International Commercial Mediation

Shows how 'dirty' challenge tactics are made viable primarily by the prevalence of a judicially derived test for bias which focuses on appearances, rather than facts and He argues that the most commonly used test of bias, the 'reasonable apprehension' test, makes it easy to allege a lack of impartiality and independence.

An examination of the techniques or arbitration and mediation.

International Arbitration Law Library Volume 59 The eastward shift in international dispute resolution has already involved initiatives not only to improve support for international commercial arbitration (ICA) and investor-state dispute settlement (ISDS) but also to develop alternatives such as international commercial courts and mediation. Focusing on these initiatives and their accompanying case law and trends in the Asia-Pacific region, this invaluable book challenges existing procedures and frameworks for cross-border dispute resolution in both commercial and treaty arbitration. Specially assembled for this project, an outstanding team of experienced and insightful arbitrators and scholars describes pertinent developments including: ICA and ISDS in the context of China’s Belt and Road Initiative; the Singapore Convention on Mediation; the shift to virtual hearings and other challenges from the COVID-19 pandemic; mistrust of the application of the rule of law in certain East Asian jurisdictions; growing public concern over ISDS arbitration; tensions between confidentiality and transparency; and potential regional harmonisation of the public policy exception to arbitral enforcement. The contributors chart evolving practices and high-profile cases to make informed observations about where changes are needed, as well as educated guesses about the chances of reforms being successful and the consequences if they are not. The main jurisdictions covered are China, Hong Kong, Japan, Malaysia, India, Australia and Singapore. The first in-depth study of recent trends in dispute resolution practice related to business in the Asia-Pacific region, the book’s practical analysis of new resources for dealing with the increasing competition among countries to become credible regional dispute resolution hubs will prove to be of great value to specialists in the international business law sector. Lawyers will be enabled to make informed decisions on which venue and dispute resolution methods are the most suitable for any specific dispute in the region, and policymakers will confidently assess emerging trends in international dispute resolution policy development and treaty-making.

There is an urgent need to better understand the legal issues pertaining to alternative dispute resolution (ADR), particularly in relation to mediation clauses. Despite the promotion of mediation by dispute resolution providers, policy makers, and judges, use of mediation remains low. In particular, problems arise when parties lack certainty regarding the legal effect of a mediation clause, and the potential uncertainty regarding the binding nature of agreements to pursue

mediation is problematic and threatens the growth of ADR. This book closely examines the importance and complexity of mediation clauses in commercial contracts to remedy this persistent uncertainty. Using comparative law methods and detailed empirical research, it explores the creation of a comprehensive framework for the mediation clause. Providing valuable insight into the process of ADR and mediation, this book will be of interest to academics, law makers, law students, in-house council, lawyers, as well as parties interesting in drafting enforceable mediation clauses.

Assembled from Dispute Resolution Journal - the flagship publication of the American Arbitration Association - the chapters in the Handbook have all, where necessary, been revised and updated prior to publication. The book is succinct, comprehensive and a practical introduction to the use of arbitration and ADR, written by leading practitioners and scholars. The Handbook begins with an exploration of drafting commercial arbitration clauses and provides advice on selecting the right arbitrator for any given commercial arbitration dispute. It supplies practitioners with guidelines for use in their arbitration practice and covers such topics as evidence and discovery, arbitral subpoena powers, procedural and interim orders. It also offers guidance on witness preparation, expert testimony, and cross-examination. There are chapters that specifically address the arbitration of large complex cases, healthcare disputes, and entertainment industry disputes. Arbitrators are provided with recommendations regarding professional conduct and responsibility. Arbitral awards and remedies are covered extensively and arbitrators are provided with practical approaches and information on drafting awards, punitive damages, the finality of awards and, post-decision debriefing. Lastly, this book discusses commercial arbitration as it relates to the legal system. The chapters were selected from an extensive body of writings and, in the main, represent world-class assessments of arbitration and ADR practice. All the major facets of the field are addressed and provide the reader with comprehensive and accurate information, lucid evaluations, and an indication of future developments. They not only acquaint, but also ground the reader in the field.

Despite the growing national and international regulatory framework to support cross-border mediation, the use of such mediation appears to remain stubbornly low. This book focuses in particular on the European Union’s (EU’s) continued efforts to encourage the use of cross-border mediation and examines why such efforts have had a limited impact. It does so by drawing on rare, and at times surprising, detailed insights from in-house counsel of multinational companies regarding their use of EU cross-border commercial mediation. By viewing mediation through the lens of disputants, new and important findings regarding why disputants do, and do not, use cross-border mediation have emerged. While these findings are of primary relevance to EU policy and practice, they have implications far beyond the EU context at a time of increasing international interest in cross-border mediation. The analysis of the insights provided by the disputants reveals, for example: the prominent role played by negotiation as a cross-border dispute resolution process; that

