

Consent In International Arbitration Oxford International Arbitration

The Oxford Handbook of International Arbitration CONSENT IN INTERNATIONAL ARBITRATION 2ND ED. Interest in International Arbitration Multiple Party Actions in International Arbitration Emergency Arbitration The Evolution of International Arbitration Treaty Interpretation in Investment Arbitration Consent in International Arbitration International Arbitration and Global Governance Oxford International Arbitration Series The Idea of Arbitration Arbitration A Guide to General Principles of Law in International Investment Arbitration Tribunal Secretaries in International Arbitration Applicable Law in Investor-State Arbitration Transnational Legality Choice of Venue in International Arbitration Abuse of Rights in International Arbitration Damages in International Arbitration under Complex Long-term Contracts Good Faith in International Investment Arbitration Thomas Schultz ANDREA MARCO. STEINGRUBER Matthew Secomb Cameron Sim Alec Stone Sweet J. Romesh Weeramantry Andrea M. Steingruber Walter Mattli Jan Paulsson Thomas Schultz Patrick Dumberry J. Ole Jensen Hege Elisabeth Kjos Thomas Schultz Michael Ostrove Ahmed El Far Herfried Wöss Emily Sipiorski

The Oxford Handbook of International Arbitration CONSENT IN INTERNATIONAL ARBITRATION 2ND ED. Interest in International Arbitration Multiple Party Actions in International Arbitration Emergency Arbitration The Evolution of International Arbitration Treaty Interpretation in Investment Arbitration Consent in International Arbitration International Arbitration and Global Governance Oxford International Arbitration Series The Idea of Arbitration Arbitration A Guide to General Principles of Law in International Investment Arbitration Tribunal Secretaries in International Arbitration Applicable Law in Investor-State Arbitration Transnational Legality Choice of Venue in International Arbitration Abuse of Rights in International Arbitration Damages in International Arbitration under Complex Long-term Contracts Good Faith in International Investment Arbitration *Thomas Schultz ANDREA MARCO. STEINGRUBER Matthew Secomb Cameron Sim Alec Stone Sweet J. Romesh Weeramantry Andrea M. Steingruber Walter Mattli Jan Paulsson Thomas Schultz Patrick Dumberry J. Ole Jensen Hege Elisabeth Kjos Thomas Schultz Michael Ostrove Ahmed El Far Herfried Wöss Emily Sipiorski*

this handbook brings together many of the key scholars and leading practitioners in international arbitration to present and examine

cutting edge knowledge in the field innovative in its breadth of coverage chapter topics range from the practicalities of how arbitration works to big picture discussions of the actors involved and the values that underpin it the book includes critical analysis of some of international arbitrations most controversial aspects whilst providing a nuanced account overall that allows readers to draw their own informed conclusions the book is divided into six parts after an introduction discussing the formation of knowledge in the field part i provides an overview of the key legal notions needed to understand how international arbitration technically works such as the relation between arbitration and law the power of arbitral tribunals to make decisions the appointment of arbitrators and the role of public policy part ii focuses on key actors in international arbitration such as arbitrators parties choosing arbitrators and civil society part iii examines the central values at stake in the field including efficiency legal certainty and constitutional ideals part iv discusses intellectual paradigms structuring the thinking in and about international arbitration such as the idea of autonomous transnational legal orders and conflicts of law part v presents the empirical evidence we currently have about the operations and effects of both commercial and investment arbitration finally part vi provides different disciplinary perspectives on international arbitration including historical sociological literary economic and psychological accounts

interest plays a vital and increasing role in international arbitration proceedings with almost every case having an element of interest involved however until now the topic has received very little attention meaning that arbitrators have had very little concrete foundation on which to judge decisions on interest awards this book is the first authoritative guidance to address this providing a uniform approach to the awarding of interest in international arbitration interest in international arbitration aligns arbitrators decisions with standard commercial practice offering a practical and logical approach to how interest should be awarded it sets out traditional approaches that arbitrators have followed in the past such as using conflict of law to apply a statutory rate from a given law or awarding instead a subjectively reasonable rate and examines how these inconsistent approaches have resulted in a variety of awards and decisions the author uses this analysis as a basis for a uniform approach to the issue granting compound interest at appropriate rates unless constrained by truly mandatory law the author sets out the calculation method explores the benefits and limitations and presents a thorough argument for the movement toward a uniform approach to interest awards

