

# Investment And Commercial Arbitration Similarities And Divergences

Comparative Law of International Arbitration Confidentiality in Arbitration The Enforceability of the Interim Measures Granted by an Emergency Arbitrator in International Commercial Arbitration The Roles of Psychology in International Arbitration Cambridge Compendium of International Commercial and Investment Arbitration The Interpretative Practice of International Investment Arbitral Tribunals Investment and Commercial Arbitration Investment Arbitration's Tightrope An Analytical Comparison of Alternative Arbitration Schemes Questions of International Law A Treatise on the Power and Duty of an Arbitrator, and the Law of Submissions and Awards The Arbitration Journal Papers Relating to the Treaty of Washington: Geneva arbitration THE HERALD OF PEACE AND INTERNATIONAL ARBITRATION A MONTHLY JOURNAL International Arbitration. International Tribunals Understanding Fact Finding and Arbitration in the Public Sector Fur Seal Arbitration The Herald of Peace and International Arbitration Arbitration Act, 1892 Arbitration in South Africa Jean-François Poudret Mariam M. El-Awa Junmin Zhang Tony Cole Stefan Kröll Claudia Salgado Levy Christina Knahr Paolo Vargiu Roswitha Maria King Hanna Bokor-Szegö Francis Russell William Evans Darby Arnold Zack Bering Sea Tribunal of Arbitration James Moriarty Louis Oxley Pyemont Pyemont

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Public Sector Fur Seal Arbitration The Herald of Peace and International Arbitration Arbitration Act, 1892 Arbitration in South Africa *Jean-François Poudret Mariam M. El-Awa Junmin Zhang Tony Cole Stefan Kröll Claudia Salgado Levy Christina Knahr Paolo Vargiu Roswitha Maria King Hanna Bokor-Szegö Francis Russell William Evans Darby Arnold Zack Bering Sea Tribunal of Arbitration James Moriarty Louis Oxley Pyemont Pyemont*

guides practitioners through the international arbitration process from beginning to end this work covers each step of arbitral procedure from the conclusion of the arbitration agreement to the enforcement of the arbitral award from a comparative standpoint helping practitioners decide which jurisdiction s rules they wish to be bound by

this book addresses the issue of privacy and confidentiality in the broader context of the egyptian legal system the volume opens with an overview of the major approaches to confidentiality adopted in various jurisdictions it goes on to examine the duties of confidentiality and privacy in arbitration law and practice on the basis of interviews with 30 law professors and practitioners who often act as arbitrators or counsel for parties in arbitral disputes together with the relevant egyptian arbitration law provisions the book takes into account the relevant provisions in the arbitration laws of syria saudia arabia and yemen it moves on to explore the relation between arbitration and the judicial system and the extent to which the former should borrow its rules from the latter with regard to publicity and the rule of public trial finally this book looks at the right to privacy as a a constitutional right as a potential basis for a legal duty of confidentiality in arbitration and the duties stemming from this constitutional right in the various laws of egypt as well as b the constraints imposed on the right to privacy in particular those stemming from the constitutional principles of freedom of speech and freedom of the press the main conclusion is that confidentiality does indeed exist in arbitration however its legal basis is not the law on arbitration or the arbitration agreement it is in fact a corollary of the fundamental right to privacy granted in the egyptian legal system to both natural and legal persons

this timely book offers a comprehensive study of the emergency arbitrator mechanism that provides interim measures in international commercial arbitration before the constitution of an arbitral tribunal focusing on the enforceability of the interim measures granted based on the traditional legal doctrines of private international

law international dispute resolution and arbitration law this book is featured mainly in comparative studies six leading arbitral institutions are chosen to conduct systematic research on applying the emergency arbitration rules to establish a general and common procedural framework for emergency arbitration in discussion normative and comparative law analyses investigate the status quo of available legal instruments used to recognize and enforce interim measures in emergency arbitration by examining international conventions and three representative chosen jurisdictions i e singapore mainland china and the usa following these two levels of comparison it highlights and examines the potential doctrinal and practical barriers that may impact the enforceability of interim measures rendered by an emergency arbitrator finally it proposes various approaches that could be used to improve the enforceability controversy and it offers innovative suggestions for further research this book is of particular relevance and interest to students researchers and practitioners in dispute resolution and arbitration law as well as policymakers legislators and arbitral institutions considering further reform in international arbitration