negotiation is a key comparator for disputants when considering whether to use mediation; how the EU's continued focus on understanding and presenting mediation as an alternative to litigation has resulted in measures which are insufficient to address fully the barriers to the use of mediation; intriguing barriers to the use of mediation which arise from the association which disputants draw between mediation and negotiation; how the relationship which disputants draw between mediation and negotiation paradoxically raises both opportunities for, and obstacles to, the increased use of mediation; and what disputants need in order to increase their use of cross-border mediation. The qualitative nature (by way of interviews) of the research conducted for this book has enabled the identification of nuanced and novel findings regarding mediation's position and potential in cross-border dispute resolution. These findings, together with a detailed examination of the EU Directive on Certain Aspects of Mediation in Civil and Commercial Matters and the EU's continued initiatives to foster the use of mediation, form the foundation upon which this book's recommendations are built. Changing the frame to view the use of mediation through the disputants' perspective, as this book does, provides the opportunity for the EU to promote cross-border mediation in a way which resonates more deeply with disputants and responds more fully to their concerns and needs. This thought-provoking book will be of interest not only to European and national bodies seeking to promote the use of mediation but clearly also to dispute resolution academics, in-house counsel, and of course mediators and dispute resolution practitioners in general.

The scope and importance of International Commercial Arbitration (ICA) has expanded exponentially in the last few decades and has become the natural and logical method to resolve international business and economic disputes. This collective work captures the development of ICA from different perspectives and uniquely brings together the ideas, suggestions and perspectives of in-house counsel as the most important users of ICA, along with outside counsel, arbitrators themselves, and major arbitration organizations who all help provide the service. Most, if not all, of the contributing authors have served as counsel or arbitrator in arbitrations and have further contributed, through their writings, teachings or activities in arbitral and other institutions, to the evolution of ICA covered by this collective work. Accordingly, International Commercial Arbitration Practice: 21st Century Perspectives is an indispensable tool for the reader–practitioner, arbitrator, academic, magistrate or student–not only to obtain useful general information on ICA practice today but to gain insightful views as to the influence of this institution in the settlement of international commercial disputes in specific economic areas, industries and commercial activities. International Commercial Arbitration Practice: 21st Century Perspectives brings the process alive and provides the reader with a useful practice guide whether he or she represents a client participating in an international commercial arbitration, is in-house counsel for a company considering arbitration as a possible method of dispute resolution, or is an arbitrator with cases at hand.

The book is organized by Parts which contain thematically related chapters. Part I deals with an overview of key elements in ICA practice and includes chapters on how arbitration is conducted under different legal systems such as common law, civil law, and shari'a law, as well as a chapter on cultural issues in international arbitration. Part II contains geographical regional overviews covering most regions of the world (Western Europe, Russia/NIS countries, Asia (particularly China & Hong Kong and the Indian Subcontinent), Middle East & North Africa, Latin America, the U.S., Canada, and Australia & New Zealand. Part III includes individual industry sector views of how ICA is conducted in individual industry and business sectors such as oil & gas, LNG, mining, construction, telecommunications, satellite communications, intellectual property, sports, banking & finance, insurance & reinsurance, securities, shipping & maritime, corporate shareholder and bankruptcy settings. These chapters are highly instructive because many of them were written by current or former in-house counsel in these industries or, in some cases, by outside counsel who focus on these industries. Part IV of the book describes recent trends at several major global commercial arbitration institutions such as the ICC, ICDR, LCIA, CPR and WIPO. Part V deals with questions of how technology has been changing ICA practice in recent years, including chapters relating to the use of technology by some major arbitral institutions, videoconferencing in ICA, and online arbitration of internet domain name and e-commerce cases.

Today, Alternative Dispute Resolution (ADR) has gained international recognition and is widely used to complement the conventional methods of resolving disputes through courts of law. ADR simply entails all modes of dispute settlement/resolution other than the traditional approaches of dispute settlement through courts of law. Mainly, these modes are: negotiation, mediation, [re]conciliation, and arbitration. The modern ADR movement began in the United States as a result of two main concerns for reforming the American justice system: the need for better-quality processes and outcomes in the judicial system; and the need for efficiency of justice. ADR was transplanted into the African legal systems in the 1980s and 1990s as a result of the liberalization of the African economies, which was accompanied by such conditionalities as reform of the justice and legal sectors, under the Structural Adjustment Programmes. However, most of the methods of ADR that are promoted for inclusion in African justice systems are similar to pre-colonial African dispute settlement mechanisms that encouraged restoration of harmony and social bonds in the justice system. In Tanzania ADR was introduced in 1994 through Government Notice No. 422, which amended the First Schedule to the Civil Procedure Code Act (1966), and it is now an inherent component of the country's legal system. In recognition of its importance in civil litigation in Tanzania, ADR has been made a compulsory subject in higher learning/training institutions for lawyers. This handbook provides theories, principles, examples of practice, and materials relating to ADR in Tanzania and is therefore an essential resource for practicing lawyers as well as law students with an interest in Tanzania. It also contains additional information on evolving standards in international commercial arbitration, which are very useful to legal practitioners and law students.

