Governing Law Of Arbitration Clauses Linklaters

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.

Today, a California resident can incorporate her shipping business in Delaware, register her ships in Panama, hire her employees from Hong Kong, place her earnings in an asset-protection trust formed in the Cayman Islands, and enter into a same-sex marriage in Massachusetts or Canada—all while enjoying the California sunshine and potentially avoiding many facets of the state's laws. In this book, Erin O’Hara and Larry E. Ribstein explore a new perspective on law, viewing it as a product for which people and firms can shop, regardless of geographic borders. The authors consider the structure and operation of the market this creates, the economic, legal, and political forces influencing it, and the arguments for and against a robust market for law. Through jurisdictional competition, law markets promise to improve our laws and, by establishing certainty, streamline the operation of the legal system. But the law market also limits governments' ability to enforce regulations and protect citizens from harmful activities. Given this tradeoff, O’Hara and Ribstein argue that simple contractual choice-of-law rules can help maximize the benefits of the law market while tempering its social costs. They extend their insights to a wide variety of legal
problems, including corporate governance, securities, franchise, trust, property, marriage, living will, surrogacy, and general contract 
regulations. The Law Market is a wide-ranging and novel analysis for all lawyers, policymakers, legislators, and businesses who need to 
understand the changing role of law in an increasingly mobile world.

**JOINT WINNER OF THE BRITISH INSURANCE LAW ASSOCIATION BOOK PRIZE 2012** This is the second, revised edition, of what has become 
and was described by the English Court of Appeal in C v D as the standard work on Bermuda Form excess insurance policies. The Form, first 
used in the 1980s, covers liabilities for catastrophes such as serious explosions or mass tort litigation and is now widely used by insurance 
companies. It is unusual in that it includes a clause requiring disputes to be arbitrated under English procedural rules in London but, 
surprisingly, subject to New York substantive law. This calls for a rare mix of knowledge and experience on the part of the lawyers involved, 
each of whom will also be required to confront the many differences between English and US legal culture. A related feature of the Form is that 
the awards of arbitrators are confidential and not subject to the scrutiny of the courts. Therefore, while many lawyers have been involved in 
litigating on the Bermuda Form their knowledge remains locked away. The Bermuda Form is thus not well understood, a situation not helped 
by the lack of publications dealing with it. Accordingly, those required to deal with the Form professionally are confronted with a lengthy and 
complex document, but with very little to aid their understanding of it. This unique and comprehensive work offers a detailed commentary on 
how the Form is to be construed, its coverage, the substantive law to be applied, the limits of liability, exceptions, and, of course, the 
procedures to be followed during arbitration proceedings in London. This is a book which will prove invaluable to lawyers, risk managers, and 
executives of companies which purchase insurance on the Bermuda Form, and clients, lawyers or arbitrators involved in disputes arising 
therefrom. ‘deserves to be in the library of anyone who is, or is contemplating becoming, a party to a Bermuda Form arbitrationThe authors, 
whom we have been associated with in some cases and opposed in others, have a wealth of experience with the Bermuda Form and the ability 
to share that experience with their readers in a clear and engaging style.’ From the foreword by Thomas R Newman and Bernard Eder QC

A unique collaboration between academic scholars, legal practitioners, and arbitrators, this handbook focuses on the intersection of arbitration 
- as an alternative to litigation - and the court systems to which arbitration is ultimately beholden. The first three parts analyze issues relating 
to the interpretation of the scope of arbitration agreements, arbitrator bias and conflicts of interest, arbitrator misconduct during the 
proceedings, enforceability of arbitral awards, and the grounds for vacating awards. The next section features fifteen country-specific reviews, 
which demonstrate that, despite the commonality of principles at the international level, there is a significant amount of differences in the 
application of those principles at the national level. This work should be read by anyone interested in the general rules and principles of the 
enforceability of foreign arbitral awards and the grounds for courts to vacate or annul such awards.

