rules are so pervasive and the consequences of the new version potentially so significant that they cannot be ignored this commentary on the rules brings the official documents together in one volume and includes the insights and experiences of the working group that are not included in the official reports
An Introduction to International Arbitration 2015-08-13 arbitration in switzerland
Applicable Law in Investor-State Arbitration 2013-03-21 this book addresses issues concerning the shifting contemporary meaning of legal certainty the book focuses on exploring the emerging tensions that exist between the demand for legal certainty and the challenges of regulating complex late modern societies the book is divided into two parts the first part focusing on debates around legal certainty at the national level with a primary emphasis on criminal law and the second part focusing on debates at the transnational level with a primary emphasis on the regulation of transnational commercial transactions in the context of legal modernity the principle of legal certainty the idea that the law must be sufficiently clear to provide those subject to legal norms with the means to regulate their own conduct and to protect against the arbitrary use of public power has operated as a foundational rule of law value even though it has not always been fully realized legal certainty has functioned as a core value and aspiration that has structured normative debates throughout political modernity both at a national and international level in recent decades however legal certainty has come under increasing pressure from a number of competing demands that are made of contemporary law in particular the demand that the law be more flexible and responsive to a social environment characterized by rapid social and technological change the expectation that the law operates in new transnational contexts and regulates every widening sphere of social life has created a new degree of uncertainty and this change raises difficult questions regarding both the possibility and desirability of legal certainty this book compiles in one edited volume research from a range of substantive areas of civil and criminal law that shares a common interest in understanding the multi layered challenges of defining legal certainty in a late modern society the book will be of interest both to lawyers interested in understanding the transformation of core rule of law values in the context of contemporary social change and to political scientists and social theorists
International Investment Law and Arbitration 2005 arbitrating cross border business disputes has been common practice in italy since centuries it is no wonder then that italian arbitration law and jurisprudence are ample and sophisticated italian courts have already rendered thousands of judgments addressing complex problems hidden in the regulation of arbitration italian jurists have been among the outstanding members of the international arbitration community starting from when back in 1958 professor eugenio minoli was among the promoters of the new york convention being italy the third largest economy in the european union and the eighth largest economy by nominal gdp in the world it also comes as no surprise that italian companies and foreign companies with respect to the business they do in

the italian market are among the main users of international arbitration nor that italy is part to a network of more than 80 treaties aimed to protect inbound and outbound foreign direct investments and being the ground for investment arbitration cases moreover in recent years italy has risen to prominence as a neutral arbitral seat in particular for the settlement of intra mediterranean disputes also thanks to the reputation acquired by the milan chamber of arbitration which has become one of the main european arbitral institutions this book is the first commentary on international arbitration in italy ever written in english it is an indispensable tool for arbitrators counsel experts officers of arbitral institutions and judges who happen to be involved in arbitral proceedings or arbitration related court proceedings somewhat linked to the italian legal system either because italy is the seat of the arbitration the italian jurisdiction has been ousted by a foreign seated arbitration the assistance of italian courts is sought for the granting of interim measures or the enforcement of a foreign award or the arbitration results from a multilateral or bilateral investment protection treaty to which italy is a party this book may also be of general interest for scholars and practitioners of international arbitration at large to the extent that it deals with the theory of international arbitration and illustrates original solutions offered by italian arbitration law to various complex issues such as the potential conflicts and required balance between party autonomy and state sovereignty in the governance of arbitrations the relationship between the new york convention and the legal system of the state of the arbitral seat the potential impact on cross border arbitrations of insolvencies human rights or european union law the arbitrability of corporate disputes the extension of arbitration agreements to necessary parties appendixes include an english translation of the main provisions of italian law relevant to arbitration a list of the investment protection treaties to which italy is a party and an english version of the rules of arbitration of the milan chamber of arbitration the author who is full professor of international law name partner of arblit the first italian boutique focusing on cross border dispute settlement and the current italian member of the icc court of arbitration has written the book aiming to combine his academic background with his long standing experience as counsel and arbitrator

A Guide to the UNCITRAL Arbitration Rules 2013-04-25 despite its many distinguished proponents over time ex aequo et bono the idea of deciding disputes on the basis of what an adjudicator regards as fair and equitable has failed to take hold in international commercial arbitration ica formalisation and fossilisation of arbitral procedure as manifested in the increasing use of litigation style practice unfortunately reign instead this bold and challenging book argues that parties to an arbitration should be more willing for their cross border disputes to be decided and arbitrators should be more prepared to decide those disputes in accordance with broad principles of equity and fairness rather than by strict adherence to technical rules of law putting forward suggestions based on extensive research and doctrinal considerations this book invites us to confront what ica was supposed to be what it now is and what it can be in particular dr teramura discusses how by resorting to ex aequo et bono arbitrators can construe contractual terms including the limits apply trade usages deal with mandatory rules of a given forum or place of performance minimise the cost and length of time that arbitration takes avoid the abuse of discretion and ensure predictable results the book examines significant differences in the way that ex aequo et bono arbitration is understood among various state and international institutions it attempts to identify a common core of universally accepted concepts underlying those different understandings the book argues that ex aequo et bono has the potential to reform ica without undermining its positive aspects along the way it discusses the implications of ex aequo et bono arbitration on the now widely used uncitral model law on ica it should thus appeal to lay business persons and commercial law practitioners who are looking for an economical and efficient way to solve business disputes within a globalised arbitration framework

