

RULES OF
EVIDENCE IN
INTERNATIONAL
ARBITRATION:
AN ANNOTATED GUIDE
SECOND EDITION

NATHAN D. O'MALLEY

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Rules Of Evidence In International Arbitration An Annotated Guide

Nathan O'Malley



Rules Of Evidence In International Arbitration An Annotated Guide:

Rules of Evidence in International Arbitration Nathan D. O'Malley, 2013-06-19 Rules of Evidence in International Arbitration An Annotated Guide is a valuable reference for practitioners arbitrators and in house counsel involved in cross border dispute resolution Filled with examples drawn from arbitration case precedent the book considers common issues and questions relating to evidentiary procedure Features Benefits Focuses on evidentiary procedure with extensive case based commentary and examples addressing common issues in international arbitration related to evidence Extensive annotations which allow the reader to locate key precedents for use in practice Practitioner focused meaning common misconceptions and questions arising from the international arbitration procedure are addressed Organised in an easy to use style for quick reference This book will be an essential reference guide on evidence for practitioners of international arbitration Filled with examples drawn from arbitration case precedent the book considers common issues and questions relating to evidentiary procedure Arbitrators and counsel will gain from this publication a better view of the best practices accepted solutions to difficult procedural issues and fundamental due process considerations which arise in connection with the use of evidence in international arbitration

Rules of Evidence in International Arbitration Nathan O'Malley, 2019-01-16 Now in a fully updated second edition Rules of Evidence in International Arbitration An Annotated Guide remains an invaluable reference for lawyers arbitrators and in house counsel involved in cross border dispute resolution Drawing on current case law this book looks at the common issues brought up by the evidentiary procedure in international arbitration Features of this book include An international scope which will inform readers from around the world A focus on evidentiary procedure with extensive case based commentary and examples Extensive annotations which allow the reader to locate key precedents for use in practice This book gives essential insight into best practice for practitioners of international arbitration Readers of this publication will gain a fuller understanding of accepted solutions to difficult procedural issues as well as the fundamental due process considerations of the use of evidence in international arbitration

International Arbitration and the Rule of Law, 2017-09-22 Volume 19 of the Congress Series contains the proceedings of ICCA's 2016 Mauritius Congress the first ICCA Congress held in Africa In this volume renowned practitioners scholars and jurists from the region and around the world explore the contribution of arbitration to the rule of law and economic development the conformity of arbitration with international standards of due process and the rule of law and the benefits and challenges of arbitration in Africa Topical issues of interest for practitioners academics and students of arbitration in the region and internationally include Due process issues in constituting the arbitral tribunal and challenging its members Interim measures issued by arbitral tribunals and domestic courts Burden standard and types of proof in the corruption defence What to do and what to avoid doing to prepare a persuasive case Do post award remedies ensure conformity of the arbitral process with the rule of law Do rules and guidelines properly regulate the conduct of arbitration The interface between domestic courts and arbitral tribunals What

are appropriate remedies for findings of illegality in investment arbitration The effect of foreign national court judgments relating to the arbitral award What does the future hold for investment arbitration in Africa and beyond *Introduction to Investor-State Arbitration* Yves Derains, Josefa Sicard-Mirabal, 2018-10-17 Today thousands of investors act globally in markets providing services technology or capital in countries all around the world This activity can be peacefully accomplished when both the investor and the host State know that the disputes will be resolved under the aegis of the investor State arbitration regime wherein an investor is provided with a direct right of action against a State most commonly stemming from a bilateral or multilateral investment treaty This book approaches the substantive and sometimes difficult concepts of investor State arbitration in a clear and concise explanatory fashion In the course of acquainting the reader with the basic legal concepts and policies of the regime the authors address such issues as the following consent to jurisdiction State responsibility possible conflict of interests mechanisms for reviewing an award damages and costs and enforcement The book examines a number of arbitration procedures arising from various perspectives with differing underlying assumptions while highlighting important cases Given that investor State arbitration is now under the public watch and facing many challenges this remarkably clear and concise overview of the regime will prove to be of great value to in house counsel and other practitioners as well as to government policymakers and students x