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-arbital 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 commercial arbitration raises issues other than the choice of the law applicable to the principal contract. Autonomy may have a wider meaning, extending beyond the choice of applicable law to the choice of arbitration itself, and of the place or places where it is to be conducted. Nor is it altogether clear what the forum is, if any. This paper raises the fundamental question of what gives the arbitrator his or her competence—the will of the parties or the law of the seat of arbitration which the parties may, or may not, have chosen? The paper also suggests an answer to the questions of which choice of law rules, if any, should be applied by the arbitrators, to what extent arbitrators will apply mandatory rules (règles d'application immédiate), as well as which law governs the procedural aspects and whether it has to be the procedural law of a national system. The new English Arbitration Act 1996 has also been taken into account.

No lawyer involved in international transactions can afford to ignore this authoritative guide to planning and drafting international arbitration agreements and forum selection clauses. It includes clear, practical explanations of the advantages and disadvantages of different forms of dispute resolution provisions, and detailed discussion of all elements of drafting arbitration and choice-of-court clauses. The primer includes scores of revised model arbitration and forum selection clauses, providing precise wording for use in a wide range of commercial contexts. It is designed for easy reference and use by both general practitioners and specialists. Each model clause is thoroughly annotated, including with reference to relevant scholarship and jurisprudence. The primer is authored by Gary B. Born, one of the world's pre-eminent authorities on international commercial arbitration and litigation. He is the author of International Commercial Arbitration (2d ed. 2001) and International Civil Litigation in U.S. Courts (3d ed. 2000), and a leading international arbitration practitioner. He has brought a wealth of practical experience and academic achievement together to produce a practical, authoritative guide to drafting and planning international arbitration and forum selection agreements. This second edition, extensively updated and revised, includes such features as the following: scores of sample arbitration and forum selection clauses, including leading institutional arbitration clauses, ad hoc clauses and comprehensive guidance on drafting individualized clauses; sample language relating to discovery, language, arbitrators' qualifications, confidentiality, waivers of immunity, interim relief, fast-track procedures, costs, consent to service of process, and other commonly-used provisions; descriptions of all leading international arbitration institutions (ICC, LCIA, AAA, ICSID) and most major regional arbitration institutions, including commentary on individual characteristics of each institution; practically-oriented discussions of the importance of the arbitral seat, means of selecting arbitrators, language, and other key issues; detailed guidance on drafting choice-of-law clauses (including samples) and their role in dispute resolution; and practical analysis of enforcement of international arbitration and forum selection agreements, as well as national court
judgments and international arbitral awards, under leading conventions and national laws. An appendix contains texts of the New York and
European Conventions and the UNCITRAL Model Law, as well as arbitration rules of leading arbitral institutions. Designed for easy reference
and use by both general practitioners and specialists, the book is required for any international practitioner or corporate counsel engaged in
international matters. ADVANCE REVIEWS OF THE SECOND EDITION "An excellent work by one of the world's leading arbitration authorities
and practitioners. This comprehensive review of international arbitration is bound to become essential reading for students and practitioners
alike, especially for anyone drafting arbitration clauses." Roberto Danino, Secretary General of the International Centre for Settlement of
Investment Disputes (ICSID) "Gary Born's new edition of this classic work covers everything a drafter of dispute resolution clauses needs to
consider, with useful model clauses, and is up to the minute on all recent developments." James H. Carter, Chairman of the Board, American
Arbitration Association "Many books are devoted to the subject of international arbitration, but this is one of the few which stand out as
particularly valuable due to

International Commercial Arbitration Third Edition is an authoritative treatise providing the most complete available commentary and analysis
on all aspects of the international commercial arbitration process. This completely revised and expanded edition of Gary Born's authoritative
work is divided into three main parts, dealing with the International Arbitration Agreement, International Arbitral Procedures and International
Arbitral Awards. The Third Edition provides a systematic framework for both current analysis and future developments, as well as exhaustive
citations from all leading legal systems. INTERNATIONAL ARBITRATION AGREEMENTS Legal Framework for International Arbitration
Agreements International Arbitration Agreements and the Separability Presumption Choice-of-Law Governing International Arbitration
Agreements Interpretation of International Arbitration Agreements

