READ FREE THIRD PARTY FUNDING AND ITS IMPACT ON INTERNATIONAL ARBITRATION PROCEEDINGS INTERNATIONAL ARBITRATION LAW LIBRARY

Third-party Funding in International Arbitration and Its Impact on Procedure

Introduction --The Various Forms of Third-Party Funding in International Arbitration --Litigation Funding in International Arbitration --Disclosure of Third-Party Funding in International Arbitration Proceedings --Privilege Protection of Documentary Evidence and Third-Party Funding --Jurisdictional Issues and Third-Party Funding --Impartiality and Independence of Arbitrators and Third-Party Funding --Confidentiality in International Arbitration Proceedings and Third-Party Funding --Security for Costs and Third-Party Funding --Awarding of Costs and Third-Party Funding --Summary of Part I and Part II --Concluding Remarks.

Third-Party Funding in International Arbitration

Since the first edition of this invaluable book in 2012, third-party funding has become more mainstream in international arbitration practice. However, since even the existence of a third-party funding agreement in a dispute is often kept secret, it can be difficult to glean the specifics of successful funding agreements. This welcome book, now updated, expertly reveals the nuances of third-party funding in international arbitration, examines the phenomenon in key jurisdictions, and provides a reliable resource for users and potential users that may wish to tap into and make use of this distinctive funding tool. Focusing on Australia, the United Kingdom, the United States, Germany, the Netherlands, Canada, and South Africa, the authors analyze and assess the legal regime based upon legislation, judicial opinions, ethics opinions, and practitioner anecdotes describing the state of third-party funding in each jurisdiction. In addition to updating summaries of the law of the various jurisdictions, the second edition includes a new chapter addressing third-party funding in investor-state arbitration. Among the issues raised and examined are the following: · payment of adverse costs; · “Before-the-Event” (BTE) and “After-the-Event” (ATE) insurance; · attorney financing: pro bono representation, contingency representation, conditional fee arrangements; · loans; · ethical doctrines affecting the third-party funding industry; · possible future bundling, securitization, and trading of legal claims; · risk that the funder may put its own interests ahead of the client’s interests; and · whether the existence of a funding agreement must or should be disclosed to the decision maker. The second edition also includes discussion of recent institutional developments as they relate to third-party funding, including the work of the ICCA-Queen Mary Task Force on Third-Party Funding and how third-party funding is being incorporated into arbitral rules and investment treaties. Ably providing a thorough understanding of what third-party funding entails and what legal parameters exist, this book will be of compelling interest to parties aiming to take advantage of the high values, speed, reduced evidentiary costs, outcome predictability, industry expertise, and high award enforceability characteristic of the third-party funding arrangements available in international arbitration.

International Arbitration and the COVID-19 Revolution

International Arbitration and the COVID-19 Revolution Edited by Maxi Scherer, Niuscha Bassiri &

Mohamed S. Abdel Wahab The impact of the COVID-19 pandemic on all major economic sectors and industries has triggered profound and systemic changes in international arbitration. Moreover, the fact that entire proceedings are now being conducted remotely constitutes so significant a deviation from the norm as to warrant the designation ‘revolution’. This timely book is the first to describe and analyse how the COVID-19 crisis has redefined arbitral practice, with critical appraisal from well-known practitioners of the pandemic’s effects on substantive and procedural aspects from the commencement of proceedings until the enforcement of the award. With practical guidance from a variety of perspectives – legal, practical, and sector-specific – on the conduct of international arbitration during the COVID-19 pandemic and beyond, the chapters present leading practitioners’ insights into the unprecedented and multifaceted issues that arise. They provide expert tips and challenges in such practical matters as the following: preventing and resolving disputes of particular types – construction, energy, aviation, technology, media and telecommunication, finance and insurance; arbitrator appointments; issues of planning, preparation and sample procedural orders; witness preparation and cross-examination; e-signature of arbitral awards; setting aside and enforcement proceedings; and third-party funding. Also included are an empirical survey of users’ views and an overview of how the COVID-19 revolution has affected the arbitration rules of leading arbitral seats. With this timely and practical book, arbitration practitioners and scholars will gain up-to-date knowledge of sector-specific challenges brought about by the COVID-19 pandemic and approach arbitration proceedings with an understanding of the most important legal and practical considerations during the crisis and beyond.