This book is intended as an easily accessible desktop resource for lawyers who regularly counsel businesses when negotiating international deals, and for those who represent the same clients in achieving a successful resolution when disputes emerge. The text is divided into chapters that follow the life cycle of an international commercial dispute as seen through the eyes of the parties, from when they agree how to resolve disputes in their contracts to the endgame of enforcement. Additionally, the appendices include a number of model submissions for further reference.--Provided by publisher.

The contributions in this book cover a wide range of topics within modern disputeresolution, which can be summarised as follows: harmonisation, enforcement andalternative dispute resolution. In particular, it looks into the impact of harmonisedEU law on national rules of civil procedure and addresses the lack of harmonisationin the US regarding the recognition and enforcement of foreign judgments. Furthermore,the law on enforcement is examined, not only by focusing on US law, but also onhow to attach assets in order to enforce a judgment. Finally, it addresses certain typesof alternative dispute resolution. In addition, the book looks into the systems andcultures of dispute resolution in several regions of the world, such as the EU, the US andChina, that have a high impact on globalisation. Hence, the book is diverse in the senseof dealing with multiple issues in the field of modern dispute resolution./div The book offers explorations of the impact of international rules and EU law on domesticcivil procedure, through case studies from, among others, the US, China, Belgium andthe Netherlands. The relevance of EU law for the national debate and its impact on theregulation of civil procedure is also considered. Furthermore, several contributions discussthe necessity and possibility of harmonisation in the emergency arbitrator mechanisms inthe EU. The harmonisation of private international law rules within the EU, particularlythose of a procedural nature, is juxtaposed to the lack thereof in the US. Also, the bookoffers an overview of the current dispute settlement mechanisms in China. The publication is primarily meant for legal academics in private international law andcivil procedure. It will also prove useful to practitioners regularly engaged in cross-borderdispute resolution and will be of added value to advanced students, as well as to those withan interest in international litigation and more generally in the area of dispute resolution. Vesna Lazi? is Senior Researcher at the T.M.C. Asser Institute, Associate Professor ofPrivate Law at Utrecht University and Professor of European Civil Procedure at theUniversity of Rijeka. Steven Stuij is an expert in Private International Law and a PhD Candidate/GuestResearcher at the Erasmus School of Law, Rotterdam. Ton Jongbloed is Guest Editor on this volume./div

How diverse cultures approach conflict in the context of the integration of global markets is a new arena for research and practice. To date, most of the research on international arbitration has focused exclusively on Western models of arbitration as practiced in Europe and North America. While such studies have accurately reflected the geographic foci of international arbitration practice in the late twentieth century, the number of international arbitrations conducted in East Asia has recently been growing steadily and on par with growth in Western regions. Resolving Disputes in the Asia-Pacific Region presents empirical research about the attitudes and perceptions of over 115 arbitrators, judges, lawyers and members of the rapidly expanding arbitration community in China, Hong Kong, Korea, Japan, Singapore, and Malaysia as well as North America and Europe. The book covers both

international commercial arbitration and "alternative" techniques such as mediation, providing an empirical analysis of how both types of dispute resolution are conducted in the East Asian context. The book examines the history and cultural context surrounding preferred methods of dispute resolution in the East Asian region and sheds light on the various approaches to international arbitration across these diverse regions. This book will be of great interest to students and scholars of international arbitration and dispute resolution, comparative and Asian law, as well as anyone dealing with potential conflict in international business relationships in East Asia.

"Incontrovertibly the most important book on mediation published in English in recent years (possibly EVER?)" Hew Dundas, Former President of the Chartered Institute of Arbitrators "Great attention to detail, bringing together a life time experience! I will certainly be recommending it to people in Ireland who come on my training courses." Geoffrey Corry, Mediator and Trainer "Put simply, it is a masterpiece." John Sturrock, Core Solutions Group David Richbell is ranked fifth, internationally, in the top ten "Most Highly Regarded Commercial Mediators" by Who's Who Legal 2014 How to Master Commercial Mediation guides commercial mediators through every stage of their development, from novice to the aspirational standards of the master mediator. Moulding, maturing and mastering Split into three sections, this new title covers the essential skills and processes of effective commercial mediation for three levels of competence: Moulding for novices; Maturing for practising mediators and; Mastering for those who are at the top and wish to maintain their excellence. Section one covers basic skills and process. It includes a case study that covers each phase of a typical mediation, and also covers typical challenges that may be encountered. Section two builds on these basic skills and covers psychology in mediation, specialist sectors, ethics and intercultural mediation. Section three looks at the personal and external development needed for mediators to become experts in their field. It includes contributions from mediators in every European jurisdiction describing the state of mediation in a particular jurisdiction and its place within that respective legal system as well as discussing further intercultural skills. It also looks at skills beyond mediation that can be used to help in dispute resolution. Written by an experienced commercial mediator with specialist contributions from other renowned mediators How to Master Commercial Mediation is filled with expert, practical advice and tips. It also includes bullet point summaries, checklists, scripts of actual commercial mediations together with questions and answers.