INTERNATIONAL ARBITRAL PROCEDURES AND PROCEEDINGS Legal Framework for International Arbitral Proceedings Selection, Challenge
and Replacement of Arbitrators in International Arbitration Rights and Duties of International Arbitrators Selection of Arbitral Seat in
International Arbitration Procedures in International Arbitration Disclosure and Discovery in International Arbitration Provisional Measures in
International Arbitration Consolidation, Joinder and Intervention in International Arbitration Choice of Substantive Law in International
Arbitration Confidentiality in International Arbitration Legal Representation and Professional Conduct in International Arbitration

INTERNATIONAL ARBITRAL AWARDS Legal Framework for International Arbitral Awards Form and Content of International Arbitral Awards
Correction, Interpretation and Supplementation of International Arbitral Awards Annulment of International Arbitral Awards Recognition and
Enforcement of International Arbitral Awards Preclusion, Lis Pendens and Stare Decisis in International Arbitral Awards

Irrespective of the increasing harmonization of law at the transnational level, every arbitration raises a number of conflict 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 conflict rules to determine the applicable law. This raises the question of what conflict 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 conflict 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.

This book is a second, revised edition of the original 1986 publication. Since then, the issue of contract change has increasingly challenged the
business community and legal practitioners. The world-wide recession may well have accelerated the need to secure contractual relationships by reasonable flexibility. Successful foreign investment, a relentless challenge, is subject to many unpredictable errors. Of all these variables, however, successful investment is most dependent on the investor-host country relationship, which is the object of the present study. In particular, the pressure by host countries for contract change and its counterpart: the investor's defence of contract stability. The book is essentially a reference handbook for legal practitioners. It analyzes a variety of increasingly important questions concerning international investment agreements that come under pressure for change by one of the contracting parties: either a transnational corporation or a host country government. The seven case studies and the analytical chapters which follow are based on the author's research and the assistance of corporate and government officials, experts from the United Nations and other organizations, and members of academic research institutes.

V.3: "provides a detailed discussion of the issues arising from international arbitration awards. It includes chapters covering the form and contents of awards; the correction, interpretation and supplementation of awards; the annulment and confirmation of awards; the recognition and enforcement of arbitral awards; and issues of preclusion, lis pendens and stare decisis."--Descripción del editor.

This title provides the reader with immediate access to understanding the world of international arbitration. A arbitration has become the dispute resolution method of choice in international transactions. This book explains how and why arbitration works. It provides the legal and regulatory framework for international arbitration, as well as practical strategies to follow and pitfalls to avoid. It is short and readable, but comprehensive in its coverage of the basic requirements, including changes in arbitration laws, rules, and guidelines. In the book, the author includes insights from numerous international arbitrators and counsel, who tell firsthand about their own experiences of arbitration and their views of the best arbitration practices. Throughout the book, the principles of arbitration are supported and explained by the practice, providing a concrete approach to an important means of resolving disputes.

Arbitration Law in America: A Critical Assessment is a source of arguments and practical suggestions for changing the American arbitration process. The book, first published in 2006, argues that the Federal Arbitration Act badly needs major changes. The authors, who have previously written major articles on arbitration law and policy, here set out their own views and argue among themselves about the necessary reforms of arbitration. The book contains draft legislation for use in international and domestic arbitration and a detailed explanation of the precise justifications for proposed legislative changes. It also contains two proposals that might be deemed radical - to ban arbitration related to the purchase of products by consumers and to prohibit arbitration of employment disputes. Each proposal is vetted fully and critiqued by one or more of the other co-authors.