Handbook of Evidence in International Commercial Arbitration Franco Ferrari, Friedrich Rosenfeld, 2022-04-07 In arbitration evidence provides the basis for almost every decision be it procedural jurisdictional or substantive However users from different legal traditions may not share the same understanding as to how an arbitral tribunal ought to proceed in this regard Therefore it is important for lawyers to know how to collect develop and present evidence in arbitration proceedings not only from a legal perspective but also from a cultural point of view It is against this backdrop that the editors have invited a diverse group of distinguished arbitration practitioners and academics to contribute to this matchless Handbook of Evidence in International Commercial Arbitration Key concepts and issues related to evidence in arbitration covered include the following the normative framework on evidence in arbitration proceedings the burden and standard of proof means of evidence including documents experts and witnesses questions of admissibility including issues of privilege and confidentiality the assessment of evidence and its probative value court assistance and sanctions With its systematic analysis of the key concepts of evidence holistic discussion of the applicable normative framework cross cultural perspectives on the taking of evidence in arbitration and reference to case law from major arbitration hubs this book will become an undisputed point of reference for academics and practitioners alike Critical acclaim This handbook elegantly captures the range of issues that arises regarding evidence in international arbitration Bringing together the foremost experts in the field each contribution offers a thoughtful analysis on these issues and the compilation deserves a prominent spot in every practitioner s arbitral library Chiann Bao Independent Arbitrator Arbitration Chambers and Vice President of the ICC Court of Arbitration This publication well

deserves recognition as a landmark handbook on evidence in international commercial arbitration. It comprehensively discusses the whole evidentiary process from its foundations taking a comparative and harmonizing perspective as well as the burden and standards of proof to the various evidentiary means up to the assessment of evidence. Written by leading academics and practitioners from all over the world, it will be a safe haven for anyone facing discrete evidentiary issues and looking for answers to fundamental or actual questions including as to privileges, confidentiality, virtual hearings or data protection. Professor Filip De Ly, Chair of the ILA International Commercial Arbitration Committee, International Commercial Arbitration Gary B. Born, 2020-11-23. International Commercial Arbitration is an authoritative 4 250 page treatise in three volumes providing the most comprehensive commentary and analysis on all aspects of the international commercial arbitration process that is available. The Third Edition of International Commercial Arbitration has been comprehensively revised, expanded and updated. To include all legislative, judicial and arbitral authorities and other materials in the field of international arbitration prior to June 2020. It also includes expanded treatment of annulment, recognition of awards, counsel ethics, arbitrator independence and impartiality and applicable law. The revised 4 250 page text contains references to more than 20 000 cases, awards and other authorities and will enhance the treatise's position as the world's leading work on international arbitration. The first and second editions of International Commercial Arbitration have been routinely relied on by courts and arbitral tribunals around the world, including the highest courts of the United States, United Kingdom, Singapore, India, Hong Kong, New Zealand, Australia, the Netherlands and Canada, and international arbitral tribunals, including ICC, SIAC, LCIA, AAA, ICSID, SCC and PCA. e.g. U.S. Supreme Court, GE Energy Power Conversion France SAS Corp v Outokumpu Stainless USA LLC, 590 U.S. 572 (2020); BG Group plc v Republic of Argentina, 572 U.S. 25 (2014); Canadian Supreme Court, Uber v Heller, 2020 SCC 16; Canadian S.Ct. Yugraneft Corp v Rexx Mgt Corp, 2010 1 R.C.S. 649, 661; Canadian S.Ct. U.K. Supreme Court, Jivraj v Hashwani, 2011 UKSC 40, 78 U.K.S.Ct. Dallah Real Estate; Swiss Federal Tribunal, Judgment of 25 September 2014, DFT 5A_165/2014; Swiss Fed. Trib. Indian Supreme Court, Bharat Aluminium v Kaiser Aluminium C.A. No. 7019/2005, 138 39 142 148 49 Indian S.Ct. 2012; Singapore Court of Appeal, Rakna Arakshaka Lanka Ltd v Avant Garde Maritime Servs Ltd, 2019 2 SLR 131; Singapore Ct. App. PT Perusahaan Gas Negara Persero TBK v CRW Joint Operation, 2015 SGCA 30; Singapore Ct. App. Larsen Oil; Australian Federal Court, Hancock Prospecting Pty Ltd v Rinehart, 2017 FCAFC 170; Australian Fed. Ct. Hague Court of Appeal, Judgment of 18 February 2020, Case No. 200 197 079 01; Hague Gerechtshof Arbitral Tribunals, Lao Holdings NV v Lao People's Democratic Republic I Award in ICSID Case No. ARB/AF/12/6, 6 August 2019; Gold Reserve Inc v Bolivarian Republic of Venezuela, Decision regarding the Claimant's and the Respondent's Requests for Corrections, ICSID Case No. ARB/AF/09/1, 15 December 2014; Total SA v The Argentine Republic, Decision on Stay of Enforcement of the Award, ICSID Case No. ARB/04/01, 4 December 2014; Millicom Int'l Operations B.V. v Republic of Senegal, Decision on Jurisdiction of the Arbitral Tribunal, ICSID Case No. ARB/08/20, 16 July 2010; Lemire v Ukraine, Dissenting