the system of international arbitration is built on private contractual relations yet has been endorsed by governments around the world as a fair and reliable alternative to litigation in state courts as a private process however its authority and legitimacy derive entirely from the views and actions of those involved in the arbitral process whether arbitrators counsel or parties it is though increasingly clear that psychological factors complicate and in some cases radically change every arbitral proceeding in this context psychological insights are crucial for understanding how international arbitration genuinely operates and whether the legal framework currently applied to it is well suited to achieving the aims of ensuring a fair and reliable dispute resolution procedure this is the first book to focus on this important issue the insights into international arbitration that can be gained from contemporary psychology with contributions from nineteen internationally known figures in their fields arbitrators mediators lawyers law professors psychology professors psychologists and drawing from a longer term project on the role of psychology in arbitration this ground breaking volume addresses a range of topics including the following the decision making processes of arbitrators the ability of arbitration to serve as a genuine dispute resolution mechanism the impact of particular procedures on the arbitral process bias self deception and vested interests in judgment and decision making the role of arbitrators in managing the arbitral process cultural differences in the evaluation of arguments psychological influences on witness testimony the impact of tribunal composition on arbitral decision making the influence of arbitration s professional context on arbitrators and legal counsel and methods for arbitrators and

legal counsel to more effectively manage the arbitral process informed by the behavioural insights in these essays counsel and arbitrators will be enabled to think critically about the underlying assumptions and the potential behavioural effects of a prospective arbitration while individuals researching arbitration will gain a greater understanding of the psychological context in which every arbitration occurs this book meets the increasingly recognized need for understanding the role of psychology in arbitral proceedings and forms an indispensable foundation for subsequent work in this area its innovative and forward thinking analysis will be of immeasurable value to the international arbitration community as well as to institutions supporting arbitration and to academics in the field

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

legal interpretation is crucial to striking the right balance between what a norm is or should be and its meaning as applied in a concrete case given the complex hybrid nature of investor state arbitration the act of interpretation acquires particular significance this far reaching work explores how investment arbitral tribunals accomplish their task of interpreting the different rules of law within the international investment framework and how they address the interpretative problems they face in its wide ranging coverage of the interpretative practice of international investment arbitral tribunals the author provides the following in depth analysis of how investment arbitral tribunals interpret multiple sources of law including treaties customary international law general principles national laws contracts and transnational law critical evaluation of the interpretative methods used by tribunals highlighting their strengths in protecting foreign investments and their limitations in promoting a cohesive investment law regime and exploration of the self imposed interpretative limitations of arbitral tribunals encompassing their reliance on de facto precedents

their duty to ensure the enforceability of awards and their awareness of the risk of annulment for misinterpretation of the law extensive review of relevant arbitral awards jurisprudence and case studies illustrates how tribunals navigate legal sources the author also examines possible reasons for tribunals interpretative flexibility and indicates the limitations to their interpretative exercise with its insights into how tribunals interpretative choices influence the consistency legitimacy and predictability of the investment arbitration system this book will help legal practitioners and scholars to understand the complexities and challenges faced by investment arbitral tribunals thus enabling an anticipation of the scope and limits of arbitral interpretative reasoning it offers a major contribution to the ongoing debate on the development of a cohesive and predictable international investment law framework by revealing how interpretation shapes legal outcomes

this book contains the contributions to the vienna arbitration forum on investment and commercial arbitration similarities and divergences which took place at the university of vienna law school in november 2008 the conference focused on topical issues in international investment arbitration and in commercial arbitration featuring speakers from academia as well as legal practices the vienna arbitration forum addressed controversial topics and explored similarities and divergences table of contents include consolidation of proceedings in international investment arbitration consolidation of proceedings in international commercial arbitration the limits of party autonomy in investment arbitration limits of party autonomy in international commercial arbitration the annulment of icsid international centre for settlement of investment disputes awards annulment of arbitral awards in international commercial arbitration independence impartiality and duty of disclosure in investment arbitration judicial approaches to arbitrator independence and impartiality in international commercial arbitration

this book addresses the role of investment arbitrators within the framework of international investment law a system that tends by design to prioritise the interests of foreign investors often at the expense of the economic and social policies of the host states the theoretical foundations of this volume are doctrinal and the argument presented is aimed at contributing to the scholarly debate on the reform of the system of investment law because of this the book is particularly focussed on the scholarship and is aimed at an audience already familiar with the system of investment arbitration and its case law the author explores both the explicit and implicit duties of arbitrators and critically questions certain critiques of investment law that call for arbitrators to interpret bilateral investment treaties and free trade

agreements in ways that also protect the host states interests while the author argues that challenges to the legitimacy and credibility of the current investment law regime are well founded he also argues that arbitrators find themselves constrained by the prevailing legal framework unable to fully balance the competing interests of foreign investors and host states the book concludes that achieving greater equality in the investment legal regime necessitates a departure from the existing bilateral investment treaties paradigm and calls for a more just and balanced system of investment treaties the author argues that until such a transformation occurs arbitrators remain compelled to apply the current applicable law highlighting the insurmountable limitations and tensions within the present system

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