International Commercial Arbitration in New York focuses on the distinctive aspects of international arbitration in New York. Serving as an essential strategic guide, this book allows practitioners to represent clients more effectively in cases where New York is implicated as either the place of arbitration or evidence or assets are located in New York. Each chapter elucidates a vital topic, including the existing New York legal landscape, drafting considerations for clauses designating New York as the place of arbitration, and material and advice on selecting arbitrators. The book also covers a series of topics at the intersection of arbitral process and the New York courts, including jurisdiction, enforcing arbitration agreements, and obtaining preliminary relief and discovery. Class action arbitration, challenging and enforcing arbitral awards, and biographical materials on New York-based international arbitrators is also included, making this a comprehensive, valuable
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.

This book presents an overview of online arbitration and electronic contracting worldwide, examining their national and international contexts, and assessing their ongoing relevance. It offers solutions to the salient challenges facing both online arbitration and electronic contracting, dealing first-hand with online arbitration as an online dispute resolution technique for solving both traditional and electronic commerce disputes that may arise out of the breach of contractual obligations in international commercial contracts, while also comparing between common law and civil law countries. In the theory of law, this book analyses the international legal framework that regulates e-commerce, and its impact on electronic contracting, including Model Laws and International Conventions such as the Model Law on Electronic Commerce of 1996 and the Electronic Communications Convention of 2005. It also investigates whether the UN Convention on Contracts for the International Sale of Goods of 1980 ‘The CISG’ applies to e-commerce contracts. In addition, it extensively examines the possibility for the enforcement of online arbitration agreements and online arbitral awards under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958. Regarding the practice of law, the volume examines how national courts apply both national laws and the New York Convention of 1958 when dealing with the enforcement of online arbitration agreements, and whether courts apply the provisions of national laws of arbitration liberally. As such, it encourages the adoption of a more liberal judicial regime in favour of the enforcement of online arbitral awards and online arbitration agreements in national courts. This book represents a valuable resource for academics, arbitrators, practicing lawyers, corporate counsels, law students, researchers, and professionals who are willing to solve their cross-border commercial disputes through online arbitration.

Arbitration and jurisdiction agreements are frequently used in transnational commercial contracts to reduce risk, gain efficacy and acquire certainty and predictability. Because of the similarities between these two types of procedural autonomy agreements, they are often treated in a similar way by courts and practitioners. This book offers a comprehensive study of the prerequisites, effectiveness, and enforcement of
exclusive jurisdiction and arbitration agreements in international dispute resolution. It examines whether jurisdiction and arbitration clauses have identical effects in private international law and whether they have been or should be given the same treatment by most countries in the world. By comparing the treatment of these clauses in the US, China, UK and EU, Zheng Sophia Tang demonstrates how, in practice, exclusive jurisdiction and arbitration agreements are enforced. The book considers whether the Hague Convention on Choice of Court Agreements could be treated as a litigating counterpart to the New York Convention, and whether it could work successfully to facilitate judicial cooperation and party autonomy in international commerce. This book breaks new ground in combining updated materials in EU, US and UK law with unique resources on Chinese law and practice. It will be valuable for academics and practitioners working in the field of private international law and international arbitration.

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

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

Jurisdiction and arbitration clauses are two different mechanisms that help to ensure impartiality and predictability in international dispute resolution. Despite their benefits, these clauses can be inconvenient for parties that are forced to litigate before distant fora. Moreover, particular problems arise in the context of maritime transport documents. Based on a broad comparative approach, this study seeks to explain the existing rules within their legal context and to develop a coherent system for such clauses, which takes into account the underlying interests as well as economic theory. While offering detailed answers to most issues surrounding jurisdiction and arbitration clauses in maritime transport documents, the book confronts the fundamental question of the limits of freedom of contract in an international setting.