Opinion of J rgen Voss ICSID Case No ARB 06 18 1 March 2011 Fact-Finding in International Arbitration Julian Bickmann, 2022-12-09 Establishing a factual basis on which to apply the law can be an extraordinarily challenging process and perhaps more so in international arbitration than in any other proceedings due to the very different notions of fact finding that prevail among jurisdictions This important book assesses for the first time the contours of an emerging transnational law of fact finding that promises to greatly enhance the efficiency and reliability of this crucial arbitral procedure In his analysis focusing on bases that reflect current but fluid transnational practice the author assembles a viable *lex evidentiæ* from an in depth examination and synthesis of the following bodies of source material published arbitration proceedings and awards the general framework of fact finding issues as provided for under the arbitration acts of England and Wales the United States Germany Brazil Spain Switzerland Austria and Italy as well as under the Model Law fact finding stipulations under UNCITRAL Arbitration Rules as well as under various institutional rules soft law such as the IBA Rules Prague Rules ALI UNIDROIT Principles of Transnational Civil Procedure best practices as captured by legal commentary and investment arbitration proceedings where many decisions and awards are nowadays publicly available In the course of the analysis a comprehensive description and analysis of what fact finding entails including both gathering of facts and taking of evidence is fully elaborated Given that it is an essential task of international arbitration proceedings to define the disagreements between the parties and seek to determine the truth the international arbitration community must be able to rely on a robust consistent and predictable albeit flexible and adaptive set of fact finding rules Against this background the present study not only provides a stocktaking of current practice but also makes a signal contribution to meeting the need for legal certainty and reliability in international arbitration **The International Arbitration Rulebook** Arif Hyder Ali, Jane Wessel, Alexandre de Gramont, Ryan Mellske, 2019-10-24 The numerous arbitral regimes around the world differ in subtle yet complex ways These variations can have a profound effect on the procedural rights and obligations of the parties Broadly speaking the choice of regime will impact the way in which an arbitration is conducted its duration and expense the outcome of the dispute and the ultimate enforceability of the award To inform the parties choice this book is the first to deal specifically and in depth with a broad range of institutional and ad hoc arbitration rules on a comparative basis It provides a practical guide to the rules in one book a one stop shop from a distinctly rule and guide point of view This book has its genesis in the authors experience as practitioners and educators in international commercial and investor state arbitration and as advisers to and trainers for arbitral institutions arbitrators judges and government officials around the world This comprehensive descriptive and analytical road map covers the broad range of issues addressed in nine representative major sets of arbitration rules The authors detail the distinct ways in which rules governing such important issues as the following may differ among the various arbitral regimes the governance structure and role of the administering institutions in the arbitration including case management and administrative support the critical and recommended issues to be established in