this is the first work to provide clear guidance on the increasingly utilized procedure of emergency arbitration setting out the procedural frameworks common to the leading emergency arbitration rules and establishing fifteen common principles it provides greater control

and certainty in bringing and defending applications for emergency measures

this book charts and assesses the extent to which the major arbitration houses including the international chamber of commerce and the international centre for the settlement of investment disputes are evolving governance functions that would normally be associated with state courts

this systematic and comprehensive analysis of the interpretation of treaties in investment arbitration presents a wealth of material and a thorough assessment of the practice of foreign investment arbitral tribunals

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

most literature on international arbitration is practice oriented technical and promotional it is by arbitrators and largely for arbitrators and their clients outside analyses by non participants are still very rare this book boldly steps away from this tradition of scholarship to reflect analytically on international arbitration as a form of global governance it thus contributes to a rapidly growing literature that

describes the profound economic legal and political transformation in which key governance functions are increasingly exercised by a new constellation that include actors other than national public authorities the book brings together leading scholars from law and the social sciences to assess and critically reflect on the significance and implications of international arbitration as a new locus of global private authority the views predictably diverge some see the evolution of these private courts positively as a significant element of an emerging transnational private legal system that gradually evolves according to the needs of market actors without much state interference others fear that private courts allow transnational actors to circumvent state regulation and create an illegitimate judicial system that is driven by powerful transnational companies at the expense of collective public interests still others accept that these contrasting views serve as useful starting points of an analysis but are too simplistic to adequately understand the complex governance structures that international arbitration courts have been developing over the last two decades in sum this book offers a wide ranging and up to date analytical overview of arguments in a vigorous nascent interdisciplinary debate about arbitration courts and their exercise of private governance power in the transnational realm this debate is generating fascinating new insights into such central topics as legitimacy constitutional order and justice beyond classical nation state institutions

what is arbitration this volume provides a novel theoretical examination of the concept of arbitration attempting to answer fundamental questions which have rarely been addressed systematically in english it explores the place of arbitration in the legal process offering a challenging yet accessible overview of the field and its theoretical underpinnings and contending that arbitration is important enough to be understood in its own terms as a sui generis feature of social life why do individuals companies and states choose to go to arbitration rather than through litigation arbitration can offer increased flexibility and confidentiality and provides the parties with the opportunity to select the arbitrators but what makes them want to confide in an arbitrator rather than use the more traditional legal mechanisms for settling disputes this volume explores what the parties can expect of an arbitrator and whether and how the conduct of an arbitrator might be questioned and under what authority it examines the ethical challenges to arbitral authority and its moral hazards evaluating the promises and dangers of self contained systems of decision making and compliance

very short introductions brilliant sharp inspiring arbitration is a legal dispute resolution mechanism alternative to courts it provides binding decisions enforceable around the world it is where parties take their disputes when they have agreed that courts for one reason or another do not suit them which happens more often than one might think some of the most politically sensitive disputes on the

largest scale go to arbitration countries which need to settle their boundaries in areas of the oceans rich in oil gas and other resources sometimes arbitrate and much of the war in sudan was eventually tied up with an arbitration investors who have staked billions of dollars in unstable developing countries rely on arbitration clauses to protect their investments but also much smaller everyday cases are routinely dealt with by arbitration millions of consumers whether they know it or not enter into arbitration contracts when they conclude routine transactions even athletes get involved in arbitration cases of great notoriety for instance when these relate to doping offences during the olympic games this very short introduction explains what arbitration is how it works what parties who have agreed to go to arbitration should expect the relationship between arbitration and the law and the politics of arbitration it also considers where the global system of arbitration is headed about the series the very short introductions series from oxford university press contains hundreds of titles in almost every subject area these pocket sized books are the perfect way to get ahead in a new subject quickly our expert authors combine facts analysis perspective new ideas and enthusiasm to make interesting and challenging topics highly readable