No field of legal scholarship or practice operates in the world of private international law as continuously and pervasively as does international arbitration, commercial and investment alike. Arbitration's dependence on private international law manifests itself throughout the life-cycle of arbitration, from the crafting of an enforceable arbitration agreement, through the entire arbitral process, to the time an award comes before a national court for annulment or for recognition and enforcement. Thus international arbitration provides both arbitral tribunals and courts with
constant challenges. Courts may come to the task already equipped with longstanding private international law assumptions, but international arbitrators must largely find their own way through the private international law thicket. Arbitrators and courts take guidance in their private international law inquiries from multiple sources: party agreement, institutional rules, treaties, the national law of competing jurisdictions and an abundance of "soft law," some of which may even be regarded as expressing an international standard. In a world of this sort, private international law resourcefulness is fundamental.

"This book, by a leading international arbitration practitioner, offers suggested language for every option that a drafter of an international arbitration clause may need. Following a succinct assessment of the choice between arbitration and litigation and commentary on the choices among arbitration fora and formats, the author presents an accessible how-to for drafting. While other works offer theory and a smattering of drafting tips, there is no other comprehensive collection of workable language, presented accessibly with easy-to-reference appendices. This book will be a standard reference for both in-house counsel and outside practitioners. This book provides, in an accessible format, clauses that address all the significant issues that contracting parties face, and in any event should consider, when they decide to draft a dispute resolution clause for an international contract. Those who wish immediate access to suggested language may turn directly to the Appendices. Those who wish to understand the analysis that leads to the suggested language should read the text."--Publisher's website.

International Arbitration and Forum Selection Agreements: Drafting and Enforcing is a concise, practical primer on the fundamentals of drafting and enforcing international arbitration agreements and other dispute resolution clauses. Drawing on a wealth of practical experience and academic analysis by one of the world’s leading authorities on international arbitration and litigation, this extensively revised and expanded sixth edition provides model arbitration and forum selection clauses for international contracts and explains the advantages and disadvantages of different approaches to reducing the risks inherent in cross-border transactions. The book is an essential resource for any international practitioner or corporate counsel engaged in international matters. Key Features include: Discussion of practical reasons for international arbitration and forum selection clauses Uncomplicated and practical guidance on drafting international arbitration and forum selection clauses Do's and Don'ts for drafting Model international arbitration and forum selection clauses that permit efficient and effective dispute resolution Nearly 100 different model provisions Ad hoc versus institutional arbitration clauses Overview of leading arbitral institutions (including ICC, SIA C, IC DR/AAA, LCIA, HKIAC, PCA, ICSID, WIPO, VIA C, DIS, NA I and CR CIA) Overview of advantages and disadvantages of leading arbitral seats Forum selection clauses for national and international courts Multi-tier dispute resolution provisions Optional provisions for international arbitration and forum selection clauses (including arbitrator selection, arbitral procedure, costs of arbitration, provisional measures, waiver of annulment and currency of award) Discussion of pathological arbitration clauses and commonly-encountered defects A nd covers: Updated extensively to address developments through January 2021 New materials covering international courts and choice-of-law provisions Key reference materials in easy-to-use appendices About the author: Gary B. Born is one of the world's leading authorities on international arbitration and litigation. He has practiced extensively in both fields in Europe, the United States, and Asia. He is the author of International Commercial Arbitration (Kluwer Law International 3rd ed. 2021), International Arbitration: Law and Practice (Kluwer Law International 2nd ed. 2016), International Commercial Arbitration: Cases and Materials (Aspen 2nd ed. 2015), International Civil Litigation in United States Courts (Aspen 6th ed. 2018).
Clause is typically found, Legal Basis & Regime, Differences in the use and interpretation of the Contract Clause between common law and civil law jurisdictions. You may use your home jurisdictions as illustrative, and Proper drafting of the Contract Clause and advice to avoid the pitfalls of relying on a “boilerplate” clause.