the agreement to arbitrate such as the place of arbitration and the governing law among others the requirements and best practices for starting the arbitration on the right foot the procedures for selecting appointing and challenging arbitrators the impact of the initial procedural conference on the proceedings the rules on presenting the case in chief written submissions documentary evidence witness and expert testimony and more the costs and fees of leading institutions the procedures and standards for award scrutiny and enforceability and a range of special and innovative procedures such as expedited proceedings interim relief and consolidation of proceedings The comparative analysis is organized around the chronological phases of an international arbitration and supported by rule comparison tables and clear explanations of each step of the process With this eminently practical book contract negotiators counsel and arbitrators can confidently navigate any international arbitration Thorough coverage of the applicable rules and guidelines enables parties and or the tribunal to design bespoke arbitration procedures based upon the various rules of leading regimes Arbitral institutions can survey the different approaches and identify emerging best practices in the design and drafting of arbitral regimes All in all this volume is a useful guide and comprehensive framework of rules for both arbitration practitioners and users of arbitration services as well as for students and teachers of international arbitration

Guide to Damages in International Arbitration John A. Trenor, 2016-11-05 Global Arbitration Review s The Guide to Damages in International Arbitration is a desktop reference work for those who d like greater confidence when dealing with the numbers The guide edited by John A. Trenor of Wilmer Cutler Pickering Hale and Dorr LLP covers all aspects of damages from the legal principles applicable to the main valuation techniques and their mechanics to industry specific questions and topics such as tax and currency For each of the major methodologies employed by damages experts the book describes the basics of the approach the areas of general agreement and the points at which consensus can break down The book acts as a compass for non accountants and non economists enabling them to argue or umpire the damages part of cases more effectively This guide contains 27 chapters sectioned into four parts I Legal Principles Applicable to the Award of Damages II Procedural Issues and the Use of Damages Experts III Approaches and Methods for the Assessment and Quantification of Damages IV Industry Specific Damages Issues Contributors include top names at organisations like White to make the subject of damages in international arbitration more understandable and less intimidating for arbitrators and other participants in the field and to help participants present these issues more effectively to tribunals Anthony Connerty Barrister in practice IDR Group and 4 5 Gray s Inn Square

Taming the Guerrilla in International Commercial Arbitration Navin G. Ahuja, 2022-05-23 The book explores the definition and nature of guerrilla tactics in international commercial arbitration It analyses various such tactics deployed pre Covid and during Covid times and portrays them in a way that enables one to visualise how and possibly why they might be deployed Attempts to codify ethical standards and rules regulating the behaviour of legal representatives in international arbitration are examined The book covers a range of culture clashes addresses several elephants in the room and looks at factors

inherent in the arbitral process that create opportunities and increase temptations to misbehave. It considers the remedies and sanctions available in international arbitration and compares them to those available to the courts in civil litigation. In addition to recommendations for future research, the book offers solutions to curb the problem in line with party autonomy and with a critical analysis. This manuscript is an essential solutions-based text that not only addresses a comprehensive range of modern-day guerrilla tactics in international commercial arbitration but also offers thoughtful methods to deal with the shenanigans that parties may bring to the arbitral process.

Chiann Bao, Independent Arbitrator, Arbitration Chambers and Vice President of the International Chamber of Commerce Court of Arbitration. Dr. Ahuja's book is a thoughtful and highly practical contribution to the study of procedures in international commercial arbitration. It is replete with scholarly analysis, careful treatment of authority, pragmatic insights, and policy discussions. Any practitioner or student of international arbitration would benefit from this volume.

Gary Born, Author, *International Commercial Arbitration* 3d ed 2021. A highly readable and informative book which identifies and analyses the numerous guerrilla tactics parties may attempt to deploy in international commercial arbitration, the factors which may encourage such behaviour, and practical mechanisms to keep the proceedings on track. Both erudite and practical, this book is a must-read for parties, counsel, and arbitrators alike.

Prof Benjamin Hughes, Independent Arbitrator, The Arbitration Chambers. Guerrilla tactics are a pertinent problem in arbitration. Dr. Ahuja's well-written book not only describes the various tactics in a succinct way but provides extremely useful guidance on how to tackle them. It will be a primary source of reference for every practitioner faced with such tactics.