International Commercial Mediation is a practical guidebook that explains how to handle and complete a mediation, as well as how to personally market the skills developed as a mediator. The book provides examples, supplies forms, and explains procedures of actual working mediations which can be used to adapt to individual needs. It also deals with advanced practitioner issues and the emerging law on international mediation.

Contemporary Issues in Mediation (CIIM) Volume 5 builds on the success of the past four volumes as testament to a growing interest of authors and readers in the wide variety of issues that arise with mediation. Readers stand to benefit from a diverse range of topics selected for their high quality of research and novelty. With the recent signing of the Singapore Convention on Mediation in August 2019, there is no doubt that mediation is and will continue to be extremely pertinent in the world of dispute

resolution. Edited by Singapore's leading expert on mediation and negotiation, Professor Joel Lee (National University of Singapore, Faculty of Law), the Chief Executive Officer of SIMI, Mr. Marcus Lim, and Assistant Professor Dorcas Quek-Anderson (Singapore Management University, Faculty of Law), CIIM Volume 5 is a unique and valuable addition to the growing body of literature in mediation and dispute resolution.

Introduction / Julien Chaisse and Jedrzej Gorski -- One belt one road ("OBOR") roadmaps : the legal and policy frameworks / Donald J. Lewis and Diana Moise -- The political economy of OBOR and the global economic center of gravity / Usman W. Chohan -- The OBOR global geopolitical drive : the Chinese access security strategy / Francisco Jose Leandro -- It is not the end of history : the financing institutions of the belt and road initiative and the Bretton Woods system / Maria Adele Carrai -- Northern sea route : an alternative transport corridor within China's belt and road initiative / Vasilii Erokhin and Gao Tianming -- The effect of the "belt and road initiative" on along countries' employment / LU Yue, JIA Yingqi and TU Xinquan -- Challenges and possible responses of the Eurasian Economic Union to the belt and road initiative / Alexander Mikhaylenko -- What is one belt one road? a surplus recycling mechanism approach / Usman W. Chohan -- The international investment agreement network under the "belt and road" initiative / Anna Chuwen Dai -- Paving the silk road bit by bit : an analysis of investment protection for Cchinese infrastructure projects under the belt & road / Initiative / LAI Huaxia and Gabriel M. Lentner -- The role of Chinese state-owned investors and OBOR-related investments in europe : the implication of the China-EU bit / YIN Wei -- National security review of Chinese foreign direct investment ('FDI') into the Cooperation Council for the Arab States of the Gulf ('GCC') : challenges and opportunities / Bashar H. Malkawi and Joel Slawotsky -- A domestic national controls a foreign investor in investment arbitration : in light of China's negative lists / ZHANG Anran -- "Unimpeded trade" in Central Asia : a trade facilitation challenge / Joanne Waters -- One belt, one road initiative into a new regional trade agreement : implication to the WTO dispute settlement system / Sungjin Kang -- BRI initiative : a new model of development aid? / Tymoteusz Chajdas -- Turning doors : piracy, technology and maritime security along the maritime silk road / Helen Tung -- Infrastructure investments : port, rail, and international economic rules / Karlok Carlos Li and Julien Chaisse -- Development banks as environmental governance actors : the AIIB's power to promote green growth / Flavia Marisi -- Stakes and prospects of the right to free, prior & informed consent in 'one belt one road' projects in the context of transnational -- Investment law and arbitration / Anna Aseeva and YIP Ka Lok -- Central and eastern Europe, group 16+1 and one belt one road : the case of 2016 Sino-Polish comprehensive strategic partnership / Jedrzej Gorski -- Some considerations on the civil, commercial and investment dispute settlement mechanisms between China and the other belt and road countries / Zhu Weidong -- International commercial mediation, an opportunity for OBOR / Giovanni Matteucci -- Energy dispute settlement and the one belt one road initiative ('OBOR') / MA Sai -- The energy charter treaty and central Asia : setting an international standard for energy-related disputes / Maria Bun -- Central asian investment arbitration and OBOR : learning from the current investment climate / Mariel Dimsey -- China's maritime silk road and the future of African arbitration / Aweis Osman

There has been an exponential rise in the use of ICA for resolving international business disputes, yet international arbitration is a scarcely regulated, specialty industry. International Commercial Arbitration: An Asia Pacific Perspective is the first book to explain ICA topic by topic with an Asia Pacific focus. Written for students and practising lawyers alike, this authoritative book covers the principles of ICA thoroughly and comparatively. For each issue it utilises academic writings from Asia, Europe and elsewhere, and draws on examples of legislation, arbitration procedural rules and case law from the major Asian jurisdictions. Each principle is explained with a simple statement before

proceeding to more technical, theoretical or comparative content. Real-world scenarios are employed to demonstrate actual application to practice. International Commercial Arbitration is an invaluable resource that provides unique insight into real arbitral practice specific to the Asia Pacific region, within a global context.