Third Party Funding in International Arbitration

The author of Third Party Funding in International Arbitration challenges the structural inconsistencies of the current practices of arbitration funding by arguing that third party funding should be a forum of justice, rather than a forum of profit. The author introduces a new methodology with an alternative way of structuring third party funding to solve a set of practical problems generated by the risk of claim control by the funder.

Third-Party Effects of Arbitral Awards

The specialization and financial demand of global business render international transactions inherently multilateral and thus best effected through arbitration agreements. However, it often happens that – for various reasons, such as a debtor’s failure to pay damages ordered by an arbitral tribunal – third parties who did not consent to the original arbitration enter the scene. This is the first book to examine the binding effects of international commercial arbitral awards in follow-up disputes against third parties. It comprehensively analyses arbitral awards’ third-party effects under national arbitration laws, the New York Convention and private international law. Moreover, it proposes solutions under transnational law before both courts and arbitral tribunals. Applying a continuously comparative methodology that refers to specific statutory, jurisprudential and scholarly sources, this book explores the nature and implications of such aspects of third-party involvement as the following: the foundations of the doctrine of res judicata and its intrinsic connection to other tools of forum coordination; the distinction between res judicata before courts on the one hand and arbitral tribunals on the other; the application of non-mutual preclusion in favour of third parties; the potential for arbitral awards to constitute a fact in follow-up disputes; a comparison of rules and uncertainties on awards’ third-party effects under various national arbitration acts; preclusion agreements; the arbitration agreement’s scope; and judgments’ third-party effects as a shift of the participatory burden. For civil law, the author focuses on France and Switzerland (as predominant arbitral seats) and on Germany (as a Model Law example). Among common-law countries, he concentrates on England and Wales and on the United States. Statutory sources (with specific wording), leading cases and summaries of the most important scholarly discussions are all invoked. With its clear guidelines for matters currently not addressed in previous publications and likely to be raised in specific cases, this book will prove to be of immeasurable value for arbitration practitioners and academics in any jurisdiction. Business parties that seek to prevent contradicting decisions in multilateral transactions will appreciate the practically feasible alternatives it presents in the event of follow-up disputes involving third parties.

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Third-party Funding in International Arbitration

La 4e de couverture indique : \"\"The last decade has seen an exponential growth in both international commercial arbitration and international investment arbitration. Nevertheless, arbitration proceedings can prove to be very costly, and their funding raises the delicate question of the accessibility of arbitration. The solution offered by third-party funding has undoubtedly become a fact of life in the world of arbitration, despite reservations in some quarters. Although continental countries continue to regard it with suspicion, Anglo-Saxon countries have embraced this solution and have already built up a body of experience in the field. This publication considers the various funding techniques specific to international arbitration before looking at some of the legal issues raised by such funding and the reactions it may arouse among international arbitration practitioners. This publication of the ICC Institute of World Business Law's latest contribution to its Dossiers series on new practices in international arbitration and is inspired by the wish to see those practices develop in a way that is compatible with the basic principles that ensure all parties' rights?\"

Third-party Funding in International Arbitration

This book, expertly revealing the nuances of third-party funding in international arbitration, examines the phenomenon in key jurisdictions around the world and provides a reliable resource for users and potential users that may wish to tap into and make use of this distinctive funding tool. 0The authors analyze and assess the legal regime in a variety of countries based upon legislation, judicial opinions, ethics opinions, and practitioner anecdotes describing the state of third-party funding in that jurisdiction. They describe how courts and legislative bodies around the world have thus far handled the major ethical issues and concerns that affect the practice of third-party funding.

Pervasive Problems in International Arbitration

\"This important book will be of great interest to arbitration lawyers, international lawyers and business people, as well as to academics, libraries, and students of dispute resolution.\"--Publisher's website.