Prof Dr Stefan Kröll, Chairman of the Board of Directors of the German Arbitration Institute (DIS). *Taming the Guerrilla in International Commercial Arbitration* offers a refreshingly candid and balanced discussion of sharp practices in international arbitration. The book collects a wealth of information on guerrilla tactics previously only available in separate survey reports, articles, and guidelines on the topic. It additionally includes a chapter addressing tactics deployed in virtual or remote arbitrations due to the Covid-19 pandemic. The comprehensive research and analysis presented in this book make it a valuable resource to counsel, parties, arbitrators, academics, and those who deliver practical arbitration training. A must-read for those who want to better understand the practices that may lead some to disfavor arbitration and ways the arbitration community can respond to guerrilla tactics to improve the arbitration process for all participants.

Dana MacGrath, Independent Arbitrator. MacGrath, *Arbitration: From an unreasoned fiat of a wise man who left both sides equally unhappy but resolved the disputes effectively*. Arbitration has evolved into a full-scale trial before a party-chosen tribunal. Its informality and expedition put in peril the fundamental right of the recalcitrant to delay proceedings. Dr. Ahuja has assiduously articulated the measures aptly christened Guerrilla Tactics used to disrupt and derail arbitrations. An indispensable read for the practitioner and an insightful treatise for the policy maker.

Harish Salve, SA, QC, Blackstone Chambers. This book shines a spotlight on arbitration's dark arts guerrilla tactics. Dr. Ahuja illuminates this shadowy world with excellent and much-needed scholarship that is

practice based and useful for all stakeholders in arbitration His examination of the root causes of this problem recommendations on how to control it comparisons with litigation practice and suggestions for future research marvellously combine to make this a work that is required to be consulted by all serious counsel arbitrators institutions and academics in the field of arbitration Romesh Weeramantry Head International Dispute Resolution Centre for International Law National University of Singapore

Court Assistance in the Taking of Evidence in International Arbitration Lorenz Raess, 2020-10-19 Although international arbitration is widely hailed as an efficient confidential and flexible way of settling commercial disputes it has its limits The arbitral tribunal s lack of coercive power is thrown into particularly stark relief when it comes to the taking of evidence from third parties outside the arbitral proceedings If they do not comply voluntarily with the request of the arbitral tribunal to testify as a witness or disclose documents assistance must be sought from state courts As the success of a case hinges on the evidence that a party can obtain it is crucial to understand how to obtain evidence through state courts At the heart of this work is the question of the conditions under which state courts may offer assistance in international arbitral proceedings With a special focus on Switzerland and comparative aspects this book provides helpful tactical insights for arbitral practitioners around the world

Evolution and Adaptation Jean Kalicki, Mohamed Abdel Raouf, 2019-12-17 What is it about international arbitration that makes it so open to evolution and adaptation What are the main pressure points today and the unmet needs of stakeholders What are the opportunities for expansion to new sectors and new audiences What are the drivers for change the obstacles and the risks And equally important what are the core principles that should never be lost These were the topics of the Twenty Fourth ICCA Congress held in Sydney Australia in April 2018 the proceedings of which are collected in this volume The volume highlights arbitration as a living organism that has adapted in the past to various challenges and that today under attack from various quarters might need to demonstrate its adaptability again Accordingly the contributions address the evolving needs of users the impact of the rapidly changing face of technology the expectations of the public and the convergence and divergence of different aspects of legal traditions and cultures Topical issues of interest for practitioners academics and students of arbitration include the following legitimacy and authority of arbitrators institutions and professional organizations to act as lawmakers investment treaty reform with particular reference to the definition of investment the evolution of substantive treaty standards and sustainable development obligations commercial arbitration reform including issues of public and private interest the development of common law and cost delay and transparency concerns revisiting party autonomy in choosing decision makers including through institutional appointments or investment courts equality of arms the economics of access and the role of costs and third party funding public private disputes and special issues that arise when State entities arbitrate public participation and transparency and their effect on both ISDS and commercial arbitration revisiting conventional wisdom in organizing arbitral proceedings lessons to be learned from other dispute resolution frameworks

technology as friend and enemy including new tools new threats and cybersecurity arbitration of disputes in conflict and post conflict zones inter generational blame and praise in investment arbitration and the emergence of sovereign wealth funds as arbitration participants A special section on New Frontiers in Arbitration offers enlightening perspectives on new types of claims and new types of stakeholders likely to affect the future of international arbitration including the potential for climate change disputes and enlarged participation