Arbitration in Switzerland 2018-08-06 the book has been authored by a highly regarded international legal scholar in commercial and private law the book highlights how the legal landscape for in data protection cross border data flows and cybersecurity law is highly diverse and fragmented amongst all commonwealth countries the book focuses on addressing the gaps in data cybersecurity and national arbitration law of these countries the aim of this book is to promote more engagement between commonwealth countries to ensure they capitalise on the growing digital economy notwithstanding the above the digital economy is rapidly changing the way we work and live

when coupled together cybersecurity and data law will be an important component of the future digital economy they will both be integral to transnational trade and investment that said there will likely be disputes and international arbitration can be an effective legal mechanism to resolve trade and investment disputes across the digital economy on that basis this book augments how the respective laws of commonwealth countries along with the model data and cyber laws of the commonwealth should be reviewed to minimise any legal divergence this book provides a comparison and practical guide for academics students and the business community of the current day data protection laws and cross border data flows among all commonwealth countries

Legal Certainty in a Contemporary Context 2016-04-02 a comprehensive review of the arbitration law and practice in the czech republic including discussion of arbitration practice and procedure an examination of the jurisdiction of the arbitral tribunal the appointment of arbitrators including the challenge and replacement of arbitrators an analysis of the various types of awards including a discussion on deliberations agreements settlements and the costs of arbitration a discussion on the amendment and challenge of awards including the liability of arbitrators and a review of the enforcement of domestic and foreign arbitration awards

International Arbitration in Italy 2020-12-09 examining the notion nature and extent of consent in both commercial arbitration and investment arbitration this book provides practitioners and academics with a thorough case related analysis of an issue which raises many questions whilst considering the evolution of arbitration and its consensual nature enlargement of the parties freedom to consent to arbitration and development from commercial arbitration to investment arbitration it addresses important theoretical questions to offer practical solutions these include how consent to arbitrate is expressed and when mutual consent to arbitration is reached which law shall govern the arbitration agreement or more particularly consent as an element of the substantive validity of it and conversely according to which law will a possible lack of consent be judged how consent should be interpreted which relationship exists between consent as part of the substantive validity of an arbitration agreement and its formal validity which if any are the implied terms when consenting to arbitration how consent to arbitrate influences procedural aspects counterclaims joinder consolidation and which solutions adopted by treaties national laws or arbitration rules are or would be the most respectful of parties consent in this respect what in investment arbitration is the relationship between consent and most favoured nation clauses or the influence of umbrella clauses the book includes original arguments and puts forward new suggestions with regard to the changeable consensual character of arbitration it also provides a particular focus on problems that frequently arise in practice of international arbitration for example issues related to complex multiparty arbitration and to jurisdictional questions in investment arbitration

Ex Aequo et Bono as a Response to the 'Over-Judicialisation' of International Commercial Arbitration 2020-05-12 this book provides a comprehensive overview of the key aspects and contracts involved in the process of developing oil and gas projects with an emphasis on offshore developments project development in oil and gas carries with it numerous unique risks and challenges by identifying and managing risk through the various contract stages each stage of the project is seen in perspective and therefore gives readers a better understanding of how that stage was arrived at and what is expected to come later to do this the authors use illustrative international case studies from past and current projects thereby deepening the reader s understanding and awareness of risk from practical experience as well as suggesting answers for those who are involved in developing oil and gas projects the application of contracts in developing offshore oil and gas projects is intended for project owners project managers contractors finance managers commercial managers and lawyers who seek to understand the subject from a practical point of view

Cybersecurity and Data Laws of the Commonwealth 2023-07-21 the 1958 new york convention has been called the most effective instance of international legislation in the entire history of commercial law however the succinct text of the convention leaves open a host of significant and complex questions which may be and have been answered in a variety of ways as difficult cases arise and demand solutions they generate inconsistent outcomes for all its remarkable success the convention has on occasion proved itself to be unreliable and unpredictable this book simultaneously exposes the difficulties of the convention and explores potential solutions it examines each

substantive article of the new york convention in accordance with the following outline the text and its issues original intent the prism of the rules of interpretation of the vienna convention judicial outcomes and appraisal by drawing on the convention s drafting history in great detail the book presents a coherent account of how the most frequently recurring interrogations about the text are reflected or not in judicial practice the author studied more than 1 700 decisions rendered under the convention since its inception in 1958 in order to provide a succinct selection of landmark cases per article with its intense investigation of the complex reality underlying contracting states commitment in principle and judicial application in fact the author s judicial understanding of the convention provides a clear conceptual framework that will help avoid outcomes at odds with the purposes of this important instrument lawyers and judges will rely on this book not only to situate the convention in the national legal orders where it is intended to produce its effects but also discover practical ways to respond to distinct questions of application

Arbitration Law of Czech Republic: Practice and Procedure 2013-03-01

Consent in International Arbitration 2012-03-15

The Application of Contracts in Developing Offshore Oil and Gas Projects 2019-03-14

The 1958 New York Convention in Action 2016-02-24

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