Dealing with Bribery and Corruption in International Commercial Arbitration

International Arbitration Law Library, Volume 65 International commercial arbitration is by no means free from bribery and corruption. Although a plethora of legal scholarship clearly affirms this contention, a thorough study on the particularly important question of the authority and duty of international commercial arbitrators to investigate a suspicion or indication of bribery or corruption sua sponte ¬– that is, on their own initiative – has been surprisingly lacking. This important book fills this gap, inter alia, by locating sua sponte authority in the position of arbitral tribunals in establishing the facts of a case and ascertaining and applying the applicable normative standards. In addition to providing a comprehensive examination of how the issue of bribery and corruption is dealt with in contemporary international commercial arbitration, the book also highlights the role of arbitrators in global efforts to combat transnational commercial bribery and corruption. Among others, the following critical issues are thoroughly investigated: arbitrability of issues of public interests; intermediary contracts; role of arbitrators in the fact-finding process; party autonomy versus overriding mandatory rules; iura novit curia in international commercial arbitration in the context of bribery and corruption; notion of transnational (or ‘truly international’) public policy; arbitrators’ duty to act as guardians of international commerce; investigative tools available to arbitrators; dealing with manifestly recalcitrant parties; possible consequences of violating the obligation to sua sponte investigate; and the view from developing countries. The analysis leans primarily on Swiss law, as Switzerland is one of the most important jurisdictions in international commercial arbitration; Switzerland has also been involved in some of the most famous and controversial arbitration cases wherein bribery and corruption became an issue. However, the study also includes a comparative analysis of the relevant laws, jurisprudence, and doctrine of other major arbitration venues, particularly England, France, and Germany. Not only in the light it sheds on

how and whether international commercial arbitrators have hitherto justified the trust States have placed in them regarding the protection of the public interests but also in the practical solutions it offers arbitrators faced with issues of bribery and corruption, this deeply researched book equips arbitration practitioners and arbitration institutions with a hitherto lacking in-depth analysis on the question of sua sponte investigation. It also provides invaluable insights on how this issue might affect the future, legitimacy and expansion of this dispute settlement mechanism. Outside the field of arbitration, the book also provides jurists, legal scholars, in-house counsel for companies doing transnational business and public officials with highly enlightening perspectives on the interaction between international commercial arbitration and public interests.

International Arbitration: Law and Practice in Switzerland

This third edition, and the first in English, of the globally-cited Arbitrage International-Droit et Pratique à la Lumière de la LDIP, provides complete guidance on arbitration law and practice relating to Switzerland from two of the leading authorities on Swiss practice.

The Function of Equity in International Law

Drawing on a large and varied body of judicial and arbitral case law, this book provides a comprehensive, original, and up-to-date account of the role of equity in international law.

Third Party Funding in International Arbitration

Third party funding (TPF), where specialist companies help finance a client's legal fees in exchange for a share of the final award, is becoming increasingly prevalent in international arbitration. This work provides a comprehensive practitioner guide to the law and practice of international arbitration where third party funding is involved, with detailed reference to existing cases, procedural orders, and final awards. The book is comprised of five parts, together covering the life cycle of a funder's involvement in an arbitration: background, case assessment, key terms of the funding agreement, the conduct of the arbitration, and the award. The authors include references to relevant landmark decisions of national courts addressing third-party funding issues in arbitrations, and an appendix provides a list of all known funded investor-state cases, with comprehensive details about the identity of the funder, the dispute, the duration, the cost, and the result. As the discussion of TPF in arbitration continues to be of vital importance in the field, it is imperative that all international arbitration practitioners have access to a balanced, multi-faceted view of the practice and its issues. This book provides much-needed guidance suitable for all practioners and students.

Third Parties in International Commercial Arbitration

Third Parties in International Commercial Arbitration addresses the role and the interests of third parties in international arbitration. Through a clear overview and in-depth critical commentary, the book explores existing case law and its related academic literature as well as offering an insight into more practical concerns.

International Financial Disputes

The first book to focus on the arbitration of international financial disputes, this work provides an invaluable reference work on issues that are particularly relevant to claims involving financial products.

The Practice of International Commercial Arbitration

Focusing on practical principles or guidelines for arbitrators, this book covers everything a prospective international commercial arbitrator should know about conducting an arbitration in Hong Kong. Specifically

geared to those interested in or starting work as an international commercial arbitrator in Hong Kong, the book takes readers step-by-step through the problems that are likely to arise in the conduct of a commercial arbitration and in the development of their careers as international commercial arbitrators.