China's ever-expanding commercial influence has attracted global attention on how its civil and commercial disputes are resolved. This compelling new book, Dispute Resolution in China, offers a detailed examination of the elements in the Chinese legal system and the relevant reforms to the multiplicity of approaches to civil and commercial disputes in China today. This book reveals how civil litigation, commercial arbitration, mediation, and their hybrid dispute resolution have distinctly responded to, reformed, and developed in the context of China’s transformational economic growth, societal development, and international interaction in the last two decades. It situates these developments and continued experimentation within a unique hybrid of empirical, contextual, and comparative analytical framework, while paving productive pathways towards the future. This book argues that, rather than being a legal project, China’s civil and commercial dispute resolution system is essentially a social development project, which distinguishes the Chinese approach to civil justice reform from contemporary civil justice movements elsewhere. Among the primary methods of dispute resolution, commercial arbitration in China today uniquely transcending the traditional socio-political constraints, its reform has developed in favor of market-oriented considerations and shaped by China’s socio-economic dynamics and internationalization needs. By contrast, civil litigation and mediation being more instrumentalist in nature, their reform is socio-politically embedded and continues to prioritize social stability. This book also shines a fresh light on comparative assessments of top-down and bottom-up changes in China’s dispute resolution discourse, as well as on how China speaks to international dispute resolution systems. Original and rich in its analysis, this book will be essential reading and invaluable reference tool for scholars with a focus on Chinese law, comparative and international dispute resolution, and on broader legal, institutional, economic, social, political and cultural dimensions of dispute resolution development.

Until now, the resolution of international commercial and investment disputes has been dominated almost exclusively by international arbitration. But that is changing. Whilst they may be complementary mechanisms, international mediation and conciliation are now coming to the fore. Mediation rules that were in disuse gather momentum, and dispute settlement centres are introducing new mediation rules. The European Union is encouraging international mediation in both the commercial and investment spheres. The 2019 Singapore Mediation Convention of the United Nations Commission on International Trade Law (UNCITRAL) is aiming to ensure enforcement of international commercial settlement agreements resulting from mediation. The first investor-State disputes are mediated under the International Bar Association (IBA) rules. The International Centre for Settlement of Investment Disputes (ICSID)'s conciliation mechanism is resorted to more often than in the past. The International Chamber of Commerce (ICC) has recently administered its first mediation case based on a bilateral investment treaty, and a new training market on mediation is flourishing. Mediation in Commercial and Investment Disputes brings together a line-up of outstanding, highly-qualified experts from academia, mediation and arbitration institutions, and international legal practice, to address this highly topical, complex subject from a variety of angles.

This book provides a comprehensive commentary on the UNCITRAL Model Law on International Arbitration. Combining both theory and practice, it is written by leading academics and practitioners from Europe, Asia and the Americas to ensure the book has a balanced international coverage. The book not only provides an article-by-article critical analysis, but also incorporates information on the reality of legal practice in UNCITRAL jurisdictions, ensuring it is more than a recitation of case law and variations in legal text. This is not a handbook

for practitioners needing a supportive citation, but rather a guide for practitioners, legislators and academics to the reasons the Model Law was structured as it was, and the reasons variations have been adopted.

China and International Commercial Dispute Resolution is a unique collection of papers which deal expertly with legal issues arising from international commercial dispute resolution in China, utilizing a multiplicity of approaches including doctrinal, comparative, empirical, economic and legal analyses.

International Commercial Arbitration and Mediation in UNCITRAL Model Law Jurisdictions Fourth Edition Dr Peter Binder This new edition of a classic text is so extensively revised and updated as to constitute a new book. It does, however, retain the tried and tested article-by-article structure of the previous three editions: it covers all the information needed when contemplating cross-border arbitration or mediation and enables a practitioner to ascertain what to expect in each jurisdiction. It remains the only book that provides a complete overview of all the adopting jurisdictions (now 111) at one glance, with a description of the legislation in these jurisdictions counterbalanced by court rulings to demonstrate how matters are dealt with in everyday practice. The popular adoption chart matrix unique to this book has been further enhanced and updated. Featuring the first full commentary on the newly released 2018 UNCITRAL Model Law on International Commercial Mediation (including its revolutionary regime for the enforcement of settlement agreements reached by means of mediation) and an update of all case law on UNCITRAL texts (CLOUT) to date, the fourth edition provides explicit expert guidance on such matters as the following: overview of each jurisdiction that has enacted the Model Laws; provisions in a particular national Model Law enactment to be watched out for; how a particular issue dealt with in a Model Law enacting jurisdiction has been handled by local courts; and which jurisdictions can be safely recommended in arbitration or mediation clauses in international commercial agreements. Both of the Model Laws are reproduced in full in an appendix. With an examination of each provision’s legislative history as well as national and subnational adoptions of the Model Laws, this work provides a complete picture of global practice in international arbitration and mediation as it exists today, taking full account of emerging trends in the enactment process and in case law. Business people who agree to arbitrate in one of the 111 recognized Model Law jurisdictions can rely on a secure minimum of rights in the arbitral proceedings and run less risk of being surprised by unwelcome peculiarities of local law. International litigation lawyers, arbitrators, and in-house lawyers who are considering arbitrating or mediating in one of the 111 jurisdictions analysed, academics in international ADR, and national government officials dealing with cross-border trade will benefit enormously from this new edition.