Provides an unprecedented historical, theoretical and comparative analysis and appraisal of party autonomy in private international law. These issues are of great practical importance to any lawyer dealing with cross-border legal relationships, and great theoretical importance to a wide range of scholars interested in law and globalisation.

With this newly updated edition of the Freshfields Guide to Arbitration Clauses in International Contracts - still in the concise, attractive format that made the original so popular - lawyers and business people will confidently negotiate contracts that ensure a speedy, clear-cut resolution of any dispute likely to arise. Taking into account the many significant developments in the law and practice of international arbitration that have occurred over the years since the previous editions, it offers: clear, uncomplicated contract-drafting advice, derived from the authors' wide-ranging practical experience; model clauses that ensure the effectiveness of dispute resolution provisions - and avoid pitfalls, and important reference materials.

The Czech Yearbooks Project, for the moment made up of the Czech Yearbook of International Law® and the Czech (& Central European) Yearbook of Arbitration®, began with the idea to create an open platform for presenting the development of both legal theory and legal practice in Central and Eastern Europe and the approximation thereof to readers worldwide. This platform should serve as an open forum for interested scholars, writers, and prospective students, as well as practitioners, for the exchange of different approaches to problems being analyzed by authors from different jurisdictions, and therefore providing interesting insight into issues being dealt with differently in many different countries. The Czech (& Central European) Yearbook of Arbitration®, the younger twin project within the Czech Yearbooks, primarily focuses on the problematic of arbitration from both the national and international perspective. The use of arbitration as a method of dispute resolution continues to increase in importance. Throughout Central and Eastern Europe, arbitration is viewed as being progressive, due to its practical aspects, and to its meeting the needs of specialists in certain practice areas. Central and Eastern Europe, the primary, but not exclusive, focus of this project, is steeped in the Roman tradition of continental Europe, in which arbitration is based on the autonomy of the parties and on informal procedures. This classical approach is somewhat different from the principles on which the system of arbitration in common-law countries is based. Despite similarities among countries in the region, arbitration in Central and Eastern Europe represents a highly particularized and fragmented system. One shortcoming in the use of arbitration in Central and Eastern Europe is the absence of comparative standards or a baseline that would facilitate the identification of commonalities and differences in individual countries, and help resolve problems that are common throughout the region. The CYArb® project aims to address this issue and provide a forum for comparisons of arbitration practice and doctrine in countries within the region, and in relation to practices internationally. It sheds light on both practical and academic aspects within these countries, and compares those approaches to broader European and international practices. This project will also foster a broad exchange of legal research and other information on the subject. The third volume of the CYArb® focuses on the blurry area which borders the procedural and substantial law. Editors, being motivated with an endeavour to provide the readers with complex insight into the problematic, invited authors of Civil same as Common law jurisdictions to provide their insight and analysis on the problems of i.e.
mandatory provisions of procedural same as substantive law, issues of application of law in arbitration, adjudication according to the ex aequo et bono principles, issues of the burden and standard of proof and others. The issues are presented on highly comparative basis provided mostly by practitioners who are simultaneously involved in academic activities. The book is divided into four sections. The backbone sections encompass the doctrinal articles of the authors same as case law analysis of the domestic courts from the region relating to the topic, covering the case law of Constitutional, General same as Arbitral courts of the countries from the Central European Region. The rest of the book covers the news in the arbitration area same as interesting arbitration events or published articles and books of the authors from the region. The new volume of The Czech (Central European) Yearbook of Arbitration® : Borders of Procedural and Substantive Law in Arbitral Proceedings (Civil versus Common Law Perspectives) brings useful resource for everyone who is dealing with arbitration in all of its aspects, be it an academic, practitioner, law or international relations student who seeks global compendium on the issue including an overlap to economic and politic aspects of the problematic.