Party-appointed Arbitrators in International Commercial Arbitration

The agreement of disputing parties to each make a unilateral appointment of an arbitrator is among the most distinctive features of arbitral practice. A detailed examination, long overdue, of how this feature affects the actual process of arbitration is presented in this book. The study includes a historical analysis of unilateral nominations, a critical assessment of how the unilateral appointments system currently works and an empirical study of challenges of arbitrators. The author's critical assessment addresses several issues including: - limits to the right of the parties to make unilateral appointments; - the principle of equality of the parties in the constitution of the arbitral tribunal; - arbitrators' duty to be impartial and independent; - specific problems of bias in tribunals with party-appointed members; - the question of whether a different standard of impartiality and independence in party-appointed arbitrators makes any sense; - the presumption that party-appointed arbitrators can do things that presiding arbitrators cannot; and - the question of whether it is worth keeping the system of unilateral appointments as the default method for the constitution of multiple-member tribunals, or keeping it at all. The empirical study, in which the author offers a comparative analysis of challenges of arbitrators taking into account the method of appointment of the arbitrator, reveals interesting differences and coincidences between party-appointed and non-party-appointed arbitrators. The book ends with some suggestions on how the system of unilateral appointments could be improved, namely in order to increase the trust of each party in the arbitrator appointed by the other party and to allow an accurate match between what arbitration end-users may want from party-appointed arbitrators and what they ultimately get. For both its thorough and well-informed analysis and its sound recommendations, the book is sure to be welcomed by professionals in the arbitral community worldwide, as well as by arbitration law academics.

The Evolution and Future of International Arbitration

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

Substantive Law in Investment Treaty Arbitration

The difficult coexistence of municipal law and international law is nowhere more evident than in the context of investment treaty disputes. Investment treaty arbitral tribunals commonly address, as a matter of international law, an alleged breach of

Consent in International Arbitration

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

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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.

The Decision-Making Process of Investor-State Arbitration Tribunals

The Decision-Making Process of Investor-State Arbitration Tribunals' explores the ways in which arbitral tribunals interpret the law in investor-state disputes. It examines the emergence of a specialised way of decision-making adapted to the characteristics and needs of investment arbitration. In the course of a single investor-state dispute, an arbitrator may make numerous decisions, from interpreting the treaty or national laws to taking into account case law, customs and policies. In practice, this process raises important issues regarding the consistency of arbitral awards and the predictability and legitimacy of the arbitral decision-making process. This is the first book to offer an in-depth analysis of the transnational characteristics of investment arbitration and to analyse the interpretive arguments of investment tribunals. It particularly examines the way tribunals reason their awards making reference to treaties, precedent, policies, general principles of law and customary law in their decision-making process.

International Arbitration in the Energy Sector

Disputes in the energy and natural resources sector are at the heart of international arbitration. With more arbitrations arising in the international energy sector than in any other sector, it is not surprising that the highest valued awards in the history of arbitration come from energy-related arbitrations. Energy disputes often involve complex and controversial issues relating to security, sovereignty, and public welfare. International Arbitration in the Energy Sector puts international energy disputes into a global context, providing broad coverage of different forms and systems of dispute resolution across both renewable and non-renewable sectors. With contributions from leading practitioners, arbitrators, academics, and industry experts from across the globe, the eighteen chapters in the book enable readers to compare the approaches to, and learnings from, energy arbitrations across various legal systems and geographic regions. After outlining the international energy arbitration legal framework, the text delves into a detailed analysis of the problems which regularly arise in practice. These include, among other things, commercial disputes in Part I (e.g. over the upstream oil sector and long-term gas supply contracts), investor-state disputes in Part II (e.g. under the Energy Charter Treaty), and public international law disputes in Part III (e.g. concerning international boundaries and the distribution of natural resources). Alongside recent developments in the international energy sector, attention is given to climate and sustainable development disputes, which raise important questions about enforcing sustainability objectives on individuals, corporations, and states. Backed by analyses of arbitral awards, national court and international tribunal decisions, treaties, and other international legal instruments, as well as current events and news in the energy industry, this text offers a unique contribution to international energy literature and provides insightful commentary on the prevalent issues in the field. It is essential reading for any practitioner or researcher in the energy and natural resources sector.

Tribunal Secretaries in International Arbitration

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.