This publication sets out the resolution adopted by the UN's General Assembly on Model Law on International Commercial Conciliation for the year 2002, and which was originally defined in the Official Records of the General Assembly, 57th session, supplement 17 (A/57/17) (ISBN 0119891646). The law is aimed at resolving trade disputes between countries, and also aims to enhance conciliation and dispute law in individual countries, by seeking uniformity in the law, and also avoiding lengthy litigation procedures.

The Singapore Convention on Mediation presents a comprehensive and insightful commentary on the Singapore Convention and the emerging field of the private international law of mediation. The Convention is just beginning its life as an international legal instrument. Recent years have witnessed the growing recourse to mediation as an alternative method of solving disputes in the sphere of international commercial and investment relations. How is it likely to fare? In this first comprehensive, article-by-article

commentary, the authors provide a robust report on the features of the Convention and their implications, with analysis of potential controversies and authoritative clarifications of particular provisions. What's in this book: The book's meticulous examination considers the following issues and topics: – international mediated settlement agreements as a new type of legal instrument in international law; – types of settlement agreements that fall within the scope of the Convention; – how the Convention's enforcement mechanism works; – the meaning of 'international' and the absence of a seat of mediation; – the Convention's approach to recognition and enforcement of internationally mediated settlement agreements; – the grounds for refusal to grant relief under the Convention; – mediator misconduct as a ground for refusal to grant relief; – the impact of the Convention on private international law; – the relationship of the Singapore Convention with other international instruments such as the UN Model Law on International Commercial Mediation and the New York Convention on Arbitration; – possibilities for Contracting States to declare reservations. How this will help you: This book will be one of the first publications providing legal practitioners and other stakeholders with legal commentary on the Singapore Convention on Mediation. It informs readers of the legal implications and potential controversies associated with the Convention and offers much-needed clarifications on particular provisions This book takes a giant step towards relieving the inherent uncertainty associated with how this newly constituted instrument may operate, and how States may become 'Convention ready'. It is sure to become an essential reference for international lawyers, mediators and government officials as the Convention proves itself in the coming years.

"In a world where the borders of the global community are fluid, and where disputants manifest increasingly diverse attributes and needs, mediation ? for decades hovering at the edge of dispute resolution practice ? is now emerging as the preferred approach, both in its own right and as an adjunct to arbitration. Mediation processes are sufficiently flexible to accommodate a range of stakeholders (not all of whom might have legal standing) in ways the formality of arbitration and litigation would not normally allow. Among mediation?s many advantages are time and cost efficiencies, sensitivity to cultural differences, and assured privacy and confidentiality. This book meets the practice needs of lawyers confronted with cross-border disputes now arising far beyond the traditional areas of international commerce, such as consumer disputes, inter-family conflicts, and disagreements over Internet-based transactions. The author takes full account of mediation?s risks and limitations, primarily its lack of finality and uncertainty in relation to enforceability issues which will persist until the advent of appropriate international regulation."--Publisher's website.

International Arbitration: Law and Practice (Third Edition) provides comprehensive and authoritative coverage of the basic principles and legal doctrines, and the practice, of international arbitration. The book contains a systematic, but concise, treatment of all aspects of the arbitral process, including international arbitration agreements, international arbitral proceedings and international arbitral awards. The Third Edition guides both students and practitioners through the entire arbitral process, beginning with drafting, enforcing and interpreting international arbitration agreements, to selecting arbitrators and conducting arbitral proceedings, to recognizing, enforcing and seeking to annul arbitral awards. The book is written in clear, accessible language, suited for both law students and non-specialist practitioners, as well as more experienced readers. This highly regarded work

addresses both international commercial arbitration and the related fields of investment and state-to-state arbitration and is essential reading for any student of international arbitration and any practitioner seeking a complete introduction to the field. The Third Edition has been comprehensively updated to include recent legislative amendments, judicial decisions and arbitral awards. Among other things, the book provides detailed treatment of the New York Convention, the UNCITRAL Model Law on International Commercial Arbitration, all leading institutional arbitration rules (including ICC, SIAC, LCIA, AAA and others), the ICSID Convention and ICSID Arbitration Rules, and judicial decisions from leading jurisdictions. The Third Edition is integrated with the author's classic International Commercial Arbitration and with the online Born International Arbitration Lectures, enabling students, teachers and practitioners to explore particular topics in more detail. About the Author: Gary B. Born is the world's leading authority on international arbitration and litigation. He has practiced extensively in both fields in Europe, the United States, Asia and elsewhere. He is the author of International Commercial Arbitration (Kluwer Law International 3rd ed. 2021), International Arbitration and Forum Selection Agreements: Drafting and Enforcing (Kluwer Law International 6th ed. 2021), International Commercial Arbitration: Cases and Materials (Aspen 3rd ed. 2021) and International Civil Litigation in United States Courts (Aspen 6th ed. 2018).