Selected Papers on International Arbitration Daniel

Girsberger, Christoph Müller, 2021-05-27 The SAA Series on International Arbitration contains the best graduation papers of all participants who successfully completed the post graduate studies in international arbitration of the SAA Swiss

Arbitration Academy The papers cover different aspects of international arbitration The Swiss Arbitration Academy is a private institution founded and managed by the editors Each year the SAA offers and conducts an intensive and practical course in international arbitration The training is designed for lawyers in house counsel and other professionals interested in cutting edge international dispute resolution education All participants who successfully complete the course which includes the submission of the final paper are awarded the SAA Certificate and the title Arbitration Practitioner ArbP

Security for Costs in International Arbitration Cameron Ford, 2024-12-24 This is the first and leading comprehensive guide to security for costs in international arbitration including commercial and investment arbitration providing a text which will be the key resource for those considering making and ruling on applications for security for costs It is the first and only work to consider the 40 factors informing the discretion to award security for costs The author begins with an introduction and description of the security of costs controversy in international arbitration and then explains the developing approach of arbitral tribunals to applications for security for costs with reference to decisions published by ICC and ASA and statistics of LCIA and decisions of the UK courts when they had the power to grant security for costs in international arbitration The book features an analysis of the reasons given for restricting security for costs in international commercial arbitration to exceptional circumstances or similar The author conveys discretionary factors taken into account by the courts and arbitral tribunals in considering applications for security for costs special considerations for investor state arbitrations the correct approach to the exercise of the discretion the manner of making and resisting applications appropriate orders to be made on applications and consequences of orders This book is written for all arbitration practitioners around the world including arbitrators ruling on applications The work would be incidentally useful to litigation practitioners as it necessarily considers applications for security for costs in litigation

Twilight Issues in International Arbitration George

Bermann, 2023-03-09 There are many issues of arbitral practice that remain largely unaddressed or very poorly addressed in the sources to which tribunals and counsel conventionally turn for procedural guidance the arbitration agreement the lex arbitri and rules of procedure This book brings together the most frequently recurring of such twilight issues so called because all participants in the arbitral process when facing them find themselves in the dark showing in each case where it is

best for arbitrators counsel and parties to look for solutions offering logic certainty and predictability The issues ably covered by the author include among others the following Is a non signatory bound by or entitled to invoke an arbitration agreement When may res judicata or collateral estoppel subject Should a tribunal issue an anti suit injunction When may a tribunal treat as mandatory a law other than the chosen one On what basis may a witness invoke testimonial privilege When may a tribunal sanction counsel for what it considers misconduct By what standards is a determination of corruption to be made How should a tribunal determine the interest rate applicable to an award On what basis are costs to be allocated Examining in turn the guidance that may be provided by normative sources national law and if so which one simple exercise of good judgment or international standards derived from soft law arbitral jurisprudence international law and scholarly and professional commentary the analysis clearly shows how when conventional sources of legal guidance are unavailing decisions on important matters of arbitral practice and procedure are best made The book will prove of major relevance and value to any and all stakeholders in the international arbitral process whether commercial or investor state