The Evolution and Future of International Arbitration

The Law and Business of Litigation Finance considers the international development of the law and practice of high value litigation and arbitration funding. It is an essential guide for those who provide or seek such funding, as well as for anyone who wishes to understand the litigation funding process and to avoid pitfalls. It answers questions such as: - How do litigation funders raise capital and how do they spend it? - What are their corporate and financial structures? - What type of cases do they invest in and what are their returns? - What are the key legal issues relating to litigation funding? The Law and Business of Litigation Finance assists various parties, including: - Those who do not have the resources or risk appetite to proceed in litigation or arbitration without financial support - Law firms who are interested in a significant business development opportunity, and fairer outcome for litigants - Insolvent estates, whose biggest assets are their potential claims - Judges, arbitrators and other neutral parties in funded dispute resolution cases - Regulators, legislators and policymakers in the fields of legal and financial services - Investors who seek high risk, high return opportunities The book is edited by one of the most accomplished litigation funders in the international market and has contributions from leading experts drawn from legal practice, financiers and academia. The focus is on the UK and the US, the two main centres for the international litigation funding industry, with reference to Australia, New Zealand and other select jurisdictions. As the first book on litigation finance to take an international, and particularly transatlantic, perspective, this is a must-have guide for all lawyers, commercial court judges, legal policy makers, regulators, investors, and academics in these jurisdictions.

The Law and Business of Litigation Finance

Reviewing the legal context within which international commercial arbitration operates, this text has been updated to reflect recent developments in international law.

Redfern and Hunter on International Arbitration

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

Comparative Law of International Arbitration

International arbitration is a remarkably resilient institution, but many unresolved and largely unacknowledged ethical quandaries lurk below the surface. Globalization of commercial trade has increased the number and diversity of parties, counsel, experts and arbitrators, which has in turn lead to more frequent ethical conflicts just as procedures have become more formal and transparent. The predictable result is that ethical transgressions are increasingly evident and less tolerable. Despite these developments, regulation of various actors in the system arbitrators, lawyers, experts, third-party funders and arbitral institutions remains ambiguous and often ineffectual. Ethics in International Arbitration systematically analyses the causes and effects of these developments as they relate to the professional conduct of arbitrators, counsel, experts, and third-party funders in international commercial and investment arbitration. This work proposes a model for

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effective ethical self-regulation, meaning regulation of professional conduct at an international level and within existing arbitral procedures and structures. The work draws on historical developments and current trends to propose analytical frameworks for addressing existing problems and reifying the legitimacy of international arbitration into the future.

Ethics in International Arbitration

Establishing a factual basis on which to apply the law can be an extraordinarily challenging process, and perhaps more so in international arbitration than in any other proceedings, due to the very different notions of fact-finding that prevail among jurisdictions. This important book assesses, for the first time, the contours of an emerging transnational law of fact-finding that promises to greatly enhance the efficiency and reliability of this crucial arbitral procedure. In his analysis, focusing on bases that reflect current (but fluid) transnational practice, the author assembles a viable lex evidentiae from an in-depth examination and synthesis of the following bodies of source material: published arbitration proceedings and awards; the general framework of fact-finding issues as provided for under the arbitration acts of England and Wales, the United States, Germany, Brazil, Spain, Switzerland, Austria, and Italy, as well as under the Model Law; fact-finding stipulations under UNCITRAL Arbitration Rules as well as under various institutional rules; soft law (such as the IBA Rules, Prague Rules, ALI/UNIDROIT Principles of Transnational Civil Procedure); best practices as captured by legal commentary; and investment arbitration proceedings, where many decisions and awards are nowadays publicly available. In the course of the analysis, a comprehensive description and analysis of what fact-finding entails, including both gathering of facts and taking of evidence, is fully elaborated. Given that it is an essential task of international arbitration proceedings to define the disagreements between the parties and seek to determine the truth, the international arbitration community must be able to rely on a robust, consistent, and predictable, albeit flexible and adaptive, set of fact-finding rules. Against this background, the present study not only provides a stocktaking of current practice but also makes a signal contribution to meeting the need for legal certainty and reliability in international arbitration.