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 resource for practitioners.

Securing fast, inexpensive, and enforceable redress is vital for the development of international commerce. In a changing international commercial dispute resolution landscape, the combined use of mediation and arbitration has emerged as a dispute resolution approach which offers these benefits. However, to date there has been little agreement on several aspects of the combined use of processes, which the literature often explains by reference to the practitioner's legal culture, and there is debate as to how appropriate it is for the same neutral to conduct both mediation and arbitration. Identifying the main ways of addressing concerns associated with the same neutral conducting both mediation and arbitration (same neutral (arb)-med-arb), this book examines how effectively these methods achieve the goal of fast, inexpensive, and enforceable dispute resolution, evaluating to what extent the perception and use of the same neutral (arb)-med-arb depends on the practitioner's legal culture, arguing that this is not a 'one-size-fits-all' process. Presenting an empirical study of the combined use of mediation and arbitration in international commercial dispute resolution, this book synthesises existing ways of addressing concerns associated with the same neutral

(arb)-med-arb to provide recommendations on how to enhance the use of combinations in the future.
Originally available as two separate volumes, Intersentia's Civil and Commercial Mediation in Europe is now available as a two volume set. *** About Volume I on National Mediation Rules and Procedures: Mediation is becoming an increasingly important tool for resolving civil and commercial disputes. Although it has been long since recognized in many legal systems, in recent years it has received an important boost and is currently one of the most topical issues in the field of dispute resolution. The European Directive 2008/52/EC of the European Parliament and of the Council of 21.5.2008 on certain aspects of mediation in civil and commercial matters, prescribes a set of minimum common rules on mediation for all EU Member States, with the exception of Denmark. This book examines the current legal framework in every EU Member State regarding mediation in civil and commercial matters, as well as the way in which the Directive has been, or is expected to be, implemented in the near future. It is written by renowned specialists on mediation in Europe and provides an exhaustive account for both scholars and practitioners in Europe and beyond the continent. Every chapter on national law analyzes: both out-of-court and court-annexed mediation in the existing legal framework * the areas of law covered by mediation * the value and formal requirements of the agreement to submit any dispute to mediation * personal features and requirements for mediators * procedural requirements in the mediation procedure * the relationship between the mediator and public authorities * the outcome of the mediation procedure * in the scenario in which a mediation settlement is reached, its requirements and effects. *** About Volume II on Cross-Border Mediation: Mediation plays a leading role within the movement of Alternative Dispute Resolution after centuries in which for several reasons the State and State courts were regarded as the only available instrument to ensure access to justice to citizens. In the European Union the institution of mediation has received much support in the form of Directive 2008/52/EC which sets forth a minimum common legal framework for mediation in the Member States. The 2008 Directive has finally been implemented in the Member States and this book provides the much needed in-depth analysis of the status of the mediation regimes in the European Union. The analysis covers the legal regimes of the Member States set up for cross-border and national mediation. This volume includes national reports on cross-border mediation including in-depth information on all the relevant aspects of cross-border mediation: the notion of cross-border mediation, the law applicable to the mediation clause, the mediation proceedings and the content of the settlement reached by the parties. Special attention is of course given to the recognition and enforcement in the European Union of settlements reached in other Member States and outside Europe. In addition the role of mediators and requirements to become a mediator are examined. This book provides a unique picture of the legal situation in the European Union for cross-border mediation. It is an invaluable instrument for those who want to know more about this complex topic or want to become a mediator in Europe themselves. Ë
Structured in two parts, part one examines the doctrine of res judicata in domestic and international litigation whilst part two determines whether and how the res judicata doctrine may be applied by international commercial arbitral tribunals. Dr Schaffstein identifies situations in which res judicata issues are likely to arise before international commercial arbitral tribunals and provides serviceable solutions. The book

presents the keyfeatures of the doctrine of res judicata in the laws of England, the United States, France, and Switzerland, i.e. major representatives of the common law system on the one hand and the civil law system on the other hand.The book also presents the doctrine of res judicata in the context of private international law, alongside its crucial aspects and application in public international law by international courts and tribunals.