The technical, economic, and social development of the last one hundred years has created a new type of long-term contract which one may call 'Complex International Contract'. Typical examples include complex civil engineering and constructions contracts as well as joint venture, shareholders, project finance, franchising, cooperation and management agreements. The dispute resolution mechanism, which normally deals with such contracts, is commercial arbitration, which has been deeply affected in recent decades by attempts to improve its capabilities. Most importantly, there is the trend towards further denationalization of arbitration with respect to the applicable substantive law. In this regard, a new generation of conflict rules no longer imposes on the arbitrators a particular method to be applied for the purpose of determining the applicable rules of law. Moreover, arbitration more frequently took on the task of adapting Complex International Contracts to changed circumstances. Also, special rules have been developed for so-called multi-party arbitration and fast track arbitration facilitating efficient dispute resolution. The author describes these trends both from a practical as well as a theoretical perspective, evaluating not only the advantages, but also the risks involved with the new developments in arbitration. Relevant issues with respect to the drafting and renegotiation of such contracts are also discussed.

Présentation de l'éditeur : "In recent years, a growing body of provisions called "protocols," "guidelines," "checklists" or even "rules" has emerged in international arbitration. Unlike national or international law, or institutional arbitral rules, these provisions are not "mandatory" for arbitration participants. They range from provisions that can be incorporated into the parties' agreement to arbitrate to suggestions as to the best practices that arbitrators and other arbitration participants may choose to follow. These materials are often collectively referred to as "soft law." Soft Law in International Arbitration provides a guide to what the editors consider to be the most useful of such materials. The book organizes these materials into five categories, each introduced with commentary by a prominent member of the international arbitration community. Thus, the eighteen documents contained in this book can be regarded as helping to fill in the spaces that substantive law and arbitration rules have intentionally left blank. Soft Law in International Arbitration is an indispensable commentary for practitioners and academics alike."

Based on and includes revisions to : Traité de l'arbitrage commercial international / Ph. Fouchard, E. Gaillard, B. Goldman. 1996--Cf. foreword.

With an overburdened and cumbersome system of court litigation, arbitration is becoming an increasingly attractive means of settling disputes. Government enforcement of arbitration agreements and awards is, however, rife with tensions. Among them are tensions between
freedom of contract and the need to protect the weak or ill-informed, between the protections of judicial process and the efficiency and responsiveness of more informal justice, between the federal government and the states. Macneil examines the history of the American arbitration law that deals with these and other tensions. He analyzes the personalities and forces that animated the passing of the United States Arbitration Act of 1925, and its later revolutionizing by the Supreme Court. Macneil also discusses how distorted perceptions of arbitration history in turn distort current law.

Any practising lawyer and student working with international commercial contracts faces standardised contracts and international arbitration as mechanisms for dispute settlement. Transnational rules may be applicable, but national law is still important. Based on extensive practical experience, this book analyses international contract practice and its interaction with the various applicable sources: which role is played by the contractual regulation, which by national law, which by transnational sources, what is the interaction among these factors, and how does this all apply to contracts that refer disputes to international arbitration?

The distinguished international lawyer Michael Pryles, who launched a meteoric career as an arbitrator after many years of teaching and writing on conflicts of law and other topics, has made a mark on arbitral law and practice that is recognized worldwide. In this book, over forty prominent arbitrators and arbitration scholars offer insightful essays on the thorny matters of jurisdiction, admissibility and choice of law in arbitration – topics which have long interested Professor Pryles and are of wide interest. Among the specific issues and topics examined are the following: • res judicata; • investment arbitration; • free trade agreements; • party autonomy; • application of provisional measures; • issue estoppel; • evidentiary inferences; • interim measures; • emergency and default proceedings; • the intersection of financing and jurisdiction; • consolidation of cases; and • non-contractual claims. Remarkable for its roster of highly distinguished contributors, this book is the only in-depth treatment of its subject. By turns thought-provoking and practical, it is bound to appeal to and be put to use by arbitrators and other lawyers who handle international cases. It will also prove of great value to global law firms and companies doing transnational business.