International Arbitration in Practice Alicja Zielińska-Eisen, Verónica Sandler Obregón, Courtney Lotfi, 2025-03-18 International Arbitration in Practice is an indispensable and highly pragmatic book that systematically addresses the concepts underpinning international arbitration and the measures counsel arbitrator and institution may apply during proceedings It has been carefully curated to include insights and best practices based on real world experience and covers the increasing complexity of international commercial and investment arbitration by adeptly addressing arbitrations involving multiple parties or contracts those spanning multiple jurisdictions and areas of law and when and how to utilize new trends such as virtual advocacy What s in this book Providing in depth guidance throughout all phases of international arbitration a carefully selected group of established and emerging practitioners impart their knowledge in user friendly chapters covering the key elements of practice These chapters are presented in four sections counsel s role which includes chapters on written and oral advocacy document production the use of evidence means of shaping an arbitration and how to work with and lead a team the tribunal s role which includes chapters on responding to the nomination arbitrators duties the hearing weighing evidence drafting orders and awards and correction and clarification the institution s role which includes chapters on distinctions between institutional and ad hoc arbitrations the secretariat s role appointing arbitrators advances on costs and scrutiny of arbitral awards and how arbitration is funded which includes chapters on calculating costs third party funding and attorney s fees How this will help you Practitioners and users alike will benefit from the practical presentation of all stages of international arbitration and will be able to approach any case with a full understanding of the potential procedure strategies and tactics to be employed thanks to the authors thorough consideration of the real world practicalities Editors Courtney Lotfi Alicja Zielinska Eisen and Ver nica Sandler Obreg n Principles of Evidence in Public International Law as Applied by Investor-State Tribunals Kabir Duggal, Wendy W. Cai, 2019-01-14 In Principles of Evidence in Public International Law as

Applied by Investor State Tribunals Kabir Duggal and Wendy Cai explore the fundamental principles of evidence and how these principles relate to burden of proof and standard of proof By tracing the applications of major principles recognized by the International Court of Justice and applied by investor state tribunal jurisprudence the authors offer valuable insight into the interpretation understanding and nuances of indispensable principles of evidence an area that has been ignored in both investor state arbitration and public international law more generally

Addressing Corruption Allegations in International Arbitration Brody Greenwald, Jennifer Ivers, 2019-08-26 In Addressing Corruption Allegations in International Arbitration Brody K Greenwald and Jennifer A Ivers provide a comprehensive overview of the key issues that arise in international arbitrations involving allegations of corruption by drawing upon their significant experience in these high stakes cases including in the only two reported investment treaty cases dismissed specifically as a result of corruption Their monograph is a valuable resource that analyzes among other things the public policy against corruption the requirements for establishing corruption issues relating to the burden and standard of proof how corruption has been proved in practice and the legal consequences where corruption is established Mr Greenwald and Ms Ivers also assess issues that arise where a sovereign State raises an arbitration defense based on alleged corruption but does not prosecute the alleged wrongdoers in its domestic courts

Tribunal Secretaries in International Arbitration J. Ole Jensen, 2019-03-24 Tribunal Secretaries in International Arbitration adopts a transnational approach to systematically answer questions about tribunal secretaries often discussed but thus far unresolved With useful analysis and practical guidelines it is an essential tool for all practitioners and academics involved in international arbitration

International Investment Dispute Awards Esra Yildiz Üstün, 2022-04-19 This book examines how international investment arbitral awards can be facilitated It sets out to achieve a fuller conceptualisation and theorisation of awards through a discussion of relevant issues and themes as well as demonstrating how they can be achieved through a comparative approach that has been conceived and developed with reference to existing deficiencies in the research literature This contribution is particularly important given the worldwide emergence of investment arbitration as a powerful form of alternative dispute resolution ADR The book ultimately seeks to explore and develop solutions that can be directed to an existing oversight and deficit within the international investment architecture In considering the advantages and disadvantages of each solution it will work towards an approach best suited to upholding the interest of the victorious party at the enforcement stage The enforcement of arbitral awards on a voluntary basis has proven to be insufficient and this created a real and ongoing shortcoming that needs to be addressed International Investment Dispute Awards Facilitating Enforcement therefore seeks to directly influence existing practice on the part of international institutions with the intention of helping to develop a more effective resolution The readerships for this book will include arbitration practitioners policy makers including treaty drafters academics and postgraduate students interested in the enforcement of investment arbitral awards

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