Fact-Finding in International Arbitration

Because document production can discover written evidence that would otherwise not be available, it is often the key to winning a case. However, document production proceedings can be a costly and time-consuming exercise, and arbitral awards in particular are often challenged on grounds that relate to document production orders. The task of balancing the conflicting interests of the parties in this context is a major responsibility of arbitral tribunals. This book's analysis focuses on whether there exist legal principles on which arbitrators should establish rules of document production in both civil law and common law countries, and shows how international arbitration is affected. The author examines the relevant discretion of arbitral tribunals under US, English, Swiss, German, and Austrian law, and under nine of the most important sets of institutional rules, including the ICC Rules, the LCIA Rules, and the Swiss Rules. The presentation mines case law and legal literature for concepts based on the common expectations of the parties, the legitimate expectations of a party, the duty to balance different procedural expectations of the parties, the presumed intent of the parties, the underlying hypothetical bargain, implied terms, and the arbitrators' discretion. Among the topics and issues investigated are the following: - procedural rules on document production versus procedural flexibility; - how arbitral tribunals can modify the IBA Rules on a case-by-case basis; - discretion granted by legislation in each country covered; - electronic document production; - how to deal with privilege and confidentiality objections; - how to formulate or answer document production requests; - effective sanctions in case of non-compliance with procedural orders of the arbitral tribunal; - what grounds for annulment and non-enforcement a losing party can raise in what countries. Perhaps the greatest benefit of the book is the inclusion of model clauses, commensurate with both civil law and common law expectations. The author explicates the advantages and inconveniences of each model clause, and clarifies the influence of each clause on the efficiency of the proceedings and the enforcement risk. For practitioners, the book not only gives counsel a thorough overview of possible arguments for and against document production, but also assists arbitrators find a way through the jungle of opinions on the interpretation of the IBA Rules. Legal academics

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will appreciate the author's deeply informed analysis and commentary and the book's contribution to increasing the predictability of arbitral decisions on document production and showing how issues in dispute can be narrowed by tailor-made rules, thus helping to raise the efficiency and reduce the costs of arbitral proceedings.

Document Production in International Arbitration

This volume addresses the role and the interests of third parties in international arbitration. Through a clear overview and in-depth critical commentary, the book explores existing case law and its related academic literature as well as offering an insight into more practical concerns.

Third Parties in International Commercial Arbitration

I. Introduction II. History and Limitations of the Traditional System for Resolving Investment Disputes III. The Modern System of Investor-State Arbitration IV. Commonly Used Procedural Rules V. Procedural Law Applicable in Investor-State Arbitration VI. National Court Interference: Anti-Arbitration Injunctions VII. The Course of an Investment Arbitration VIII. Consolidation under Relevant Arbitration Rules or Treaties IX. Governing Law in Investment Disputes X. Consent to Arbitral Jurisdiction XI. The Concept of Investment XII. The Nationality of the Investor XIII. Exhaustion of Local Remedies XIV. Election of Forum: National Courts and Contract Arbitrations XV. Discrimination XVI. Expropriation XVII. \"Fair and Equitable Treatment\" and \"Full Protection and Security\" XVIII. Umbrella Clauses XIX. Damages, Compensation, and Non-Pecuniary Remedies XX. Annulment and Set Aside XXI. Enforcement of Awards XXII. The Future of International Investment Arbitration Select Bibliography Index Table of Cases Index of Treaties, Conventions, and International Agreements.

Investor-State Arbitration

State Enterprises are separate and legally independent from the state and should therefore be treated in the same manner as private corporations è^' that is, neither privileged nor disadvantaged. However, the records of international arbitration show that the corporate veil of State Enterprises has rarely, if ever, been pierced. This important book asks why this is so, and takes a giant step towards establishing the circumstances under which the rules of international law may allow piercing the veil of state corporate enterprises.

Piercing the Veil of State Enterprises in International Arbitration

This book examines the intersection of EU law and international arbitration based on the experience of leading practitioners in both commercial and investment treaty arbitration law. It expertly illustrates the depth and breadth of EU law’s impact on party autonomy and on the margin of appreciation available to arbitral tribunals.