2020 marked a remarkably unusual year for all, tough and impressive enough. Along with the prevalence of COVID-19 and the deepening of economic globalization, work and production in China were resumed in an orderly manner, bringing positive economic growth against the trend. In this context, commercial dispute resolutions in China were faced with new challenges, and endured new reforms while embracing new developments. The promulgation of new laws and regulations in 2020, including the Civil Code of the People's Republic of China and the Supplementary Arrangements on Mutual Implementation of Arbitral Awards in Mainland China and Hong Kong Special Administrative Region, has elevated the arbitration system to a higher level. Arbitration institutions such as the Beijing Arbitration Commission/Beijing International Arbitration Center (hereinafter referred to as "BAC/BIAC") carried out anti-pandmeic measures in a timely manner to ensure the well-functioning of the arbitration procedures. Meanwhile, China's judicial supervision on arbitration and arbitration disclosure have undergone impressive developments. In 2020, the procedural standards of commercial mediation were further optimized, and commercial mediation institutions continued to expand and grow, while the number of mediation cases increased steadily. The "one-stop" diversified dispute resolution system was fully advanced, and the systems of litigation-mediation and arbitration-mediation have been constantly improved. Online mediation mechanism was rapidly developed in response to the new norms of pandemic prevention and control. Sino-foreign joint mediation mechanism has been gradually established, and international commercial mediation rules and systems are continuously refined. While rolling out countermeasures in full scale to mitigate impacts of pandemic, China achieved some eye-catching accomplishments in terms of legal system development and dispute resolution practices in 2020. In the area of construction engineering, new and old arbitration rules continue to coexist during the transition period of the Civil Code before it takes effect, while the arbitration and resolution of disputes over public-private-partnership (PPP) have made great breakthroughs. In the real estate sector, stricter regulatory policies were enacted and effectuated to ensure that "housing should be for living in, not for speculation". Hot topics such as real estate enterprise operations, real estate development modes, and regulation over long rental apartments attracted widespread social attention. In the energy sector, the transformation of energy structure was implemented on a large scale. The Energy Law has generally taken shape. Carbon-neutral efforts were intensified. The carbon credit trading market is prospering. Relevant regulatory rules thereof were established. In the financical sector, several new financial products gave rise to crises in 2020 but were promptly resolved. The rights-protection mechanism for stock investors was further perfected. The protection for personal financial information was strengthened, and the explorations over the system for individual bankruptcy have been accelerated. In the realm of investments, the pandemic directly affects investors' valuation of enterprises and expectation of profitability. Regulatory authorities and courts continued to enchance investment supervision and adjudication rules, all of which had far-reaching influences on the resolution of investment disputes. In terms of international trade, multiple statutes and regulatory rules were enacted in order to safeguard national security and to protect the intersts of Chinese enterprises. Judicial authorities took the lead in exploring and identifying new transaction modes under the premise of adhering to international trade rules. In terms of intellectual property, the Patent Law and the Copyright Law were amended, and various judicial interpretations and guidelines were released intensively. Dispute resolution methods become more diversified, and arbitration and mediation played more important roles. In the area of

civil aviation, several rules and regulations were formulated or amended. Phenomena restraining the development of the aviation industry occurred from time to time in 2020, including restrictions against traffic rights, export controls, and intellectual property rights discrimination. In the film and television entertainment industry, risks and opportunities existed side by side. The industry witnessed an increase of disputes over the performance of film and television contracts, disputes over the emerging live streaming business, and disputes over the types of works defined in copyright law. In the field of of sports, the sanction mecahnisms against doping violations were improved, and the protection for intellectual property rights of sports-related intangible assets were strengthened while the amount of sports-related disputes went up. To present an in-depth and systematic report on the 2020 practices and developments in the aforementioned fields, BAC/BIAC has called upon industry experts to contribute to the Annual Review and Preview of Commercial Dispute Resolution in China (2021) (“2021 Annual Review”), and released it in both Chinese and English to facilitate a better understanding of the status quo of China’s commercial dispute resolutions among interested parties at home and abroad. The 2021 Annual Review is compiled based on the following principles: First, a foucs on the state of the art. The 2021 Annual Review strives to showcase the latest developments in relevant industries and the leading trends in legal systems and judicial practices. It selected annual hot topics for in-depth analysis, aiming to deliver timely observations and cutting-edge contents while providing detailed informaiton thereof. Second, a focus on the consistency and systematicness. By inheriting previous compilation rules, the 2021 Annual Review presents an annual overview of various industries, crucial laws and policies, typical cases, analyses of heated issues and prospects, such that the readers are able to grasp the practices and developments of key industries from a multi-angle, holistic perspective. Third, a focus on practicability. The 2021 Annual Review pays attention to the pragmatic value in order to help commercial entities improve their abilities of risk prevention and dispute resolution. The Editorial Committee is composed of seasoned professionals who deliver observations and opinions based on their rich experience on the industry’s frontline, providing practical references for the readers. Fourth, a focus on international perspectives. The 2021 Annual Review is written in both Chinese and English, aiming to show the new developments in China’s commercial dispute resolution to overseas readers, and to express the voice of China to the international community. Each report is written in both languages by the same team to ensure consistency and accuracy of contents.

This title provides the reader with immediate access to understanding the world of international arbitration. 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.