this book provides the actors involved in investor state arbitration with a set of comprehensive guidelines to better understand the nature meaning and function of general principles of law in the field of international investment law

tribunal secretaries in international arbitration adopts a transnational approach to systematically answer questions about tribunal secretaries often discussed but thus far unresolved with useful analysis and practical guidelines it is an essential tool for all practitioners and academics involved in international arbitration

this is an open access title available under the terms of a cc by nc nd 3.0 international licence it is free to read at oxford scholarship online and offered as a free pdf download from oup and selected open access locations this book examines the law national and or international that arbitral tribunals apply on the merits to settle disputes between foreign investors and host states in light of the freedom that the disputing parties and the arbitrators have when designating the applicable law and because of the hybrid nature of legal relationship between investors and states there is significant interplay between the national and the international legal order in investor state arbitration the book contains a comprehensive analysis of the relevant jurisprudence legal instruments and scholarship surrounding arbitral practice with respect to the application of national law and international law it investigates the awards in which

tribunals referred to consistency between the legal orders and suggests alternatives to the traditional doctrines of monism and dualism to explain the relationship between the national and the international legal order the book also addresses the territorialized or internationalized nature of the tribunals relevant choice of law rules and methodologies and the scope of the arbitration agreement including the possibility of host states presenting counterclaims in investment treaty arbitration ultimately it argues that in investor state arbitration national and international law do not only coexist but may be applied simultaneously they are also interdependent each complementing and informing the other both indirectly and directly for a larger common good enforcement of rights and obligations regardless of their national or international origin

what should we call law when it is not the law of one or several states does it actually matter what we call law how can we take into account the consequences of calling something law when we shape the concept of law in the first place how does international arbitration help to illustrate the problem this book is an investigation into stateless law illustrated by international arbitration regimes it addresses key philosophical questions posed by international arbitration as a potential path to law beyond the state it ascertains which dimensions of transnational legality arbitral regimes conform to and what consequences follow from it the argument of this book is firmly rooted in contemporary legal positivism and is attentive to current debates regarding the rule of law to ponder legality without territory a theory is suggested regarding the minimal conditions that transnational regimes must fulfil in order to legitimately and appropriately count as law the theory is tested on various arbitral regimes the book thus offers reflections on the extent to which legality and the rule of law can serve as a moral and political benchmark for transnational regimes to assess the political morality of arbitration's current autonomy from states and what arbitration's claim for an increase in that autonomy implies

the first comparative book exploring the relative merits of arbitral seats worldwide this work is both a tool for strategic choice of venue and a companion for practitioners in unfamiliar jurisdictions expert analysis of the history and development of arbitration is coupled with guidance on the practical realities of all major venues

based on the author's doctoral thesis submitted to queen mary university of london

this is a detailed analysis of the legal and financial matters arising from the formulation of claims to the award of damages and loss of income in the case of breach of long term complex contracts in international arbitration it tackles the challenges of structuring claims

and awarding damages with focused examination of the but for method

written by a leading legal researcher this book offers a comprehensive study of the principle a frequently invoked but rarely analysed aspect of investment arbitration it is a thorough and expansive study that considers the application of good faith by arbitral tribunals and parties in international investment disputes encompassing both procedural and substantive aspects of good faith expertly negotiating a complex principle this book diligently follows the arbitral process from jurisdiction through merits and to cost decisions identifying the various applications of good faith in investment disputes the author offers detailed analyses of the role of good faith in defining nationality and investor as well as in pre dispute admissibility requirements the study then delves into the ways the principle guides parties arguments and informs tribunals decisions regarding evidence substantive protections and costs it further addresses the role of good faith in the behaviour of arbitrators and other actors this is a guide for anyone wishing to understand this important principle that has accompanied the developing system of international investment law

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Introduction

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