International Arbitration and EU Law

This book represents a comparative study of Third Party Funding (TPF) and its regulation in England, Hong Kong, Singapore, the Netherlands and the Mainland of China. It provides a general review of the background in which TPF grows and the platform where third party funders are allowed to operate. In each and every chosen jurisdiction, the book analyses the legal risks related to TPF, the regulatory measures and the questions surrounding the challenges that lay ahead. This book is featured by the empirical study of the Chinese TPF market. As of the time of this writing, TPF activities operating in China have not been expanded upon in English or Chinese literature. The language barrier may be one reason. The lack of empirical materials may also contribute to this situation. In order to obtain some first-hand evidence of the TPF market in China, the author conducted empirical research in Shenzhen, with the assistance of Chinese

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third party funders and some local organizations and authorities. The empirical study took the form of questionnaire surveys. The first survey saw in total 175 responses, and the second saw 18 responses. Due to the fact that many funding arrangements for commercial disputes are kept in the dark, it is hard, if not impossible, to measure the size of the Chinese TPF market. This study provides a dataset that serves a humble purpose; namely to offer an insight into the Chinese TPF market, rather than to grasp the full picture of the industry.

Third Party Funding for Dispute Resolution

The Developing World of Arbitration studies the recent emergence of Asia Pacific jurisdictions as regional or international arbitration centres, thanks to various reform efforts and initiatives. This book provides an up-to-date and comprehensive analysis of the ways in which arbitration law and practice have recently been reformed in Asia Pacific jurisdictions. Leading contributors across the Asia Pacific region analyse twelve major jurisdictions representing varying patterns and degrees of development, whether driven from top down, bottom up, or by some hybrid impetus. Setting the arbitration systems and reforms of each investigated jurisdiction in the context of its economic, political, and judicial dynamics, this book presents, for the first-time, a cross-jurisdiction comparative and contextual study of the developing world of arbitration in the Asia Pacific and contributes to comparative international arbitration literature from an Eastern perspective. It also aims to identify an Asia Pacific model of arbitration modernisation, one that may be distinct from a Western model, and predicts future trajectories of development and challenge in light of the ever increasing competition between Eastern- and Western-based arbitration centres. This edited collection will be an invaluable addition to the libraries of academics and practitioners in the field of international commercial arbitration.

Introduction to International Arbitration Practice

A rule-by-rule commentary on the genesis, interpretation and application of the International Centre for Dispute Resolution (ICDR) Rules. The book is designed to give arbitrators, practitioners and academics a first port of call when considering ICDR arbitration, and provide the first stand-alone comprehensive commentary on these important rules.

The Developing World of Arbitration

Investor-state arbitration is a relatively new dispute settlement mechanism that allows foreign investors the opportunity to seek redress for damages arising out of breaches of investment-related treaty obligations by the governments of host countries. Claims are submitted to independent, international arbitration tribunals, which are called upon to interpret the treaty at hand. Because of the public interest involved in these cases, the awards of these tribunals are subject to much scrutiny and debate. Thus, it has already generated hundreds of cases and created new legal disciplines, inspiring a continuous string of legal writings. This book provides a comprehensive analysis of the main issues that arise in investor-state arbitration. It accompanies the reader through the phases of such a procedure, starting with an examination of the instruments, which provide, in the overwhelming majority of the cases, the legal basis for the requests for such arbitration. It then continues with the launching of the arbitration procedure, followed by the analysis of the main jurisdictional and substantive issues that the tribunals are confronted with, and the review procedures, when there is a request for setting aside of the award. It finally looks at the post-award phase and concludes with a reflection on the role of precedent in investment arbitration. Arbitration under International Investment Agreements: a Guide to the Key Issues contains in one volume what everybody needs to know on this evolving topic. Calling on the most renowned experts in this field, private practitioners, academics, government and international organization officials, it describes the process in all its phases from A to Z, providing a comprehensive insight in the way investor-state arbitration works from the perspective of the main actors involved. Its analyses of all key aspects of the topic are pragmatic and reliable.

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A Guide to the ICDR International Arbitration Rules

This work provides a comprehensive, article-by-article commentary on the IBA Rules on the Taking of Evidence in International Arbitration, pulling together in one volume an in-depth analysis of the relevant case law, reports of the IBA working groups, academic authorities, and the authors' own practical experience.

Arbitration Under International Investment Agreements

A Guide to the IBA Rules on the Taking of Evidence in International Arbitration
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